

REFERENCE TITLE: TPT; diapers; formula; feminine hygiene

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HB 2418

Introduced by
Representative Hernandez

AN ACT

AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY SENATE BILL 1010, SECTION 11, FIFTY-THIRD LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES, AS AMENDED BY SENATE BILL 1010, SECTION 13, FIFTY-THIRD LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO TRANSACTION PRIVILEGE AND USE TAX EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-5061, Arizona Revised Statutes, as amended by
3 Senate Bill 1010, section 11, fifty-third legislature, first regular
4 session, as transmitted to the governor, is amended to read:

5 **42-5061. *Retail classification: definitions***

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

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

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

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

19 4. Sales of tangible personal property by any nonprofit
20 organization organized and operated exclusively for charitable purposes
21 and recognized by the United States internal revenue service under section
22 501(c)(3) of the internal revenue code.

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

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

28 7. The sale of stocks and bonds.

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

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

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

37 11. Prescription eyeglasses or contact lenses.

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

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

1 14. 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 out of this state.

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

6 16. Items purchased with United States department of agriculture
7 food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113;
8 91 Stat. 958) or food instruments issued under section 17 of the child
9 nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42
10 United States Code section 1786).

11 17. Textbooks by any bookstore that are required by any state
12 university or community college.

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

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

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

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

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

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

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

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

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

8 22. Motor vehicle fuel and use fuel that are subject to a tax
9 imposed under title 28, chapter 16, article 1, sales of use fuel to a
10 holder of a valid single trip use fuel tax permit issued under section
11 28-5739, sales of aviation fuel that are subject to the tax imposed under
12 section 28-8344 and sales of jet fuel that are subject to the tax imposed
13 under article 8 of this chapter.

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

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

21 25. Tangible personal property sold to:

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

23 (b) A qualifying health care organization as defined in section
24 42-5001 if the tangible personal property is used by the organization
25 solely to provide health and medical related educational and charitable
26 services.

27 (c) A qualifying health care organization as defined in section
28 42-5001 if the organization is dedicated to providing educational,
29 therapeutic, rehabilitative and family medical education training for
30 blind and visually impaired children and children with multiple
31 disabilities from the time of birth to age twenty-one.

32 (d) A qualifying community health center as defined in section
33 42-5001.

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

37 (f) For taxable periods beginning from and after June 30, 2001, a
38 nonprofit charitable organization that has qualified under section
39 501(c)(3) of the internal revenue code and that provides residential
40 apartment housing for low income persons over sixty-two years of age in a
41 facility that qualifies for a federal housing subsidy, if the tangible
42 personal property is used by the organization solely to provide
43 residential apartment housing for low income persons over sixty-two years
44 of age in a facility that qualifies for a federal housing subsidy.

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

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

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

27. Tangible personal property sold to:

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

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

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

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

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

28. The sale of a motor vehicle to:

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

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

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

30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 42. Sales of:

31 (a) Livestock and poultry to persons engaging in the businesses of
32 farming, ranching or producing livestock or poultry.

33 (b) Livestock and poultry feed, salts, vitamins and other additives
34 for livestock or poultry consumption that are sold to persons for use or
35 consumption by their own livestock or poultry, for use or consumption in
36 the businesses of farming, ranching and producing or feeding livestock,
37 poultry, or livestock or poultry products or for use or consumption in
38 noncommercial boarding of livestock. For the purposes of this paragraph,
39 "poultry" includes ratites.

40 43. Sales of implants used as growth promotants and injectable
41 medicines, not already exempt under paragraph 8 of this subsection, for
42 livestock or poultry owned by or in possession of persons who are engaged
43 in producing livestock, poultry, or livestock or poultry products or who
44 are engaged in feeding livestock or poultry commercially. For the
45 purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

18 (a) Printed or photographic materials, beginning August 7, 1985.
19 (b) Electronic or digital media materials, beginning July 17, 1994.

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

28 49. Sales of alternative fuel vehicles if the vehicle was
29 manufactured as a diesel fuel vehicle and converted to operate on
30 alternative fuel and equipment that is installed in a conventional diesel
31 fuel motor vehicle to convert the vehicle to operate on an alternative
32 fuel, as defined in section 1-215.

