

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

CHAPTER 369
HOUSE BILL 2584

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 ~~G. If the department of revenue determines that the requirements of~~
44 ~~subsection E, paragraph 1 of this section have not been satisfied or that~~
45 ~~there has been a violation of subsection L of this section, the department~~
46 ~~may revoke the certification of a new computer data center and the owner or~~

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

G. IF THE AUTHORITY DETERMINES THAT:

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

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

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

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

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

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

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

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

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

24 L. FOR THE PURPOSES OF QUALIFYING AND CONTINUING AS A SUSTAINABLE
25 REDEVELOPMENT PROJECT:

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

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

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

44 ~~L.~~ M. This section does not allow a computer data center to do either
45 of the following:

- 46 1. Generate electricity for resale purposes.

1 2. Generate, provide or sell electricity outside of the computer data
2 center.

3 ~~M.~~ N. The owner or operator may ~~include single entities or~~ BE A
4 SINGLE INDIVIDUAL OR ENTITY OR MULTIPLE affiliated entities.

5 ~~N.~~ O. For the purposes of this section:

6 1. "Computer data center" means all or part of a facility that may be
7 composed of multiple businesses or owners, that is or will be predominantly
8 used to house working servers and that may have uninterruptible energy supply
9 or generator backup power, or both, cooling systems, towers and other
10 temperature control infrastructure.

11 2. "Computer data center equipment" means equipment that is used to
12 outfit, operate or benefit a computer data center and component parts,
13 installations, refreshments, replacements and upgrades to this equipment,
14 REGARDLESS OF whether ~~any of the property is~~ affixed to or incorporated into
15 real property, AND WHETHER OWNED, LEASED OR USED BY THE OWNER OR OPERATOR
16 PURSUANT TO A CONTRACT FOR THE RIGHT TO USE THE EQUIPMENT, including:

17 (a) All equipment necessary for the transformation, generation,
18 distribution or management of electricity that is required to operate
19 computer server equipment, including generators, uninterruptible energy,
20 supplies, conduit, gaseous fuel piping, cabling, duct banks, switches,
21 switchboards, batteries and testing equipment.

22 (b) All equipment necessary to cool and maintain a controlled
23 environment for the operation of the computer server and other components of
24 the computer data center, including mechanical equipment, refrigerant piping,
25 gaseous fuel piping, adiabatic and free cooling systems, cooling towers,
26 water softeners, air handling units, indoor direct exchange units, fans,
27 ducting and filters.

28 (c) All water conservation systems, including facilities or mechanisms
29 that are designed to collect, conserve and reuse water.

30 (d) All enabling software, computer server equipment, chassis,
31 networking equipment, switches, racks, cabling, trays and conduit.

32 (e) All monitoring equipment and security systems.

33 (f) Modular data centers and preassembled components of any item
34 described in this paragraph, including components used in the manufacturing
35 of modular data centers.

36 (g) Other tangible personal property that is essential to the
37 operations of a computer data center.

38 3. "CONTRIBUTING QUALIFIED COLOCATION TENANT" MEANS A QUALIFIED
39 COLOCATION TENANT THAT IS AN OPERATOR OR THAT HAD ITS ANTICIPATED INVESTMENT
40 INCLUDED IN AN APPLICATION FOR CERTIFICATION FOR THE PURPOSES OF SATISFYING
41 SUBSECTION E, PARAGRAPH 1 OF THIS SECTION.

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

1 ~~3-~~ 5. "Existing computer data center" means a computer data center
2 that is certified under subsection E, paragraph 2 of this section.

3 ~~4-~~ 6. "Facility" means one or more parcels of land in this state and
4 any structures and personal property contained on the land.

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

11 ~~5-~~ 8. "Modular data center" means a portable system of information
12 technology, climate control, energy supply and energy distribution machinery,
13 equipment and related tangible personal property contained in an intermodal
14 freight container or similar structure.

15 ~~6-~~ 9. "New computer data center" means a computer data center that is
16 certified under subsection E, paragraph 1 of this section.

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

22 ~~7-~~ 11. "Qualification period" means:

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

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

1 THE agreement. THE QUALIFICATION PERIOD FOR A QUALIFIED COLOCATION TENANT
2 MAY NOT EXTEND BEYOND THE QUALIFICATION PERIOD FOR THE OWNER OR OPERATOR OF
3 THE COMPUTER DATA CENTER.

4 ~~8-~~ 12. "Qualified colocation tenant" means an entity that contracts
5 with the owner, ~~or~~ operator OR ANOTHER QUALIFIED COLOCATION TENANT of a
6 computer data center that is certified pursuant to this section to use or
7 occupy all or part of the computer data center for at least five hundred
8 kilowatts per month for a period of two or more years.

