House Engrossed Senate Bill

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

CHAPTER 236

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)
Be it enacted by the Legislature of the State of Arizona:
Section 1. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5039, to read:

42-5039. Qualified destination management companies; definitions

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

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

C. FOR THE PURPOSES OF THIS SECTION:
1. "DESTINATION MANAGEMENT SERVICES" MEANS THE BUSINESS OF COORDINATING, DESIGNING AND IMPLEMENTING THE DELIVERY BY A THIRD PARTY OF FOUR OR MORE OF THE FOLLOWING:
   (a) TRANSPORTATION.
   (b) ENTERTAINMENT.
   (c) FOOD OR BEVERAGE.
   (d) RECREATIONAL OR AMUSEMENT ACTIVITY.
   (e) TOURS.
   (f) EVENT VENUE.
   (g) THEME DECOR.

2. "QUALIFIED CONTRACT" MEANS A CONTRACT FOR THE PROVISION OF DESTINATION MANAGEMENT SERVICES BY A QUALIFIED DESTINATION MANAGEMENT COMPANY WHERE BOTH OF THE FOLLOWING APPLY:
   (a) THE QUALIFIED DESTINATION MANAGEMENT COMPANY RECEIVES PAYMENT FROM OR ON BEHALF OF THE QUALIFIED DESTINATION MANAGEMENT COMPANY'S CLIENT FOR THE COST OF THE DESTINATION MANAGEMENT SERVICES ARRANGED BY THE QUALIFIED DESTINATION MANAGEMENT COMPANY.
   (b) THE QUALIFIED DESTINATION MANAGEMENT COMPANY PAYS THE VENDOR SUPPLYING THE DESTINATION MANAGEMENT SERVICES ARRANGED BY THE QUALIFIED DESTINATION MANAGEMENT COMPANY INCLUDING ANY APPLICABLE TRANSACTION PRIVILEGE TAX OR COLLECTION OF USE TAX CHARGED BY THE VENDOR TO THE QUALIFIED DESTINATION MANAGEMENT COMPANY.

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

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

42-5071. Personal property rental classification

A. The personal property rental classification is comprised of the business of leasing or renting tangible personal property for a consideration. The tax does not apply to:
1. Leasing or renting films, tapes or slides used by theaters or movies, which are engaged in business under the amusement classification, or used by television stations or radio stations.

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

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

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

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

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

7. Leasing or renting photographs, transparencies or other creative works used by this state on internet websites, in magazines or in other publications that encourage tourism.

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

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

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

2. Leases or rentals of tangible personal property which, if it had been purchased instead of leased or rented by the lessee, would have been exempt under:
(a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 50 or 55.
(b) Section 42-5061, subsection B, except that a lease or rental of new machinery or equipment is not exempt pursuant to:
   (i) Section 42-5061, subsection B, paragraph 13 if the lease is for less than two years.
   (ii) Section 42-5061, subsection B, paragraph 21.
   (c) Section 42-5061, subsection J, paragraph 1.
   (d) Section 42-5061, subsection N.
3. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739 and sales of aviation fuel that are subject to the tax imposed under section 28-8344.
4. Leasing or renting a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.
5. Amounts received by a motor vehicle dealer for the first month of a lease payment if the lease and the lease payment for the first month of the lease are transferred to a third-party leasing company.
C. Sales of tangible personal property to be leased or rented to a person engaged in a business classified under the personal property rental classification are deemed to be resale sales.
D. In computing the tax base, the gross proceeds of sales or gross income from the lease or rental of a motor vehicle does not include any amount attributable to the car rental surcharge under section 28-5810 or 48-4234.
E. Until December 31, 1988, leasing or renting animals for recreational purposes is exempt from the tax imposed by this section. Beginning January 1, 1989, the gross proceeds or gross income from leasing or renting animals for recreational purposes is subject to taxation under this section. Tax liabilities, penalties and interest paid for taxable periods before January 1, 1989 shall not be refunded unless the taxpayer requesting the refund provides proof satisfactory to the department that the monies paid as taxes will be returned to the customer.
Sec. 3. Section 42-5101, Arizona Revised Statutes, is amended to read:
42-5101. Definitions
In this article, unless the context otherwise requires:
1. "Eligible grocery business" means an establishment whose sales of food are such that it is DEEMED eligible to participate in the food stamp program established by the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958; 7 United States Code sections 2011 through 2029), according to regulations in effect on January 1, 1979. An establishment is deemed eligible to participate in the food stamp program if it is authorized to participate in the supplemental nutrition assistance program established by the food and nutrition act of 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through 2036a) by the United States department of agriculture food and nutrition service field office on July 1, 1980 or if, prior to a
reporting period for which the return is filed, such retailer AN
ESTABLISHMENT THAT proves to the satisfaction of the department of revenue
that the establishment, based on the nature of the retailer's ESTABLISHMENT's
food sales, could be eligible to participate in the food stamp program
established by the food stamp act of 1977 according to regulations in effect
on January 1, 1979 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ESTABLISHED BY

