

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

CHAPTER 374
HOUSE BILL 2676

AN ACT

AMENDING SECTIONS 42-5009, 42-5063, 42-5159 AND 42-6012, ARIZONA REVISED
STATUTES; RELATING TO TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

1 E. If a seller is entitled to a deduction by complying with subsection
2 B of this section, the department may require the purchaser to establish the
3 accuracy and completeness of the information provided to the seller that
4 entitled the seller to the deduction. If the purchaser cannot establish the
5 accuracy and completeness of the information, the purchaser is liable in an
6 amount equal to any tax, penalty and interest that the seller would have been
7 required to pay under this article if the seller had not complied with
8 subsection B of this section. Payment of the amount under this subsection
9 exempts the purchaser from liability for any tax imposed under article 4 of
10 this chapter. The amount shall be treated as tax revenues collected from the
11 seller in order to designate the distribution base for purposes of section
12 42-5029.

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

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

1 H. The department shall prescribe forms for certificates used to
2 establish the satisfaction of the criteria necessary to qualify the sale of a
3 motor vehicle for the deductions described in section 42-5061, subsection A,
4 paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and
5 subsection U. Except as provided in subsection J of this section, to
6 establish entitlement to these deductions, a motor vehicle dealer shall
7 retain:

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

11 2. A copy of the nonresident registration permit authorized by section
12 28-2154.

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

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

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

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

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

44 L. The department shall prescribe a form for a certificate to be used
45 by a person that is not subject to tax under section 42-5075 when the person

1 is engaged by a contractor that is subject to tax under section 42-5075 for a
2 project that is taxable under section 42-5075. The certificate permits the
3 person purchasing tangible personal property to be incorporated or fabricated
4 by the person into any real property, structure, project, development or
5 improvement to provide documentation to a retailer that the sale of tangible
6 personal property qualifies for the deduction under section 42-5061,
7 subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain
8 the certificate from the department and shall provide a copy to any such
9 person working on the project. The prime contractor shall obtain a new
10 certificate for each project to which this subsection applies. For the
11 purposes of this subsection, the following apply:

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

16 2. The department shall issue the certificate to the prime contractor
17 on receiving sufficient documentation to establish that the prime contractor
18 meets the requirements of this subsection.

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

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

33 N. A VENDOR WHO HAS REASON TO BELIEVE THAT A CERTIFICATE PRESCRIBED BY
34 THIS SECTION IS NOT ACCURATE OR COMPLETE WILL NOT BE RELIEVED OF THE BURDEN
35 OF PROVING ENTITLEMENT TO THE EXEMPTION. A VENDOR THAT ACCEPTS A CERTIFICATE
36 IN GOOD FAITH WILL BE RELIEVED OF THE BURDEN OF PROOF AND THE PURCHASER MAY
37 BE REQUIRED TO ESTABLISH THE ACCURACY OF THE CLAIMED EXEMPTION. IF THE
38 PURCHASER CANNOT ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION
39 PROVIDED IN THE CERTIFICATE, THE PURCHASER IS LIABLE FOR AN AMOUNT EQUAL TO
40 THE TRANSACTION PRIVILEGE TAX, PENALTY AND INTEREST THAT THE VENDOR WOULD
41 HAVE BEEN REQUIRED TO PAY IF THE VENDOR HAD NOT ACCEPTED THE CERTIFICATE.

42 Sec. 2. Section 42-5063, Arizona Revised Statutes, is amended to read:
43 42-5063. Utilities classification; definitions

