

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

HOUSE BILL 2584

AN ACT

AMENDING SECTIONS 41-1519, 42-5061, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO COMPUTER DATA CENTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1519, Arizona Revised Statutes, is amended to
3 read:

4 41-1519. Computer data center tax relief; definitions

5 A. From and after August 31, 2013, tax relief is allowed for the owner
6 or operator of a computer data center certified pursuant to this section.
7 The same tax relief is allowed for qualified colocation tenants of the
8 computer data center. All tax relief applies during the qualification
9 period.

10 B. To qualify for the tax relief, the owner or operator shall submit
11 to the authority **AN APPLICATION ON** a form prescribed by the authority that
12 includes all of the following:

13 1. The owner's or operator's name, address and telephone number.

14 2. The address of the site where the facility is or will be located,
15 including, if applicable, information sufficient to identify the specific
16 portion or portions of the facility composing the computer data center.

17 3. If the computer data center is to qualify under subsection E,
18 paragraph 1 of this section, both of the following:

19 (a) The anticipated investment associated with the computer data
20 center for which the tax relief is being sought and whether the computer data
21 center is anticipated to qualify as a sustainable redevelopment project.

22 (b) An affirmation, signed by an authorized executive representing the
23 owner or operator, that the computer data center is expected to satisfy one
24 of the certification requirements prescribed in subsection E, paragraph 1 of
25 this section and that the computer data center will not violate subsection ~~L~~
26 **M** of this section.

27 4. If the computer data center is to qualify under subsection E,
28 paragraph 2 of this section, an affirmation, signed by an authorized
29 executive representing the owner or operator, that the computer data center
30 has satisfied the certification requirements prescribed in subsection E,
31 paragraph 2 of this section, whether the computer data center qualifies as a
32 sustainable redevelopment project and that the computer data center will not
33 violate subsection ~~L~~ **M** of this section.

34 C. Within sixty days after receiving a complete and correct ~~form~~
35 **APPLICATION**, the authority shall review the ~~form~~ **APPLICATION** and either issue
36 a written certification that the computer data center qualifies for the tax
37 relief or provide written reasons for its denial. Failure to approve or deny
38 the ~~form~~ **APPLICATION** within sixty days after the date the owner or operator
39 submits the ~~form~~ **APPLICATION** to the authority constitutes **certification**
40 **APPROVAL** of the computer data center, and the authority shall issue written
41 certification to the owner or operator within fourteen days. **THE EFFECTIVE**
42 **DATE OF THE CERTIFICATION IS THE DATE ON WHICH THE APPLICATION WAS SUBMITTED**
43 **TO THE AUTHORITY.** The authority shall send a copy of the certification,
44 **INCLUDING ITS EFFECTIVE DATE,** to the department of revenue. The authority
45 shall not certify any new computer data center after December 31, 2023.

1 D. An owner or operator may separate a facility into one or more
2 computer data centers, which may each receive a separate certification if
3 each computer data center individually meets the requirements prescribed in
4 subsection E of this section. A portion of a facility or an article of
5 computer data CENTER equipment shall not be deemed to be a part of more than
6 one computer data center. The owner or operator may aggregate one or more of
7 the parcels, buildings, condominiums or modular data centers in a facility
8 into a single computer data center if, in the aggregate, the parcels,
9 buildings, condominiums and modular data centers meet the requirements of
10 subsection E of this section.

11 E. A computer data center must meet one of the following requirements
12 after taking into account the combined investments made by the owner,
13 operator or qualified colocation tenants of a computer data center:

14 1. On or before the fifth anniversary of certification, the computer
15 data center creates a minimum investment of at least:

16 (a) Twenty-five million dollars of new investment, including costs of
17 land, buildings, IMPROVEMENTS, modular data centers and computer data center
18 equipment, WHETHER OWNED OR LEASED OR PAID FOR PURSUANT TO A RIGHT TO USE
19 AGREEMENT, if the computer data center is located in a county with a
20 population of eight hundred thousand or less persons.

21 (b) Fifty million dollars of new investment, including costs of land,
22 buildings, IMPROVEMENTS, modular data centers and computer data center
23 equipment, WHETHER OWNED OR LEASED OR PAID FOR PURSUANT TO A RIGHT TO USE
24 AGREEMENT, if the computer data center is located in a county with a
25 population of more than eight hundred thousand persons.

26 2. During the seventy-two months immediately before September 1, 2013,
27 the computer data center created an investment of at least two hundred fifty
28 million dollars, including costs of land, buildings, IMPROVEMENTS, modular
29 data centers and computer data center equipment, WHETHER OWNED OR LEASED OR
30 PAID FOR PURSUANT TO A RIGHT TO USE AGREEMENT.

31 F. On or before the fifth anniversary of the certification of a new
32 computer data center, the owner or operator shall notify the authority in
33 writing that the computer data center for which the certification is
34 requested has or has not satisfied the requirements prescribed in subsection
35 E, paragraph 1 of this section. Until a new computer data center satisfies
36 the requirements prescribed in subsection E, paragraph 1 of this section, the
37 owner or operator shall keep detailed records of all investment created by
38 the new computer data center, including costs of land, buildings,
39 IMPROVEMENTS, modular data centers and computer data center equipment, and
40 all tax relief directly received by the owner or operator. This subsection
41 ~~and subsection G of this section do~~ DOES not apply to an existing computer
42 data center.

