

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

CHAPTER 367
HOUSE BILL 2533

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5009, Arizona Revised Statutes, is amended to
3 read:

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

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

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

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

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

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

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

45 E. If a seller is entitled to a deduction by complying with subsection
46 B of this section, the department may require the purchaser to establish the

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

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

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

44 H. The department shall prescribe forms for certificates used to
45 establish the satisfaction of the criteria necessary to qualify the sale of a
46 motor vehicle for the deductions described in section 42-5061, subsection A,

1 paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and
2 subsection U. Except as provided in subsection J of this section, to
3 establish entitlement to these deductions, a motor vehicle dealer shall
4 retain:

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

8 2. A copy of the nonresident registration permit authorized by section
9 28-2154.

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

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

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

33 J. To establish entitlement to the deduction described in section
34 42-5061, subsection A, paragraph 44, a public consignment auction dealer as
35 defined in section 28-4301 shall submit the valid certificate prescribed by
36 subsection H of this section to the department and retain a copy for its
37 records.

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

41 L. The department shall prescribe a form for a certificate to be used
42 by a person that is not subject to tax under section 42-5075 when the person
43 is engaged by a contractor that is subject to tax under section 42-5075 for a
44 project that is taxable under section 42-5075. The certificate permits the
45 person purchasing tangible personal property to be incorporated or fabricated
46 by the person into any real property, structure, project, development or

1 improvement to provide documentation to a retailer that the sale of tangible
2 personal property qualifies for the deduction under section 42-5061,
3 subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain
4 the certificate from the department and shall provide a copy to any such
5 person working on the project. The prime contractor shall obtain a new
6 certificate for each project to which this subsection applies. For the
7 purposes of this subsection, the following apply:

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

12 2. The department shall issue the certificate to the prime contractor
13 on receiving sufficient documentation to establish that the prime contractor
14 meets the requirements of this subsection.

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

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

29 N. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF A CERTIFICATE TO BE USED
30 BY A PERSON PURCHASING AN AIRCRAFT TO DOCUMENT ELIGIBILITY FOR A DEDUCTION
31 PURSUANT TO SECTION 42-5061, SUBSECTION B, PARAGRAPH 7, SUBDIVISION (a), ITEM
32 (v) OR AN EXEMPTION PURSUANT TO SECTION 42-5159, SUBSECTION B, PARAGRAPH 7,
33 SUBDIVISION (a), ITEM (v), RELATING TO AIRCRAFT. THE PERSON MUST PROVIDE
34 THIS CERTIFICATE AND DOCUMENTATION CONFIRMING THAT THE OPERATIONAL CONTROL OF
35 THE AIRCRAFT HAS BEEN TRANSFERRED OR WILL BE TRANSFERRED IMMEDIATELY AFTER
36 THE PURCHASE TO ONE OR MORE PERSONS DESCRIBED IN SECTION 42-5061, SUBSECTION
37 B, PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii), (iii) OR (iv) OR SECTION
38 42-5159, SUBSECTION B, PARAGRAPH 7, SUBDIVISION (a), ITEM (i), (ii), (iii) OR
39 (iv). OPERATIONAL CONTROL OF THE AIRCRAFT MUST BE TRANSFERRED FOR AT LEAST
40 FIFTY PERCENT OF THE AIRCRAFT'S FLIGHT HOURS. IF SUCH OPERATIONAL CONTROL IS
41 NOT TRANSFERRED FOR AT LEAST FIFTY PERCENT OF THE AIRCRAFT'S FLIGHT HOURS
42 DURING THE RECAPTURE PERIOD, THE OWNER OF THE AIRCRAFT IS LIABLE FOR AN
43 AMOUNT EQUAL TO ANY TAX THAT THE SELLER OR PURCHASER WOULD HAVE BEEN REQUIRED
44 TO PAY UNDER THIS CHAPTER AT THE TIME OF THE SALE, PLUS PENALTY AND
45 INTEREST. THE RECAPTURE PERIOD BEGINS ON THE DATE THAT OPERATIONAL CONTROL
46 OF THE AIRCRAFT IS FIRST TRANSFERRED AND ENDS ON THE LATER OF THE DATE THE

