

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

CHAPTER 4
SENATE BILL 1446

AN ACT

AMENDING SECTIONS 9-467, 11-321, 32-1122, 32-1169 AND 42-5005, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5008.01; AMENDING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 263, SECTION 8; REPEALING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 245, SECTION 3; AMENDING SECTIONS 42-5010, 42-5061, 42-5075, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO PRIME CONTRACTING TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-467, Arizona Revised Statutes, is amended to
3 read:

4 9-467. Building permits; issuance; distribution of copies;
5 subsequent owner

6 A. Any city or town requiring the issuance of a building permit shall
7 transmit one copy of the permit to the county assessor and one copy to the
8 director of the department of revenue. Permit copies shall provide the
9 permit number, issue date and parcel number. On the issuance of the
10 certificate of occupancy or the certificate of completion or on the
11 expiration or cancellation of the permit, the assessor and the department of
12 revenue shall be notified in writing or in electronic format of the permit
13 number, parcel number, issue date and completion date.

14 ~~B. If a contractor is employed for any construction exceeding the cost~~
15 ~~of ten thousand dollars, a building permit may not be issued unless the~~
16 ~~contractor holds a valid privilege tax license issued pursuant to section~~
17 ~~42-5005 for engaging or continuing in the business of contracting.~~

18 B. A CITY OR TOWN MAY NOT REQUIRE AN APPLICANT FOR A BUILDING PERMIT
19 TO HOLD A TRANSACTION PRIVILEGE TAX LICENSE OR BUSINESS LICENSE AS A
20 CONDITION FOR ISSUING THE BUILDING PERMIT. A CITY OR TOWN MAY REQUIRE A
21 PERSON THAT HAS BEEN ISSUED A BUILDING PERMIT AND THAT DOES NOT OTHERWISE
22 HOLD A BUSINESS LICENSE FROM THE CITY OR TOWN TO APPLY FOR A BUSINESS LICENSE
23 WITHIN THIRTY DAYS AFTER ISSUING THE BUILDING PERMIT.

24 C. If a person has constructed a building or an addition to a building
25 without obtaining a building permit, a city or town shall not require a
26 subsequent owner to obtain a permit for the construction or addition done by
27 the prior owner before issuing a permit for a building addition except that
28 nothing in this section shall be construed as prohibiting the enforcement of
29 an applicable ordinance or code provision which affects the public health or
30 safety.

31 Sec. 2. Section 11-321, Arizona Revised Statutes, is amended to read:

32 11-321. Building permits; issuance; distribution of copies;
33 subsequent owner

34 A. Except in those cities and towns which have an ordinance relating
35 to the issuance of building permits, the board of supervisors shall require a
36 building permit for any construction of a building or an addition thereto
37 exceeding a cost of one thousand dollars within its jurisdiction. The
38 building permit shall be filed with the board of supervisors or its
39 designated agent.

40 ~~B. If a contractor is employed for any construction exceeding the cost~~
41 ~~of ten thousand dollars, a building permit may not be issued unless the~~
42 ~~contractor holds a valid privilege tax license issued pursuant to section~~
43 ~~42-5005 for engaging or continuing in the business of contracting.~~

44 B. THE BOARD OF SUPERVISORS MAY NOT REQUIRE AN APPLICANT FOR A
45 BUILDING PERMIT TO HOLD A TRANSACTION PRIVILEGE TAX LICENSE OR BUSINESS
46 LICENSE AS A CONDITION FOR ISSUING THE BUILDING PERMIT.

1 C. Where deemed of public convenience, the supervisors shall permit
2 the application for and the issuance of building permits by mail.

3 D. One copy of the building permit required by the terms of subsection
4 A of this section shall be transmitted to the county assessor and one copy to
5 the director of the department of revenue. The permit copy provided to the
6 assessor and the department of revenue shall have the permit number, the
7 issue date and the parcel number for which the permit is issued. On the
8 issuance of the certificate of occupancy or the certificate of completion or
9 on the expiration or cancellation of the permit, the assessor and the
10 department of revenue shall be notified in writing or in electronic format of
11 the permit number, parcel number, issue date and completion date.

12 E. If a person has constructed a building or an addition to a building
13 without obtaining a building permit, a county shall not require a subsequent
14 owner to obtain a permit for the construction or addition done by the prior
15 owner before issuing a permit for a building addition except that nothing in
16 this section shall be construed as prohibiting the enforcement of an
17 applicable ordinance or code provision which affects the public health or
18 safety.