43 ~~G. If the department of revenue determines that the requirements of~~
44 ~~subsection E, paragraph 1 of this section have not been satisfied or that~~
45 ~~there has been a violation of subsection L of this section, the department~~

1 ~~may revoke the certification of a new computer data center and the owner or~~
2 ~~operator may appeal the revocation pursuant to title 42, chapter 1,~~
3 ~~article 6. If certification is revoked pursuant to this subsection, the~~
4 ~~qualification period of any owner, operator or qualified colocation tenant of~~
5 ~~the new computer data center expires and the department may recapture from~~
6 ~~the owner or operator all or part of the tax relief provided directly to the~~
7 ~~owner or operator. The department may give special consideration or allow a~~
8 ~~temporary exemption from recapture of the tax relief if there is~~
9 ~~extraordinary hardship due to factors beyond the control of the owner or~~
10 ~~operator. The department may require the owner or operator to file~~
11 ~~appropriate amended tax returns to reflect any recapture of the tax relief.~~

12 G. IF THE AUTHORITY DETERMINES THAT:

13 1. A NEW COMPUTER DATA CENTER THAT IS CERTIFIED UNDER SUBSECTION E,
14 PARAGRAPH 1 OF THIS SECTION HAS NOT COMPLIED WITH THE REQUIREMENTS AND TIME
15 PERIODS PRESCRIBED BY SUBSECTION E, PARAGRAPH 1 OF THIS SECTION, THE
16 AUTHORITY SHALL REVOKE THE COMPUTER DATA CENTER'S CERTIFICATION. IF THE
17 CERTIFICATION IS REVOKED, THE QUALIFICATION PERIOD OF ANY OWNER, OPERATOR OR
18 QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER AUTOMATICALLY
19 TERMINATES, AND THE DEPARTMENT OF REVENUE MAY RECAPTURE ALL OR PART OF THE
20 TAX RELIEF PROVIDED DIRECTLY TO THE OWNERS AND OPERATORS. A QUALIFIED
21 COLOCATION TENANT IS NOT SUBJECT TO RECAPTURE OF ANY PART OF TAX RELIEF
22 RECEIVED PURSUANT TO THIS SECTION, EXCEPT THAT A CONTRIBUTING QUALIFIED
23 COLOCATION TENANT MAY BE SUBJECT TO RECAPTURE IF THEY ARE LOCATED IN A
24 COMPUTER DATA CENTER THAT IS CERTIFIED FROM AND AFTER AUGUST 31, 2016. AN
25 OWNER OR OPERATOR MAY APPEAL ANY REVOCATION UNDER THIS PARAGRAPH PURSUANT TO
26 CHAPTER 6, ARTICLE 10 OF THIS TITLE.

27 2. THERE HAS BEEN A VIOLATION OF SUBSECTION M OF THIS SECTION WITH
28 RESPECT TO A COMPUTER DATA CENTER:

29 (a) THE AUTHORITY SHALL REVOKE THE COMPUTER DATA CENTER'S
30 CERTIFICATION AND, IF REVOKED, THE QUALIFICATION PERIOD OF ANY OWNER,
31 OPERATOR OR QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER
32 AUTOMATICALLY TERMINATES.

33 (b) THE DEPARTMENT OF REVENUE MAY NOT RECAPTURE ANY TAX RELIEF
34 PROVIDED DIRECTLY TO THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT
35 BEFORE THE DATE OF REVOCATION.

36 (c) AN OWNER OR OPERATOR MAY APPEAL ANY REVOCATION UNDER THIS
37 PARAGRAPH PURSUANT TO CHAPTER 6, ARTICLE 10 OF THIS TITLE.

38 H. The authority and the department of revenue shall adopt rules and
39 prescribe forms and procedures as necessary for the purposes of this section.
40 The authority and the department shall collaborate in adopting rules as
41 necessary to avoid duplication and inconsistencies while accomplishing the
42 purposes of this section. THE AUTHORITY HAS EXCLUSIVE AUTHORITY OVER ISSUES
43 RELATED TO CERTIFICATION, INCLUDING DETERMINATIONS AS TO WHETHER A COMPUTER
44 DATA CENTER HAS SATISFIED THE REQUIREMENTS OF SUBSECTION E OF THIS SECTION,
45 CONSTITUTES A QUALIFIED SUSTAINABLE REDEVELOPMENT PROJECT OR HAS COMMITTED A

1 VIOLATION OF THIS SECTION. THE DEPARTMENT OF REVENUE HAS EXCLUSIVE AUTHORITY
2 OVER THE ADMINISTRATION OF TAX RELIEF.

3 I. Proprietary business information contained in the ~~form~~ APPLICATION
4 described in subsection B of this section, ~~and~~ the written notice described
5 in subsection F of this section AND THE LIST DESCRIBED IN SUBSECTION J OF
6 THIS SECTION are confidential and shall not be disclosed to the public except
7 that the information shall be transmitted to the department of revenue. The
8 authority or the department may disclose the name of a computer data center
9 that has been certified pursuant to this section.

