

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1179

AN ACT

AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5039; AMENDING SECTIONS 42-5071 AND 42-5101, ARIZONA REVISED STATUTES; REPEALING SECTIONS 42-5103 AND 42-5105, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5106, 42-6004, 42-12006, 43-1022 AND 43-1088, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1147, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 2, SECTION 1; AMENDING LAWS 2011, SECOND SPECIAL SESSION, CHAPTER 1, SECTION 130, AS AMENDED BY LAWS 2012, CHAPTER 3, SECTION 60; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 42, chapter 5, article 1, Arizona Revised Statutes,
3 is amended by adding section 42-5039, to read:

4 42-5039. Qualified destination management companies:
5 definitions

6 A. A QUALIFIED DESTINATION MANAGEMENT COMPANY IS NOT SUBJECT TO
7 TRANSACTION PRIVILEGE TAX UNDER THIS CHAPTER ON THE GROSS PROCEEDS OF SALE OR
8 GROSS INCOME DERIVED FROM A QUALIFIED CONTRACT FOR DESTINATION MANAGEMENT
9 SERVICES.

10 B. A QUALIFIED DESTINATION MANAGEMENT COMPANY IS A FINAL CONSUMER AND
11 USER OF ANY TANGIBLE PERSONAL PROPERTY, ACTIVITY OR SERVICE SUBJECT TO
12 TRANSACTION PRIVILEGE TAX UNDER ARTICLE 2 OF THIS CHAPTER THAT THE QUALIFIED
13 DESTINATION MANAGEMENT COMPANY ARRANGES PURSUANT TO A QUALIFIED CONTRACT FOR
14 DESTINATION MANAGEMENT SERVICES.

15 C. FOR THE PURPOSES OF THIS SECTION:

16 1. "DESTINATION MANAGEMENT SERVICES" MEANS THE BUSINESS OF
17 COORDINATING, DESIGNING AND IMPLEMENTING THE DELIVERY BY A THIRD PARTY OF
18 FOUR OR MORE OF THE FOLLOWING:

- 19 (a) TRANSPORTATION.
- 20 (b) ENTERTAINMENT.
- 21 (c) FOOD OR BEVERAGE.
- 22 (d) RECREATIONAL OR AMUSEMENT ACTIVITY.
- 23 (e) TOURS.
- 24 (f) EVENT VENUE.
- 25 (g) THEME DECOR.

26 2. "QUALIFIED CONTRACT" MEANS A CONTRACT FOR THE PROVISION OF
27 DESTINATION MANAGEMENT SERVICES BY A QUALIFIED DESTINATION MANAGEMENT COMPANY
28 WHERE BOTH OF THE FOLLOWING APPLY:

29 (a) THE QUALIFIED DESTINATION MANAGEMENT COMPANY RECEIVES PAYMENT FROM
30 OR ON BEHALF OF THE QUALIFIED DESTINATION MANAGEMENT COMPANY'S CLIENT FOR THE
31 COST OF THE DESTINATION MANAGEMENT SERVICES ARRANGED BY THE QUALIFIED
32 DESTINATION MANAGEMENT COMPANY.

33 (b) THE QUALIFIED DESTINATION MANAGEMENT COMPANY PAYS THE VENDOR
34 SUPPLYING THE DESTINATION MANAGEMENT SERVICES ARRANGED BY THE QUALIFIED
35 DESTINATION MANAGEMENT COMPANY INCLUDING ANY APPLICABLE TRANSACTION PRIVILEGE
36 TAX OR COLLECTION OF USE TAX CHARGED BY THE VENDOR TO THE QUALIFIED
37 DESTINATION MANAGEMENT COMPANY.

38 3. "QUALIFIED DESTINATION MANAGEMENT COMPANY" MEANS A PERSON THAT
39 RECEIVES ON AN ANNUAL BASIS AT LEAST EIGHTY PER CENT OF ITS GROSS PROCEEDS OF
40 SALES OR GROSS INCOME DERIVED FROM DESTINATION MANAGEMENT SERVICES.

41 Sec. 2. Section 42-5071, Arizona Revised Statutes, is amended to read:

42 42-5071. Personal property rental classification

43 A. The personal property rental classification is comprised of the
44 business of leasing or renting tangible personal property for a
45 consideration. The tax does not apply to:

1 1. Leasing or renting films, tapes or slides used by theaters or
2 movies, which are engaged in business under the amusement classification, or
3 used by television stations or radio stations.

4 2. Activities engaged in by the Arizona exposition and state fair
5 board or county fair commissions in connection with events sponsored by such
6 entities.

7 3. Leasing or renting tangible personal property by a parent
8 corporation to a subsidiary corporation or by a subsidiary corporation to
9 another subsidiary of the same parent corporation if taxes were paid under
10 this chapter on the gross proceeds or gross income accruing from the initial
11 sale of the tangible personal property. For the purposes of this paragraph,
12 "subsidiary" means a corporation of which at least eighty per cent of the
13 voting shares are owned by the parent corporation.

14 4. Operating coin-operated washing, drying and dry cleaning machines
15 or coin-operated car washing machines at establishments for the use of such
16 machines.

17 5. Leasing or renting tangible personal property for incorporation
18 into or comprising any part of a qualified environmental technology facility
19 as described in section 41-1514.02. This paragraph shall apply for ten full
20 consecutive calendar or fiscal years following the initial lease or rental by
21 each qualified environmental technology manufacturer, producer or processor.

22 6. Leasing or renting aircraft, flight simulators or similar training
23 equipment to students or staff by nonprofit, accredited educational
24 institutions that offer associate or baccalaureate degrees in aviation or
25 aerospace related fields.

26 7. Leasing or renting photographs, transparencies or other creative
27 works used by this state on internet ~~web-sites~~ WEBSITES, in magazines or in
28 other publications that encourage tourism.

29 8. LEASING OR RENTING CERTIFIED IGNITION INTERLOCK DEVICES INSTALLED
30 PURSUANT TO THE REQUIREMENTS PRESCRIBED BY SECTION 28-1461. FOR THE PURPOSES
31 OF THIS PARAGRAPH, "CERTIFIED IGNITION INTERLOCK DEVICE" HAS THE SAME MEANING
32 PRESCRIBED IN SECTION 28-1301.

