

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

CHAPTER 368
HOUSE BILL 2536

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

27 7. The sale of stocks and bonds.

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

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

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

35 11. Prescription eyeglasses or contact lenses.

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

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

44 14. Sales of motor vehicles to nonresidents of this state for use
45 outside this state if the motor vehicle dealer ships or delivers the motor
46 vehicle to a destination out of this state.

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

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

8 17. Textbooks by any bookstore that are required by any state
9 university or community college.

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

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

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

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

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

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

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

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

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

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

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

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

16 25. Tangible personal property sold to:

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

18 (b) 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 (c) 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 (d) A qualifying community health center as defined in section
27 42-5001.

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

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

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

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

45 26. Magazines or other periodicals or other publications by this state
46 to encourage tourist travel.

1 27. Tangible personal property sold to:
2 (a) A person that is subject to tax under this article by reason of
3 being engaged in business classified under section 42-5075 or to a
4 subcontractor working under the control of a person engaged in business
5 classified under section 42-5075, if the property so sold is any of the
6 following:
7 (i) Incorporated or fabricated by the person into any real property,
8 structure, project, development or improvement as part of the business.
9 (ii) Incorporated or fabricated by the person into any project
10 described in section 42-5075, subsection 0.
11 (iii) Used in environmental response or remediation activities under
12 section 42-5075, subsection B, paragraph 6.
13 (b) A person that is not subject to tax under section 42-5075 and that
14 has been provided a copy of a certificate under section 42-5009, subsection
15 L, if the property so sold is incorporated or fabricated by the person into
16 the real property, structure, project, development or improvement described
17 in the certificate.
18 28. The sale of a motor vehicle to:
19 (a) A nonresident of this state if the purchaser's state of residence
20 does not allow a corresponding use tax exemption to the tax imposed by
21 article 1 of this chapter and if the nonresident has secured a special ninety
22 day nonresident registration permit for the vehicle as prescribed by sections
23 28-2154 and 28-2154.01.
24 (b) An enrolled member of an Indian tribe who resides on the Indian
25 reservation established for that tribe.
26 29. Tangible personal property purchased in this state by a nonprofit
27 charitable organization that has qualified under section 501(c)(3) of the
28 United States internal revenue code and that engages in and uses such
29 property exclusively in programs for persons with mental or physical
30 disabilities if the programs are exclusively for training, job placement,
31 rehabilitation or testing.
32 30. Sales of tangible personal property by a nonprofit organization
33 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
34 of the internal revenue code if the organization is associated with a major
35 league baseball team or a national touring professional golfing association
36 and no part of the organization's net earnings inures to the benefit of any
37 private shareholder or individual.
38 31. Sales of commodities, as defined by title 7 United States Code
39 section 2, that are consigned for resale in a warehouse in this state in or
40 from which the commodity is deliverable on a contract for future delivery
41 subject to the rules of a commodity market regulated by the United States
42 commodity futures trading commission.
43 32. Sales of tangible personal property by a nonprofit organization
44 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
45 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
46 sponsors or operates a rodeo featuring primarily farm and ranch animals and

1 no part of the organization's net earnings inures to the benefit of any
2 private shareholder or individual.

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

7 34. Machinery, equipment, technology or related supplies that are only
8 useful to assist a person with a physical disability as defined in section
9 46-191 or a person who has a developmental disability as defined in section
10 36-551 or has a head injury as defined in section 41-3201 to be more
11 independent and functional.

12 35. Sales of natural gas or liquefied petroleum gas used to propel a
13 motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 60. SALES OF WORKS OF FINE ART, AS DEFINED IN SECTION 44-1771, AT AN
34 ART AUCTION OR GALLERY IN THIS STATE TO NONRESIDENTS OF THIS STATE FOR USE
35 OUTSIDE THIS STATE IF THE VENDOR SHIPS OR DELIVERS THE WORK OF FINE ART TO A
36 DESTINATION OUTSIDE THIS STATE.

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

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

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

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

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

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

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

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

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

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

35 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (i) Over two-thirds of the transmissions, measured in megabytes,
46 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data
2 transmission services that operate pursuant to 47 Code of Federal Regulations
3 part 25.

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

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

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

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

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

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

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

43 19. Machinery and equipment that are sold to a person engaged in the
44 commercial production of livestock, livestock products or agricultural,
45 horticultural, viticultural or floricultural crops or products in this state,
46 including a person representing or working on behalf of such a person in a

1 manner described in section 42-5075, subsection 0, if the machinery and
2 equipment are used directly and primarily to prevent, monitor, control or
3 reduce air, water or land pollution.

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

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

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

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

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

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

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

30 2. Janitorial equipment and hand tools.

31 3. Office equipment, furniture and supplies.