10 J. The owner or operator shall provide the authority and the
11 department of revenue with a list of qualified colocation tenants, including
12 the commencement and expiration dates of each qualified colocation tenant's
13 agreement to use or occupy all or part of the computer data center, and shall
14 notify the authority and the department ~~within thirty days after any changes~~
15 ~~to the list~~ OF ANY CHANGES WITHIN THIRTY DAYS. THE FAILURE OF AN OWNER OR
16 OPERATOR TO PROVIDE THE LIST OR NOTIFY THE AUTHORITY AND DEPARTMENT OF
17 REVENUE OF CHANGES WITHIN THE REQUIRED TIME ARE NOT GROUNDS FOR TERMINATION
18 OF THE COMPUTER DATA CENTER'S CERTIFICATION, BUT MAY PRECLUDE UNLISTED
19 COLOCATION TENANTS FROM RECEIVING TAX RELIEF UNTIL THE LIST IS PROVIDED OR
20 UPDATED.

21 K. Except as provided in subsection G of this section, ~~on~~
22 ~~certification, the~~ IF A computer data center ~~remains certified regardless~~ HAS
23 BEEN CERTIFIED, THE CERTIFICATION REMAINS IN EFFECT, EVEN IN THE EVENT of a
24 future transfer, sale or disposition, directly or indirectly, of the computer
25 data center.

26 L. FOR THE PURPOSES OF QUALIFYING AND CONTINUING AS A SUSTAINABLE
27 REDEVELOPMENT PROJECT:

28 1. AFTER RECEIVING CERTIFICATION, AN OWNER MAY SUBSTANTIALLY DEMOLISH
29 ALL OR PART OF AN EXISTING BUILDING TO THE EXTENT REASONABLY NECESSARY TO
30 ACCOMMODATE FUTURE COMPUTER DATA CENTER USE, AND THE DEMOLITION IS NOT CAUSE
31 FOR LOSS OF CERTIFICATION AS A SUSTAINABLE REDEVELOPMENT PROJECT. AN
32 EXISTING BUILDING THAT HAS BEEN SUBSTANTIALLY DEMOLISHED BEFORE CERTIFICATION
33 IS NOT ELIGIBLE TO QUALIFY AS A SUSTAINABLE REDEVELOPMENT PROJECT.

34 2. AN OWNER OR OPERATOR MAY EXPAND THE BOUNDARIES OF A CERTIFIED
35 COMPUTER DATA CENTER BY INCREASING THE SIZE OF AN EXISTING BUILDING WITHIN A
36 SUSTAINABLE REDEVELOPMENT PROJECT OR BY BUILDING ADDITIONAL IMPROVEMENTS IN
37 AN UNLIMITED MANNER TO THE EXTENT THE EXPANSION IS CONSTRUCTED ON THE SAME
38 PARCEL OF LAND ON WHICH THE ORIGINAL SUSTAINABLE REDEVELOPMENT PROJECT IS
39 LOCATED OR ON A CONTIGUOUS PARCEL, REGARDLESS OF WHETHER THE CONTIGUOUS
40 PARCEL WAS WITHIN THE ORIGINAL DESCRIPTION OF THE BOUNDARIES OF THE CERTIFIED
41 COMPUTER DATA CENTER. EXPANSION ACTIVITIES DO NOT PREVENT A FACILITY FROM
42 MAINTAINING ITS CLASSIFICATION AS A SUSTAINABLE REDEVELOPMENT PROJECT.

43 3. ALL CONSTRUCTION ACTIVITIES AND INVESTMENTS RELATED TO DEMOLITION
44 AND EXPANSION ACTIVITIES DESCRIBED IN THIS SUBSECTION ARE CONSIDERED TO BE A
45 PART OF THE SUSTAINABLE REDEVELOPMENT PROJECT.