1 AIRCRAFT IS FULLY DEPRECIATED FOR FEDERAL INCOME TAX PURPOSES OR FIVE YEARS
2 AFTER OPERATIONAL CONTROL WAS FIRST TRANSFERRED. FOR THE PURPOSES OF THIS
3 SUBSECTION, OPERATIONAL CONTROL OF THE AIRCRAFT MUST BE WITHIN THE MEANING OF
4 FEDERAL AVIATION ADMINISTRATION OPERATIONS SPECIFICATION A008, OR ITS
5 SUCCESSOR, EXCEPT THAT:

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

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

15 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
16 42-5061. Retail classification; definitions

17 A. The retail classification is comprised of the business of selling
18 tangible personal property at retail. The tax base for the retail
19 classification is the gross proceeds of sales or gross income derived from
20 the business. The tax imposed on the retail classification does not apply to
21 the gross proceeds of sales or gross income from:

22 1. Professional or personal service occupations or businesses that
23 involve sales or transfers of tangible personal property only as
24 inconsequential elements.

25 2. Services rendered in addition to selling tangible personal property
26 at retail.

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

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

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

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

39 7. The sale of stocks and bonds.

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

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

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

- 1 11. Prescription eyeglasses or contact lenses.
2 12. Hearing aids as defined in section 36-1901.
3 13. Durable medical equipment that has a centers for medicare and
4 medicaid services common procedure code, is designated reimbursable by
5 medicare, is prescribed by a person who is licensed under title 32, chapter
6 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
7 customarily used to serve a medical purpose, is generally not useful to a
8 person in the absence of illness or injury and is appropriate for use in the
9 home.
10 14. Sales of motor vehicles to nonresidents of this state for use
11 outside this state if the motor vehicle dealer ships or delivers the motor
12 vehicle to a destination out of this state.
13 15. Food, as provided in and subject to the conditions of article 3 of
14 this chapter and section 42-5074.
15 16. Items purchased with United States department of agriculture food
16 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
17 958) or food instruments issued under section 17 of the child nutrition act
18 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
19 section 1786).
20 17. Textbooks by any bookstore that are required by any state
21 university or community college.
22 18. Food and drink to a person that is engaged in a business that is
23 classified under the restaurant classification and that provides such food
24 and drink without monetary charge to its employees for their own consumption
25 on the premises during the employees' hours of employment.
26 19. Articles of food, drink or condiment and accessory tangible
27 personal property to a school district or charter school if such articles and
28 accessory tangible personal property are to be prepared and served to persons
29 for consumption on the premises of a public school within the district or on
30 the premises of the charter school during school hours.
31 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
32 article 1.
33 21. The sale of cash equivalents and the sale of precious metal bullion
34 and monetized bullion to the ultimate consumer, but the sale of coins or
35 other forms of money for manufacture into jewelry or works of art is subject
36 to the tax and the gross proceeds of sales or gross income derived from the
37 redemption of any cash equivalent by the holder as a means of payment for
38 goods or services that are taxable under this article is subject to the tax.
39 For the purposes of this paragraph:
40 (a) "Cash equivalents" means items or intangibles, whether or not
41 negotiable, that are sold to one or more persons, through which a value
42 denominated in money is purchased in advance and may be redeemed in full or
43 in part for tangible personal property, intangibles or services. Cash
44 equivalents include gift cards, stored value cards, gift certificates,
45 vouchers, traveler's checks, money orders or other instruments, orders or
46 electronic mechanisms, such as an electronic code, personal identification

1 number or digital payment mechanism, or any other prepaid intangible right to
2 acquire tangible personal property, intangibles or services in the future,
3 whether from the seller of the cash equivalent or from another person. Cash
4 equivalents do not include either of the following:

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

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

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

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

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

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

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

28 25. Tangible personal property sold to:

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

30 (b) A qualifying health care organization as defined in section
31 42-5001 if the tangible personal property is used by the organization solely
32 to provide health and medical related educational and charitable services.

33 (c) A qualifying health care organization as defined in section
34 42-5001 if the organization is dedicated to providing educational,
35 therapeutic, rehabilitative and family medical education training for blind
36 and visually impaired children and children with multiple disabilities from
37 the time of birth to age twenty-one.