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

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

4. "Food for consumption on the premises" includes:
(a) Hot prepared food.
(b) Hot or cold sandwiches.
(c) Food served by an attendant to be eaten at tables, chairs,
benches, booths, stools, counters and similar conveniences and within parking
areas for the convenience of in-car consumption of food.
(d) Food served with trays, glasses, dishes or other tableware.
(e) Beverages sold in cups, glasses, or open containers.
(f) Food sold by caterers.
(g) Food sold within the premises of theaters, movies, operas, shows
of any type or nature, exhibitions, concerts, carnivals, circuses, amusement
parks, fairs, races, contests, games, athletic events, rodeos, billiard and
pool parlors, bowling alleys, public dances, dance halls, boxing, wrestling
and other matches and any business which THAT charges admission, entrance or
cover fees for exhibition, amusement or entertainment.
(h) Any items contained in subdivisions (a) through (g) of this
paragraph even though they are sold on a take-out or to go basis, and whether
or not the item is packaged, is wrapped or is actually taken from the
premises.

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

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

Sec. 4. Repeal
Sections 42-5103 and 42-5105, Arizona Revised Statutes, are repealed.
Sec. 5. Section 42-5106, Arizona Revised Statutes, is amended to read:
42-5106. Rules
A. The department shall adopt rules defining food consistent with section 42-5101 and this section.
B. The department shall include as food:
1. Returnable containers for which a deposit is collected.
2. Ice and dry ice used in packing, shipping or transporting food.
3. Seeds and plants to grow food for personal consumption.
C. The department shall not include food for consumption on the premises, alcoholic beverages, or tobacco, MEDICINES OR DIETARY SUPPLEMENTS, SUCH AS VITAMINS AND PROTEIN SUPPLEMENTS, as food, UNLESS THE ITEM IS OTHERWISE DEEMED TO BE FOOD UNDER THIS SECTION.
D. NOTWITHSTANDING SECTION 42-5101, ANY READY-TO-DRINK, NONALCOHOLIC BEVERAGE THAT IS CONTAINED IN A CLOSED OR SEALED BOTTLE, CAN OR CARTON, THAT IS INTENDED FOR HUMAN CONSUMPTION AND THAT IS INTENDED FOR HOME CONSUMPTION IS DEEMED TO BE FOOD.

D. E. The department shall adopt rules which define food to be those items that are intended for human consumption and that are intended for home consumption. In adopting these rules, the department shall give strong consideration to those specific items that are then eligible for purchase with food coupons issued by the United States department of agriculture SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS so as to effectuate the intent of the legislature as specified in this article.