1 ~~L~~ M. This section does not allow a computer data center to do either
2 of the following:
3 1. Generate electricity for resale purposes.
4 2. Generate, provide or sell electricity outside of the computer data
5 center.
6 ~~M~~ N. The owner or operator may ~~include single entities or~~ BE A
7 SINGLE INDIVIDUAL OR ENTITY OR MULTIPLE affiliated entities.
8 ~~N~~ O. For the purposes of this section:
9 1. "Computer data center" means all or part of a facility that may be
10 composed of multiple businesses or owners, that is or will be predominantly
11 used to house working servers and that may have uninterruptible energy supply
12 or generator backup power, or both, cooling systems, towers and other
13 temperature control infrastructure.
14 2. "Computer data center equipment" means equipment that is used to
15 outfit, operate or benefit a computer data center and component parts,
16 installations, refreshments, replacements and upgrades to this equipment,
17 REGARDLESS OF whether ~~any of the property is~~ affixed to or incorporated into
18 real property, AND WHETHER OWNED, LEASED OR USED BY THE OWNER OR OPERATOR
19 PURSUANT TO A CONTRACT FOR THE RIGHT TO USE THE EQUIPMENT, including:
20 (a) All equipment necessary for the transformation, generation,
21 distribution or management of electricity that is required to operate
22 computer server equipment, including generators, uninterruptible energy,
23 supplies, conduit, gaseous fuel piping, cabling, duct banks, switches,
24 switchboards, batteries and testing equipment.
25 (b) All equipment necessary to cool and maintain a controlled
26 environment for the operation of the computer server and other components of
27 the computer data center, including mechanical equipment, refrigerant piping,
28 gaseous fuel piping, adiabatic and free cooling systems, cooling towers,
29 water softeners, air handling units, indoor direct exchange units, fans,
30 ducting and filters.
31 (c) All water conservation systems, including facilities or mechanisms
32 that are designed to collect, conserve and reuse water.
33 (d) All enabling software, computer server equipment, chassis,
34 networking equipment, switches, racks, cabling, trays and conduit.
35 (e) All monitoring equipment and security systems.
36 (f) Modular data centers and preassembled components of any item
37 described in this paragraph, including components used in the manufacturing
38 of modular data centers.
39 (g) Other tangible personal property that is essential to the
40 operations of a computer data center.
41 3. "CONTRIBUTING QUALIFIED COLOCATION TENANT" MEANS A QUALIFIED
42 COLOCATION TENANT THAT IS AN OPERATOR OR THAT HAD ITS ANTICIPATED INVESTMENT
43 INCLUDED IN AN APPLICATION FOR CERTIFICATION FOR THE PURPOSES OF SATISFYING
44 SUBSECTION E, PARAGRAPH 1 OF THIS SECTION.

1 4. "EXISTING BUILDING" MEANS ANY EXISTING VERTICAL BUILDING
2 IMPROVEMENT LOCATED AT A FACILITY USED FOR COMMERCIAL PURPOSES AT THE TIME OF
3 ITS ACQUISITION BY AN OWNER, BUT NOT INCLUDING SINGLE FAMILY RESIDENTIAL
4 STRUCTURES, BARNs OR OTHER AGRICULTURAL STRUCTURES.

5 ~~3-~~ 5. "Existing computer data center" means a computer data center
6 that is certified under subsection E, paragraph 2 of this section.

7 ~~4-~~ 6. "Facility" means one or more parcels of land in this state and
8 any structures and personal property contained on the land.

9 7. "INVESTMENT" MEANS ALL MONIES SPENT TO ACQUIRE A FACILITY
10 REGARDLESS OF PRIOR USE AND ALL MONIES SPENT TO CONSTRUCT OR EXPAND A
11 COMPUTER DATA CENTER, INCLUDING COSTS OF LAND, BUILDINGS, IMPROVEMENTS,
12 MODULAR DATA CENTERS AND COMPUTER DATA CENTER EQUIPMENT. FOR NEW DATA
13 CENTERS, INVESTMENT INCLUDES ALL COSTS INCURRED ON OR AFTER A DATE THAT IS
14 THIRTY DAYS BEFORE THE DATE THE APPLICATION IS SUBMITTED TO THE AUTHORITY.

15 ~~5-~~ 8. "Modular data center" means a portable system of information
16 technology, climate control, energy supply and energy distribution machinery,
17 equipment and related tangible personal property contained in an intermodal
18 freight container or similar structure.

19 ~~6-~~ 9. "New computer data center" means a computer data center that is
20 certified under subsection E, paragraph 1 of this section.

21 10. "OPERATOR" MEANS ANY INDIVIDUAL OR ENTITY THAT OPERATES A COMPUTER
22 DATA CENTER AS AN OPERATOR OR LESSOR OR PURSUANT TO A CONTRACT WITH AN OWNER
23 OR LESSOR. OPERATOR INCLUDES A LICENSED PROPERTY MANAGEMENT COMPANY, A
24 PROPERTY LESSOR OR ANY OTHER INDIVIDUAL OR ENTITY RESPONSIBLE FOR THE
25 CONTROL, OVERSIGHT OR MAINTENANCE OF A FACILITY.

26 ~~7-~~ 11. "Qualification period" means:

27 (a) With respect to the owner or operator of a computer data center, a
28 period of time beginning on the EFFECTIVE date of ~~certification of~~ the
29 computer data ~~center~~ CENTER'S CERTIFICATION and expiring at the end of the
30 tenth full calendar year following the calendar year ~~in which the owner or~~
31 ~~operator filed the form for certification~~ CONTAINING THE EFFECTIVE DATE,
32 except, if a computer data center is a sustainable redevelopment project,
33 qualification period means a period of time beginning on the EFFECTIVE date
34 of ~~certification of~~ the computer data ~~center~~ CENTER'S CERTIFICATION and
35 expiring at the end of the twentieth full calendar year following the
36 calendar year ~~in which the owner or operator filed the form for certification~~
37 CONTAINING THE EFFECTIVE DATE.