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

- 1 1. Producing and furnishing or furnishing to consumers natural or
2 artificial gas and water.
- 3 2. Providing to retail electric customers ancillary services, electric
4 distribution services, electric generation services, electric transmission
5 services and other services related to providing electricity.
- 6 B. The utilities classification does not include:
- 7 1. Sales of ancillary services, electric distribution services,
8 electric generation services, electric transmission services and other
9 services related to providing electricity, gas or water to a person who
10 resells the services.
- 11 2. Sales of natural gas or liquefied petroleum gas used to propel a
12 motor vehicle.
- 13 3. Sales of alternative fuel, as defined in section 1-215, to a used
14 oil fuel burner who has received a permit to burn used oil or used oil fuel
15 under section 49-426 or 49-480.
- 16 4. Sales of ancillary services, electric distribution services,
17 electric generation services, electric transmission services and other
18 services that are related to providing electricity to a retail electric
19 customer who is located outside this state for use outside this state if the
20 electricity is delivered to a point of sale outside this state.
- 21 5. Sales or other transfers of renewable energy credits or any other
22 unit created to track energy derived from renewable energy resources. For
23 the purposes of this paragraph, "renewable energy credit" means a unit
24 created administratively by the corporation commission or governing body of a
25 public power utility to track kilowatt hours of electricity derived from a
26 renewable energy resource or the kilowatt hour equivalent of conventional
27 energy resources displaced by distributed renewable energy resources.
- 28 6. The leasing or renting of space to make attachments to utility
29 poles as follows:
- 30 (a) By a person that is engaged in business under this section.
- 31 (b) To a person that is engaged in business under this section or
32 section 42-5064 or that is a cable operator.
- 33 C. The tax base for the utilities classification is the gross proceeds
34 of sales or gross income derived from the business, but the following shall
35 be deducted from the tax base:
- 36 1. Revenues received by a municipally owned utility in the form of
37 fees charged to persons constructing residential, commercial or industrial
38 developments or connecting residential, commercial or industrial developments
39 to a municipal utility system or systems if the fees are segregated and used
40 only for capital expansion, system enlargement or debt service of the utility
41 system or systems.
- 42 2. Revenues received by any person or persons owning a utility system
43 in the form of reimbursement or contribution compensation for property and
44 equipment installed to provide utility access to, on or across the land of an
45 actual utility consumer if the property and equipment become the property of

1 the utility. This deduction shall not exceed the value of such property and
2 equipment.

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

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

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

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

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

22 6. Gross proceeds of sales or gross income derived from sales of
23 electricity or natural gas to a ~~business that is principally engaged~~
24 ~~in~~ QUALIFIED manufacturing or smelting ~~operations and that uses at least~~
25 ~~fifty one percent of the electricity or natural gas in the manufacturing or~~
26 ~~smelting operations~~ BUSINESS. A UTILITY THAT CLAIMS THIS DEDUCTION SHALL
27 REPORT EACH MONTH, ON A FORM PRESCRIBED BY THE DEPARTMENT, THE NAME AND
28 ADDRESS OF EACH QUALIFIED MANUFACTURING OR SMELTING BUSINESS FOR WHICH THIS
29 DEDUCTION IS TAKEN. This paragraph does not apply to gas transportation
30 services. For the purposes of this paragraph:

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

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

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

44 (c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE
45 FOLLOWING:

1 (i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS
2 STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED
3 PRODUCTS WILL BE EXPORTED OUT-OF-STATE FOR INCORPORATION INTO ANOTHER PRODUCT
4 OR SOLD OUT-OF-STATE FOR A FINAL SALE.

5 (ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS
6 INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR
7 SMELTED BY THE BUSINESS.

8 (iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE
9 FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
10 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

11 (iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS
12 WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
13 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

14 (v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF
15 ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS
16 AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY
17 RELATED TO MANUFACTURING OR SMELTING.

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

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

24 D. For the purposes of this section:

25 1. "Ancillary services" means those services so designated in federal
26 energy regulatory commission order 888 adopted in 1996 that include the
27 services necessary to support the transmission of electricity from resources
28 to loads while maintaining reliable operation of the transmission system
29 according to good utility practice.

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

31 3. "Electric distribution service" means distributing electricity to
32 retail electric customers through the use of electric distribution
33 facilities.

34 4. "Electric generation service" means providing electricity for sale
35 to retail electric customers but excluding electric distribution or
36 transmission services.

37 5. "Electric transmission service" means transmitting electricity to
38 retail electric customers or to electric distribution facilities so
39 classified by the federal energy regulatory commission or, to the extent
40 permitted by law, so classified by the Arizona corporation commission.

41 6. "Other services" includes metering, meter reading services, billing
42 and collecting services.

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

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

4 Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:
5 42-5159. Exemptions

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

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

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

18 3. Tangible personal property, the storage, use or consumption of
19 which the constitution or laws of the United States prohibit this state from
20 taxing or to the extent that the rate or imposition of tax is
21 unconstitutional under the laws of the United States.