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

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

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

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

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

26 ~~(b)~~ (ii) Attains certification under the energy star or green globes
27 standard, the leadership in energy and environmental design green building
28 rating standard developed by the United States green building council or an
29 equivalent green building standard and was not previously certified under
30 these standards.

31 ~~10-~~ 14. "Tax relief" means the deduction of the gross proceeds of sale
32 or gross income from the sale of qualified equipment as prescribed by section
33 42-5061, 42-5159 or 42-6004 that is installed in a computer data center.

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

35 42-5061. Retail classification; definitions

36 A. The retail classification is comprised of the business of selling
37 tangible personal property at retail. The tax base for the retail
38 classification is the gross proceeds of sales or gross income derived from
39 the business. The tax imposed on the retail classification does not apply to
40 the gross proceeds of sales or gross income from:

41 1. Professional or personal service occupations or businesses that
42 involve sales or transfers of tangible personal property only as
43 inconsequential elements.

44 2. Services rendered in addition to selling tangible personal property
45 at retail.

- 1 3. Sales of warranty or service contracts. The storage, use or
2 consumption of tangible personal property provided under the conditions of
3 such contracts is subject to tax under section 42-5156.
- 4 4. Sales of tangible personal property by any nonprofit organization
5 organized and operated exclusively for charitable purposes and recognized by
6 the United States internal revenue service under section 501(c)(3) of the
7 internal revenue code.
- 8 5. Sales to persons engaged in business classified under the
9 restaurant classification of articles used by human beings for food, drink or
10 condiment, whether simple, mixed or compounded.
- 11 6. Business activity that is properly included in any other business
12 classification that is taxable under this article.
- 13 7. The sale of stocks and bonds.
- 14 8. Drugs and medical oxygen, including delivery hose, mask or tent,
15 regulator and tank, on the prescription of a member of the medical, dental or
16 veterinarian profession who is licensed by law to administer such substances.
- 17 9. Prosthetic appliances as defined in section 23-501 **AND AS**
18 prescribed or recommended by a health professional who is licensed pursuant
19 to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 20 10. Insulin, insulin syringes and glucose test strips.
- 21 11. Prescription eyeglasses or contact lenses.
- 22 12. Hearing aids as defined in section 36-1901.
- 23 13. Durable medical equipment that has a centers for medicare and
24 medicaid services common procedure code, is designated reimbursable by
25 medicare, is prescribed by a person who is licensed under title 32, chapter
26 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
27 customarily used to serve a medical purpose, is generally not useful to a
28 person in the absence of illness or injury and is appropriate for use in the
29 home.
- 30 14. Sales of motor vehicles to nonresidents of this state for use
31 outside this state if the motor vehicle dealer ships or delivers the motor
32 vehicle to a destination out of this state.
- 33 15. Food, as provided in and subject to the conditions of article 3 of
34 this chapter and section 42-5074.
- 35 16. Items purchased with United States department of agriculture food
36 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
37 958) or food instruments issued under section 17 of the child nutrition act
38 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
39 section 1786).
- 40 17. Textbooks by any bookstore that are required by any state
41 university or community college.
- 42 18. Food and drink to a person that is engaged in a business that is
43 classified under the restaurant classification and that provides such food
44 and drink without monetary charge to its employees for their own consumption
45 on the premises during the employees' hours of employment.

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

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

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

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

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

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

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

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

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

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

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

4 25. Tangible personal property sold to:

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

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

9 (c) A qualifying health care organization as defined in section
10 42-5001 if the organization is dedicated to providing educational,
11 therapeutic, rehabilitative and family medical education training for blind
12 and visually impaired children and children with multiple disabilities from
13 the time of birth to age twenty-one.

14 (d) A qualifying community health center as defined in section
15 42-5001.

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

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

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

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

33 26. Magazines or other periodicals or other publications by this state
34 to encourage tourist travel.

35 27. Tangible personal property sold to:

36 (a) A person that is subject to tax under this article by reason of
37 being engaged in business classified under section 42-5075 or to a
38 subcontractor working under the control of a person engaged in business
39 classified under section 42-5075, if the property so sold is any of the
40 following:

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

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

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

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

6 28. The sale of a motor vehicle to:

7 (a) A nonresident of this state if the purchaser's state of residence
8 does not allow a corresponding use tax exemption to the tax imposed by
9 article 1 of this chapter and if the nonresident has secured a special ninety
10 day nonresident registration permit for the vehicle as prescribed by sections
11 28-2154 and 28-2154.01.

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

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

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

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

31 32. Sales of tangible personal property by a nonprofit organization
32 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
33 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
34 sponsors or operates a rodeo featuring primarily farm and ranch animals and
35 no part of the organization's net earnings inures to the benefit of any
36 private shareholder or individual.