33 B. The tax base for the personal property rental classification is the
34 gross proceeds of sales or gross income derived from the business, but the
35 gross proceeds of sales or gross income derived from the following shall be
36 deducted from the tax base:

37 1. Reimbursements by the lessee to the lessor of a motor vehicle for
38 payments by the lessor of the applicable fees and taxes imposed by sections
39 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,
40 article 2 and article IX, section 11, Constitution of Arizona, to the extent
41 such amounts are separately identified as such fees and taxes and are billed
42 to the lessee.

43 2. Leases or rentals of tangible personal property ~~which~~ THAT, if it
44 had been purchased instead of leased or rented by the lessee, would have been
45 exempt under:

1 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50
2 or 55.

3 (b) Section 42-5061, subsection B, except that a lease or rental of
4 new machinery or equipment is not exempt pursuant to:

5 (i) Section 42-5061, subsection B, paragraph 13 if the lease is for
6 less than two years.

7 (ii) Section 42-5061, subsection B, paragraph 21.

8 (c) Section 42-5061, subsection J, paragraph 1.

9 (d) Section 42-5061, subsection N.

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

14 4. Leasing or renting a motor vehicle subject to and upon which the
15 fee has been paid under title 28, chapter 16, article 4.

16 5. Amounts received by a motor vehicle dealer for the first month of a
17 lease payment if the lease and the lease payment for the first month of the
18 lease are transferred to a third-party leasing company.

19 C. Sales of tangible personal property to be leased or rented to a
20 person engaged in a business classified under the personal property rental
21 classification are deemed to be resale sales.

22 D. In computing the tax base, the gross proceeds of sales or gross
23 income from the lease or rental of a motor vehicle does not include any
24 amount attributable to the car rental surcharge under section 28-5810 or
25 48-4234.

26 E. Until December 31, 1988, leasing or renting animals for
27 recreational purposes is exempt from the tax imposed by this section.
28 Beginning January 1, 1989, the gross proceeds or gross income from leasing or
29 renting animals for recreational purposes is subject to taxation under this
30 section. Tax liabilities, penalties and interest paid for taxable periods
31 before January 1, 1989 shall not be refunded unless the taxpayer requesting
32 the refund provides proof satisfactory to the department that the monies paid
33 as taxes will be returned to the customer.

34 Sec. 3. Section 42-5101, Arizona Revised Statutes, is amended to read:

35 42-5101. Definitions

36 In this article, unless the context otherwise requires:

37 1. "Eligible grocery business" means an establishment ~~whose sales of~~
38 ~~food are such that it~~ is DEEMED eligible to participate in the ~~food stamp~~
39 ~~program established by the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958;~~
40 ~~7 United States Code sections 2011 through 2029), according to regulations in~~
41 ~~effect on January 1, 1979. An establishment is deemed eligible to~~
42 ~~participate in the food stamp program if it is authorized to participate in~~
43 ~~the program~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY THE FOOD
44 AND NUTRITION ACT OF 2008 (P.L. 110-246; 122 STAT. 1651; 7 UNITED STATES CODE
45 SECTIONS 2011 THROUGH 2036a) by the United States department of agriculture

1 food and nutrition service ~~field office on July 1, 1980~~ or ~~if, prior to a~~
2 ~~reporting period for which the return is filed, such retailer~~ AN
3 ESTABLISHMENT THAT proves to the satisfaction of the department of revenue
4 that ~~the establishment~~, based on the nature of the ~~retailer's~~ ESTABLISHMENT'S
5 food sales, could be eligible to participate in the ~~food stamp program~~
6 ~~established by the food stamp act of 1977 according to regulations in effect~~
7 ~~on January 1, 1979~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY
8 THE FOOD AND NUTRITION ACT OF 2008.

9 2. "Facilities for the consumption of food" means tables, chairs,
10 benches, booths, stools, counters and similar conveniences, trays, glasses,
11 dishes or other tableware and parking areas for the convenience of in-car
12 consumption of food in or on the premises on which the retailer conducts ~~his~~
13 business.

14 3. "Food" means any food item intended for human consumption ~~which~~
15 THAT is intended for home consumption as defined by rules adopted by the
16 department pursuant to section 42-5106.

17 4. "Food for consumption on the premises" includes:

18 (a) Hot prepared food.

19 (b) Hot or cold sandwiches.

20 (c) Food served by an attendant to be eaten at tables, chairs,
21 benches, booths, stools, counters and similar conveniences and within parking
22 areas for the convenience of in-car consumption of food.

23 (d) Food served with trays, glasses, dishes or other tableware.

24 (e) Beverages sold in cups, glasses, or open containers.

25 (f) Food sold by caterers.

26 (g) Food sold within the premises of theaters, movies, operas, shows
27 of any type or nature, exhibitions, concerts, carnivals, circuses, amusement
28 parks, fairs, races, contests, games, athletic events, rodeos, billiard and
29 pool parlors, bowling alleys, public dances, dance halls, boxing, wrestling
30 and other matches and any business ~~which~~ THAT charges admission, entrance or
31 cover fees for exhibition, amusement or entertainment.

32 (h) Any items contained in subdivisions (a) through (g) of this
33 paragraph even though they are sold on a take-out or to go basis, and whether
34 or not the item is packaged, is wrapped or is actually taken from the
35 premises.

36 5. "Hot prepared food" includes those products, items or ingredients
37 of food ~~which~~ THAT are prepared and intended for sale in a heated
38 condition. Hot prepared food includes a combination of hot and cold food
39 items or ingredients if a single price has been established.

40 6. "Premises" means the total space and facilities in or on which a
41 retailer conducts ~~his~~ business and ~~which~~ THAT are owned or controlled, in
42 whole or in part, by a retailer or ~~which~~ are made available for the use of
43 customers of the retailer or group of retailers, including any building or
44 part of a building, parking lot or grounds.

1 Sec. 4. Repeal

2 Sections 42-5103 and 42-5105, Arizona Revised Statutes, are repealed.

3 Sec. 5. Section 42-5106, Arizona Revised Statutes, is amended to read:

4 42-5106. Rules

5 A. The department shall adopt rules defining food consistent with
6 section 42-5101 and this section.

7 B. The department shall include as food:

8 1. Returnable containers for which a deposit is collected.

9 2. Ice and dry ice used in packing, shipping or transporting food.

10 3. Seeds and plants to grow food for personal consumption.

