

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

**CHAPTER 357**  
**SENATE BILL 1505**

AN ACT

AMENDING SECTIONS 42-5063, 42-5159 AND 42-6012, ARIZONA REVISED STATUTES;  
RELATING TO NATURAL GAS DELIVERY TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5063, Arizona Revised Statutes, is amended to  
3 read:

4 42-5063. Utilities classification: definitions

5 A. The utilities classification is comprised of the business of:

6 1. Producing and furnishing or furnishing to consumers natural or  
7 artificial gas and water.

8 2. Providing to retail electric customers ancillary services, electric  
9 distribution services, electric generation services, electric transmission  
10 services and other services related to providing electricity.

11 B. The utilities classification does not include:

12 1. Sales of ancillary services, electric distribution services,  
13 electric generation services, electric transmission services and other  
14 services related to providing electricity, gas or water to a person who  
15 resells the services.

16 2. Sales of natural gas or liquefied petroleum gas used to propel a  
17 motor vehicle.

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

21 4. Sales of ancillary services, electric distribution services,  
22 electric generation services, electric transmission services and other  
23 services that are related to providing electricity to a retail electric  
24 customer who is located outside this state for use outside this state if the  
25 electricity is delivered to a point of sale outside this state.

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

33 6. The leasing or renting of space to make attachments to utility  
34 poles as follows:

35 (a) By a person that is engaged in business under this section.

36 (b) To a person that is engaged in business under this section or  
37 section 42-5064 or that is a cable operator.

38 C. The tax base for the utilities classification is the gross proceeds  
39 of sales or gross income derived from the business, but the following shall  
40 be deducted from the tax base:

41 1. Revenues received by a municipally owned utility in the form of  
42 fees charged to persons constructing residential, commercial or industrial  
43 developments or connecting residential, commercial or industrial developments  
44 to a municipal utility system or systems if the fees are segregated and used  
45 only for capital expansion, system enlargement or debt service of the utility  
46 system or systems.

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

7           3. Gross proceeds of sales or gross income derived from sales to:

8           (a) Qualifying hospitals as defined in section 42-5001.

9           (b) A qualifying health care organization as defined in section  
10 42-5001 if the tangible personal property is used by the organization solely  
11 to provide health and medical related educational and charitable services.

12           4. The portion of gross proceeds of sales or gross income that is  
13 derived from sales to a qualified environmental technology manufacturer,  
14 producer or processor as defined in section 41-1514.02 of a utility product  
15 and that is used directly in environmental technology manufacturing,  
16 producing or processing. This paragraph shall apply for twenty full  
17 consecutive calendar or fiscal years from the date the first paper  
18 manufacturing machine is placed in service. In the case of a qualified  
19 environmental technology manufacturer, producer or processor who does not  
20 manufacture paper, the time period shall begin with the date the first  
21 manufacturing, processing or production equipment is placed in service.

22           5. The portion of gross proceeds of sales or gross income attributable  
23 to transfers of electricity by any retail electric customer owning a solar  
24 photovoltaic energy generating system to an electric distribution system, if  
25 the electricity transferred is generated by the customer's system.

26           6. Gross proceeds of sales or gross income derived from sales of  
27 electricity or natural gas to a business that is principally engaged in  
28 manufacturing or smelting operations and that uses at least fifty-one percent  
29 of the electricity or natural gas in the manufacturing or smelting  
30 operations. This paragraph ~~does not apply~~ APPLIES to gas transportation  
31 services. For the purposes of this paragraph:

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

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

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

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

1           7. Gross proceeds of sales or gross income derived from sales of  
2 electricity or natural gas to a business that operates an international  
3 operations center in this state and that is certified by the Arizona commerce  
4 authority pursuant to section 41-1520.

5           D. For the purposes of this section:

6           1. "Ancillary services" means those services so designated in federal  
7 energy regulatory commission order 888 adopted in 1996 that include the  
8 services necessary to support the transmission of electricity from resources  
9 to loads while maintaining reliable operation of the transmission system  
10 according to good utility practice.

11           2. "Cable operator" has the same meaning prescribed in section 9-505.

12           3. "Electric distribution service" means distributing electricity to  
13 retail electric customers through the use of electric distribution  
14 facilities.