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

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

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

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

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

44 D. In addition to the deductions from the tax base prescribed by
45 subsection A of this section, there shall be deducted from the tax base the
46 gross proceeds of sales or gross income derived from sales of machinery,

1 equipment, materials and other tangible personal property used directly and
2 predominantly to construct a qualified environmental technology
3 manufacturing, producing or processing facility as described in section
4 41-1514.02. This subsection applies for ten full consecutive calendar or
5 fiscal years after the start of initial construction.

6 E. In computing the tax base, gross proceeds of sales or gross income
7 from retail sales of heavy trucks and trailers does not include any amount
8 attributable to federal excise taxes imposed by 26 United States Code section
9 4051.

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

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

22 H. A person who engages in manufacturing, baling, crating, boxing,
23 barreling, canning, bottling, sacking, preserving, processing or otherwise
24 preparing for sale or commercial use any livestock, agricultural or
25 horticultural product or any other product, article, substance or commodity
26 and who sells the product of such business at retail in this state is deemed,
27 as to such sales, to be engaged in business classified under the retail
28 classification. This subsection does not apply to businesses classified
29 under the:

- 30 1. Transporting classification.
- 31 2. Utilities classification.
- 32 3. Telecommunications classification.
- 33 4. Pipeline classification.
- 34 5. Private car line classification.
- 35 6. Publication classification.
- 36 7. Job printing classification.
- 37 8. Prime contracting classification.
- 38 9. Restaurant classification.

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

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

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

1 3. Overhead materials or other tangible personal property that is used
2 in performing a contract between the United States government and a
3 manufacturer, modifier, assembler or repairer, including property used in
4 performing a subcontract with a government contractor who is a manufacturer,
5 modifier, assembler or repairer, to which title passes to the government
6 under the terms of the contract or subcontract.

7 4. Sales of overhead materials or other tangible personal property to
8 a manufacturer, modifier, assembler or repairer if the gross proceeds of
9 sales or gross income derived from the property by the manufacturer,
10 modifier, assembler or repairer will be exempt under paragraph 3 of this
11 subsection.

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

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

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

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

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

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

31 N. In computing the tax base in the case of the sale or transfer of
32 wireless telecommunications equipment as an inducement to a customer to enter
33 into or continue a contract for telecommunications services that are taxable
34 under section 42-5064, gross proceeds of sales or gross income does not
35 include any sales commissions or other compensation received by the retailer
36 as a result of the customer entering into or continuing a contract for the
37 telecommunications services.

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

43 P. Retail sales of prepaid calling cards or prepaid authorization
44 numbers for telecommunications services, including sales of reauthorization
45 of a prepaid card or authorization number, are subject to tax under this
46 section.

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

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

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

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

13 1. The transfer of title or possession of the coal is for the purpose
14 of refining the coal.

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

21 S. If a seller is entitled to a deduction pursuant to subsection B,
22 paragraph 15, subdivision (b) of this section, the department may require the
23 purchaser to establish that the requirements of subsection B, paragraph 15,
24 subdivision (b) of this section have been satisfied. If the purchaser cannot
25 establish that the requirements of subsection B, paragraph 15, subdivision
26 (b) of this section have been satisfied, the purchaser is liable in an amount
27 equal to any tax, penalty and interest ~~which~~ THAT the seller would have been
28 required to pay under article 1 of this chapter if the seller had not made a
29 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this
30 section. Payment of the amount under this subsection exempts the purchaser
31 from liability for any tax imposed under article 4 of this chapter and
32 related to the tangible personal property purchased. The amount shall be
33 treated as transaction privilege tax to the purchaser and as tax revenues
34 collected from the seller to designate the distribution base pursuant to
35 section 42-5029.

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

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

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

44 U. In computing the tax base for the sale of a motor vehicle to a
45 nonresident of this state, if the purchaser's state of residence allows a
46 corresponding use tax exemption to the tax imposed by article 1 of this

1 chapter and the rate of the tax in the purchaser's state of residence is
2 lower than the rate prescribed in article 1 of this chapter or if the
3 purchaser's state of residence does not impose an excise tax, and the
4 nonresident has secured a special ninety day nonresident registration permit
5 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
6 be deducted from the tax base a portion of the gross proceeds or gross income
7 from the sale so that the amount of transaction privilege tax that is paid in
8 this state is equal to the excise tax that is imposed by the purchaser's
9 state of residence on the nonexempt sale or use of the motor vehicle.

10 V. For the purposes of this section:

11 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

45 6. "Subcontract" means an agreement between a contractor and any
46 person who is not an employee of the contractor for furnishing of supplies or

1 services that, in whole or in part, are necessary to the performance of one
2 or more government contracts, or under which any portion of the contractor's
3 obligation under one or more government contracts is performed, undertaken or
4 assumed and that includes provisions causing title to overhead materials or
5 other tangible personal property used in the performance of the subcontract
6 to pass to the government or that includes provisions incorporating such
7 title passing clauses in a government contract into the subcontract.

8 Sec. 2. Effective date

9 This act applies to taxable periods beginning the first day of the
10 month following the general effective date.

APPROVED BY THE GOVERNOR MAY 19, 2016.

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