37 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
38 propagative material to persons who use those items to commercially produce
39 agricultural, horticultural, viticultural or floricultural crops in this
40 state.

41 34. Machinery, equipment, technology or related supplies that are only
42 useful to assist a person with a physical disability as defined in section
43 46-191 or a person who has a developmental disability as defined in section
44 36-551 or has a head injury as defined in section 41-3201 to be more
45 independent and functional.

1 35. Sales of natural gas or liquefied petroleum gas used to propel a
2 motor vehicle.

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

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

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

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

36 (a) "Personal property liquidation transaction" means a sale of
37 personal property made by a personal property liquidator acting solely on
38 behalf of the owner of the personal property sold at the dwelling of the
39 owner or on the death of any owner, on behalf of the surviving spouse, if
40 any, any devisee or heir or the personal representative of the estate of the
41 deceased, if one has been appointed.

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

44 40. Sales of food, drink and condiment for consumption within the
45 premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the
2 department of juvenile corrections or a county sheriff.

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

7 42. Livestock and poultry feed, salts, vitamins and other additives for
8 livestock or poultry consumption that are sold to persons who are engaged in
9 producing livestock, poultry, or livestock or poultry products or who are
10 engaged in feeding livestock or poultry commercially. For the purposes of
11 this paragraph, "poultry" includes ratites.

12 43. Sales of implants used as growth promotants and injectable
13 medicines, not already exempt under paragraph 8 of this subsection, for
14 livestock or poultry owned by or in possession of persons who are engaged in
15 producing livestock, poultry, or livestock or poultry products or who are
16 engaged in feeding livestock or poultry commercially. For the purposes of
17 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

45 49. Sales of alternative fuel vehicles if the vehicle was manufactured
46 as a diesel fuel vehicle and converted to operate on alternative fuel and

1 equipment that is installed in a conventional diesel fuel motor vehicle to
2 convert the vehicle to operate on an alternative fuel, as defined in section
3 1-215.

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

7 51. Sales of tangible personal property to be incorporated or installed
8 as part of environmental response or remediation activities under section
9 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

32 56. Sales or other transfers of renewable energy credits or any other
33 unit created to track energy derived from renewable energy resources. For
34 the purposes of this paragraph, "renewable energy credit" means a unit
35 created administratively by the corporation commission or governing body of a
36 public power utility to track kilowatt hours of electricity derived from a
37 renewable energy resource or the kilowatt hour equivalent of conventional
38 energy resources displaced by distributed renewable energy resources.

39 57. Computer data center equipment ~~purchased by~~ SOLD TO the owner,
40 operator or qualified colocation tenant of ~~the A~~ computer data center THAT IS
41 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an
42 authorized agent of the owner, operator or qualified colocation tenant during
43 the qualification period for use in ~~a~~ THE QUALIFIED computer data center
44 ~~that is certified by the Arizona commerce authority under section 41-1519.~~
45 ~~To qualify for this deduction, at the time of purchase, the owner, operator~~
46 ~~or qualified colocation tenant must present to the retailer its certificate~~

1 ~~that is issued pursuant to section 41-1519 and that establishes its~~
2 ~~qualification for the deduction.~~ For the purposes of this paragraph,
3 "computer data center", "computer data center equipment", "qualification
4 period" and "qualified colocation tenant" have the same meanings prescribed
5 in section 41-1519.

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

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

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

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

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

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

29 1. Machinery, or equipment, used directly in manufacturing,
30 processing, fabricating, job printing, refining or metallurgical operations.
31 The terms "manufacturing", "processing", "fabricating", "job printing",
32 "refining" and "metallurgical" as used in this paragraph refer to and include
33 those operations commonly understood within their ordinary meaning.
34 "Metallurgical operations" includes leaching, milling, precipitating,
35 smelting and refining.

36 2. Mining machinery, or equipment, used directly in the process of
37 extracting ores or minerals from the earth for commercial purposes, including
38 equipment required to prepare the materials for extraction and handling,
39 loading or transporting such extracted material to the surface. "Mining"
40 includes underground, surface and open pit operations for extracting ores and
41 minerals.

42 3. Tangible personal property sold to persons engaged in business
43 classified under the telecommunications classification, including a person
44 representing or working on behalf of such a person in a manner described in
45 section 42-5075, subsection 0, and consisting of central office switching
46 equipment, switchboards, private branch exchange equipment, microwave radio

1 equipment and carrier equipment including optical fiber, coaxial cable and
2 other transmission media that are components of carrier systems.