38 (b) With respect to the qualified colocation tenant of the owner or
39 operator of a computer data center certified under this section, a period of
40 time beginning on the date that the qualified colocation tenant enters into
41 an agreement concerning the use or occupancy of the computer data center and
42 expiring at the earlier of the expiration of the term of ~~this~~ THE agreement
43 or the tenth full calendar year following the calendar year in which the
44 qualified colocation tenant ~~enters~~ ENTERED into ~~this~~ THE agreement, except,
45 if a computer data center is a sustainable redevelopment project,

1 qualification period means a period of time beginning on the date that the
2 qualified colocation tenant enters into an agreement concerning the use or
3 occupancy of the computer data center and expiring at the earlier of the
4 expiration of the term of ~~this~~ THE agreement or the twentieth full calendar
5 year following the calendar year in which the tenant ~~enters~~ ENTERED into ~~this~~
6 THE agreement. THE QUALIFICATION PERIOD FOR A QUALIFIED COLOCATION TENANT
7 MAY NOT EXTEND BEYOND THE QUALIFICATION PERIOD FOR THE OWNER OR OPERATOR OF
8 THE COMPUTER DATA CENTER.

9 ~~8-~~ 12. "Qualified colocation tenant" means an entity that contracts
10 with the owner, ~~or~~ operator OR ANOTHER QUALIFIED COLOCATION TENANT of a
11 computer data center that is certified pursuant to this section to use or
12 occupy all or part of the computer data center for at least five hundred
13 kilowatts per month for a period of two or more years.

14 ~~9-~~ 13. "Sustainable redevelopment project" means a computer data
15 center that satisfies the requirements in subsection E of this section and
16 ~~that occupies or will occupy the structural improvements at an existing~~
17 ~~facility that~~ IS either:

18 ~~(a) Was at least fifty per cent vacant for six of the twelve months~~
19 ~~before the acquisition by purchase or lease of or with respect to the~~
20 ~~facility.~~

21 (a) A NEWLY CONSTRUCTED DATA CENTER, WITH AT LEAST A TWO HUNDRED
22 MILLION DOLLAR INVESTMENT, THAT ATTAINS CERTIFICATION UNDER THE ENERGY STAR
23 OR GREEN GLOBES STANDARD, THE LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN
24 GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED STATES GREEN BUILDING
25 COUNCIL OR AN EQUIVALENT GREEN BUILDING STANDARD AND WAS NOT PREVIOUSLY
26 CERTIFIED UNDER THESE STANDARDS.

27 (b) A DATA CENTER THAT OCCUPIES AN EXISTING FACILITY THAT EITHER:

28 (i) WAS AT LEAST FIFTY PERCENT VACANT FOR SIX OF THE TWELVE
29 CONSECUTIVE MONTHS BEFORE THE ACQUISITION BY PURCHASE OR LEASE OF OR WITH
30 RESPECT TO THE FACILITY.

31 ~~(b)~~ (ii) Attains certification under the energy star or green globes
32 standard, the leadership in energy and environmental design green building
33 rating standard developed by the United States green building council or an
34 equivalent green building standard and was not previously certified under
35 these standards.

36 ~~10-~~ 14. "Tax relief" means the deduction of the gross proceeds of sale
37 or gross income from the sale of qualified equipment as prescribed by section
38 42-5061, 42-5159 or 42-6004 that is installed in a computer data center.

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

40 42-5061. Retail classification; definitions

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

- 1 1. Professional or personal service occupations or businesses that
2 involve sales or transfers of tangible personal property only as
3 inconsequential elements.
- 4 2. Services rendered in addition to selling tangible personal property
5 at retail.
- 6 3. Sales of warranty or service contracts. The storage, use or
7 consumption of tangible personal property provided under the conditions of
8 such contracts is subject to tax under section 42-5156.
- 9 4. Sales of tangible personal property by any nonprofit organization
10 organized and operated exclusively for charitable purposes and recognized by
11 the United States internal revenue service under section 501(c)(3) of the
12 internal revenue code.
- 13 5. Sales to persons engaged in business classified under the
14 restaurant classification of articles used by human beings for food, drink or
15 condiment, whether simple, mixed or compounded.
- 16 6. Business activity that is properly included in any other business
17 classification that is taxable under this article.
- 18 7. The sale of stocks and bonds.
- 19 8. Drugs and medical oxygen, including delivery hose, mask or tent,
20 regulator and tank, on the prescription of a member of the medical, dental or
21 veterinarian profession who is licensed by law to administer such substances.
- 22 9. Prosthetic appliances as defined in section 23-501 **AND AS**
23 prescribed or recommended by a health professional who is licensed pursuant
24 to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 25 10. Insulin, insulin syringes and glucose test strips.
- 26 11. Prescription eyeglasses or contact lenses.
- 27 12. Hearing aids as defined in section 36-1901.
- 28 13. Durable medical equipment that has a centers for medicare and
29 medicaid services common procedure code, is designated reimbursable by
30 medicare, is prescribed by a person who is licensed under title 32, chapter
31 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
32 customarily used to serve a medical purpose, is generally not useful to a
33 person in the absence of illness or injury and is appropriate for use in the
34 home.
- 35 14. Sales of motor vehicles to nonresidents of this state for use
36 outside this state if the motor vehicle dealer ships or delivers the motor
37 vehicle to a destination out of this state.
- 38 15. Food, as provided in and subject to the conditions of article 3 of
39 this chapter and section 42-5074.
- 40 16. Items purchased with United States department of agriculture food
41 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
42 958) or food instruments issued under section 17 of the child nutrition act
43 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
44 section 1786).