11 C. The department shall not include food for consumption on the
12 premises, alcoholic beverages, ~~or~~ tobacco, MEDICINES OR DIETARY SUPPLEMENTS,
13 SUCH AS VITAMINS AND PROTEIN SUPPLEMENTS, as food, UNLESS THE ITEM IS
14 OTHERWISE DEEMED TO BE FOOD UNDER THIS SECTION.

15 D. NOTWITHSTANDING SECTION 42-5101, ANY READY-TO-DRINK, NONALCOHOLIC
16 BEVERAGE THAT IS CONTAINED IN A CLOSED OR SEALED BOTTLE, CAN OR CARTON, THAT
17 IS INTENDED FOR HUMAN CONSUMPTION AND THAT IS INTENDED FOR HOME CONSUMPTION
18 IS DEEMED TO BE FOOD.

19 ~~D-~~ E. The department shall adopt rules ~~which~~ THAT, other than for
20 those items specifically included or excluded by subsections B, ~~and~~ C AND D
21 of this section, define food to be those items ~~which~~ THAT are intended for
22 human consumption and ~~which~~ THAT are intended for home consumption. In
23 adopting ~~such~~ THESE rules, the department shall give strong consideration to
24 those specific items ~~which~~ THAT are then eligible for purchase with ~~food~~
25 ~~coupons issued by the United States department of agriculture~~ SUPPLEMENTAL
26 NUTRITION ASSISTANCE PROGRAM BENEFITS so as to effectuate the intent of the
27 legislature as specified in this article.

28 Sec. 6. Section 42-6004, Arizona Revised Statutes, is amended to read:

29 42-6004. Exemption from municipal tax

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

32 1. Exhibition events in this state sponsored, conducted or operated by
33 a nonprofit organization that is exempt from taxation under section
34 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
35 organization is associated with a major league baseball team or a national
36 touring professional golfing association and no part of the organization's
37 net earnings inures to the benefit of any private shareholder or individual.

38 2. Interstate telecommunications services, which include that portion
39 of telecommunications services, such as subscriber line service, allocable by
40 federal law to interstate telecommunications service.

41 3. Sales of warranty or service contracts.

42 4. Sales of motor vehicles to nonresidents of this state for use
43 outside this state if the vendor ships or delivers the motor vehicle to a
44 destination outside this state.

45 5. Interest on finance contracts.

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

2 7. Sales of food or other items purchased with United States
3 department of agriculture food stamp coupons issued under the food stamp act
4 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
5 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
6 section 4302; 42 United States Code section 1786) but may impose such a tax
7 on other sales of food. If a city, town or special taxing district exempts
8 sales of food from its tax or imposes a different transaction privilege rate
9 on the gross proceeds of sales or gross income from sales of food and nonfood
10 items, it shall use the definition of food prescribed by rule adopted by the
11 department pursuant to section 42-5106.

12 8. Sales of internet access services to the person's subscribers and
13 customers. For the purposes of this paragraph:

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

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

22 9. The gross proceeds of sales or gross income retained by the Arizona
23 exposition and state fair board from ride ticket sales at the annual Arizona
24 state fair.

25 10. Through August 31, 2014, sales of Arizona centennial medallions by
26 the historical advisory commission.

27 11. The gross proceeds of sales or gross income derived from a
28 commercial lease in which a reciprocal insurer or a corporation leases real
29 property to an affiliated corporation. For the purposes of this paragraph:

30 (a) "Affiliated corporation" means a corporation that meets one of the
31 following conditions:

32 (i) The corporation owns or controls at least eighty per cent of the
33 lessor.

34 (ii) The corporation is at least eighty per cent owned or controlled
35 by the lessor.

36 (iii) The corporation is at least eighty per cent owned or controlled
37 by a corporation that also owns or controls at least eighty per cent of the
38 lessor.

39 (iv) The corporation is at least eighty per cent owned or controlled
40 by a corporation that is at least eighty per cent owned or controlled by a
41 reciprocal insurer.

42 (b) For the purposes of subdivision (a) of this paragraph, ownership
43 and control are determined by reference to the voting shares of a
44 corporation.

1 (c) "Reciprocal insurer" has the same meaning prescribed in section
2 20-762.

3 12. The gross proceeds of sales or gross income derived from a
4 commercial lease in which a corporation leases real property to a corporation
5 of which at least eighty per cent of the voting shares of each corporation
6 are owned by the same shareholders.

7 13. THE LEASING OR RENTING OF CERTIFIED IGNITION INTERLOCK DEVICES
8 INSTALLED PURSUANT TO THE REQUIREMENTS PRESCRIBED BY SECTION 28-1461. FOR
9 THE PURPOSES OF THIS PARAGRAPH, "CERTIFIED IGNITION INTERLOCK DEVICE" HAS THE
10 SAME MEANING PRESCRIBED IN SECTION 28-1301.

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

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

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

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

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

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

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

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

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

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

1 the development. The real property must be the subject of the development
2 fees.

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

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

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

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

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

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

23 Sec. 7. Section 42-12006, Arizona Revised Statutes, is amended to
24 read:

25 42-12006. Class six property

26 For purposes of taxation, class six is established consisting of:

27 1. Noncommercial historic property as defined in section 42-12101 and
28 valued at full cash value.

29 2. Real and personal property that is located within the area of a
30 foreign trade zone or subzone established under 19 United States Code section
31 81 and title 44, chapter 18, that is activated for foreign trade zone use by
32 the district director of the United States customs service pursuant to
33 19 Code of Federal Regulations section 146.6 and that is valued at full cash
34 value. Property that is classified under this paragraph shall not thereafter
35 be classified under paragraph 6 of this section.

36 3. Real and personal property and improvements that are located in a
37 military reuse zone that is established under title 41, chapter 10, article 3
38 and that is devoted to providing aviation or aerospace services or to
39 manufacturing, assembling or fabricating aviation or aerospace products,
40 valued at full cash value and subject to the following terms and conditions:

41 (a) Property may not be classified under this paragraph for more than
42 five tax years.

43 (b) Any new addition or improvement to property already classified
44 under this paragraph qualifies separately for classification under this
45 paragraph for not more than five tax years.

1 (c) If a military reuse zone is terminated, the property in that zone
2 that was previously classified under this paragraph shall be reclassified as
3 prescribed by this article.

4 (d) Property that is classified under this paragraph shall not
5 thereafter be classified under paragraph 6 of this section.