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

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

33 6. Tangible personal property brought into this state by an individual
34 who was a nonresident at the time the property was purchased for storage, use
35 or consumption by the individual if the first actual use or consumption of
36 the property was outside this state, unless the property is used in
37 conducting a business in this state.

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

44 8. Livestock, poultry, supplies, feed, salts, vitamins and other
45 additives for use or consumption in the businesses of farming, ranching and

1 feeding livestock or poultry, not including fertilizers, herbicides and
2 insecticides. For the purposes of this paragraph, "poultry" includes
3 ratites.

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

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

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

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

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

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

21 13. Tangible personal property purchased by:

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

25 (b) A hospital operated by this state or a political subdivision of
26 this state.

27 (c) A licensed nursing care institution or a licensed residential care
28 institution or a residential care facility operated in conjunction with a
29 licensed nursing care institution or a licensed kidney dialysis center, which
30 provides medical services, nursing services or health related services and is
31 not used or held for profit.

32 (d) A qualifying health care organization, as defined in section
33 42-5001, if the tangible personal property is used by the organization solely
34 to provide health and medical related educational and charitable services.

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

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

- 1 (g) A person that is subject to tax under this chapter by reason of
2 being engaged in business classified under section 42-5075, or a
3 subcontractor working under the control of a person that is engaged in
4 business classified under section 42-5075, if the tangible personal property
5 is any of the following:
- 6 (i) Incorporated or fabricated by the person into a structure,
7 project, development or improvement in fulfillment of a contract.
 - 8 (ii) Incorporated or fabricated by the person into any project
9 described in section 42-5075, subsection 0.
 - 10 (iii) Used in environmental response or remediation activities under
11 section 42-5075, subsection B, paragraph 6.
- 12 (h) A person that is not subject to tax under section 42-5075 and that
13 has been provided a copy of a certificate described in section 42-5009,
14 subsection L, if the property purchased is incorporated or fabricated by the
15 person into the real property, structure, project, development or improvement
16 described in the certificate.
- 17 (i) A nonprofit charitable organization that has qualified under
18 section 501(c)(3) of the internal revenue code if the property is purchased
19 from the parent or an affiliate organization that is located outside this
20 state.
 - 21 (j) A qualifying community health center as defined in section
22 42-5001.
 - 23 (k) A nonprofit charitable organization that has qualified under
24 section 501(c)(3) of the internal revenue code and that regularly serves
25 meals to the needy and indigent on a continuing basis at no cost.
 - 26 (l) A person engaged in business under the transient lodging
27 classification if the property is a personal hygiene item or articles used by
28 human beings for food, drink or condiment, except alcoholic beverages, which
29 are furnished without additional charge to and intended to be consumed by the
30 transient during the transient's occupancy.
 - 31 (m) For taxable periods beginning from and after June 30, 2001, a
32 nonprofit charitable organization that has qualified under section 501(c)(3)
33 of the internal revenue code and that provides residential apartment housing
34 for low income persons over sixty-two years of age in a facility that
35 qualifies for a federal housing subsidy, if the tangible personal property is
36 used by the organization solely to provide residential apartment housing for
37 low income persons over sixty-two years of age in a facility that qualifies
38 for a federal housing subsidy.
 - 39 (n) A qualifying health sciences educational institution as defined in
40 section 42-5001.
 - 41 (o) A person representing or working on behalf of any person described
42 in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of
43 this paragraph, if the tangible personal property is incorporated or
44 fabricated into a project described in section 42-5075, subsection 0.

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

6 15. Tangible personal property sold by:

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

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

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

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

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

27 18. Prescription eyeglasses and contact lenses.

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

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

30 21. Durable medical equipment that has a centers for medicare and
31 medicaid services common procedure code, is designated reimbursable by
32 medicare, is prescribed by a person who is licensed under title 32, chapter
33 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
34 used to serve a medical purpose, is generally not useful to a person in the
35 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

9 27. Lottery tickets or shares purchased pursuant to title 5, chapter
10 5.1, article 1.

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

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

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

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

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

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

33 (b) Public educational institutions.

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

37 33. Natural gas or liquefied petroleum gas used to propel a motor
38 vehicle.