Sec. 6. Section 42-6004, Arizona Revised Statutes, is amended to read:
42-6004. Exemption from municipal tax
A. A city, town or special taxing district shall not levy a transaction privilege, sales, use or other similar tax on:
1. Exhibition events in this state sponsored, conducted or operated 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 golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.
3. Sales of warranty or service contracts.
4. Sales of motor vehicles to nonresidents of this state for use outside this state if the vendor ships or delivers the motor vehicle to a destination outside this state.
5. Interest on finance contracts.
6. Dealer documentation fees on the sales of motor vehicles.
7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

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

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

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

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


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

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

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

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

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

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

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

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

12. The gross proceeds of sales or gross income derived from a commercial lease in which a corporation leases real property to a corporation of which at least eighty per cent of the voting shares of each corporation are owned by the same shareholders.
13. THE LEASING OR RENTING OF CERTIFIED IGNITION INTERLOCK DEVICES INSTALLED PURSUANT TO THE REQUIREMENTS PRESCRIBED BY SECTION 28-1461. FOR THE PURPOSES OF THIS PARAGRAPH, "CERTIFIED IGNITION INTERLOCK DEVICE" HAS THE SAME MEANING PRESCRIBED IN SECTION 28-1301.

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

C. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from any of the following:
1. A motor carrier's use on the public highways in this state if the motor carrier is subject to a fee prescribed in title 28, chapter 16, article 4.
2. Leasing, renting or licensing a motor vehicle subject to and upon which the fee has been paid under title 28, chapter 16, article 4.
3. The sale of a motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle to a motor carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing, renting or licensing such property.
4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.
5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.
6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:
   (a) The attributable amount shall not exceed the value of the development fees actually imposed.
   (b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
   (c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.
D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one per cent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the business of mineral processing, except to the extent that the tax is computed on the gross proceeds or gross income from sales at retail.

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

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

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

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

42-12006. Class six property
For purposes of taxation, class six is established consisting of:
1. Noncommercial historic property as defined in section 42-12101 and valued at full cash value.
2. Real and personal property that is located within the area of a foreign trade zone or subzone established under 19 United States Code section 81 and title 44, chapter 18, that is activated for foreign trade zone use by the district director of the United States customs service pursuant to 19 Code of Federal Regulations section 146.6 and that is valued at full cash value. Property that is classified under this paragraph shall not thereafter be classified under paragraph 6 of this section.
3. Real and personal property and improvements that are located in a military reuse zone that is established under title 41, chapter 10, article 3 and that is devoted to providing aviation or aerospace services or to manufacturing, assembling or fabricating aviation or aerospace products, valued at full cash value and subject to the following terms and conditions:
   (a) Property may not be classified under this paragraph for more than five tax years.
   (b) Any new addition or improvement to property already classified under this paragraph qualifies separately for classification under this paragraph for not more than five tax years.
   (c) If a military reuse zone is terminated, the property in that zone that was previously classified under this paragraph shall be reclassified as prescribed by this article.
   (d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 6 of this section.
4. Real and personal property and improvements or a portion of such property comprising an environmental technology manufacturing, producing or
processing facility that qualified under section 41-1514.02, valued at full 
cash value and subject to the following terms and conditions:
   (a) Property shall be classified under this paragraph for twenty tax 
years from the date placed in service.
   (b) Any addition or improvement to property already classified under 
this paragraph qualifies separately for classification under this subdivision 
for an additional twenty tax years from the date placed in service.
   (c) After revocation of certification under section 41-1514.02, 
property that was previously classified under this paragraph shall be 
reclassified as prescribed by this article.
   (d) Property that is classified under this paragraph shall not 
thereafter be classified under paragraph 6 of this section.

5. That portion of real and personal property that is used on or after 
January 1, 1999 specifically and solely for remediation of the environment by 
an action that has been determined to be reasonable and necessary to respond 
to the release or threatened release of a hazardous substance by the 
department of environmental quality pursuant to section 49-282.06 or pursuant 
to its corrective action authority under rules adopted pursuant to section 
49-922, subsection B, paragraph 4 or by the United States environmental 
protection agency pursuant to the national contingency plan (40 Code of 
Federal Regulations part 300) and that is valued at full cash value. 
Property that is not being used specifically and solely for the remediation 
objectives described in this paragraph shall not be classified under this 
paragraph. For the purposes of this paragraph, "remediation of the 
environment" means one or more of the following actions:
   (a) Monitoring, assessing or evaluating the release or threatened 
release.
   (b) Excavating, removing, transporting, treating and disposing of 
contaminated soil.
   (c) Pumping and treating contaminated water.
   (d) Treatment, containment or removal of contaminants in groundwater 
or soil.