3 4. Machinery, equipment or transmission lines used directly in
4 producing or transmitting electrical power, but not including distribution.
5 Transformers and control equipment used at transmission substation sites
6 constitute equipment used in producing or transmitting electrical power.

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

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

14 7. Aircraft, navigational and communication instruments and other
15 accessories and related equipment sold to:

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

22 (b) Any foreign government.

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

30 8. Machinery, tools, equipment and related supplies used or consumed
31 directly in repairing, remodeling or maintaining aircraft, aircraft engines
32 or aircraft component parts by or on behalf of a certificated or licensed
33 carrier of persons or property.

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

36 10. Machinery or equipment used directly to drill for oil or gas or
37 used directly in the process of extracting oil or gas from the earth for
38 commercial purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 2. Janitorial equipment and hand tools.

19 3. Office equipment, furniture and supplies.

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

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

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

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

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

32 D. In addition to the deductions from the tax base prescribed by
33 subsection A of this section, there shall be deducted from the tax base the
34 gross proceeds of sales or gross income derived from sales of machinery,
35 equipment, materials and other tangible personal property used directly and
36 predominantly to construct a qualified environmental technology
37 manufacturing, producing or processing facility as described in section
38 41-1514.02. This subsection applies for ten full consecutive calendar or
39 fiscal years after the start of initial construction.

40 E. In computing the tax base, gross proceeds of sales or gross income
41 from retail sales of heavy trucks and trailers does not include any amount
42 attributable to federal excise taxes imposed by 26 United States Code section
43 4051.

44 F. If a person is engaged in an occupation or business to which
45 subsection A of this section applies, the person's books shall be kept so as
46 to show separately the gross proceeds of sales of tangible personal property

1 and the gross income from sales of services, and if not so kept the tax shall
2 be imposed on the total of the person's gross proceeds of sales of tangible
3 personal property and gross income from services.

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

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

- 18 1. Transporting classification.
- 19 2. Utilities classification.
- 20 3. Telecommunications classification.
- 21 4. Pipeline classification.
- 22 5. Private car line classification.
- 23 6. Publication classification.
- 24 7. Job printing classification.
- 25 8. Prime contracting classification.
- 26 9. Restaurant classification.

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

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

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

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

41 4. Sales of overhead materials or other tangible personal property to
42 a manufacturer, modifier, assembler or repairer if the gross proceeds of
43 sales or gross income derived from the property by the manufacturer,
44 modifier, assembler or repairer will be exempt under paragraph 3 of this
45 subsection.

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

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

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

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

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

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

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

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

32 P. Retail sales of prepaid calling cards or prepaid authorization
33 numbers for telecommunications services, including sales of reauthorization
34 of a prepaid card or authorization number, are subject to tax under this
35 section.

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

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

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

44 R. For the purposes of this section, the transfer of title or
45 possession of coal from an owner or operator of a power plant to a person in

1 the business of refining coal is not a sale of coal if both of the following
2 apply:

3 1. The transfer of title or possession of the coal is for the purpose
4 of refining the coal.

5 2. The title or possession of the coal is transferred back to the
6 owner or operator of the power plant after completion of the coal refining
7 process. For the purposes of this paragraph, "coal refining process"
8 means the application of a coal additive system that aids in the reduction of
9 power plant emissions during the combustion of coal and the treatment of flue
10 gas.

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

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

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

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

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

46 V. For the purposes of this section:

1 1. "Aircraft" includes:
2 (a) An airplane flight simulator that is approved by the federal
3 aviation administration for use as a phase II or higher flight simulator
4 under appendix H, 14 Code of Federal Regulations part 121.
5 (b) Tangible personal property that is permanently affixed or attached
6 as a component part of an aircraft that is owned or operated by a
7 certificated or licensed carrier of persons or property.
8 2. "Other accessories and related equipment" includes aircraft
9 accessories and equipment such as ground service equipment that physically
10 contact aircraft at some point during the overall carrier operation.
11 3. "Selling at retail" means a sale for any purpose other than for
12 resale in the regular course of business in the form of tangible personal
13 property, but transfer of possession, lease and rental as used in the
14 definition of sale mean only such transactions as are found on investigation
15 to be in lieu of sales as defined without the words lease or rental.
16 W. For the purposes of subsection I of this section:
17 1. "Assembler" means a person who unites or combines products, wares
18 or articles of manufacture so as to produce a change in form or substance
19 without changing or altering the component parts.
20 2. "Manufacturer" means a person who is principally engaged in the
21 fabrication, production or manufacture of products, wares or articles for use
22 from raw or prepared materials, imparting to those materials new forms,
23 qualities, properties and combinations.
24 3. "Modifier" means a person who reworks, changes or adds to products,
25 wares or articles of manufacture.
26 4. "Overhead materials" means tangible personal property, the gross
27 proceeds of sales or gross income derived from that would otherwise be
28 included in the retail classification, and that are used or consumed in the
29 performance of a contract, the cost of which is charged to an overhead
30 expense account and allocated to various contracts based on generally
31 accepted accounting principles and consistent with government contract
32 accounting standards.
33 5. "Repairer" means a person who restores or renews products, wares or
34 articles of manufacture.
35 6. "Subcontract" means an agreement between a contractor and any
36 person who is not an employee of the contractor for furnishing of supplies or
37 services that, in whole or in part, are necessary to the performance of one
38 or more government contracts, or under which any portion of the contractor's
39 obligation under one or more government contracts is performed, undertaken or
40 assumed and that includes provisions causing title to overhead materials or
41 other tangible personal property used in the performance of the subcontract
42 to pass to the government or that includes provisions incorporating such
43 title passing clauses in a government contract into the subcontract.
44 Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:
45 42-5159. Exemptions