15           4. "Electric generation service" means providing electricity for sale  
16 to retail electric customers but excluding electric distribution or  
17 transmission services.

18           5. "Electric transmission service" means transmitting electricity to  
19 retail electric customers or to electric distribution facilities so  
20 classified by the federal energy regulatory commission or, to the extent  
21 permitted by law, so classified by the Arizona corporation commission.

22           6. "Other services" includes metering, meter reading services, billing  
23 and collecting services.

24           7. "Retail electric customer" means a person who purchases electricity  
25 for that person's own use, including use in that person's trade or business  
26 and not for resale, redistribution or retransmission.

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

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

31           42-5159. Exemptions

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

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

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

44           3. Tangible personal property, the storage, use or consumption of  
45 which the constitution or laws of the United States prohibit this state from

1 taxing or to the extent that the rate or imposition of tax is  
2 unconstitutional under the laws of the United States.

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

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

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

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

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

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

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

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

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

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

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

1           13. Tangible personal property purchased by:

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

5           (b) A hospital operated by this state or a political subdivision of  
6 this state.

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

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

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

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

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

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

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

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

45           (j) A qualifying community health center as defined in section  
46 42-5001.

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

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

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

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

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

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

28 15. Tangible personal property sold by:

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

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

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

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

45 17. Prosthetic appliances, as defined in section 23-501, prescribed or  
46 recommended by a person who is licensed, registered or otherwise

1 professionally credentialed as a physician, dentist, podiatrist,  
2 chiropractor, naturopath, homeopath, nurse or optometrist.

3 18. Prescription eyeglasses and contact lenses.

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

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

6 21. Durable medical equipment that has a centers for medicare and  
7 medicaid services common procedure code, is designated reimbursable by  
8 medicare, is prescribed by a person who is licensed under title 32, chapter  
9 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
10 used to serve a medical purpose, is generally not useful to a person in the  
11 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

30 27. Lottery tickets or shares purchased pursuant to title 5, chapter  
31 5.1, article 1.

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

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

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

39 31. Coal, petroleum, coke, natural gas, virgin fuel oil and  
40 electricity purchased by a qualified environmental technology manufacturer,  
41 producer or processor as defined in section 41-1514.02 and directly used or  
42 consumed in the generation or provision of on-site power or energy solely for  
43 environmental technology manufacturing, producing or processing or  
44 environmental protection. This paragraph shall apply for twenty full  
45 consecutive calendar or fiscal years from the date the first paper  
46 manufacturing machine is placed in service. In the case of an environmental



1 technology manufacturer, producer or processor who does not manufacture  
2 paper, the time period shall begin with the date the first manufacturing,  
3 processing or production equipment is placed in service.

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

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

8 (b) Public educational institutions.

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

12 33. Natural gas or liquefied petroleum gas used to propel a motor  
13 vehicle.

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

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

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

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

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

43 39. Overhead materials or other tangible personal property that is  
44 used in performing a contract between the United States government and a  
45 manufacturer, modifier, assembler or repairer, including property used in  
46 performing a subcontract with a government contractor who is a manufacturer,

1 modifier, assembler or repairer, to which title passes to the government  
2 under the terms of the contract or subcontract. For the purposes of this  
3 paragraph:

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

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

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

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

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

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

41 44. Alternative fuel vehicles if the vehicle was manufactured as a  
42 diesel fuel vehicle and converted to operate on alternative fuel and  
43 equipment that is installed in a conventional diesel fuel motor vehicle to  
44 convert the vehicle to operate on an alternative fuel, as defined in section  
45 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 2. Machinery, or equipment, used directly in the process of extracting  
4 ores or minerals from the earth for commercial purposes, including equipment  
5 required to prepare the materials for extraction and handling, loading or  
6 transporting such extracted material to the surface. "Mining" includes  
7 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 under section 42-5064,  
11 including a person representing or working on behalf of such a person in a  
12 manner described in section 42-5075, subsection 0, and consisting of central  
13 office switching equipment, switchboards, private branch exchange equipment,  
14 microwave radio equipment and carrier equipment including optical fiber,  
15 coaxial cable and other transmission media that are components of carrier  
16 systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43           (i) Over two-thirds of the transmissions, measured in megabytes,  
44 transmitted by the facility during the test period were transmitted to or on  
45 behalf of one or more direct broadcast satellite television or data

1 transmission services that operate pursuant to 47 Code of Federal Regulations  
2 part 25.