6 4. Real and personal property and improvements or a portion of such
7 property comprising an environmental technology manufacturing, producing or
8 processing facility that qualified under section 41-1514.02, valued at full
9 cash value and subject to the following terms and conditions:

10 (a) Property shall be classified under this paragraph for twenty tax
11 years from the date placed in service.

12 (b) Any addition or improvement to property already classified under
13 this paragraph qualifies separately for classification under this subdivision
14 for an additional twenty tax years from the date placed in service.

15 (c) After revocation of certification under section 41-1514.02,
16 property that was previously classified under this paragraph shall be
17 reclassified as prescribed by this article.

18 (d) Property that is classified under this paragraph shall not
19 thereafter be classified under paragraph 6 of this section.

20 5. That portion of real and personal property that is used on or after
21 January 1, 1999 specifically and solely for remediation of the environment by
22 an action that has been determined to be reasonable and necessary to respond
23 to the release or threatened release of a hazardous substance by the
24 department of environmental quality pursuant to section 49-282.06 or pursuant
25 to its corrective action authority under rules adopted pursuant to section
26 49-922, subsection B, paragraph 4 or by the United States environmental
27 protection agency pursuant to the national contingency plan (40 Code of
28 Federal Regulations part 300) and that is valued at full cash value.
29 Property that is not being used specifically and solely for the remediation
30 objectives described in this paragraph shall not be classified under this
31 paragraph. For the purposes of this paragraph, "remediation of the
32 environment" means one or more of the following actions:

33 (a) Monitoring, assessing or evaluating the release or threatened
34 release.

35 (b) Excavating, removing, transporting, treating and disposing of
36 contaminated soil.

37 (c) Pumping and treating contaminated water.

38 (d) Treatment, containment or removal of contaminants in groundwater
39 or soil.

40 6. Real and personal property and improvements constructed or
41 installed from and after December 31, 2004 through December 31, 2024 and
42 owned by a qualified business under section 41-1516 and used solely for the
43 purpose of harvesting, transporting or processing qualifying forest products
44 removed from qualifying projects as defined in section 41-1516. The

1 classification under this paragraph is subject to the following terms and
2 conditions:

3 (a) Property may be initially classified under this paragraph only in
4 valuation years 2005 through 2024.

5 (b) Property may not be classified under this paragraph for more than
6 five years.

7 (c) Any new addition or improvement, constructed or installed from and
8 after December 31, 2004 through December 31, 2024, to property already
9 classified under this paragraph qualifies separately for classification and
10 assessment under this paragraph for not more than five years.

11 (d) Property that is classified under this paragraph shall not
12 thereafter be classified under paragraph 2, 3 or 4 of this section.

13 7. Real and personal property and improvements to the property that
14 are used specifically and solely to manufacture from and after December 31,
15 2006 through ~~December 31, 2016~~ **DECEMBER 31, 2023** biodiesel fuel that is one
16 hundred per cent biodiesel and its by-products **OR MOTOR VEHICLE BIOFUEL AND**
17 **ITS BY-PRODUCTS** and that are valued at full cash value. This paragraph
18 applies only to the portion of property that is used specifically for
19 manufacturing and processing one hundred per cent biodiesel fuel, or its
20 related by-products, **OR MOTOR VEHICLE BIOFUEL, OR ITS RELATED BY-PRODUCTS,**
21 from raw feedstock obtained from off-site sources, including necessary
22 on-site storage facilities that are intrinsically associated with the
23 manufacturing process. Any other commercial or industrial use disqualifies
24 the entire property from classification under this paragraph. **FOR THE**
25 **PURPOSES OF THIS PARAGRAPH, "MOTOR VEHICLE BIOFUEL" MEANS A SOLID, LIQUID OR**
26 **GASEOUS FUEL THAT IS DERIVED FROM BIOLOGICAL MATERIAL SUCH AS PLANT OR ANIMAL**
27 **MATTER, EXCLUDING ORGANIC MATERIAL THAT HAS BEEN TRANSFORMED BY GEOLOGICAL**
28 **PROCESSES INTO SUBSTANCES SUCH AS COAL OR PETROLEUM OR DERIVATIVES THEREOF,**
29 **AND THAT:**

30 (a) **CONTAINS FUEL ADDITIVES IN COMPLIANCE WITH FEDERAL AND STATE LAW.**

31 (b) **IS MANUFACTURED EXCLUSIVELY FOR USE IN A MOTOR VEHICLE.**

32 8. Real and personal property and improvements that are certified
33 pursuant to section 41-1511, subsection C, paragraph 2 and that are used for
34 renewable energy manufacturing or headquarters operations as provided by
35 section 42-12057. This paragraph applies only to property that is used in
36 manufacturing and headquarters operations of renewable energy companies,
37 including necessary on-site research and development, testing and storage
38 facilities that are associated with the manufacturing process. Up to ten per
39 cent of the aggregate full cash value of the property may be derived from
40 uses that are ancillary to and intrinsically associated with the
41 manufacturing process or headquarters operation. Any additional ancillary
42 property is not qualified for classification under this paragraph. No new
43 properties may be classified pursuant to this paragraph from and after
44 December 31, 2014. Classification under this paragraph is limited to the
45 time periods determined by the Arizona commerce authority pursuant to section

1 41-1511, subsection C, paragraph 2, subdivision (a) or (b). Property that is
2 classified under this paragraph shall not thereafter be classified under any
3 other paragraph of this section.

4 Sec. 8. Section 43-1022, Arizona Revised Statutes, is amended to read:
5 43-1022. Subtractions from Arizona gross income

6 In computing Arizona adjusted gross income, the following amounts shall
7 be subtracted from Arizona gross income:

8 1. The amount of exemptions allowed by section 43-1023.

9 2. Benefits, annuities and pensions in an amount totaling not more
10 than two thousand five hundred dollars received from one or more of the
11 following:

12 (a) The United States government service retirement and disability
13 fund, retired or retainer pay of the uniformed services of the United States,
14 the United States foreign service retirement and disability system and any
15 other retirement system or plan established by federal law.

16 (b) The Arizona state retirement system, the corrections officer
17 retirement plan, the public safety personnel retirement system, the elected
18 officials' retirement plan, an optional retirement program established by the
19 Arizona board of regents under section 15-1628, an optional retirement
20 program established by a community college district board under section
21 15-1451 or a retirement plan established for employees of a county, city or
22 town in this state.