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

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

7 2. Tangible personal property, the sale or use of which has already
8 been subjected to an excise tax at a rate equal to or exceeding the tax
9 imposed by this article under the laws of another state of the United States.
10 If the excise tax imposed by the other state is at a rate less than the tax
11 imposed by this article, the tax imposed by this article is reduced by the
12 amount of the tax already imposed by the other state.

13 3. Tangible personal property, the storage, use or consumption of
14 which the constitution or laws of the United States prohibit this state from
15 taxing or to the extent that the rate or imposition of tax is
16 unconstitutional under the laws of the United States.

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

20 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
21 which in this state is subject to the tax imposed under title 28, chapter 16,
22 article 1, use fuel that is sold to or used by a person holding a valid
23 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
24 the sales, distribution or use of which in this state is subject to the tax
25 imposed under section 28-8344, and jet fuel, the sales, distribution or use
26 of which in this state is subject to the tax imposed under article 8 of this
27 chapter.

28 6. Tangible personal property brought into this state by an individual
29 who was a nonresident at the time the property was purchased for storage, use
30 or consumption by the individual if the first actual use or consumption of
31 the property was outside this state, unless the property is used in
32 conducting a business in this state.

33 7. Purchases of implants used as growth promotants and injectable
34 medicines, not already exempt under paragraph 16 of this subsection, for
35 livestock and poultry owned by, or in possession of, persons who are engaged
36 in producing livestock, poultry, or livestock or poultry products, or who are
37 engaged in feeding livestock or poultry commercially. For the purposes of
38 this paragraph, "poultry" includes ratites.

39 8. Livestock, poultry, supplies, feed, salts, vitamins and other
40 additives for use or consumption in the businesses of farming, ranching and
41 feeding livestock or poultry, not including fertilizers, herbicides and
42 insecticides. For the purposes of this paragraph, "poultry" includes
43 ratites.

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

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

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

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

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

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

15 13. Tangible personal property purchased by:

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

19 (b) A hospital operated by this state or a political subdivision of
20 this state.

21 (c) A licensed nursing care institution or a licensed residential care
22 institution or a residential care facility operated in conjunction with a
23 licensed nursing care institution or a licensed kidney dialysis center, which
24 provides medical services, nursing services or health related services and is
25 not used or held for profit.

26 (d) A qualifying health care organization, as defined in section
27 42-5001, if the tangible personal property is used by the organization solely
28 to provide health and medical related educational and charitable services.

29 (e) A qualifying health care organization as defined in section
30 42-5001 if the organization is dedicated to providing educational,
31 therapeutic, rehabilitative and family medical education training for blind
32 and visually impaired children and children with multiple disabilities from
33 the time of birth to age twenty-one.

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

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

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

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

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

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

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

14 (j) A qualifying community health center as defined in section
15 42-5001.

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

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

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

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

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

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

43 15. Tangible personal property sold by:

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

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

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

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

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

18 18. Prescription eyeglasses and contact lenses.

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

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

21 21. Durable medical equipment that has a centers for medicare and
22 medicaid services common procedure code, is designated reimbursable by
23 medicare, is prescribed by a person who is licensed under title 32, chapter
24 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
25 used to serve a medical purpose, is generally not useful to a person in the
26 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

45 27. Lottery tickets or shares purchased pursuant to title 5, chapter
46 5.1, article 1.

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

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

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

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

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

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

23 (b) Public educational institutions.

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

27 33. Natural gas or liquefied petroleum gas used to propel a motor
28 vehicle.

29 34. Machinery, equipment, technology or related supplies that are only
30 useful to assist a person with a physical disability as defined in section
31 46-191 or a person who has a developmental disability as defined in section
32 36-551 or has a head injury as defined in section 41-3201 to be more
33 independent and functional.