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

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

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

44 53. Application services that are designed to assess or test
45 student learning or to promote curriculum design or enhancement purchased

1 by or for any school district, charter school, community college or state
2 university. For the purposes of this paragraph:

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

5 (b) "Curriculum design or enhancement" means planning, implementing
6 or reporting on courses of study, lessons, assignments or other learning
7 activities.

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

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

16 56. Sales or other transfers of renewable energy credits or any
17 other unit created to track energy derived from renewable energy
18 resources. For the purposes of this paragraph, "renewable energy credit"
19 means a unit created administratively by the corporation commission or
20 governing body of a public power utility to track kilowatt hours of
21 electricity derived from a renewable energy resource or the kilowatt hour
22 equivalent of conventional energy resources displaced by distributed
23 renewable energy resources.

24 57. Computer data center equipment sold to the owner, operator or
25 qualified colocation tenant of a computer data center that is certified by
26 the Arizona commerce authority under section 41-1519 or an authorized
27 agent of the owner, operator or qualified colocation tenant during the
28 qualification period for use in the qualified computer data center. For
29 the purposes of this paragraph, "computer data center", "computer data
30 center equipment", "qualification period" and "qualified colocation
31 tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

1 are recognized as Indian reservations by the United States department of
2 the interior.

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

7 60. Sales of works of fine art, as defined in section 44-1771, at
8 an art auction or gallery in this state to nonresidents of this state for
9 use outside this state if the vendor ships or delivers the work of fine
10 art to a destination outside this state.

11 61. **TAMPONS, SANITARY NAPKINS, MENSTRUAL SPONGES, MENSTRUAL CUPS
12 AND SIMILAR ITEMS USED FOR FEMININE HYGIENE.**

13 62. **BABY FORMULA AND DIAPERS.**

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

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

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

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

39 4. Machinery, equipment or transmission lines used directly in
40 producing or transmitting electrical power, but not including
41 distribution. Transformers and control equipment used at transmission
42 substation sites constitute equipment used in producing or transmitting
43 electrical power.

44 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
45 or to be used as breeding or production stock, including sales of

1 breedings or ownership shares in such animals used for breeding or
2 production.

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

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

9 (a) A person:

10 (i) Holding, or exempted by federal law from obtaining, a federal
11 certificate of public convenience and necessity for use as, in conjunction
12 with or becoming part of an aircraft to be used to transport persons for
13 hire in intrastate, interstate or foreign commerce.

14 (ii) That is certificated or licensed under federal aviation
15 regulations (14 Code of Federal Regulations part 121 or 135) as a
16 scheduled or unscheduled carrier of persons for hire for use as or in
17 conjunction with or becoming part of an aircraft to be used to transport
18 persons for hire in intrastate, interstate or foreign commerce.

19 (iii) Holding a foreign air carrier permit for air transportation
20 for use as or in conjunction with or becoming a part of aircraft to be
21 used to transport persons, property or United States mail in intrastate,
22 interstate or foreign commerce.

23 (iv) Operating an aircraft to transport persons in any manner for
24 compensation or hire including as an air carrier, a foreign air carrier or
25 a commercial operator or under a restricted category, within the meaning
26 of 14 Code of Federal Regulations, regardless of whether the operation or
27 aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136
28 or 137, or another part of 14 Code of Federal Regulations.

29 (v) That will lease or otherwise transfer operational control,
30 within the meaning of Federal Aviation Administration Operations
31 Specification A008, or its successor, of the aircraft, instruments or
32 accessories to one or more persons described in item (i), (ii), (iii) or
33 (iv) of this subdivision, subject to section 42-5009, subsection Q.

34 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 18. Machinery or equipment, including related structural
40 components, that is employed in connection with manufacturing, processing,
41 fabricating, job printing, refining, mining, natural gas pipelines,
42 metallurgical operations, telecommunications, producing or transmitting
43 electricity or research and development and that is used directly to meet
44 or exceed rules or regulations adopted by the federal energy regulatory
45 commission, the United States environmental protection agency, the United

1 States nuclear regulatory commission, the Arizona department of
2 environmental quality or a political subdivision of this state to prevent,
3 monitor, control or reduce land, water or air pollution.