1 17. Textbooks by any bookstore that are required by any state
2 university or community college.

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

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

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

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

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

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

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

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

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

43 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
44 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
45 valid single trip use fuel tax permit issued under section 28-5739, sales of

1 aviation fuel that are subject to the tax imposed under section 28-8344 and
2 sales of jet fuel that are subject to the tax imposed under article 8 of this
3 chapter.

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

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

10 25. Tangible personal property sold to:

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

12 (b) A qualifying health care organization as defined in section
13 42-5001 if the tangible personal property is used by the organization solely
14 to provide health and medical related educational and charitable services.

15 (c) A qualifying health care organization as defined in section
16 42-5001 if the organization is dedicated to providing educational,
17 therapeutic, rehabilitative and family medical education training for blind
18 and visually impaired children and children with multiple disabilities from
19 the time of birth to age twenty-one.

20 (d) A qualifying community health center as defined in section
21 42-5001.

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

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

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

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

39 26. Magazines or other periodicals or other publications by this state
40 to encourage tourist travel.

41 27. Tangible personal property sold to:

42 (a) A person that is subject to tax under this article by reason of
43 being engaged in business classified under section 42-5075 or to a
44 subcontractor working under the control of a person engaged in business

1 classified under section 42-5075, if the property so sold is any of the
2 following:

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

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

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

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

14 28. The sale of a motor vehicle to:

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

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

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

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

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

39 32. Sales of tangible personal property by a nonprofit organization
40 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
41 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
42 sponsors or operates a rodeo featuring primarily farm and ranch animals and
43 no part of the organization's net earnings inures to the benefit of any
44 private shareholder or individual.

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

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

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

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

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

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

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

1 (a) "Personal property liquidation transaction" means a sale of
2 personal property made by a personal property liquidator acting solely on
3 behalf of the owner of the personal property sold at the dwelling of the
4 owner or on the death of any owner, on behalf of the surviving spouse, if
5 any, any devisee or heir or the personal representative of the estate of the
6 deceased, if one has been appointed.

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

9 40. Sales of food, drink and condiment for consumption within the
10 premises of any prison, jail or other institution under the jurisdiction of
11 the state department of corrections, the department of public safety, the
12 department of juvenile corrections or a county sheriff.

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

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

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

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

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

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

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

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

1 (b) Electronic or digital media materials, beginning July 17, 1994.
2 48. Tangible personal property sold to a commercial airline and
3 consisting of food, beverages and condiments and accessories used for serving
4 the food and beverages, if those items are to be provided without additional
5 charge to passengers for consumption in flight. For the purposes of this
6 paragraph, "commercial airline" means a person holding a federal certificate
7 of public convenience and necessity or foreign air carrier permit for air
8 transportation to transport persons, property or United States mail in
9 intrastate, interstate or foreign commerce.

10 49. Sales of alternative fuel vehicles if the vehicle was manufactured
11 as a diesel fuel vehicle and converted to operate on alternative fuel and
12 equipment that is installed in a conventional diesel fuel motor vehicle to
13 convert the vehicle to operate on an alternative fuel, as defined in section
14 1-215.

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

18 51. Sales of tangible personal property to be incorporated or installed
19 as part of environmental response or remediation activities under section
20 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

43 56. Sales or other transfers of renewable energy credits or any other
44 unit created to track energy derived from renewable energy resources. For
45 the purposes of this paragraph, "renewable energy credit" means a unit

1 created administratively by the corporation commission or governing body of a
2 public power utility to track kilowatt hours of electricity derived from a
3 renewable energy resource or the kilowatt hour equivalent of conventional
4 energy resources displaced by distributed renewable energy resources.

5 57. Computer data center equipment ~~purchased by~~ SOLD TO the owner,
6 operator or qualified colocation tenant of ~~the~~ A computer data center THAT IS
7 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an
8 authorized agent of the owner, operator or qualified colocation tenant during
9 the qualification period for use in ~~a~~ THE QUALIFIED computer data center
10 ~~that is certified by the Arizona commerce authority under section 41-1519.~~
11 ~~To qualify for this deduction, at the time of purchase, the owner, operator~~
12 ~~or qualified colocation tenant must present to the retailer its certificate~~
13 ~~that is issued pursuant to section 41-1519 and that establishes its~~
14 ~~qualification for the deduction.~~ For the purposes of this paragraph,
15 "computer data center", "computer data center equipment", "qualification
16 period" and "qualified colocation tenant" have the same meanings prescribed
17 in section 41-1519.