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

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

43 (f) For taxable periods beginning from and after June 30, 2001, a
44 nonprofit charitable organization that has qualified under section 501(c)(3)
45 of the internal revenue code and that provides residential apartment housing
46 for low income persons over sixty-two years of age in a facility that

1 qualifies for a federal housing subsidy, if the tangible personal property is
2 used by the organization solely to provide residential apartment housing for
3 low income persons over sixty-two years of age in a facility that qualifies
4 for a federal housing subsidy.

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

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

11 26. Magazines or other periodicals or other publications by this state
12 to encourage tourist travel.

13 27. Tangible personal property sold to:

14 (a) A person that is subject to tax under this article by reason of
15 being engaged in business classified under section 42-5075 or to a
16 subcontractor working under the control of a person engaged in business
17 classified under section 42-5075, if the property so sold is any of the
18 following:

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

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

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

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

30 28. The sale of a motor vehicle to:

31 (a) A nonresident of this state if the purchaser's state of residence
32 does not allow a corresponding use tax exemption to the tax imposed by
33 article 1 of this chapter and if the nonresident has secured a special ninety
34 day nonresident registration permit for the vehicle as prescribed by sections
35 28-2154 and 28-2154.01.

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

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

44 30. Sales of tangible personal property by a nonprofit organization
45 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
46 of the internal revenue code if the organization is associated with a major

1 league baseball team or a national touring professional golfing association
2 and no part of the organization's net earnings inures to the benefit of any
3 private shareholder or individual.

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

9 32. Sales of tangible personal property by a nonprofit organization
10 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
11 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
12 sponsors or operates a rodeo featuring primarily farm and ranch animals and
13 no part of the organization's net earnings inures to the benefit of any
14 private shareholder or individual.

15 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
16 propagative material to persons who use those items to commercially produce
17 agricultural, horticultural, viticultural or floricultural crops in this
18 state.

19 34. Machinery, equipment, technology or related supplies that are only
20 useful to assist a person with a physical disability as defined in section
21 46-191 or a person who has a developmental disability as defined in section
22 36-551 or has a head injury as defined in section 41-3201 to be more
23 independent and functional.

24 35. Sales of natural gas or liquefied petroleum gas used to propel a
25 motor vehicle.

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

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

40 38. Sales of liquid, solid or gaseous chemicals used in manufacturing,
41 processing, fabricating, mining, refining, metallurgical operations, research
42 and development and, beginning on January 1, 1999, printing, if using or
43 consuming the chemicals, alone or as part of an integrated system of
44 chemicals, involves direct contact with the materials from which the product
45 is produced for the purpose of causing or permitting a chemical or physical
46 change to occur in the materials as part of the production process. This

1 paragraph does not include chemicals that are used or consumed in activities
2 such as packaging, storage or transportation but does not affect any
3 deduction for such chemicals that is otherwise provided by this section. For
4 the purposes of this paragraph, "printing" means a commercial printing
5 operation and includes job printing, engraving, embossing, copying and
6 bookbinding.

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

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

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

21 40. Sales of food, drink and condiment for consumption within the
22 premises of any prison, jail or other institution under the jurisdiction of
23 the state department of corrections, the department of public safety, the
24 department of juvenile corrections or a county sheriff.

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

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

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

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

44 45. Tangible personal property sold to a person engaged in business and
45 subject to tax under the transient lodging classification if the tangible
46 personal property is a personal hygiene item or articles used by human beings

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

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

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

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

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

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

21 49. Sales of alternative fuel vehicles if the vehicle was manufactured
22 as a diesel fuel vehicle and converted to operate on alternative fuel and
23 equipment that is installed in a conventional diesel fuel motor vehicle to
24 convert the vehicle to operate on an alternative fuel, as defined in section
25 1-215.