4 19. Machinery and equipment that are sold to a person engaged in
5 the commercial production of livestock, livestock products or
6 agricultural, horticultural, viticultural or floricultural crops or
7 products in this state, including a person representing or working on
8 behalf of such a person in a manner described in section 42-5075,
9 subsection 0, if the machinery and equipment are used directly and
10 primarily to prevent, monitor, control or reduce air, water or land
11 pollution.

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

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

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

24 (c) Any machinery or equipment purchased after the television
25 station has ceased analog broadcasting, or purchased after November 1,
26 2009, whichever occurs first.

27 21. Qualifying equipment that is purchased from and after June 30,
28 2004 through June 30, 2024 by a qualified business under section 41-1516
29 for harvesting or processing qualifying forest products removed from
30 qualifying projects as defined in section 41-1516. To qualify for this
31 deduction, the qualified business at the time of purchase must present its
32 certification approved by the department.

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

35 1. Expendable materials. For the purposes of this paragraph,
36 expendable materials do not include any of the categories of tangible
37 personal property specified in subsection B of this section regardless of
38 the cost or useful life of that property.

39 2. Janitorial equipment and hand tools.

40 3. Office equipment, furniture and supplies.

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

44 5. Motor vehicles required to be licensed by this state, except
45 buses or other urban mass transit vehicles specifically exempted pursuant

1 to subsection B, paragraph 11 of this section, without regard to the use
2 of such motor vehicles.

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

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

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

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

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

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

26 G. If a person is engaged in the business of selling tangible
27 personal property at both wholesale and retail, the tax under this section
28 applies only to the gross proceeds of the sales made other than at
29 wholesale if the person's books are kept so as to show separately the
30 gross proceeds of sales of each class, and if the books are not so kept,
31 the tax under this section applies to the gross proceeds of every sale so
32 made.

33 H. A person who engages in manufacturing, baling, crating, boxing,
34 barreling, canning, bottling, sacking, preserving, processing or otherwise
35 preparing for sale or commercial use any livestock, agricultural or
36 horticultural product or any other product, article, substance or
37 commodity and who sells the product of such business at retail in this
38 state is deemed, as to such sales, to be engaged in business classified
39 under the retail classification. This subsection does not apply to:

40 1. Agricultural producers who are owners, proprietors or tenants of
41 agricultural lands, orchards, farms or gardens where agricultural products
42 are grown, raised or prepared for market and who are marketing their own
43 agricultural products.

44 2. Businesses classified under the:

45 (a) Transporting classification.

- (b) Utilities classification.
- (c) Telecommunications classification.
- (d) Pipeline classification.
- (e) Private car line classification.
- (f) Publication classification.
- (g) Job printing classification.
- (h) Prime contracting classification.
- (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

6 N. In computing the tax base in the case of the sale or transfer of
7 wireless telecommunications equipment as an inducement to a customer to
8 enter into or continue a contract for telecommunications services that are
9 taxable under section 42-5064, gross proceeds of sales or gross income
10 does not include any sales commissions or other compensation received by
11 the retailer as a result of the customer entering into or continuing a
12 contract for the telecommunications services.

13 O. For the purposes of this section, a sale of wireless
14 telecommunications equipment to a person who holds the equipment for sale
15 or transfer to a customer as an inducement to enter into or continue a
16 contract for telecommunications services that are taxable under section
17 42-5064 is considered to be a sale for resale in the regular course of
18 business.

19 P. Retail sales of prepaid calling cards or prepaid authorization
20 numbers for telecommunications services, including sales of
21 reauthorization of a prepaid card or authorization number, are subject to
22 tax under this section.

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

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

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

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

35 1. The transfer of title or possession of the coal is for the
36 purpose of refining the coal.

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

43 S. If a seller is entitled to a deduction pursuant to subsection B,
44 paragraph 15, subdivision (b) of this section, the department may require
45 the purchaser to establish that the requirements of subsection B,

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

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

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

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

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

35 V. For the purposes of this section:

36 1. "Agricultural aircraft" means an aircraft that is built for
37 agricultural use for the aerial application of pesticides or fertilizer or
38 for aerial seeding.