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

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

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

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

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

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

41 1. Machinery, or equipment, used directly in manufacturing,
42 processing, fabricating, job printing, refining or metallurgical operations.
43 The terms "manufacturing", "processing", "fabricating", "job printing",
44 "refining" and "metallurgical" as used in this paragraph refer to and include
45 those operations commonly understood within their ordinary meaning.

1 "Metallurgical operations" includes leaching, milling, precipitating,
2 smelting and refining.

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

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

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

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

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

27 7. Aircraft, navigational and communication instruments and other
28 accessories and related equipment sold to:

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

35 (b) Any foreign government.

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

43 8. Machinery, tools, equipment and related supplies used or consumed
44 directly in repairing, remodeling or maintaining aircraft, aircraft engines

1 or aircraft component parts by or on behalf of a certificated or licensed
2 carrier of persons or property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 subdivision of this state to prevent, monitor, control or reduce land, water
2 or air pollution.

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

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

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

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

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

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

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

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

36 2. Janitorial equipment and hand tools.

37 3. Office equipment, furniture and supplies.

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

41 5. Motor vehicles required to be licensed by this state, except buses
42 or other urban mass transit vehicles specifically exempted pursuant to
43 subsection B, paragraph 11 of this section, without regard to the use of such
44 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~~ SOLD TO the owner,
4 operator or qualified colocation tenant of ~~the~~ A computer data center THAT IS
5 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an
6 authorized agent of the owner, operator or qualified colocation tenant during
7 the qualification period for use in ~~a~~ THE QUALIFIED computer data center
8 ~~that is certified by the Arizona commerce authority under section 41-1519.~~
9 ~~To qualify for this deduction, at the time of purchase, the owner, operator~~
10 ~~or qualified colocation tenant must present to the retailer its certificate~~
11 ~~that is issued pursuant to section 41-1519 and that establishes its~~
12 ~~qualification for the deduction.~~ For the purposes of this paragraph,
13 "computer data center", "computer data center equipment", "qualification
14 period" and "qualified colocation tenant" have the same meanings prescribed
15 in section 41-1519.

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

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

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

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

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

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

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

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

44 1. Machinery, or equipment, used directly in manufacturing,
45 processing, fabricating, job printing, refining or metallurgical operations.

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

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

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

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

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

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

31 7. Aircraft, navigational and communication instruments and other
32 accessories and related equipment sold to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 19. Machinery and equipment that are used in the commercial production
2 of livestock, livestock products or agricultural, horticultural, viticultural
3 or floricultural crops or products in this state and that are used directly
4 and primarily to prevent, monitor, control or reduce air, water or land
5 pollution.

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

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

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

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

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

26 C. The exemptions provided by subsection B of this section do not
27 include:

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

32 2. Janitorial equipment and hand tools.

33 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

3 1. Revenues received from sales of ancillary services, electric
4 distribution services, electric generation services, electric transmission
5 services and other services related to providing electricity to a retail
6 electric customer who is located outside this state for use outside this
7 state if the electricity is delivered to a point of sale outside this state.

8 2. Revenues received from providing electricity, including ancillary
9 services, electric distribution services, electric generation services,
10 electric transmission services and other services related to providing
11 electricity with respect to which the transaction privilege tax imposed under
12 section 42-5063 has been paid.

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

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

18 1. Fees charged by a municipally owned utility to persons constructing
19 residential, commercial or industrial developments or connecting residential,
20 commercial or industrial developments to a municipal utility system or
21 systems if the fees are segregated and used only for capital expansion,
22 system enlargement or debt service of the utility system or systems.

23 2. Reimbursement or contribution compensation to any person or persons
24 owning a utility system for property and equipment installed to provide
25 utility access to, on or across the land of an actual utility consumer if the
26 property and equipment become the property of the utility. This deduction
27 shall not exceed the value of such property and equipment.

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

30 1. A business that is principally engaged in manufacturing or smelting
31 operations and that uses at least fifty-one percent of the electricity or
32 natural gas in the manufacturing or smelting operations. This paragraph does
33 not apply to gas transportation services. For the purposes of this
34 paragraph:

35 (a) "Gas transportation services" means the services of transporting
36 natural gas to a natural gas customer or to a natural gas distribution
37 facility if the natural gas was purchased from a supplier other than the
38 utility.

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

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

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

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

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

9 1. "Aircraft" includes:

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

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

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

19 I. For the purposes of subsection D of this section, "ancillary
20 services", "electric distribution service", "electric generation service",
21 "electric transmission service" and "other services" have the same meanings
22 prescribed in section 42-5063.

23 Sec. 4. Section 42-6004, Arizona Revised Statutes, is amended to read:

24 42-6004. Exemption from municipal tax; definitions

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

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

33 2. Interstate telecommunications services, which include that portion
34 of telecommunications services, such as subscriber line service, allocable by
35 federal law to interstate telecommunications service.

36 3. Sales of warranty or service contracts.