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

29 51. Sales of tangible personal property to be incorporated or installed
30 as part of environmental response or remediation activities under section
31 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) A person:

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

44 (ii) THAT IS CERTIFICATED OR LICENSED under federal aviation
45 regulations (14 Code of Federal Regulations part 121 OR 135) AS A SCHEDULED
46 OR UNSCHEDULED CARRIER OF PERSONS FOR HIRE FOR USE AS OR IN CONJUNCTION WITH

1 OR BECOMING PART OF AN AIRCRAFT TO BE USED TO TRANSPORT PERSONS FOR HIRE IN
2 INTRASTATE, INTERSTATE OR FOREIGN COMMERCE. ~~OR~~

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

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

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

18 (b) Any foreign government.

19 (c) Persons who are not residents of this state and who will not use
20 such property in this state other than in removing such property from this
21 state. This subdivision also applies to corporations that are not
22 incorporated in this state, regardless of maintaining a place of business in
23 this state, if the principal corporate office is located outside this state
24 and the property will not be used in this state other than in removing the
25 property from this state.

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

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

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

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

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

43 13. New machinery and equipment consisting of tractors, tractor-drawn
44 implements, self-powered implements, machinery and equipment necessary for
45 extracting milk, and machinery and equipment necessary for cooling milk and
46 livestock, and drip irrigation lines not already exempt under paragraph 6 of

1 this subsection and that are used for commercial production of agricultural,
2 horticultural, viticultural and floricultural crops and products in this
3 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

42 16. Clean rooms that are used for manufacturing, processing,
43 fabrication or research and development, as defined in paragraph 14 of this
44 subsection, of semiconductor products. For the purposes of this paragraph,
45 "clean room" means all property that comprises or creates an environment
46 where humidity, temperature, particulate matter and contamination are

1 precisely controlled within specified parameters, without regard to whether
2 the property is actually contained within that environment or whether any of
3 the property is affixed to or incorporated into real property. Clean room:

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

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

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

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

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

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

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

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

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

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

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

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

13 2. Janitorial equipment and hand tools.

14 3. Office equipment, furniture and supplies.

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

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

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

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

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

27 D. In addition to the deductions from the tax base prescribed by
28 subsection A of this section, there shall be deducted from the tax base the
29 gross proceeds of sales or gross income derived from sales of machinery,
30 equipment, materials and other tangible personal property used directly and
31 predominantly to construct a qualified environmental technology
32 manufacturing, producing or processing facility as described in section
33 41-1514.02. This subsection applies for ten full consecutive calendar or
34 fiscal years after the start of initial construction.

35 E. In computing the tax base, gross proceeds of sales or gross income
36 from retail sales of heavy trucks and trailers does not include any amount
37 attributable to federal excise taxes imposed by 26 United States Code section
38 4051.

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

45 G. If a person is engaged in the business of selling tangible personal
46 property at both wholesale and retail, the tax under this section applies

1 only to the gross proceeds of the sales made other than at wholesale if the
2 person's books are kept so as to show separately the gross proceeds of sales
3 of each class, and if the books are not so kept, the tax under this section
4 applies to the gross proceeds of every sale so made.

5 H. A person who engages in manufacturing, baling, crating, boxing,
6 barreling, canning, bottling, sacking, preserving, processing or otherwise
7 preparing for sale or commercial use any livestock, agricultural or
8 horticultural product or any other product, article, substance or commodity
9 and who sells the product of such business at retail in this state is deemed,
10 as to such sales, to be engaged in business classified under the retail
11 classification. This subsection does not apply to businesses classified
12 under the:

- 13 1. Transporting classification.
- 14 2. Utilities classification.
- 15 3. Telecommunications classification.
- 16 4. Pipeline classification.
- 17 5. Private car line classification.
- 18 6. Publication classification.
- 19 7. Job printing classification.
- 20 8. Prime contracting classification.
- 21 9. Restaurant classification.

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

- 24 1. Sales made directly to the United States government or its
25 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 26 2. Sales made directly to a manufacturer, modifier, assembler or
27 repairer if such sales are of any ingredient or component part of products
28 sold directly to the United States government or its departments or agencies
29 by the manufacturer, modifier, assembler or repairer.

30 3. Overhead materials or other tangible personal property that is used
31 in performing a contract between the United States government and a
32 manufacturer, modifier, assembler or repairer, including property used in
33 performing a subcontract with a government contractor who is a manufacturer,
34 modifier, assembler or repairer, to which title passes to the government
35 under the terms of the contract or subcontract.