39 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

39 Sec. 2. Section 42-5159, Arizona Revised Statutes, as amended by
40 Senate Bill 1010, section 13, fifty-third legislature, first regular
41 session, as transmitted to the governor, is amended to read:

42 42-5159. Exemptions

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

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

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

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

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

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

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

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

37 8. Purchases of:

38 (a) Livestock and poultry to persons engaging in the businesses of
39 farming, ranching or producing livestock or poultry.

40 (b) Livestock and poultry feed, supplies, salts, vitamins and other
41 additives sold to persons for use or consumption in the businesses of
42 farming, ranching and producing or feeding livestock or poultry or for use
43 or consumption in noncommercial boarding of livestock. For the purposes
44 of this paragraph, "poultry" includes ratites.

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

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

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

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

16 (a) Printed or photographic materials, beginning August 7, 1985.
17 (b) Electronic or digital media materials, beginning July 17, 1994.

18 13. Tangible personal property purchased by:

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

22 (b) A hospital operated by this state or a political subdivision of
23 this state.

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

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

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

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

43 (g) A person that is subject to tax under this chapter by reason of
44 being engaged in business classified under section 42-5075, or a
45 subcontractor working under the control of a person that is engaged in

1 business classified under section 42-5075, if the tangible personal
2 property is any of the following:

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

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

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

9 (h) A person that is not subject to tax under section 42-5075 and
10 that has been provided a copy of a certificate described in section
11 42-5009, subsection L, if the property purchased is incorporated or
12 fabricated by the person into the real property, structure, project,
13 development or improvement described in the certificate.

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

18 (j) A qualifying community health center as defined in section
19 42-5001.

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

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

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

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

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

43 14. Commodities, as defined by title 7 United States Code
44 section 2, that are consigned for resale in a warehouse in this state in
45 or from which the commodity is deliverable on a contract for future

1 delivery subject to the rules of a commodity market regulated by the
2 United States commodity futures trading commission.

3 15. Tangible personal property sold by:

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

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

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

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

23 17. Prosthetic appliances, as defined in section 23-501, prescribed
24 or 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,
33 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and
34 customarily used to serve a medical purpose, is generally not useful to a
35 person in the absence of illness or injury and is appropriate for use in
36 the home.

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

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

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

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

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

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

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

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

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

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

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

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

36 (b) Public educational institutions.

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

40 33. Natural gas or liquefied petroleum gas used to propel a motor
41 vehicle.

42 34. Machinery, equipment, technology or related supplies that are
43 only useful to assist a person with a physical disability as defined in
44 section 46-191 or a person who has a developmental disability as defined

1 in section 36-551 or has a head injury as defined in section 41-3201 to be
2 more independent and functional.

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

16 36. Food, drink and condiment purchased for consumption within the
17 premises of any prison, jail or other institution under the jurisdiction
18 of the state department of corrections, the department of public safety,
19 the department of juvenile corrections or a county sheriff.

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

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

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

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

42 (b) "Subcontract" means an agreement between a contractor and any
43 person who is not an employee of the contractor for furnishing of supplies
44 or services that, in whole or in part, are necessary to the performance of
45 one or more government contracts, or under which any portion of the

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

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

14 41. Wireless telecommunications equipment that is held for sale or
15 transfer to a customer as an inducement to enter into or continue a
16 contract for telecommunications services that are taxable under section
17 42-5064.

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

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

29 44. Alternative fuel vehicles if the vehicle was manufactured as a
30 diesel fuel vehicle and converted to operate on alternative fuel and
31 equipment that is installed in a conventional diesel fuel motor vehicle to
32 convert the vehicle to operate on an alternative fuel, as defined in
33 section 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 54. Computer data center equipment sold to the owner, operator or
39 qualified colocation tenant of a computer data center that is certified by
40 the Arizona commerce authority under section 41-1519 or an authorized
41 agent of the owner, operator or qualified colocation tenant during the
42 qualification period for use in the qualified computer data center. For
43 the purposes of this paragraph, "computer data center", "computer data
44 center equipment", "qualification period" and "qualified colocation
45 tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