19 Sec. 3. Section 32-1122, Arizona Revised Statutes, is amended to read:
20 32-1122. Qualifications for license

21 A. A contractor's license shall be issued only by act of the registrar
22 of contractors. The registrar shall:

23 1. Classify and qualify applicants for a license.

24 2. If necessary, change the license classification of a licensee in
25 the case of a title reclassification, with or without a bond rider for the
26 purpose of continuing liability on the bond.

27 3. Conduct investigations the registrar deems necessary.

28 4. Establish written examinations if deemed necessary to protect the
29 health and safety of the public.

30 B. To obtain or renew a license under this chapter, the applicant
31 shall:

32 1. Submit to the registrar of contractors a verified application on
33 forms that are prescribed by the registrar of contractors and that contain
34 the following information and shall advise the registrar of any change in the
35 information within thirty days:

36 (a) A designation of the classification of license that is sought by
37 the applicant.

38 (b) If the applicant is an individual, the applicant's name and
39 address.

40 (c) If the applicant is a partnership, the names and addresses of all
41 partners with a designation of any limited partners.

42 (d) If the applicant is a corporation, an association or any other
43 organization, the names and addresses of the president, vice-president, if
44 any, secretary and treasurer or the names and addresses of the functional
45 equivalent of these officers, the directors and the owners of twenty-five ~~per~~
46 ~~cent~~ PERCENT or more of the stock or beneficial interest.

- 1 (e) The name and address of the qualifying party.
- 2 (f) If the applicant is a corporation, evidence that the corporation
3 is in good standing with the corporation commission.
- 4 (g) The address or location of the applicant's place of business and
5 the mailing address if it is different from the applicant's place of
6 business.
- 7 ~~(h) The applicant's current privilege license number issued pursuant
8 to section 42-5005.~~
- 9 ~~(i)~~ (h) Proof that the applicant has complied with the statutes or
10 rules governing workers' compensation insurance.
- 11 2. Submit the appropriate bond and fee required under this chapter.
- 12 C. To obtain a contractor's license under this chapter other than a
13 residential contractor's license, the applicant shall submit a detailed
14 statement of current financial condition containing information required by
15 the registrar of contractors on a form furnished by or acceptable to the
16 registrar of contractors. Notwithstanding any other law, a swimming pool
17 contractor shall also submit a detailed statement of current financial
18 condition as required by this subsection.
- 19 D. To obtain or renew a license under this chapter, each person shall
20 be of good character and reputation. Lack of good character and reputation
21 may be established by showing that a person has engaged in contracting
22 without a license or committed any act that, if committed or done by any
23 licensed contractor, would be grounds for suspension or revocation of a
24 contractor's license or by showing that the person was named on a
25 contractor's license that was suspended or revoked in another state.
- 26 E. To obtain a license under this chapter, a person shall not have had
27 a license refused or revoked, within one year before the person's
28 application, or shall not have engaged in the contracting business, nor shall
29 the person have submitted a bid without first having been licensed within one
30 year before the person's application, nor shall a person act as a contractor
31 between the filing of the application and actual issuance of the license.
32 The registrar may find any of those actions or circumstances to be excusable
33 if there was reasonable doubt as to the need for licensure or the actions of
34 the applicant did not result in an unremedied hardship or danger or loss to
35 the public. A person who has been convicted of contracting without a license
36 is not eligible to obtain a license under this chapter for one year after the
37 date of the last conviction.
- 38 F. Before a license is issued, the qualifying party shall:
- 39 1. Have had a minimum of four years' practical or management trade
40 experience, at least two of which must have been within the last ten years,
41 dealing specifically with the type of construction, or its equivalent, for
42 which the applicant is applying for a license. Technical training in an
43 accredited college or university or in a manufacturer's accredited training
44 program may be substituted for a portion of such experience, but in no case
45 may credited technical training exceed two years of the required four years'
46 experience. The registrar of contractors may reduce the four years'

1 practical or management experience requirement if in the registrar's opinion
2 it has been conclusively shown by custom and usage in the particular industry
3 or craft involved that the four-year requirement is excessive. The registrar
4 may waive the work experience documentation and verification or the
5 examination requirement if the records reflect that the qualifying party is
6 currently or has previously been a qualifying party for a licensee in this
7 state in the same classification within the preceding five years.