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

1 36. Food, drink and condiment purchased for consumption within the
2 premises of any prison, jail or other institution under the jurisdiction of
3 the state department of corrections, the department of public safety, the
4 department of juvenile corrections or a county sheriff.

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

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

12 39. Overhead materials or other tangible personal property that is
13 used in performing a contract between the United States government and a
14 manufacturer, modifier, assembler or repairer, including property used in
15 performing a subcontract with a government contractor who is a manufacturer,
16 modifier, assembler or repairer, to which title passes to the government
17 under the terms of the contract or subcontract. For the purposes of this
18 paragraph:

19 (a) "Overhead materials" means tangible personal property, the gross
20 proceeds of sales or gross income derived from which would otherwise be
21 included in the retail classification, that is 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 (b) "Subcontract" means an agreement between a contractor and any
27 person who is not an employee of the contractor for furnishing of supplies or
28 services that, in whole or in part, are necessary to the performance of one
29 or more government contracts, or under which any portion of the contractor's
30 obligation under one or more government contracts is performed, undertaken or
31 assumed, and that includes provisions causing title to overhead materials or
32 other tangible personal property used in the performance of the subcontract
33 to pass to the government or that includes provisions incorporating such
34 title passing clauses in a government contract into the subcontract.

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

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

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

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

12 44. Alternative fuel vehicles if the vehicle was manufactured as a
13 diesel fuel vehicle and converted to operate on alternative fuel and
14 equipment that is installed in a conventional diesel fuel motor vehicle to
15 convert the vehicle to operate on an alternative fuel, as defined in section
16 1-215.

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

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

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

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

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

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

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

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

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

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

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

8 52. Repair parts installed in equipment used directly by a qualified
9 business under section 41-1516 in harvesting, processing or transporting
10 qualifying forest products removed from qualifying projects as defined in
11 section 41-1516.

12 53. Renewable energy credits or any other unit created to track energy
13 derived from renewable energy resources. For the purposes of this paragraph,
14 "renewable energy credit" means a unit created administratively by the
15 corporation commission or governing body of a public power entity to track
16 kilowatt hours of electricity derived from a renewable energy resource or the
17 kilowatt hour equivalent of conventional energy resources displaced by
18 distributed renewable energy resources.

19 54. Computer data center equipment ~~purchased by~~ SOLD TO the owner,
20 operator or qualified colocation tenant of ~~the A~~ computer data center THAT IS
21 CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an
22 authorized agent of the owner, operator or qualified colocation tenant during
23 the qualification period for use in ~~a~~ THE QUALIFIED computer data center
24 ~~that is certified by the Arizona commerce authority under section 41-1519.~~
25 ~~To qualify for this deduction, at the time of purchase, the owner, operator~~
26 ~~or qualified colocation tenant must present to the retailer its certificate~~
27 ~~that is issued pursuant to section 41-1519 and that establishes its~~
28 ~~qualification for the deduction.~~ For the purposes of this paragraph,
29 "computer data center", "computer data center equipment", "qualification
30 period" and "qualified colocation tenant" have the same meanings prescribed
31 in section 41-1519.

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

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

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

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

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

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

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

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

15 1. Machinery, or equipment, used directly in manufacturing,
16 processing, fabricating, job printing, refining or metallurgical operations.
17 The terms "manufacturing", "processing", "fabricating", "job printing",
18 "refining" and "metallurgical" as used in this paragraph refer to and include
19 those operations commonly understood within their ordinary meaning.
20 "Metallurgical operations" includes leaching, milling, precipitating,
21 smelting and refining.

22 2. Machinery, or equipment, used directly in the process of extracting
23 ores or minerals from the earth for commercial purposes, including equipment
24 required to prepare the materials for extraction and handling, loading or
25 transporting such extracted material to the surface. "Mining" includes
26 underground, surface and open pit operations for extracting ores and
27 minerals.

28 3. Tangible personal property sold to persons engaged in business
29 classified under the telecommunications classification under section 42-5064,
30 including a person representing or working on behalf of such a person in a
31 manner described in section 42-5075, subsection 0, and consisting of central
32 office switching equipment, switchboards, private branch exchange equipment,
33 microwave radio equipment and carrier equipment including optical fiber,
34 coaxial cable and other transmission media that are components of carrier
35 systems.

36 4. Machinery, equipment or transmission lines used directly in
37 producing or transmitting electrical power, but not including distribution.
38 Transformers and control equipment used at transmission substation sites
39 constitute equipment used in producing or transmitting electrical power.

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

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

1 7. Aircraft, navigational and communication instruments and other
2 accessories and related equipment sold to:

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

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

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

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

18 10. Machinery or equipment used directly to drill for oil or gas or
19 used directly in the process of extracting oil or gas from the earth for
20 commercial purposes.