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

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

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

29 57. Cash equivalents, precious metal bullion and monetized bullion
30 purchased by the ultimate consumer, but coins or other forms of money for
31 manufacture into jewelry or works of art are subject to tax, and tangible
32 personal property that is purchased through the redemption of any cash
33 equivalent by the holder as a means of payment for goods that are subject
34 to tax under this article is subject to tax. For the purposes of this
35 paragraph:

36 (a) "Cash equivalents" means items, whether or not negotiable, that
37 are sold to one or more persons, through which a value denominated in
38 money is purchased in advance and that may be redeemed in full or in part
39 for tangible personal property, intangibles or services. Cash equivalents
40 include gift cards, stored value cards, gift certificates, vouchers,
41 traveler's checks, money orders or other tangible instruments or orders.
42 Cash equivalents do not include either of the following:

43 (i) Items that are sold to one or more persons and through which a
44 value is not denominated in money.

45 (ii) Prepaid calling cards for telecommunications services.

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

58. TAMPONS, SANITARY NAPKINS, MENSTRUAL SPONGES, MENSTRUAL CUPS
AND SIMILAR ITEMS USED FOR FEMININE HYGIENE.

59. BABY FORMULA AND DIAPERS.

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

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

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

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

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

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

44 6. Pipes or valves four inches in diameter or larger used to
45 transport oil, natural gas, artificial gas, water or coal slurry,

1 including compressor units, regulators, machinery and equipment, fittings,
2 seals and any other part that is used in operating the pipes or valves.

3 7. Aircraft, navigational and communication instruments and other
4 accessories and related equipment sold to:

5 (a) A person:

6 (i) Holding, or exempted by federal law from obtaining, a federal
7 certificate of public convenience and necessity for use as, in conjunction
8 with or becoming part of an aircraft to be used to transport persons for
9 hire in intrastate, interstate or foreign commerce.

10 (ii) That is certificated or licensed under federal aviation
11 regulations (14 Code of Federal Regulations part 121 or 135) as a
12 scheduled or unscheduled carrier of persons for hire for use as or in
13 conjunction with or becoming part of an aircraft to be used to transport
14 persons for hire in intrastate, interstate or foreign commerce.

15 (iii) Holding a foreign air carrier permit for air transportation
16 for use as or in conjunction with or becoming a part of aircraft to be
17 used to transport persons, property or United States mail in intrastate,
18 interstate or foreign commerce.

19 (iv) Operating an aircraft to transport persons in any manner for
20 compensation or hire including as an air carrier, a foreign air carrier or
21 a commercial operator or under a restricted category, within the meaning
22 of 14 Code of Federal Regulations, regardless of whether the operation or
23 aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136
24 or 137, or another part of 14 Code of Federal Regulations.

25 (v) That will lease or otherwise transfer operational control,
26 within the meaning of Federal Aviation Administration Operations
27 Specification A008, or its successor, of the aircraft, instruments or
28 accessories to one or more persons described in item (i), (ii), (iii) or
29 (iv) of this subdivision, subject to section 42-5009, subsection Q.

30 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of

1 environmental quality or a political subdivision of this state to prevent,
2 monitor, control or reduce land, water or air pollution.

3 19. Machinery and equipment that are used in the commercial
4 production of livestock, livestock products or agricultural,
5 horticultural, viticultural or floricultural crops or products in this
6 state, including production by a person representing or working on behalf
7 of such a person in a manner described in section 42-5075, subsection 0,
8 if the machinery and equipment are used directly and primarily to prevent,
9 monitor, control or reduce air, water or land pollution.

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

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

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

22 (c) Any machinery or equipment purchased after the television
23 station has ceased analog broadcasting, or purchased after November 1,
24 2009, whichever occurs first.

25 21. Qualifying equipment that is purchased from and after June 30,
26 2004 through June 30, 2024 by a qualified business under section 41-1516
27 for harvesting or processing qualifying forest products removed from
28 qualifying projects as defined in section 41-1516. To qualify for this
29 exemption, the qualified business must obtain and present its
30 certification from the Arizona commerce authority at the time of purchase.