23 3. A beneficiary's share of the fiduciary adjustment to the extent
24 that the amount determined by section 43-1333 decreases the beneficiary's
25 Arizona gross income.

26 4. The amount of any distributions from an individual retirement
27 account as provided for in section 408 of the internal revenue code or from a
28 qualified retirement plan of a self-employed individual as provided for in
29 section 401 of the internal revenue code to the extent that total adjustments
30 made pursuant to this paragraph in all tax years do not exceed the total of
31 all contributions made by the taxpayer to such plans before December 31,
32 1975, which were included in computing Arizona taxable income.

33 5. The amount of income on an installment receivable that is
34 recognized pursuant to the internal revenue code and that has already been
35 recognized on the death of the taxpayer for purposes of this title for tax
36 years ending before January 1, 1990.

37 6. Interest income received on obligations of the United States, less
38 any interest on indebtedness, or other related expenses, and deducted in
39 arriving at Arizona gross income, which were incurred or continued to
40 purchase or carry such obligations.

41 7. The amount of any income tax refunds that were received from states
42 other than Arizona and that were included as income in computing federal
43 adjusted gross income.

1 8. Annuity income included in federal adjusted gross income pursuant
2 to section 72 of the internal revenue code if the first payment with respect
3 to such annuity was received before December 31, 1978.

4 9. The excess of a partner's share of income required to be included
5 under section 702(a)(8) of the internal revenue code over the income required
6 to be included under chapter 14, article 2 of this title.

7 10. The excess of a partner's share of partnership losses determined
8 pursuant to chapter 14, article 2 of this title over the losses allowable
9 under section 702(a)(8) of the internal revenue code.

10 11. The amount by which the adjusted basis of property described in
11 this paragraph and computed pursuant to this title and the income tax act of
12 1954, as amended, exceeds the adjusted basis of such property computed
13 pursuant to the internal revenue code. This paragraph shall apply to all
14 property that is held for the production of income and that is sold or
15 otherwise disposed of during the taxable year other than depreciable property
16 used in a trade or business.

17 12. The amount allowed by section 43-1024 for amortization, by a
18 qualified defense contractor certified by the Arizona commerce authority
19 under section 41-1508, of a capital investment for private commercial
20 activities.

21 13. The amount of gain included in federal adjusted gross income on the
22 sale or other disposition of a capital investment that a qualified defense
23 contractor has elected to amortize pursuant to section 43-1024.

24 14. The amount allowed by section 43-1025 for contributions during the
25 taxable year of agricultural crops to charitable organizations.

26 15. The portion of any wages or salaries paid or incurred by the
27 taxpayer for the taxable year that is equal to the amount of the federal work
28 opportunity credit, the empowerment zone employment credit, the credit for
29 employer paid social security taxes on employee cash tips and the Indian
30 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
31 and 1396 of the internal revenue code.

32 16. The amount of prizes or winnings less than five thousand dollars in
33 a single taxable year from any of the state lotteries established and
34 operated pursuant to title 5, chapter 5.1, article 1, except that all such
35 winnings before March 22, 1983, including periodic distributions from such
36 winnings made after March 22, 1983, may be subtracted.

37 17. The amount of exploration expenses that is determined pursuant to
38 section 617 of the internal revenue code, that has been deferred in a taxable
39 year ending before January 1, 1990 and for which a subtraction has not
40 previously been made. The subtraction shall be made on a ratable basis as
41 the units of produced ores or minerals discovered or explored as a result of
42 this exploration are sold.

43 18. The amount included in federal adjusted gross income pursuant to
44 section 86 of the internal revenue code, relating to taxation of social
45 security and railroad retirement benefits.

1 19. To the extent not already excluded from Arizona gross income under
2 the internal revenue code, compensation received for active service as a
3 member of the reserves, the national guard or the armed forces of the United
4 States, including compensation for service in a combat zone as determined
5 under section 112 of the internal revenue code.

6 20. The amount of unreimbursed medical and hospital costs, adoption
7 counseling, legal and agency fees and other nonrecurring costs of adoption
8 not to exceed three thousand dollars. In the case of a husband and wife who
9 file separate returns, the subtraction may be taken by either taxpayer or may
10 be divided between them, but the total subtractions allowed both husband and
11 wife shall not exceed three thousand dollars. The subtraction under this
12 paragraph may be taken for the costs that are described in this paragraph and
13 that are incurred in prior years, but the subtraction may be taken only in
14 the year during which the final adoption order is granted.

15 21. The amount authorized by section 43-1027 for the taxable year
16 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

17 22. With respect to a medical savings account established pursuant to
18 section 43-1028:

19 (a) An eligible individual may subtract:

20 (i) The amount of contributions made by the individual's employer
21 during the taxable year to the individual's medical savings account pursuant
22 to section 43-1028 to the extent that the employer contributions are included
23 in the individual's federal adjusted gross income.

24 (ii) The amount deposited by the individual in the account during the
25 taxable year to the extent that the individual's contributions are included
26 in the individual's federal adjusted gross income.

27 (b) The individual's employer may subtract the amount of contributions
28 made by the employer to a medical savings account established on the
29 individual's behalf to the extent that the contributions are not deductible
30 under the internal revenue code.

31 23. The amount by which a net operating loss carryover or capital loss
32 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
33 operating loss carryover or capital loss carryover allowable pursuant to
34 section 1341(b)(5) of the internal revenue code.

35 24. Any amount of qualified educational expenses that is distributed
36 from a qualified state tuition program determined pursuant to section 529 of
37 the internal revenue code and that is included in income in computing federal
38 adjusted gross income.

39 25. Any item of income resulting from an installment sale that has been
40 properly subjected to income tax in another state in a previous taxable year
41 and that is included in Arizona gross income in the current taxable year.

42 26. The amount authorized by section 43-1030 relating to holocaust
43 survivors.

1 27. For property placed in service:

2 (a) In taxable years ending through December 31, 2012, an amount equal
3 to the depreciation allowable pursuant to section 167(a) of the internal
4 revenue code for the taxable year computed as if the election described in
5 section 168(k)(2)(D)(iii) of the internal revenue code had been made for each
6 applicable class of property in the year the property was placed in service.

