

REFERENCE TITLE: fine art; TPT exemption

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

HB 2536

Introduced by
Representatives Ugenti-Rita: Lawrence

AN ACT

AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION
PRIVILEGE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 42-5061. Retail classification: definitions

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

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

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

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

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

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

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

27 7. The sale of stocks and bonds.

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

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

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

35 11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

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

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

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

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

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

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

7 27. Tangible personal property sold to:

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

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

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

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

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

24 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 60. SALES OF WORKS OF FINE ART, AS DEFINED IN SECTION 44-1771, AT AN
45 ART AUCTION OR GALLERY IN THIS STATE TO NONRESIDENTS OF THIS STATE FOR USE

1 OUTSIDE THIS STATE IF THE VENDOR SHIPS OR DELIVERS THE WORK OF FINE ART TO A
2 DESTINATION OUTSIDE THIS STATE.

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

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

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

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

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

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

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

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

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

1 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

- 1 1. Transporting classification.
- 2 2. Utilities classification.
- 3 3. Telecommunications classification.
- 4 4. Pipeline classification.
- 5 5. Private car line classification.
- 6 6. Publication classification.
- 7 7. Job printing classification.
- 8 8. Prime contracting classification.
- 9 9. Restaurant classification.

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

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

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

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

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

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

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

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

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

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

43 M. There shall be deducted from the tax base the amount received from
44 sales of solar energy devices. The retailer shall register with the
45 department as a solar energy retailer. By registering, the retailer

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 V. For the purposes of this section:

30 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

29 Sec. 2. Retroactivity

30 Section 42-5061, subsection A, paragraph 60, Arizona Revised Statutes,
31 as added by this act, applies retroactively to taxable years beginning from
32 and after December 31, 2015.