8 2. Successfully show, by written examination taken not more than two
9 years before application, if required, qualification in the kind of work for
10 which the applicant proposes to contract, the applicant's general knowledge
11 of the building, safety, health and lien laws of the state, administrative
12 principles of the contracting business and the rules adopted by the registrar
13 of contractors pursuant to this chapter, demonstrate knowledge and
14 understanding of construction plans and specifications applicable to the
15 particular industry or craft and of the standards of construction work and
16 techniques and practices in the particular industry or craft and demonstrate
17 a general understanding of other related construction trades, in addition to
18 any other matters as may be deemed appropriate by the registrar to determine
19 that the qualifying party meets the requirements of this chapter. The
20 registrar shall maintain multiple versions of examinations for each type of
21 license that requires an examination.

22 G. No license shall be issued to a minor, to any partnership in which
23 one of the partners is a minor or to any corporation in which a corporate
24 officer is a minor.

25 H. Before receiving, renewing and holding a license pursuant to this
26 chapter, the registrar may require a license applicant or licensee to submit
27 to the registrar a full set of fingerprints and the fees required in section
28 41-1750. The registrar shall submit the fingerprints and fees to the
29 department of public safety for the purpose of obtaining a state and federal
30 criminal records check pursuant to section 41-1750 and Public Law 92-544.
31 The department of public safety may exchange this fingerprint data with the
32 federal bureau of investigation.

33 Sec. 4. Section 32-1169, Arizona Revised Statutes, is amended to read:

34 32-1169. Local proof of valid license: violation

35 A. Each county, city or other political subdivision or authority of
36 this state or any agency, department, board or commission of this state which
37 requires the issuance of a building permit as a condition precedent to the
38 construction, alteration, improvement, demolition or repair of a building,
39 structure or other improvement to real property for which a license is
40 required under this chapter, as part of the application procedures which it
41 utilizes, shall require that each applicant for a building permit file a
42 signed statement that the applicant is currently licensed under ~~the~~
43 ~~provisions of~~ this chapter with the applicant's license number ~~and the~~
44 ~~applicant's privilege license number required pursuant to section 42-5005.~~
45 If the applicant purports to be exempt from the licensing requirements of
46 this chapter, the statement shall contain the basis of the asserted exemption

1 and the name and license number of any general, mechanical, electrical or
2 plumbing contractor who will be employed on the work. The local issuing
3 authority may require from the applicant a statement signed by the registrar
4 to verify any purported exemption.

5 B. The filing of an application containing false or incorrect
6 information concerning an applicant's contractor's license ~~or transaction~~
7 ~~privilege license~~ with the intent to avoid the licensing requirements of this
8 chapter is unsworn falsification pursuant to section 13-2704.

9 Sec. 5. Section 42-5005, Arizona Revised Statutes, is amended to read:

10 42-5005. Transaction privilege tax and municipal privilege tax
11 licenses; fees; renewal; revocation; violation;
12 classification

13 A. Every person who receives gross proceeds of sales or gross income
14 on which a transaction privilege tax is imposed by this article and who
15 desires to engage or continue in business shall apply to the department for
16 an annual transaction privilege tax license accompanied by a fee of twelve
17 dollars. A person shall not engage or continue in business until the person
18 has obtained a transaction privilege tax license.

19 B. A person desiring to engage or continue in business within a city
20 or town that imposes a municipal privilege tax shall apply to the department
21 of revenue for an annual municipal privilege tax license accompanied by a fee
22 of up to fifty dollars, as established by ordinance of the city or town. The
23 person shall submit the fee with each new license application. The person
24 may not engage or continue in business until the person has obtained a
25 municipal privilege tax license. The department must collect, hold, pay and
26 manage the fees in trust for the city or town and may not use the monies for
27 any other purposes.

28 C. A transaction privilege tax license is valid only for the calendar
29 year in which it is issued, but it may be renewed for the following calendar
30 year. There is no fee for the renewal of the transaction privilege tax
31 license. The transaction privilege tax license must be renewed at the same
32 time and in the manner as the municipal privilege tax license renewal.