7 (b) In taxable years beginning from and after December 31, 2012
8 through December 31, 2013, an amount determined in the year the asset was
9 placed in service based on the calculation in subdivision (a) of this
10 paragraph. In the first taxable year beginning from and after December 31,
11 2013, the amount necessary to make the depreciation claimed to date for the
12 purposes of this title the same as it would have been if subdivision (c) of
13 this paragraph had applied for the entire time the asset was in service.
14 Subdivision (c) of this paragraph applies for the remainder of the asset's
15 life.

16 (c) In taxable years beginning from and after December 31, 2013, an
17 amount equal to the depreciation allowable pursuant to section 167(a) of the
18 internal revenue code for the taxable year as computed as if the additional
19 allowance for depreciation had been ten per cent of the amount allowed
20 pursuant to section 168(k) of the internal revenue code.

21 28. With respect to property that is sold or otherwise disposed of
22 during the taxable year by a taxpayer that complied with section 43-1021,
23 paragraph 25 with respect to that property, the amount of depreciation that
24 has been allowed pursuant to section 167(a) of the internal revenue code to
25 the extent that the amount has not already reduced Arizona taxable income in
26 the current or prior taxable years.

27 29. With respect to property for which an adjustment was made under
28 section 43-1021, paragraph 26, an amount equal to one-fifth of the amount of
29 the adjustment pursuant to section 43-1021, paragraph 26 in the year in which
30 the amount was adjusted under section 43-1021, paragraph 26 and in each of
31 the following four years.

32 30. The amount contributed during the taxable year to college savings
33 plans established pursuant to section 529 of the internal revenue code to the
34 extent that the contributions were not deducted in computing federal adjusted
35 gross income. The amount subtracted shall not exceed:

36 (a) ~~Seven hundred fifty~~ TWO THOUSAND dollars for a single individual
37 or a head of household.

38 (b) ~~One thousand five hundred~~ FOUR THOUSAND dollars for a married
39 couple filing a joint return. In the case of a husband and wife who file
40 separate returns, the subtraction may be taken by either taxpayer or may be
41 divided between them, but the total subtractions allowed both husband and
42 wife shall not exceed ~~one thousand five hundred~~ FOUR THOUSAND dollars.

43 31. The amount of any original issue discount that was deferred and not
44 allowed to be deducted in computing federal adjusted gross income or federal
45 taxable income in the current taxable year pursuant to section 108(i) of the

1 internal revenue code as added by section 1231 of the American recovery and
2 reinvestment act of 2009 (P.L. 111-5).

3 32. The amount of previously deferred discharge of indebtedness income
4 that is included in the computation of federal adjusted gross income or
5 federal taxable income in the current taxable year pursuant to section 108(i)
6 of the internal revenue code as added by section 1231 of the American
7 recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the
8 amount was previously added to Arizona gross income pursuant to section
9 43-1021, paragraph 32.

10 33. The portion of the net operating loss carryforward that would have
11 been allowed as a deduction in the current year pursuant to section 172 of
12 the internal revenue code if the election described in section 172(b)(1)(H)
13 of the internal revenue code had not been made in the year of the loss that
14 exceeds the actual net operating loss carryforward that was deducted in
15 arriving at federal adjusted gross income. This subtraction only applies to
16 taxpayers who made an election under section 172(b)(1)(H) of the internal
17 revenue code as amended by section 1211 of the American recovery and
18 reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the
19 worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

20 34. For taxable years beginning from and after December 31, 2013, the
21 amount of any net capital gain included in federal adjusted gross income for
22 the taxable year derived from investment in a qualified small business as
23 determined by the Arizona commerce authority pursuant to section 41-1518.

24 35. An amount of any net long-term capital gain included in federal
25 adjusted gross income for the taxable year that is derived from an investment
26 in an asset acquired after December 31, 2011, as follows:

27 (a) For taxable years beginning from and after December 31, 2012
28 through December 31, 2013, ten per cent of the net long-term capital gain
29 included in federal adjusted gross income.

30 (b) For taxable years beginning from and after December 31, 2013
31 through December 31, 2014, twenty per cent of the net long-term capital gain
32 included in federal adjusted gross income.

33 (c) For taxable years beginning from and after December 31, 2014,
34 twenty-five per cent of the net long-term capital gain included in federal
35 adjusted gross income.

36 36. If an individual is not claiming itemized deductions pursuant to
37 section 43-1042, the amount of premium costs for long-term care insurance, as
38 defined in section 20-1691.

39 37. With respect to a long-term health care savings account established
40 pursuant to section 43-1032, the amount deposited by the taxpayer in the
41 account during the taxable year to the extent that the taxpayer's
42 contributions are included in the taxpayer's federal adjusted gross income.

1 (a) Receive temporary assistance for needy families benefits.

2 (b) Are low income residents of this state.

3 (c) Are chronically ill or physically disabled children.

4 3. A statement that the organization plans to continue spending at
5 least fifty per cent of its budget on services to residents of this state who
6 receive temporary assistance for needy families benefits, who are low income
7 residents of this state or who are chronically ill or physically disabled
8 children.

9 4. A statement that the organization does not provide, pay for or
10 provide coverage of abortions and does not financially support any other
11 entity that provides, pays for or provides coverage of abortions.

12 H. The department shall review each written certification and
13 determine whether the organization meets all the criteria to be considered a
14 qualifying charitable organization and notify the organization of its
15 determination. The department may also periodically request recertification
16 from the organization. The department shall compile and make available to
17 the public a list of the qualifying charitable organizations.

18 I. For the purposes of this section:

19 1. "Chronically ill or physically disabled children" has the same
20 meaning prescribed in section 36-260.

21 2. "Low income residents" means persons whose household income is less
22 than one hundred fifty per cent of the federal poverty level.

23 3. "Qualifying charitable organization" means a charitable
24 organization that is exempt from federal income taxation under section
25 501(c)(3) of the internal revenue code or is a designated community action
26 agency that receives community services block grant program monies pursuant
27 to 42 United States Code section 9901. The organization must spend at least
28 fifty per cent of its budget on services to residents of this state who
29 receive temporary assistance for needy families benefits or low income
30 residents of this state and their households or to chronically ill or
31 physically disabled children who are residents of this state. Taxpayers
32 choosing to make donations through an umbrella charitable organization that
33 collects donations on behalf of member charities shall designate that the
34 donation be directed to a member charitable organization that would qualify
35 under this section on a stand-alone basis. Qualifying charitable
36 organization does not include any entity that provides, pays for or provides
37 coverage of abortions or that financially supports any other entity that
38 provides, pays for or provides coverage of abortions.