31 C. The exemptions provided by subsection B of this section do not
32 include:

33 1. Expendable materials. For the purposes of this paragraph,
34 expendable materials do not include any of the categories of tangible
35 personal property specified in subsection B of this section regardless of
36 the cost or useful life of that property.

37 2. Janitorial equipment and hand tools.

38 3. Office equipment, furniture and supplies.

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

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

- 1 6. Shops, buildings, docks, depots and all other materials of
2 whatever kind or character not specifically included as exempt.
- 3 7. Motors and pumps used in drip irrigation systems.
- 4 8. Machinery and equipment or tangible personal property used by a
5 contractor in the performance of a contract.
- 6 D. The following shall be deducted in computing the purchase price
7 of electricity by a retail electric customer from a utility business:
 - 8 1. Revenues received from sales of ancillary services, electric
9 distribution services, electric generation services, electric transmission
10 services and other services related to providing electricity to a retail
11 electric customer who is located outside this state for use outside this
12 state if the electricity is delivered to a point of sale outside this
13 state.
 - 14 2. Revenues received from providing electricity, including
15 ancillary services, electric distribution services, electric generation
16 services, electric transmission services and other services related to
17 providing electricity with respect to which the transaction privilege tax
18 imposed under section 42-5063 has been paid.
- 19 E. The tax levied by this article does not apply to the purchase of
20 solar energy devices from a retailer that is registered with the
21 department as a solar energy retailer or a solar energy contractor.
- 22 F. The following shall be deducted in computing the purchase price
23 of electricity by a retail electric customer from a utility business:
 - 24 1. Fees charged by a municipally owned utility to persons
25 constructing residential, commercial or industrial developments or
26 connecting residential, commercial or industrial developments to a
27 municipal utility system or systems if the fees are segregated and used
28 only for capital expansion, system enlargement or debt service of the
29 utility system or systems.
 - 30 2. Reimbursement or contribution compensation to any person or
31 persons owning a utility system for property and equipment installed to
32 provide utility access to, on or across the land of an actual utility
33 consumer if the property and equipment become the property of the
34 utility. This deduction shall not exceed the value of such property and
35 equipment.
- 36 G. The tax levied by this article does not apply to the purchase
37 price of electricity, natural gas or liquefied petroleum gas by:
 - 38 1. A qualified manufacturing or smelting business. A utility that
39 claims this deduction shall report each month, on a form prescribed by the
40 department, the name and address of each qualified manufacturing or
41 smelting business for which this deduction is taken. This paragraph
42 applies to gas transportation services. For the purposes of this
43 paragraph:
 - 44 (a) "Gas transportation services" means the services of
45 transporting natural gas to a natural gas customer or to a natural gas

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

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

10 (c) "Qualified manufacturing or smelting business" means one of the
11 following:

12 (i) A business that manufactures or smelts tangible products in
13 this state, of which at least fifty-one percent of the manufactured or
14 smelting products will be exported out of state for incorporation into
15 another product or sold out of state for a final sale.

16 (ii) A business that derives at least fifty-one percent of its
17 gross income from the sale of manufactured or smelting products
18 manufactured or smelted by the business.

19 (iii) A business that uses at least fifty-one percent of its square
20 footage in this state for manufacturing or smelting and business
21 activities directly related to manufacturing or smelting.

22 (iv) A business that employs at least fifty-one percent of its
23 workforce in this state in manufacturing or smelting and business
24 activities directly related to manufacturing or smelting.

25 (v) A business that uses at least fifty-one percent of the value of
26 its capitalized assets in this state, as reflected on the business's books
27 and records, for manufacturing or smelting and business activities
28 directly related to manufacturing or smelting.

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

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

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

35 1. "Agricultural aircraft" means an aircraft that is built for
36 agricultural use for the aerial application of pesticides or fertilizer or
37 for aerial seeding.

38 2. "Aircraft" includes:

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

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

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

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

8 Sec. 3. Conditional enactment

9 Sections 42-5061 and 42-5159, Arizona Revised Statutes, as amended
10 by this act, do not become effective unless Senate Bill 1010, fifty-third
11 legislature, first regular session, relating to multiple, defective and
12 conflicting legislative dispositions of statutory text, becomes law.