36 4. Sales of overhead materials or other tangible personal property to
37 a manufacturer, modifier, assembler or repairer if the gross proceeds of
38 sales or gross income derived from the property by the manufacturer,
39 modifier, assembler or repairer will be exempt under paragraph 3 of this
40 subsection.

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

45 K. The department shall require every person claiming a deduction
46 provided by subsection I or J of this section to file on forms prescribed by

1 the department at such times as the department directs a sworn statement
2 disclosing the name of the purchaser and the exact amount of sales on which
3 the exclusion or deduction is claimed.

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

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

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

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

14 N. In computing the tax base in the case of the sale or transfer of
15 wireless telecommunications equipment as an inducement to a customer to enter
16 into or continue a contract for telecommunications services that are taxable
17 under section 42-5064, gross proceeds of sales or gross income does not
18 include any sales commissions or other compensation received by the retailer
19 as a result of the customer entering into or continuing a contract for the
20 telecommunications services.

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

26 P. Retail sales of prepaid calling cards or prepaid authorization
27 numbers for telecommunications services, including sales of reauthorization
28 of a prepaid card or authorization number, are subject to tax under this
29 section.

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

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

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

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

42 1. The transfer of title or possession of the coal is for the purpose
43 of refining the coal.

44 2. The title or possession of the coal is transferred back to the
45 owner or operator of the power plant after completion of the coal refining
46 process. For the purposes of this paragraph, "coal refining process"

1 means the application of a coal additive system that aids in the reduction of
2 power plant emissions during the combustion of coal and the treatment of flue
3 gas.

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

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

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

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

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

39 V. For the purposes of this section:

40 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

37 Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:

38 42-5159. Exemptions

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

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

45 2. Tangible personal property, the sale or use of which has already
46 been subjected to an excise tax at a rate equal to or exceeding the tax

1 imposed by this article under the laws of another state of the United States.
2 If the excise tax imposed by the other state is at a rate less than the tax
3 imposed by this article, the tax imposed by this article is reduced by the
4 amount of the tax already imposed by the other state.

5 3. Tangible personal property, the storage, use or consumption of
6 which the constitution or laws of the United States prohibit this state from
7 taxing or to the extent that the rate or imposition of tax is
8 unconstitutional under the laws of the United States.

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

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

20 6. Tangible personal property brought into this state by an individual
21 who was a nonresident at the time the property was purchased for storage, use
22 or consumption by the individual if the first actual use or consumption of
23 the property was outside this state, unless the property is used in
24 conducting a business in this state.

25 7. Purchases of implants used as growth promotants and injectable
26 medicines, not already exempt under paragraph 16 of this subsection, for
27 livestock and poultry owned by, or in possession of, persons who are engaged
28 in producing livestock, poultry, or livestock or poultry products, or who are
29 engaged in feeding livestock or poultry commercially. For the purposes of
30 this paragraph, "poultry" includes ratites.

31 8. Livestock, poultry, supplies, feed, salts, vitamins and other
32 additives for use or consumption in the businesses of farming, ranching and
33 feeding livestock or poultry, not including fertilizers, herbicides and
34 insecticides. For the purposes of this paragraph, "poultry" includes
35 ratites.

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

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

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

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

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

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

7 13. Tangible personal property purchased by:

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

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

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

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

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

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

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

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

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

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

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

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

5 (j) A qualifying community health center as defined in section
6 42-5001.

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

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

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

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

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

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

34 15. Tangible personal property sold by:

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

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

43 (c) A nonprofit organization that is exempt from taxation under
44 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
45 internal revenue code if the organization sponsors or operates a rodeo

1 featuring primarily farm and ranch animals and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.

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

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

10 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

37 27. Lottery tickets or shares purchased pursuant to title 5, chapter
38 5.1, article 1.

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

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

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

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

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

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

16 (b) Public educational institutions.

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

20 33. Natural gas or liquefied petroleum gas used to propel a motor
21 vehicle.