39 4. "Services" means cash assistance, medical care, child care, food,
40 clothing, shelter, job placement and job training services or any other
41 assistance that is reasonably necessary to meet immediate basic needs and
42 that is provided and used in this state.

1 2. During the election period, the election may be terminated as
2 follows:

3 (a) Without the permission of the department on the acquisition or
4 merger of the taxpayer.

5 (b) With the permission of the department before the expiration of
6 five consecutive taxable years.

7 **D. FOR A MULTISTATE SERVICE PROVIDER UNDER SUBSECTION E, PARAGRAPH 3,
8 SUBDIVISION (b) OF THIS SECTION, AN ELECTION UNDER SUBSECTION B OF THIS
9 SECTION IS LIMITED TO THE TREATMENT OF SALES FOR EDUCATIONAL SERVICES.**

10 ~~D.~~ E. For the purposes of this section:

11 1. "Income producing activity sales" means the total sales from
12 services that are sales in this state under subsection A of this section.

13 2. "Market sales" means the total sales from services for which the
14 purchaser received the benefit of the service in this state.

15 3. "Multistate service provider" means **EITHER:**

16 (a) A taxpayer that derives more than eighty-five per cent of its
17 sales from services provided to purchasers who receive the benefit of the
18 service outside this state in the taxable year of election, and includes all
19 taxpayers required to file a combined report pursuant to section 43-942 and
20 all members of an affiliated group included in a consolidated return pursuant
21 to section 43-947. In calculating the eighty-five per cent, sales to
22 students receiving educational services at campuses physically located in
23 this state shall be excluded from the calculation.

24 (b) **A TAXPAYER THAT IS A REGIONALLY ACCREDITED INSTITUTION OF HIGHER
25 EDUCATION WITH AT LEAST ONE UNIVERSITY CAMPUS IN THIS STATE THAT HAS MORE
26 THAN TWO THOUSAND STUDENTS RESIDING ON THE CAMPUS, AND INCLUDES ALL TAXPAYERS
27 REQUIRED TO FILE A COMBINED REPORT PURSUANT TO SECTION 43-942 AND ALL MEMBERS
28 OF AN AFFILIATED GROUP INCLUDED IN A CONSOLIDATED RETURN PURSUANT TO SECTION
29 43-947.**

30 4. "Received the benefit of the service in this state" means the
31 services are received by the purchaser in this state. If the state where the
32 services are received cannot be readily determined, the services are
33 considered to be received at the home of the customer or, in the case of a
34 business, the office of the customer from which the services were ordered in
35 the regular course of the customer's trade or business. If the ordering
36 location cannot be determined, the services are considered to be received at
37 the home or office of the customer to which the services were billed.

38 **5. "SALES FOR EDUCATIONAL SERVICES" MEANS TUITION AND FEES REQUIRED
39 FOR ENROLLMENT AND FEES REQUIRED FOR COURSES OF INSTRUCTION, TRANSCRIPTS AND
40 GRADUATION.**

41 Sec. 11. Laws 2011, second special session, chapter 1, section 130, as
42 amended by Laws 2012, chapter 3, section 60, is amended to read:

43 Sec. 130. Effect on preexisting tax credits

44 A. Laws 2011, second special session, chapter 1 does not affect the
45 validity of tax benefits granted under prior law.

1 B. Any certification or other approval issued under prior law by the
2 department of commerce before the expiration of any tax incentive qualifies
3 the taxpayer, who is otherwise eligible, for the intended tax benefits. No
4 provision of Laws 2011, second special session, chapter 1 may be interpreted
5 to terminate tax incentives that were not claimed by qualified taxpayers
6 before July 1, 2011.

7 C. Taxpayers who qualified for tax incentives under sections 41-1517,
8 41-1517.01, 43-1075, 43-1075.01, 43-1163 and 43-1163.01, Arizona Revised
9 Statutes, in effect before July 1, 2011, may use any applicable amounts of
10 those credits, including allowed carryovers, against income tax liabilities
11 for subsequent taxable years as provided by law in effect before July 1,
12 2011.

13 D. The repeal of title 41, chapter 10, article 2, Arizona Revised
14 Statutes, and sections 20-224.03, 43-1074 and 43-1161, Arizona Revised
15 Statutes, by Laws 2006, chapter 387, section 5, effective from and after June
16 30, 2011, does not affect:

17 1. The prior qualification under prior law with respect to property
18 classified as class six pursuant to section 42-12006, paragraph 4, Arizona
19 Revised Statutes, as in effect before July 1, 2011. Taxpayers who qualified
20 for property tax classification under section 42-12006, paragraph 4, Arizona
21 Revised Statutes, and on annual certification by the Arizona commerce
22 authority, may retain an assessment ratio of five per cent for primary
23 property tax purposes, and a secondary property tax ratio equivalent to
24 property assessed pursuant to section 42-15001, Arizona Revised Statutes, for
25 subsequent tax years as provided by law in effect before July 1, 2011.

26 2. The ability of insurers and taxpayers who claimed first or second
27 year tax credits for employees hired in a qualified employment position
28 before July 1, 2011, from claiming second or third year credits for the same
29 employees in taxable years beginning after ~~July 1, 2011~~ JUNE 30, 2011. All
30 compensation paid during the taxable year to an employee in a qualified
31 employment position hired before July 1, 2011, shall be included in the
32 computation of the credit even if paid after July 1, 2011. All carryovers
33 continue to be allowed. The taxpayer must continue to comply with all the
34 requirements of the prior law, including all of the reporting and filing
35 requirements in former section 41-1525, Arizona Revised Statutes, EXCEPT
36 TAXPAYERS WHO CLAIMED FIRST YEAR TAX CREDITS AND FILED THE CERTIFICATION
37 REQUIRED FOR THE TAX CREDIT UNDER FORMER SECTION 41-1525, SUBSECTION C,
38 ARIZONA REVISED STATUTES, ARE NOT REQUIRED TO FILE A CERTIFICATION UNDER
39 FORMER SECTION 41-1525, SUBSECTION C, ARIZONA REVISED STATUTES, FOR SECOND OR
40 THIRD YEAR TAX CREDITS.