33 D. A municipal privilege tax license is valid only for the calendar
34 year in which it is issued, but it may be renewed for the following calendar
35 year by the payment of a license renewal fee of up to fifty dollars. The
36 renewal fee is due and payable on January 1 and is considered delinquent if
37 not received on or before the last business day of January. The department
38 must collect, hold, pay and manage the fees in trust for the city or town and
39 may not use the monies for any other purposes.

40 E. A licensee that remains in business after the municipal privilege
41 tax license has expired is subject to the payment of the license renewal fee
42 and the civil penalty prescribed in section 42-1125, subsection R.

43 F. If the applicant is not in arrears in payment of any tax imposed by
44 this article, the department shall issue a license authorizing the applicant
45 to engage and continue in business on the condition that the applicant
46 complies with this article. The license number shall be continuous.

1 G. The transaction privilege tax license and the municipal privilege
2 tax license are not transferable on a COMPLETE change of ownership or change
3 of location of the business. For the purposes of this subsection:

4 1. "Location" means the business address appearing in the application
5 for the license and on the transaction privilege tax or municipal privilege
6 tax license.

7 2. "Ownership" means any right, title or interest in the business.

8 3. "Transferable" means the ability to convey or change the right or
9 privilege to engage or continue in business by virtue of the issuance of the
10 transaction privilege tax or municipal privilege tax license.

11 H. When the ownership or location of a business on which a transaction
12 privilege tax or municipal privilege tax is imposed has been changed within
13 the meaning of subsection G of this section, the licensee shall surrender the
14 license to the department. The license shall be reissued to the new owners
15 or for the new location on application by the taxpayer and payment of the
16 twelve-dollar fee for a transaction privilege tax license and a fee of up to
17 fifty dollars per jurisdiction for a municipal privilege tax license. The
18 department must collect, hold, pay and manage the fees in trust for the city
19 or town and may not use the monies for any other purposes.

20 I. A person who is engaged in or conducting a business in two or more
21 locations or under two or more business names shall procure a transaction
22 privilege tax license for each location or business name regardless of
23 whether all locations or business names are reported on a consolidated return
24 under a single transaction privilege tax license number. This requirement
25 shall not be construed as conflicting with section 42-5020.

26 J. A person who is engaged in or conducting a business in two or more
27 locations or under two or more business names shall procure a municipal
28 privilege tax license for each location or business name regardless of
29 whether all locations or business names are reported on a consolidated
30 return.

31 K. A person who is engaged in or conducting business at two or more
32 locations or under two or more business names and who files a consolidated
33 return under a single transaction privilege tax license number as provided by
34 section 42-5020 is required to pay only a single municipal privilege tax
35 license renewal fee for each local jurisdiction pursuant to subsection D of
36 this section. A person who is engaged in or conducting business at two or
37 more locations or under two or more business names and who does not file a
38 consolidated return under a single license number is required to pay a
39 license renewal fee for each location or license in a local jurisdiction.

40 L. If a person violates this article or any rule adopted under this
41 article, the department upon hearing may revoke any transaction privilege tax
42 or municipal privilege tax license issued to the person. The department
43 shall provide ten days' written notice of the hearing, stating the time and
44 place and requiring the person to appear and show cause why the license or
45 licenses should not be revoked. The department shall provide written notice
46 to the person of the revocation of the license. The notices may be served

1 personally or by mail pursuant to section 42-5037. After revocation, the
2 department shall not issue a new license to the person unless the person
3 presents evidence satisfactory to the department that the person will comply
4 with this article and with the rules adopted under this article. The
5 department may prescribe the terms under which a revoked license may be
6 reissued.

7 M. A person who violates any provision of this section is guilty of a
8 class 3 misdemeanor.

9 Sec. 6. Title 42, chapter 5, article 1, Arizona Revised Statutes, is
10 amended by adding section 42-5008.01, to read:

11 42-5008.01. Liability for amounts equal to retail transaction
12 privilege tax due