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

44 35. Liquid, solid or gaseous chemicals used in manufacturing,
45 processing, fabricating, mining, refining, metallurgical operations, research

1 and development and, beginning on January 1, 1999, printing, if using or
2 consuming the chemicals, alone or as part of an integrated system of
3 chemicals, involves direct contact with the materials from which the product
4 is produced for the purpose of causing or permitting a chemical or physical
5 change to occur in the materials as part of the production process. This
6 paragraph does not include chemicals that are used or consumed in activities
7 such as packaging, storage or transportation but does not affect any
8 exemption for such chemicals that is otherwise provided by this section. For
9 the purposes of this paragraph, "printing" means a commercial printing
10 operation and includes job printing, engraving, embossing, copying and
11 bookbinding.

12 36. Food, drink and condiment purchased for consumption within the
13 premises of any prison, jail or other institution under the jurisdiction of
14 the state department of corrections, the department of public safety, the
15 department of juvenile corrections or a county sheriff.

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

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

23 39. Overhead materials or other tangible personal property that is
24 used in performing a contract between the United States government and a
25 manufacturer, modifier, assembler or repairer, including property used in
26 performing a subcontract with a government contractor who is a manufacturer,
27 modifier, assembler or repairer, to which title passes to the government
28 under the terms of the contract or subcontract. For the purposes of this
29 paragraph:

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

37 (b) "Subcontract" means an agreement between a contractor and any
38 person who is not an employee of the contractor for furnishing of supplies or
39 services that, in whole or in part, are necessary to the performance of one
40 or more government contracts, or under which any portion of the contractor's
41 obligation under one or more government contracts is performed, undertaken or
42 assumed, and that includes provisions causing title to overhead materials or
43 other tangible personal property used in the performance of the subcontract
44 to pass to the government or that includes provisions incorporating such
45 title passing clauses in a government contract into the subcontract.

1 40. Through December 31, 1994, tangible personal property sold
2 pursuant to a personal property liquidation transaction, as defined in
3 section 42-5061. From and after December 31, 1994, tangible personal
4 property sold pursuant to a personal property liquidation transaction, as
5 defined in section 42-5061, if the gross proceeds of the sales were included
6 in the measure of the tax imposed by article 1 of this chapter or if the
7 personal property liquidation was a casual activity or transaction.

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

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

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

22 44. Alternative fuel vehicles if the vehicle was manufactured as a
23 diesel fuel vehicle and converted to operate on alternative fuel and
24 equipment that is installed in a conventional diesel fuel motor vehicle to
25 convert the vehicle to operate on an alternative fuel, as defined in section
26 1-215.

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

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

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

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

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

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

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

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

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

12 (b) "Curriculum design or enhancement" means planning, implementing or
13 reporting on courses of study, lessons, assignments or other learning
14 activities.

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

19 52. Repair parts installed in equipment used directly by a qualified
20 business under section 41-1516 in harvesting, processing or transporting
21 qualifying forest products removed from qualifying projects as defined in
22 section 41-1516.

23 53. Renewable energy credits or any other unit created to track energy
24 derived from renewable energy resources. For the purposes of this paragraph,
25 "renewable energy credit" means a unit created administratively by the
26 corporation commission or governing body of a public power entity to track
27 kilowatt hours of electricity derived from a renewable energy resource or the
28 kilowatt hour equivalent of conventional energy resources displaced by
29 distributed renewable energy resources.

30 54. Computer data center equipment purchased by the owner, operator or
31 qualified colocation tenant of the computer data center or an authorized
32 agent of the owner, operator or qualified colocation tenant during the
33 qualification period for use in a computer data center that is certified by
34 the Arizona commerce authority under section 41-1519. To qualify for this
35 deduction, at the time of purchase, the owner, operator or qualified
36 colocation tenant must present to the retailer its certificate that is issued
37 pursuant to section 41-1519 and that establishes its qualification for the
38 deduction. For the purposes of this paragraph, "computer data center",
39 "computer data center equipment", "qualification period" and "qualified
40 colocation tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 7. Aircraft, navigational and communication instruments and other
13 accessories and related equipment sold to:

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

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

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

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

29 10. Machinery or equipment used directly to drill for oil or gas or
30 used directly in the process of extracting oil or gas from the earth for
31 commercial purposes.

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

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

40 13. New machinery and equipment consisting of tractors, tractor-drawn
41 implements, self-powered implements, machinery and equipment necessary for
42 extracting milk, and machinery and equipment necessary for cooling milk and
43 livestock, and drip irrigation lines not already exempt under paragraph 6 of
44 this subsection and that are used for commercial production of agricultural,

1 horticultural, viticultural and floricultural crops and products in this
2 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 2. Janitorial equipment and hand tools.