41 Sec. 12. Effect on prior law

42 Section 43-1022, Arizona Revised Statutes, as amended by this act, does
43 not affect and shall not be cited or considered in the construction or
44 interpretation of section 43-1147, Arizona Revised Statutes, as amended by

1 Laws 1983, chapter 287, section 5, for taxable years before the effective
2 date of this act.

3 Sec. 13. Retroactivity

4 Section 43-1022, Arizona Revised Statutes, as amended by this act,
5 applies retroactively to taxable years beginning from and after December 31,
6 2012.

7 Sec. 14. Effective date

8 Section 43-1147, Arizona Revised Statutes, as amended by Laws 2012,
9 chapter 2, section 1 and this act, is effective and applies to taxable years
10 beginning from and after December 31, 2013.

11 Sec. 15. Exemption from rulemaking

12 For the purposes of sections 42-5101 and 42-5106, Arizona Revised
13 Statutes, as amended by this act, the department of revenue is exempt from
14 the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes,
15 for one year after the effective date of this act.

16 Sec. 16. Retroactivity; refund

17 A. Section 42-5039, Arizona Revised Statutes, as added by this act,
18 and section 42-5106, Arizona Revised Statutes, as amended by this act, apply
19 retroactively to taxable periods beginning from and after December 31, 2001.

20 B. Any claim for refund of transaction privilege tax paid on gross
21 proceeds of sales or gross income that was originally reported by a qualified
22 destination management company on a return under title 42, chapter 5,
23 article 2, Arizona Revised Statutes, that is based on the retroactive
24 application of section 42-5039, Arizona Revised Statutes, as added by this
25 act, must be submitted pursuant to section 42-1118, Arizona Revised Statutes,
26 to the department of revenue on or before December 31, 2013. Failure to file
27 a claim on or before December 31, 2013 constitutes a waiver of the claim for
28 refund under this section.

29 C. The burden is on the qualified destination management company to
30 establish by competent evidence the amount of tax paid for all taxable
31 periods and the amount that it paid under title 42, chapter 5, article 2,
32 Arizona Revised Statutes, on its qualified contracts for destination
33 management services as defined by section 42-5039, Arizona Revised Statutes,
34 as added by this act. The department of revenue shall:

35 1. Review all timely filed claims.

36 2. Determine, on audit if necessary, the correct amount of each claim.

37 3. Notify the taxpayer of its determination. The notice is final
38 unless the taxpayer appeals in the manner provided in section 42-1119,
39 Arizona Revised Statutes.

40 D. Notwithstanding section 42-1119, Arizona Revised Statutes, the
41 department of revenue shall not make a refund until after the determination
42 of the amount of all refund claims filed pursuant to this section. If a
43 taxpayer appeals the department's determination, the department pursuant to
44 the rules protecting confidentiality under title 42, chapter 2, article 1,

1 Arizona Revised Statutes, may notify other taxpayers who have filed claims
2 under this section as to the nature and extent of the delay.

3 E. The total amount of refunds issued under this section shall not be
4 more than ten thousand dollars. If the total amount of refundable claims
5 filed under this section is more than ten thousand dollars, the department
6 shall reduce each claim proportionately so that the total amount of refunds
7 is not more than ten thousand dollars.

8 F. Interest shall not be allowed or compounded on a refund paid before
9 July 1, 2014. Unpaid refund amounts from and after June 30, 2014, shall
10 accrue interest under section 42-1123, Arizona Revised Statutes.

11 Sec. 17. Retroactivity

12 Laws 2011, second special session, chapter 1, section 130, as amended
13 by Laws 2012, chapter 3, section 60 and this act, applies retroactively to
14 from and after June 30, 2011.

15 Sec. 18. Retroactivity; refunds; nonseverability

16 A. Section 42-5071, subsection A, paragraph 8, Arizona Revised
17 Statutes, as added by this act, providing that leasing or renting certified
18 ignition interlock devices, as defined in section 28-1301, Arizona Revised
19 Statutes, installed pursuant to the requirements prescribed in section
20 28-1461, Arizona Revised Statutes, are not subject to tax under section
21 42-5071, Arizona Revised Statutes, applies retroactively to taxable periods
22 beginning from and after August 31, 2004.

23 B. Any claim for refund of transaction privilege tax based on the
24 retroactive application of section 42-5071, subsection A, paragraph 8,
25 Arizona Revised Statutes, as added by this act, shall be submitted to the
26 department of revenue on or before December 31, 2013, pursuant to section
27 42-1118, Arizona Revised Statutes. A failure to file a claim on or before
28 December 31, 2013 constitutes a waiver of the claim for refund under this
29 section.

30 C. The burden is on the taxpayer to establish by competent evidence
31 the amount of tax paid for all taxable periods and the amount, if any,
32 attributable to leasing or renting certified ignition interlock devices, as
33 defined in section 28-1301, Arizona Revised Statutes, installed pursuant to
34 the requirements prescribed in section 28-1461, Arizona Revised Statutes, and
35 qualifying for exemption under the amendment to section 42-5071, Arizona
36 Revised Statutes, as provided by this act. The department of revenue shall:

- 37 1. Review all timely filed claims.
- 38 2. Determine, on audit if necessary, the correct amount of each claim.
- 39 3. Notify the taxpayer of its determination. The notice is final
40 unless a taxpayer appeals in the manner provided in section 42-1119, Arizona
41 Revised Statutes.

42 D. Notwithstanding section 42-1119, Arizona Revised Statutes, the
43 department of revenue shall not make a refund until after determination of
44 the amount of all refund claims filed pursuant to this section. If a
45 taxpayer appeals the department's determination, the department, pursuant to

1 the rules protecting confidentiality under title 42, chapter 2, article 1,
2 Arizona Revised Statutes, may notify other taxpayers who have filed claims as
3 to the nature of any delay and, if possible, estimate the possible extent of
4 the delay.

5 E. The aggregate amount of the refund under this section shall not
6 exceed ten thousand dollars. If the aggregate amount of claims under this
7 section that are ultimately determined to be correct exceeds ten thousand
8 dollars, the department shall reduce each claim proportionately so that the
9 total refund amount equals ten thousand dollars.

10 F. Interest shall not be allowed or compounded on any refundable
11 amount if paid before July 1, 2014, but if the amount cannot be determined or
12 paid until after June 30, 2014, interest accrues after that date under
13 section 42-1123, Arizona Revised Statutes.

14 G. If any part of this section is finally adjudicated to be invalid,
15 this entire section is void. The provisions of this section are intended to
16 be nonseverable.