13 A. A PERSON THAT IS EITHER A PRIME CONTRACTOR SUBJECT TO TAX UNDER
14 SECTION 42-5075 OR A SUBCONTRACTOR WORKING UNDER THE CONTROL OF SUCH A PRIME
15 CONTRACTOR, THAT PURCHASES TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF
16 WHICH WAS EXCLUDED FROM THE TAX BASE UNDER THE RETAIL CLASSIFICATION UNDER
17 SECTION 42-5061, SUBSECTION A, PARAGRAPH 27 OR WAS EXCLUDED FROM THE USE TAX
18 UNDER SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (g) AT THE
19 TIME OF PURCHASE, AND THAT INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL
20 PROPERTY INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION 0 IS LIABLE
21 FOR AN AMOUNT EQUAL TO ANY TAX THAT A SELLER WOULD HAVE BEEN REQUIRED TO PAY
22 UNDER SECTION 42-5061 AND THIS ARTICLE AS FOLLOWS:

23 1. THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND REPORTED BASED ON
24 THE LOCATION OF THE PROJECT AND THE TAXES IMPOSED UNDER THIS CHAPTER AND
25 CHAPTER 6 OF THIS TITLE.

26 2. ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST OF TANGIBLE
27 PERSONAL PROPERTY PROVIDED IN SECTION 42-5075 APPLY TO THE TANGIBLE PERSONAL
28 PROPERTY INCORPORATED OR FABRICATED INTO THE PROJECT.

29 3. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT
30 IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD
31 OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5075, WITHOUT REGARD
32 TO SECTION 42-5075, SUBSECTION 0.

33 4. THE AMOUNT OF LIABILITY SHALL BE REPORTED WITHIN THE REPORTING
34 PERIOD THAT INCLUDES THE MONTH IN WHICH THE PERSON INCORPORATES OR FABRICATES
35 THE TANGIBLE PERSONAL PROPERTY INTO THE PROJECT.

36 5. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED
37 THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE
38 CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS
39 SUBSECTION. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF
40 THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE
41 CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DISREGARD THE
42 CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE
43 AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

44 B. A PERSON THAT PURCHASED TANGIBLE PERSONAL PROPERTY, THE PURCHASE
45 PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5061,
46 SUBSECTION A, PARAGRAPH 27 OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION

1 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (g) AT THE TIME OF PURCHASE,
2 WHOSE TRANSACTION PRIVILEGE TAX LICENSE HAS BEEN CANCELED AND THAT
3 SUBSEQUENTLY USES, CONSUMES, SELLS OR DISCARDS THE TANGIBLE PERSONAL PROPERTY
4 IS LIABLE FOR AN AMOUNT OF TAX DETERMINED UNDER THIS SUBSECTION. FOR THE
5 PURPOSES OF THIS SUBSECTION:

6 1. IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED
7 INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, OR OTHERWISE USED
8 OR CONSUMED BY THE PERSON, THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND
9 REPORTED BASED ON THE PERSON'S PURCHASE PRICE OF THE TANGIBLE PERSONAL
10 PROPERTY, THE LOCATION OF THE PROJECT, USE OR CONSUMPTION AND THE TAXES
11 IMPOSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

12 2. IF THE TANGIBLE PERSONAL PROPERTY IS SOLD IN A MANNER THAT IS NOT
13 SUBJECT TO TAX UNDER THIS CHAPTER OR IS DISCARDED, THE AMOUNT SHALL BE
14 CALCULATED AND REPORTED BASED ON THE PAYMENT RECEIVED BY THE PERSON, THE
15 LOCATION OF THE PERSON'S PRINCIPAL PLACE OF BUSINESS IN THIS STATE AND THE
16 TAXES IMPOSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

17 3. THE PERSON IS NOT LIABLE UNDER THIS SUBSECTION FOR ANY AMOUNT IF
18 THE PERSON DISCARDS THE TANGIBLE PERSONAL PROPERTY AND DOES NOT RECEIVE
19 PAYMENT OF ANY KIND.

20 4. THE AMOUNT OF LIABILITY SHALL BE REPORTED ON OR BEFORE THE BUSINESS
21 DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH
22 THE PERSON USES THE TANGIBLE PERSONAL PROPERTY IN A MANNER DESCRIBED IN
23 PARAGRAPH 1 OR 2 OF THIS SUBSECTION. NO AMOUNT IS DUE UNDER THIS SUBSECTION
24 AT ANY TIME THAT THE PERSON STORES THE TANGIBLE PERSONAL PROPERTY WITHOUT
25 USING IT IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

26 5. ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST OF TANGIBLE
27 PERSONAL PROPERTY PROVIDED IN SECTION 42-5075 APPLY TO THE TANGIBLE PERSONAL
28 PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION
29 42-5075, SUBSECTION O.