22 34. Machinery, equipment, technology or related supplies that are only
23 useful to assist a person with a physical disability as defined in section
24 46-191 or a person who has a developmental disability as defined in section
25 36-551 or has a head injury as defined in section 41-3201 to be more
26 independent and functional.

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

40 36. Food, drink and condiment purchased for consumption within the
41 premises of any prison, jail or other institution under the jurisdiction of
42 the state department of corrections, the department of public safety, the
43 department of juvenile corrections or a county sheriff.

44 37. A motor vehicle and any repair and replacement parts and tangible
45 personal property becoming a part of such motor vehicle sold to a motor

1 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
2 and who is engaged in the business of leasing or renting such property.

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

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

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

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

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

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

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

42 43. Tangible personal property purchased by a commercial airline and
43 consisting of food, beverages and condiments and accessories used for serving
44 the food and beverages, if those items are to be provided without additional
45 charge to passengers for consumption in flight. For the purposes of this
46 paragraph, "commercial airline" means a person holding a federal certificate

1 of public convenience and necessity or foreign air carrier permit for air
2 transportation to transport persons, property or United States mail in
3 intrastate, interstate or foreign commerce.

4 44. Alternative fuel vehicles if the vehicle was manufactured as a
5 diesel fuel vehicle and converted to operate on alternative fuel and
6 equipment that is installed in a conventional diesel fuel motor vehicle to
7 convert the vehicle to operate on an alternative fuel, as defined in section
8 1-215.

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

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

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

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

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

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

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

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

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

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

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

45 52. Repair parts installed in equipment used directly by a qualified
46 business under section 41-1516 in harvesting, processing or transporting

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

3 53. Renewable energy credits or any other unit created to track energy
4 derived from renewable energy resources. For the purposes of this paragraph,
5 "renewable energy credit" means a unit created administratively by the
6 corporation commission or governing body of a public power entity to track
7 kilowatt hours of electricity derived from a renewable energy resource or the
8 kilowatt hour equivalent of conventional energy resources displaced by
9 distributed renewable energy resources.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) A person:

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

44 (ii) THAT IS CERTIFICATED OR LICENSED under federal aviation
45 regulations (14 Code of Federal Regulations part 121 OR 135) AS A SCHEDULED
46 OR UNSCHEDULED CARRIER OF PERSONS FOR HIRE FOR USE AS OR IN CONJUNCTION WITH

1 OR BECOMING PART OF AN AIRCRAFT TO BE USED TO TRANSPORT PERSONS FOR HIRE IN
2 INTRASTATE, INTERSTATE OR FOREIGN COMMERCE. ~~or~~

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

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

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

18 (b) Any foreign government. ~~, or sold to~~

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

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

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

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

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

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

43 13. New machinery and equipment consisting of tractors, tractor-drawn
44 implements, self-powered implements, machinery and equipment necessary for
45 extracting milk, and machinery and equipment necessary for cooling milk and
46 livestock, and drip irrigation lines not already exempt under paragraph 6 of

1 this subsection and that are used for commercial production of agricultural,
2 horticultural, viticultural and floricultural crops and products in this
3 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

42 16. Clean rooms that are used for manufacturing, processing,
43 fabrication or research and development, as defined in paragraph 14 of this
44 subsection, of semiconductor products. For the purposes of this paragraph,
45 "clean room" means all property that comprises or creates an environment
46 where humidity, temperature, particulate matter and contamination are

1 precisely controlled within specified parameters, without regard to whether
2 the property is actually contained within that environment or whether any of
3 the property is affixed to or incorporated into real property. Clean room:

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

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

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

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

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

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

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

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

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

45 21. Qualifying equipment that is purchased from and after June 30,
46 2004 through June 30, 2024 by a qualified business under section 41-1516 for

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

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

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

11 2. Janitorial equipment and hand tools.

12 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 1. "Aircraft" includes:

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

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

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

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

45 Sec. 4. Retroactivity; refund; nonseverability

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

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

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

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

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

20 F. If any part of this section is finally adjudicated to be invalid,
21 this entire section is void. The provisions of this section are intended to
22 be nonseverable.

23 Sec. 5. Effective date
24 This act is effective from and after June 30, 2017.

APPROVED BY THE GOVERNOR MAY 19, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 19, 2016.