6. Real and personal property and improvements constructed or 
installed from and after December 31, 2004 through December 31, 2024 and 
owned by a qualified business under section 41-1516 and used solely for the 
purpose of harvesting, transporting or processing qualifying forest products 
removed from qualifying projects as defined in section 41-1516. The 
classification under this paragraph is subject to the following terms and 
conditions:
   (a) Property may be initially classified under this paragraph only in 
valuation years 2005 through 2024.
   (b) Property may not be classified under this paragraph for more than 
five years.
   (c) Any new addition or improvement, constructed or installed from and 
after December 31, 2004 through December 31, 2024, to property already
classified under this paragraph qualifies separately for classification and
assessment under this paragraph for not more than five years.

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

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

(a) CONTAINS FUEL ADDITIVES IN COMPLIANCE WITH FEDERAL AND STATE LAW.
(b) IS MANUFACTURED EXCLUSIVELY FOR USE IN A MOTOR VEHICLE.

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

Sec. 8. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income
In computing Arizona adjusted gross income, the following amounts shall
be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.
2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:
   (a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.
   (b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

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

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

5. The amount of income on an installment receivable that is recognized pursuant to the Internal Revenue Code and that has already been recognized on the death of the taxpayer for purposes of this title for tax years ending before January 1, 1990.

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

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

8. Annuity income included in federal adjusted gross income pursuant to section 72 of the Internal Revenue Code if the first payment with respect to such annuity was received before December 31, 1978.

9. The excess of a partner's share of income required to be included under section 702(a)(8) of the Internal Revenue Code over the income required to be included under chapter 14, article 2 of this title.

10. The excess of a partner's share of partnership losses determined pursuant to chapter 14, article 2 of this title over the losses allowable under section 702(a)(8) of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

22. With respect to a medical savings account established pursuant to
section 43-1028:
   (a) An eligible individual may subtract:
      (i) The amount of contributions made by the individual's employer
during the taxable year to the individual's medical savings account pursuant
to section 43-1028 to the extent that the employer contributions are included
in the individual's federal adjusted gross income.
      (ii) The amount deposited by the individual in the account during the
taxable year to the extent that the individual's contributions are included
in the individual's federal adjusted gross income.
   (b) The individual's employer may subtract the amount of contributions
made by the employer to a medical savings account established on the
individual's behalf to the extent that the contributions are not deductible
under the internal revenue code.

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

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

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

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

27. For property placed in service:
   (a) In taxable years ending through December 31, 2012, an amount equal
to the depreciation allowable pursuant to section 167(a) of the internal
revenue code for the taxable year computed as if the election described in
section 168(k)(2)(D)(iii) of the internal revenue code had been made for each
applicable class of property in the year the property was placed in service.
   (b) In taxable years beginning from and after December 31, 2012
through December 31, 2013, an amount determined in the year the asset was
placed in service based on the calculation in subdivision (a) of this
paragraph. In the first taxable year beginning from and after December 31,
2013, the amount necessary to make the depreciation claimed to date for the
purposes of this title the same as it would have been if subdivision (c) of
this paragraph had applied for the entire time the asset was in service.
Subdivision (c) of this paragraph applies for the remainder of the asset's
life.
(c) In taxable years beginning from and after December 31, 2013, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten per cent of the amount allowed pursuant to section 168(k) of the internal revenue code.

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

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

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

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

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

31. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income or federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