30 6. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT
31 IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD
32 OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5075, WITHOUT REGARD
33 TO SECTION 42-5075, SUBSECTION O.

34 7. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED
35 THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE
36 CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS
37 SUBSECTION FOR TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A
38 PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O. THE DEPARTMENT SHALL
39 PRESCRIBE THE FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO BELIEVE
40 THAT THE INFORMATION CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE,
41 THE DEPARTMENT MAY DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING THE
42 CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE
43 PERSON UNDER THIS SUBSECTION.

44 C. A PERSON THAT FAILS TO REPORT OR PAY ANY AMOUNT DUE UNDER
45 SUBSECTION A OR B OF THIS SECTION IS LIABLE FOR INTEREST IN A MANNER

1 CONSISTENT WITH SECTION 42-1123 AND PENALTIES IN A MANNER CONSISTENT WITH
2 SECTION 42-1125.

3 D. IF A PERSON HAS PAID AN AMOUNT DESCRIBED IN THIS SECTION ON
4 TANGIBLE PERSONAL PROPERTY THAT THE PERSON REASONABLY BELIEVED TO BE
5 DESCRIBED SECTION 42-5075, SUBSECTION 0 AND A FINAL DETERMINATION IS MADE
6 THAT SECTION 42-5075, SUBSECTION 0 DOES NOT APPLY, THE PERSON IS ENTITLED TO
7 AN OFFSET FOR THE AMOUNT PAID UNDER THIS SECTION AGAINST THE AMOUNT OF TAX
8 LIABILITY ASSESSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

9 Sec. 7. Section 42-5009, Arizona Revised Statutes, as amended by Laws
10 2014, chapter 263, section 8, is amended to read:

11 42-5009. Certificates establishing deductions; liability for
12 making false certificate

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

16 1. Marking the invoice for the transaction to indicate that the gross
17 proceeds of sales or gross income derived from the transaction was deducted
18 from the tax base.

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

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

32 C. The department may prescribe a form for the certificate described
33 in subsection A of this section. Under such rules as it may prescribe, the
34 department may also describe transactions with respect to which a person is
35 not entitled to rely solely on the information contained in the certificate
36 provided for in subsection A of this section but must instead obtain such
37 additional information as required by the rules in order to be entitled to
38 the deduction.

39 D. If a seller is entitled to a deduction by complying with subsection
40 A of this section, the department may require the purchaser that caused the
41 execution of the certificate to establish the accuracy and completeness of
42 the information required to be contained in the certificate that would
43 entitle the seller to the deduction. If the purchaser cannot establish the
44 accuracy and completeness of the information, the purchaser is liable in an
45 amount equal to any tax, penalty and interest that the seller would have been
46 required to pay under this article if the seller had not complied with

1 subsection A of this section. Payment of the amount under this subsection
2 exempts the purchaser from liability for any tax imposed under article 4 of
3 this chapter. The amount shall be treated as tax revenues collected from the
4 seller in order to designate the distribution base for purposes of section
5 42-5029.

6 E. If a seller is entitled to a deduction by complying with subsection
7 B of this section, the department may require the purchaser to establish the
8 accuracy and completeness of the information provided to the seller that
9 entitled the seller to the deduction. If the purchaser cannot establish the
10 accuracy and completeness of the information, the purchaser is liable in an
11 amount equal to any tax, penalty and interest that the seller would have been
12 required to pay under this article if the seller had not complied with
13 subsection B of this section. Payment of the amount under this subsection
14 exempts the purchaser from liability for any tax imposed under article 4 of
15 this chapter. The amount shall be treated as tax revenues collected from the
16 seller in order to designate the distribution base for purposes of section
17 42-5029.

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

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

1 order to designate the distribution base for purposes of section 42-5029.
2 For the purposes of this subsection, "reasonable time" means a time
3 limitation that the department determines and that does not exceed the time
4 limitations pursuant to section 42-1104.

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

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

15 2. A copy of the nonresident registration permit authorized by section
16 28-2154.

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

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

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

40 J. To establish entitlement to the deduction described in section
41 42-5061, subsection A, paragraph ~~45~~ 44, a public consignment auction dealer
42 as defined in section 28-4301 shall submit the valid certificate prescribed
43 by subsection H of this section to the department and retain a copy for its
44 records.