14 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

44 1. Fees charged by a municipally owned utility to persons constructing
45 residential, commercial or industrial developments or connecting residential,

1 commercial or industrial developments to a municipal utility system or
2 systems if the fees are segregated and used only for capital expansion,
3 system enlargement or debt service of the utility system or systems.

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

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

11 1. A ~~business that is principally engaged in~~ QUALIFIED manufacturing
12 or smelting ~~operations and that uses at least fifty-one percent of the~~
13 ~~electricity or natural gas in the manufacturing or smelting operations~~
14 BUSINESS. A UTILITY THAT CLAIMS THIS DEDUCTION SHALL REPORT EACH MONTH, ON A
15 FORM PRESCRIBED BY THE DEPARTMENT, THE NAME AND ADDRESS OF EACH QUALIFIED
16 MANUFACTURING OR SMELTING BUSINESS FOR WHICH THIS DEDUCTION IS TAKEN. This
17 paragraph does not apply to gas transportation services. For the purposes of
18 this paragraph:

19 (a) "Gas transportation services" means the services of transporting
20 natural gas to a natural gas customer or to a natural gas distribution
21 facility if the natural gas was purchased from a supplier other than the
22 utility.

23 (b) "Manufacturing" means the performance as a business of an
24 integrated series of operations that places tangible personal property in a
25 form, composition or character different from that in which it was acquired
26 and transforms it into a different product with a distinctive name, character
27 or use. Manufacturing does not include ~~processing, fabricating,~~ job
28 printing, PUBLISHING, PACKAGING, mining, generating electricity or operating
29 a restaurant.

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

32 (c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE
33 FOLLOWING:

34 (i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS
35 STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED
36 PRODUCTS WILL BE EXPORTED OUT-OF-STATE FOR INCORPORATION INTO ANOTHER PRODUCT
37 OR SOLD OUT-OF-STATE FOR A FINAL SALE.

38 (ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS
39 INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR
40 SMELTED BY THE BUSINESS.

41 (iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE
42 FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
43 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

1 (iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS
2 WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
3 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

4 (v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF
5 ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS
6 AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY
7 RELATED TO MANUFACTURING OR SMELTING.

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

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

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

14 1. "Aircraft" includes:

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

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

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

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

28 Sec. 4. Section 42-6012, Arizona Revised Statutes, is amended to read:

29 42-6012. Municipal transaction privilege tax: sales of
30 electricity or natural gas

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

37 1. ~~Businesses that use at least fifty-one percent of the electricity,~~
38 ~~electric lights, current, power or natural gas in~~ A QUALIFIED manufacturing
39 or smelting ~~operation~~ BUSINESS located in that city or town. A UTILITY THAT
40 CLAIMS THIS DEDUCTION SHALL REPORT EACH MONTH, ON A FORM PRESCRIBED BY THE
41 DEPARTMENT, THE NAME AND ADDRESS OF EACH QUALIFIED MANUFACTURING OR SMELTING
42 BUSINESS FOR WHICH THIS DEDUCTION IS TAKEN. This paragraph does not apply to
43 gas transportation services. For the purposes of this paragraph:

44 (a) "Gas transportation services" means the services of transporting
45 natural gas to a natural gas customer or to a natural gas distribution

1 facility if the natural gas was purchased from a supplier other than the
2 utility.

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

9 (c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE
10 FOLLOWING:

11 (i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS
12 STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED
13 PRODUCTS WILL BE EXPORTED OUT-OF-STATE FOR INCORPORATION INTO ANOTHER PRODUCT
14 OR SOLD OUT-OF-STATE FOR A FINAL SALE.

15 (ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS
16 INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR
17 SMELTED BY THE BUSINESS.

18 (iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE
19 FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
20 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

21 (iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS
22 WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
23 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

24 (v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF
25 ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS
26 AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY
27 RELATED TO MANUFACTURING OR SMELTING.

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

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

33 Sec. 5. Effective date

34 Sections 42-5063, 42-5159 and 42-6012, Arizona Revised Statutes, as
35 amended by this act, are effective from and after December 31, 2016.

APPROVED BY THE GOVERNOR MAY 19, 2016.

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