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

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

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

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

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

41 14. Machinery or equipment used in research and development. For the
42 purposes of this paragraph, "research and development" means basic and
43 applied research in the sciences and engineering, and designing, developing
44 or testing prototypes, processes or new products, including research and
45 development of computer software that is embedded in or an integral part of
46 the prototype or new product or that is required for machinery or equipment

1 otherwise exempt under this section to function effectively. Research and
2 development do not include manufacturing quality control, routine consumer
3 product testing, market research, sales promotion, sales service, research in
4 social sciences or psychology, computer software research that is not
5 included in the definition of research and development, or other
6 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

44 17. Machinery and equipment that are used directly in the feeding of
45 poultry, the environmental control of housing for poultry, the movement of

1 eggs within a production and packaging facility or the sorting or cooling of
2 eggs. This exemption does not apply to vehicles used for transporting eggs.

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

13 19. Machinery and equipment that are used in the commercial production
14 of livestock, livestock products or agricultural, horticultural, viticultural
15 or floricultural crops or products in this state and that are used directly
16 and primarily to prevent, monitor, control or reduce air, water or land
17 pollution.

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

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

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

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

32 21. Qualifying equipment that is purchased from and after June 30,
33 2004 through June 30, 2024 by a qualified business under section 41-1516 for
34 harvesting or processing qualifying forest products removed from qualifying
35 projects as defined in section 41-1516. To qualify for this exemption, the
36 qualified business must obtain and present its certification from the Arizona
37 commerce authority at the time of purchase.

38 C. The exemptions provided by subsection B of this section do not
39 include:

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

44 2. Janitorial equipment and hand tools.

45 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

15 1. Revenues received from sales of ancillary services, electric
16 distribution services, electric generation services, electric transmission
17 services and other services related to providing electricity to a retail
18 electric customer who is located outside this state for use outside this
19 state if the electricity is delivered to a point of sale outside this state.

20 2. Revenues received from providing electricity, including ancillary
21 services, electric distribution services, electric generation services,
22 electric transmission services and other services related to providing
23 electricity with respect to which the transaction privilege tax imposed under
24 section 42-5063 has been paid.

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

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

30 1. Fees charged by a municipally owned utility to persons constructing
31 residential, commercial or industrial developments or connecting residential,
32 commercial or industrial developments to a municipal utility system or
33 systems if the fees are segregated and used only for capital expansion,
34 system enlargement or debt service of the utility system or systems.

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

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

42 1. A business that is principally engaged in manufacturing or smelting
43 operations and that uses at least fifty-one percent of the electricity or
44 natural gas in the manufacturing or smelting operations. This paragraph does
45 not apply to gas transportation services. For the purposes of this
46 paragraph:

1 (a) "Gas transportation services" means the services of transporting
2 natural gas to a natural gas customer or to a natural gas distribution
3 facility if the natural gas was purchased from a supplier other than the
4 utility.

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

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

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

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

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

19 1. "Aircraft" includes:

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

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

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

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

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

34 42-6004. Exemption from municipal tax; definitions

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

37 1. Exhibition events in this state sponsored, conducted or operated by
38 a nonprofit organization that is exempt from taxation under section
39 501(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 2. Interstate telecommunications services, which include that portion
44 of telecommunications services, such as subscriber line service, allocable by
45 federal law to interstate telecommunications service.

46 3. Sales of warranty or service contracts.

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

4 5. Interest on finance contracts.

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

6 7. Sales of food or other items purchased with United States
7 department of agriculture food stamp coupons issued under the food stamp act
8 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
9 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
10 section 4302; 42 United States Code section 1786) but may impose such a tax
11 on other sales of food. If a city, town or special taxing district exempts
12 sales of food from its tax or imposes a different transaction privilege rate
13 on the gross proceeds of sales or gross income from sales of food and nonfood
14 items, it shall use the definition of food prescribed by rule adopted by the
15 department pursuant to section 42-5106.

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

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

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

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

29 10. The gross proceeds of sales or gross income retained by the Arizona
30 exposition and state fair board from ride ticket sales at the annual Arizona
31 state fair.

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

34 ~~12.~~ 11. Leasing real property between affiliated companies,
35 businesses, persons or reciprocal insurers. For the purposes of this
36 paragraph:

37 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
38 means the lessor holds a controlling interest in the lessee, the lessee holds
39 a controlling interest in the lessor, affiliated persons hold a controlling
40 interest in both the lessor and the lessee, or an unrelated person holds a
41 controlling interest in both the lessor and lessee.