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

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

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

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

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

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

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

42 19. Machinery and equipment that are used in the commercial production  
43 of livestock, livestock products or agricultural, horticultural, viticultural  
44 or floricultural crops or products in this state and that are used directly  
45 and primarily to prevent, monitor, control or reduce air, water or land  
46 pollution.

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

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

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

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

15           21. Qualifying equipment that is purchased from and after June 30,  
16 2004 through June 30, 2024 by a qualified business under section 41-1516 for  
17 harvesting or processing qualifying forest products removed from qualifying  
18 projects as defined in section 41-1516. To qualify for this exemption, the  
19 qualified business must obtain and present its certification from the Arizona  
20 commerce authority at the time of purchase.

21           C. The exemptions provided by subsection B of this section do not  
22 include:

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

27           2. Janitorial equipment and hand tools.

28           3. Office equipment, furniture and supplies.

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

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

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

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

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

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

43           1. Revenues received from sales of ancillary services, electric  
44 distribution services, electric generation services, electric transmission  
45 services and other services related to providing electricity to a retail



1 electric customer who is located outside this state for use outside this  
2 state if the electricity is delivered to a point of sale outside this state.

3 2. Revenues received from providing electricity, including ancillary  
4 services, electric distribution services, electric generation services,  
5 electric transmission services and other services related to providing  
6 electricity with respect to which the transaction privilege tax imposed under  
7 section 42-5063 has been paid.

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

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

13 1. Fees charged by a municipally owned utility to persons constructing  
14 residential, commercial or industrial developments or connecting residential,  
15 commercial or industrial developments to a municipal utility system or  
16 systems if the fees are segregated and used only for capital expansion,  
17 system enlargement or debt service of the utility system or systems.

18 2. Reimbursement or contribution compensation to any person or persons  
19 owning a utility system for property and equipment installed to provide  
20 utility access to, on or across the land of an actual utility consumer if the  
21 property and equipment become the property of the utility. This deduction  
22 shall not exceed the value of such property and equipment.

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

25 1. A business that is principally engaged in manufacturing or smelting  
26 operations and that uses at least fifty-one percent of the electricity or  
27 natural gas in the manufacturing or smelting operations. This paragraph ~~does~~  
28 ~~not apply~~ APPLIES to gas transportation services. For the purposes of this  
29 paragraph:

30 (a) "Gas transportation services" means the services of transporting  
31 natural gas to a natural gas customer or to a natural gas distribution  
32 facility if the natural gas was purchased from a supplier other than the  
33 utility.

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

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

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

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

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

2 1. "Aircraft" includes:

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

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

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

12 I. For the purposes of subsection D of this section, "ancillary  
13 services", "electric distribution service", "electric generation service",  
14 "electric transmission service" and "other services" have the same meanings  
15 prescribed in section 42-5063.

16 Sec. 3. Section 42-6012, Arizona Revised Statutes, is amended to read:

17 42-6012. Municipal transaction privilege tax; sales of  
18 electricity or natural gas

19 A city or town that levies a transaction privilege, sales, gross  
20 receipts, use, franchise or other similar fee or tax, however denominated, on  
21 the business of producing, providing or furnishing electricity, electric  
22 lights, current, power or natural gas shall either tax or exempt in whole the  
23 gross proceeds of sales or gross income from sales by those businesses to  
24 either of the following businesses:

25 1. Businesses that use at least fifty-one percent of the electricity,  
26 electric lights, current, power or natural gas in a manufacturing or smelting  
27 operation located in that city or town. This paragraph ~~does not apply~~  
28 **APPLIES** to gas transportation services. For the purposes of this paragraph:

29 (a) "Gas transportation services" means the services of transporting  
30 natural gas to a natural gas customer or to a natural gas distribution  
31 facility if the natural gas was purchased from a supplier other than the  
32 utility.

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

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

41 2. Businesses that operate an international operations center in this  
42 state and that are certified by the Arizona commerce authority pursuant to  
43 section 41-1520.

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