37 4. Sales of motor vehicles to nonresidents of this state for use
38 outside this state if the motor vehicle dealer ships or delivers the motor
39 vehicle to a destination outside this state.

40 5. Interest on finance contracts.

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

42 7. Sales of food or other items purchased with United States
43 department of agriculture food stamp coupons issued under the food stamp act
44 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
45 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,

1 section 4302; 42 United States Code section 1786) but may impose such a tax
2 on other sales of food. If a city, town or special taxing district exempts
3 sales of food from its tax or imposes a different transaction privilege rate
4 on the gross proceeds of sales or gross income from sales of food and nonfood
5 items, it shall use the definition of food prescribed by rule adopted by the
6 department pursuant to section 42-5106.

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

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

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

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

20 10. The gross proceeds of sales or gross income retained by the Arizona
21 exposition and state fair board from ride ticket sales at the annual Arizona
22 state fair.

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

25 ~~12-~~ 11. Leasing real property between affiliated companies,
26 businesses, persons or reciprocal insurers. For the purposes of this
27 paragraph:

28 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
29 means the lessor holds a controlling interest in the lessee, the lessee holds
30 a controlling interest in the lessor, affiliated persons hold a controlling
31 interest in both the lessor and the lessee, or an unrelated person holds a
32 controlling interest in both the lessor and lessee.

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

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

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

41 (e) "Reciprocal insurer" has the same meaning prescribed in section
42 20-762.

43 ~~13-~~ 12. The gross proceeds of sales or gross income derived from a
44 contract for the installation, assembly, repair or maintenance of machinery,
45 equipment or other tangible personal property that is described in section

1 42-5061, subsection B and that has independent functional utility, pursuant
2 to the following provisions:

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

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

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

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

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

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

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

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

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

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

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

38 ~~14.~~ 13. The leasing or renting of certified ignition interlock devices
39 installed pursuant to the requirements prescribed by section 28-1461. For
40 the purposes of this paragraph, "certified ignition interlock device" has the
41 same meaning prescribed in section 28-1301.

42 ~~15.~~ 14. Computer data center equipment ~~purchased, by~~ SOLD TO the
43 owner, operator or qualified colocation tenant of ~~the~~ A computer data center
44 THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or
45 an authorized agent of the owner, operator or qualified colocation tenant

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

10 ~~16.~~ 15. The gross proceeds of sales or gross income derived from a
11 contract with the owner of real property or improvements to real property for
12 the maintenance, repair, replacement or alteration of existing property,
13 except as specified in this paragraph. The gross proceeds of sales or gross
14 income derived from a de minimis amount of modification activity does not
15 subject the contract or any part of the contract to tax. For the purposes of
16 this paragraph:

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

26 (b) Any term not defined in this paragraph that is defined in section
27 42-5075 has the same meaning prescribed in section 42-5075.

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

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

43 (ii) Any special taxing district not specified in item (i) of this
44 subdivision if the district does not substantially engage in the

1 modification, maintenance, repair, replacement or alteration of surface or
2 subsurface improvements to land.

3 ~~17.~~ 16. Monitoring services relating to an alarm system as defined in
4 section 32-101.

5 ~~18.~~ 17. Tangible personal property, job printing or publications sold
6 to or purchased by, or tangible personal property leased, rented or licensed
7 for use to or by, a qualifying health sciences educational institution as
8 defined in section 42-5001.

9 ~~19.~~ 18. The transfer of title or possession of coal back and forth
10 between an owner or operator of a power plant and a person who is responsible
11 for refining coal if both of the following apply:

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

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

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

29 ~~21.~~ 20. Tangible personal property incorporated or fabricated into a
30 project described in paragraph ~~16~~ 15 of this subsection, that is located
31 within the exterior boundaries of an Indian reservation for which the owner,
32 as defined in section 42-5075, of the project is an Indian tribe or an
33 affiliated Indian. For the purposes of this paragraph:

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

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

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

1 ~~22.~~ 21. The charges for the leasing or renting of space to make
2 attachments to utility poles as follows:

3 (a) By a person that is engaged in the business of providing or
4 furnishing electrical services or telecommunication services or that is a
5 cable operator.

6 (b) To a person that is engaged in the business of providing or
7 furnishing electrical services or telecommunication services or that is a
8 cable operator.

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

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

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

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

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

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

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

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

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

39 (b) The attributable amount is equal to the total amount of
40 development fees paid by the taxpayer or by a contractor providing services
41 to the taxpayer and the total development fees credited in exchange for the
42 construction of, contribution to or dedication of real property for providing
43 public infrastructure, public safety or other public services necessary to
44 the development. The real property must be the subject of the development
45 fees.

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

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

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

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

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

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

21 G. For the purposes of this section:

22 1. "Cable operator" has the same meaning prescribed ~~by~~ IN section
23 9-505.

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

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

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

33 Sec. 5. Retroactivity

34 Sections 42-5061, 42-5159 and 42-6004, Arizona Revised Statutes, as
35 amended by this act, are effective retroactively to from and after September
36 12, 2013.