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

33. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal
revenue code as amended by section 1211 of the American recovery and
reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the
34. For taxable years beginning from and after December 31, 2013, the
amount of any net capital gain included in federal adjusted gross income for
the taxable year derived from investment in a qualified small business as
determined by the Arizona commerce authority pursuant to section 41-1518.
35. An amount of any net long-term capital gain included in federal
adjusted gross income for the taxable year that is derived from an investment
in an asset acquired after December 31, 2011, as follows:
(a) For taxable years beginning from and after December 31, 2012
through December 31, 2013, ten per cent of the net long-term capital gain
included in federal adjusted gross income.
(b) For taxable years beginning from and after December 31, 2013
through December 31, 2014, twenty per cent of the net long-term capital gain
included in federal adjusted gross income.
(c) For taxable years beginning from and after December 31, 2014,
twenty-five per cent of the net long-term capital gain included in federal
adjusted gross income.
36. If an individual is not claiming itemized deductions pursuant to
section 43-1042, the amount of premium costs for long-term care insurance, as
defined in section 20-1691.
37. With respect to a long-term health care savings account established
pursuant to section 43-1032, the amount deposited by the taxpayer in the
account during the taxable year to the extent that the taxpayer's
contributions are included in the taxpayer's federal adjusted gross income.
Sec. 9. Section 43-1088, Arizona Revised Statutes, is amended to read:
43-1088. Credit for contribution to qualifying charitable
organizations; definitions
A. A credit is allowed against the taxes imposed by this title for
voluntary cash contributions by the taxpayer or on the taxpayer's behalf
pursuant to section 43-401, subsection G during the taxable year to a
qualifying charitable organization not to exceed:
1. Two hundred dollars in any taxable year for a single individual or
a head of household.
2. Four hundred dollars in any taxable year for a married couple
filing a joint return.
B. A husband and wife who file separate returns for a taxable year in
which they could have filed a joint return may each claim only one-half of
the tax credit that would have been allowed for a joint return.
C. If the allowable tax credit exceeds the taxes otherwise due under
this title on the claimant's income, or if there are no taxes due under this
title, the taxpayer may carry forward the amount of the claim not used to
offset the taxes under this title for not more than five consecutive taxable
years' income tax liability.
D. The credit allowed by this section
1. Is allowed only if the taxpayer itemizes deductions pursuant to section 43-1042 for the taxable year.

2. is in lieu of a deduction pursuant to section 170 of the internal revenue code and taken for state tax purposes.

E. Taxpayers taking a credit authorized by this section shall provide the name of the qualifying charitable organization and the amount of the contribution to the department of revenue on forms provided by the department.

F. A qualifying charitable organization shall provide the department of revenue with a written certification that it meets all criteria to be considered a qualifying charitable organization. The organization shall also notify the department of any changes that may affect the qualifications under this section.

G. The charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification must include the following:

1. Verification of the organization's status under section 501(c)(3) of the internal revenue code or verification that the organization is a designated community action agency that receives community services block grant program monies pursuant to 42 United States Code section 9901.

2. Financial data indicating the organization's budget for the organization's prior operating year and the amount of that budget spent on services to residents of this state who either:
   (a) Receive temporary assistance for needy families benefits.
   (b) Are low income residents of this state.
   (c) Are chronically ill or physically disabled children.

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

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

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

I. For the purposes of this section:

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

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

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

Sec. 10. Section 43-1147, Arizona Revised Statutes, as amended by Laws 2012, chapter 2, section 1, is amended to read:

43-1147. Situs of sales of other than tangible personal property; definitions

A. Except as provided by subsection B of this section, sales, other than sales of tangible personal property, are in this state if either of the following apply:

1. The income producing activity is performed in this state.
2. The income producing activity is performed both in and outside this state and a greater proportion of the income producing activity is performed in this state than in any other state, based on costs of performance.

B. For taxable years beginning from and after December 31, 2013, a multistate service provider may elect to treat sales from services as being in this state based on a combination of income producing activity sales and market sales. If the election under this subsection is made pursuant to subsection C of this section, the sales of services that are in this state shall be determined for taxable years beginning from and after:

1. December 31, 2013 through December 31, 2014 by the sum of the following:
   (a) Eighty-five per cent of the market sales.
   (b) Fifteen per cent of the income producing activity sales.
2. December 31, 2014 through December 31, 2015 by the sum of the following:
   (a) Ninety per cent of the market sales.
   (b) Ten per cent of the income producing activity sales.
3.  December 31, 2015 through December 31, 2016 by the sum of the following:
   (a) Ninety-five per cent of the market sales.
   (b) Five per cent of the income producing activity sales.
4.  December 31, 2016 by one hundred per cent of the market sales.
C.  A multistate service provider may elect to treat sales from services as being in this state under subsection B of this section as follows:
   1.  The election must be made on the taxpayer's timely filed original income tax return. The election is:
       (a)  Effective retroactively for the full taxable year of the income tax return on which the election is made.
       (b)  Binding on the taxpayer for at least five consecutive taxable years, regardless of whether the taxpayer no longer meets the percentage threshold of a multistate service provider during that time period, except as provided by paragraph 2 of this subsection. To continue with the election after the five consecutive taxable years, the taxpayer must meet the qualifications to be considered a multistate service provider and renew the election for another five consecutive taxable years.
   2.  During the election period, the election may be terminated as follows:
       (a) Without the permission of the department on the acquisition or merger of the taxpayer.
       (b) With the permission of the department before the expiration of five consecutive taxable years.
D. FOR A MULTISTATE SERVICE PROVIDER UNDER SUBSECTION E, PARAGRAPH 3, SUBDIVISION (b) OF THIS SECTION, AN ELECTION UNDER SUBSECTION B OF THIS SECTION IS LIMITED TO THE TREATMENT OF SALES FOR EDUCATIONAL SERVICES.
E.  For the purposes of this section:
   1.  "Income producing activity sales" means the total sales from services that are sales in this state under subsection A of this section.
   2.  "Market sales" means the total sales from services for which the purchaser received the benefit of the service in this state.
   3.  "Multistate service provider" means EITHER:
      (a) A taxpayer that derives more than eighty-five per cent of its sales from services provided to purchasers who receive the benefit of the service outside this state in the taxable year of election, and includes all taxpayers required to file a combined report pursuant to section 43-942 and all members of an affiliated group included in a consolidated return pursuant to section 43-947. In calculating the eighty-five per cent, sales to students receiving educational services at campuses physically located in this state shall be excluded from the calculation.
      (b) A TAXPAYER THAT IS A REGIONALLY ACCREDITED INSTITUTION OF HIGHER EDUCATION WITH AT LEAST ONE UNIVERSITY CAMPUS IN THIS STATE THAT HAS MORE THAN TWO THOUSAND STUDENTS RESIDING ON THE CAMPUS, AND INCLUDES ALL TAXPAYERS REQUIRED TO FILE A COMBINED REPORT PURSUANT TO SECTION 43-942 AND ALL MEMBERS:
OF AN AFFILIATED GROUP INCLUDED IN A CONSOLIDATED RETURN PURSUANT TO SECTION 43-947.

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

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

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

Sec. 130. Effect on preexisting tax credits

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

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

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

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

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

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

Sec. 12. Effect on prior law

Section 43-1022, Arizona Revised Statutes, as amended by this act, does not affect and shall not be cited or considered in the construction or interpretation of section 43-1147, Arizona Revised Statutes, as amended by Laws 1983, chapter 287, section 5, for taxable years before the effective date of this act.

Sec. 13. Retroactivity

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

Sec. 14. Effective date

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

Sec. 15. Exemption from rulemaking

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

Sec. 16. Retroactivity; refund

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

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

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

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

D. Notwithstanding section 42-1119, Arizona Revised Statutes, the department of revenue shall not make a refund until after the determination of the amount of all refund claims filed pursuant to this section. If a taxpayer appeals the department’s determination, the department pursuant to the rules protecting confidentiality under title 42, chapter 2, article 1, Arizona Revised Statutes, may notify other taxpayers who have filed claims under this section as to the nature and extent of the delay.

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

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

Sec. 17. Retroactivity

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

Sec. 18. Retroactivity; refunds; nonseverability

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

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

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

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

D. Notwithstanding section 42-1119, Arizona Revised Statutes, the
department of revenue shall not make a refund until after determination of
the amount of all refund claims filed pursuant to this section. If a
taxpayer appeals the department's determination, the department, pursuant to
the rules protecting confidentiality under title 42, chapter 2, article 1,
Arizona Revised Statutes, may notify other taxpayers who have filed claims as
to the nature of any delay and, if possible, estimate the possible extent of
the delay.

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

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

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

APPROVED BY THE GOVERNOR JUNE 20, 2013.