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

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

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

4 (e) "Reciprocal insurer" has the same meaning prescribed in section
5 20-762.

6 ~~13.~~ 12. The gross proceeds of sales or gross income derived from a
7 contract for the installation, assembly, repair or maintenance of machinery,
8 equipment or other tangible personal property that is described in section
9 42-5061, subsection B and that has independent functional utility, pursuant
10 to the following provisions:

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

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

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

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

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

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

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

35 (i) Assembling the machinery, equipment or other tangible personal
36 property.

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

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

42 (iv) Stabilizing or protecting the machinery, equipment or other
43 tangible personal property during operation by bolting, burying or performing
44 other dissimilar nonpermanent connections to either real property or real
45 property improvements.

1 ~~14.~~ 13. The leasing or renting of certified ignition interlock devices
2 installed pursuant to the requirements prescribed by section 28-1461. For
3 the purposes of this paragraph, "certified ignition interlock device" has the
4 same meaning prescribed in section 28-1301.

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

18 ~~16.~~ 15. The gross proceeds of sales or gross income derived from a
19 contract with the owner of real property or improvements to real property for
20 the maintenance, repair, replacement or alteration of existing property,
21 except as specified in this paragraph. The gross proceeds of sales or gross
22 income derived from a de minimis amount of modification activity does not
23 subject the contract or any part of the contract to tax. For the purposes of
24 this paragraph:

25 (a) Each contract is independent of another contract, except that any
26 change order that directly relates to the scope of work of the original
27 contract shall be treated the same as the original contract under this
28 ~~chapter~~ PARAGRAPH, regardless of the amount of modification activities
29 included in the change order. If a change order does not directly relate to
30 the scope of work of the original contract, the change order shall be treated
31 as a new contract, with the tax treatment of any subsequent change order to
32 follow the tax treatment of the contract to which the scope of work of the
33 subsequent change order directly relates.

34 (b) Any term not defined in this paragraph that is defined in section
35 42-5075 has the same meaning prescribed in section 42-5075.

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

44 (i) Community facilities districts, fire districts, county television
45 improvement districts, community park maintenance districts, cotton pest
46 control districts, hospital districts, pest abatement districts, health

1 service districts, agricultural improvement districts, county free library
2 districts, county jail districts, county stadium districts, special health
3 care districts, public health services districts, theme park districts,
4 regional attraction districts or revitalization districts.

5 (ii) Any special taxing district not specified in item (i) of this
6 subdivision if the district does not substantially engage in the
7 modification, maintenance, repair, replacement or alteration of surface or
8 subsurface improvements to land.

9 ~~17-~~ 16. Monitoring services relating to an alarm system as defined in
10 section 32-101.

11 ~~18-~~ 17. Tangible personal property, job printing or publications sold
12 to or purchased by, or tangible personal property leased, rented or licensed
13 for use to or by, a qualifying health sciences educational institution as
14 defined in section 42-5001.

15 ~~19-~~ 18. The transfer of title or possession of coal back and forth
16 between an owner or operator of a power plant and a person who is responsible
17 for refining coal if both of the following apply:

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

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

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

35 ~~21-~~ 20. Tangible personal property incorporated or fabricated into a
36 project described in paragraph ~~16~~ 15 of this subsection, that is located
37 within the exterior boundaries of an Indian reservation for which the owner,
38 as defined in section 42-5075, of the project is an Indian tribe or an
39 affiliated Indian. For the purposes of this paragraph:

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

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

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

5 ~~22-~~ 21. The charges for the leasing or renting of space to make
6 attachments to utility poles as follows:

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

10 (b) To a person that is engaged in the business of providing or
11 furnishing electrical services or telecommunication services or that is a
12 cable operator.

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

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

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

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

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

31 4. Incarcerating or detaining in a privately operated prison, jail or
32 detention facility prisoners who are under the jurisdiction of the United
33 States, this state or any other state or a political subdivision of this
34 state or of any other state.

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

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

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

43 (b) The attributable amount is equal to the total amount of
44 development fees paid by the taxpayer or by a contractor providing services
45 to the taxpayer and the total development fees credited in exchange for the
46 construction of, contribution to or dedication of real property for providing

1 public infrastructure, public safety or other public services necessary to
2 the development. The real property must be the subject of the development
3 fees.

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

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

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

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

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

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

24 G. For the purposes of this section:

25 1. "Cable operator" has the same meaning prescribed ~~by~~ IN section
26 9-505.

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

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

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

36 Sec. 5. Retroactivity

37 Sections 42-5061, 42-5159 and 42-6004, Arizona Revised Statutes, as
38 amended by this act, are effective retroactively to from and after September
39 12, 2013.

APPROVED BY THE GOVERNOR MAY 19, 2016.

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