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

4 L. The department shall prescribe a form for a certificate to be used
5 by a ~~contractor~~ PERSON that is not ~~otherwise~~ subject to tax under section
6 42-5075, ~~subsection 0~~ when THE PERSON IS ENGAGED BY A CONTRACTOR THAT IS
7 SUBJECT TO TAX UNDER SECTION 42-5075 FOR A PROJECT THAT IS TAXABLE UNDER
8 SECTION 42-5075. THE CERTIFICATE PERMITS THE PERSON purchasing tangible
9 personal property to be incorporated or fabricated by the person into any
10 real property, structure, project, development or improvement to provide
11 documentation to a retailer that the sale of tangible personal property
12 qualifies for the deduction under section 42-5061, subsection A, paragraph
13 27, SUBDIVISION (b). A prime contractor shall obtain the certificate from
14 the department and shall provide a copy to any ~~contractor~~ SUCH PERSON working
15 on the project ~~that does not have a transaction privilege tax license by~~
16 ~~reason of not being subject to tax under section 42-5075, subsection 0~~. The
17 prime contractor shall obtain a new certificate for each project to which
18 this subsection applies. For the purposes of this subsection, the following
19 apply:

20 1. The ~~contractor~~ PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION
21 42-5075 may use the certificate issued pursuant to this subsection only with
22 respect to tangible personal property that will be incorporated into a
23 project for which the gross receipts are subject to tax under section
24 42-5075.

25 2. The department shall issue the certificate to the prime contractor
26 on receiving sufficient documentation to establish that the prime contractor
27 meets the requirements of this subsection.

28 3. If ~~a contractor~~ ANY PERSON uses the certificate provided under this
29 subsection to purchase tangible personal property to be used in a ~~nontaxable~~
30 ~~contract~~ PROJECT THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075, the
31 ~~contractor~~ PERSON is liable in an amount equal to any tax, penalty and
32 interest that the seller would have been required to pay under this article
33 if the seller had not complied with subsection A of this section. Payment of
34 the amount under this section exempts the ~~contractor~~ PERSON from liability
35 for any tax imposed under article 4 of this chapter. The amount shall be
36 ~~treated as tax revenues collected from the seller in order to designate the~~
37 ~~distribution base for purposes of section 42-5029~~ SOURCED UNDER SECTION
38 42-5040, SUBSECTION A, PARAGRAPH 2.

39 M. Notwithstanding any other law, compliance with subsection L of this
40 section by a ~~contractor~~ PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION
41 42-5075 entitles the ~~contractor~~ PERSON TO THE EXEMPTION ALLOWED BY SECTION
42 465, SUBSECTION (k) OF THE MODEL CITY TAX CODE WHEN purchasing tangible
43 personal property to be incorporated or fabricated by the person into any
44 real property, structure, project, development or improvement ~~to the~~
45 ~~exemption provided in section 465, subsection (k) of the model city tax code.~~

46 Sec. 8. Repeal

1 Section 42-5009, Arizona Revised Statutes, as amended by Laws 2014,
2 chapter 245, section 3, is repealed.

3 Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:
4 42-5010. Rates; distribution base

5 A. The tax imposed by this article is levied and shall be collected at
6 the following rates:

7 1. Five ~~per-cent~~ PERCENT of the tax base as computed for the business
8 of every person engaging or continuing in this state in the following
9 business classifications described in article 2 of this chapter:

10 (a) Transporting classification.

11 (b) Utilities classification.

12 (c) Telecommunications classification.

13 (d) Pipeline classification.

14 (e) Private car line classification.

15 (f) Publication classification.

16 (g) Job printing classification.

17 (h) Prime contracting classification.

18 (i) Amusement classification.

19 (j) Restaurant classification.

20 (k) Personal property rental classification.

21 (l) Retail classification AND AMOUNTS EQUAL TO RETAIL TRANSACTION
22 PRIVILEGE TAX DUE PURSUANT TO SECTION 42-5008.01.

23 2. Five and one-half ~~per-cent~~ PERCENT of the tax base as computed for
24 the business of every person engaging or continuing in this state in the
25 transient lodging classification described in section 42-5070.

26 3. Three and one-eighth ~~per-cent~~ PERCENT of the tax base as computed
27 for the business of every person engaging or continuing in this state in the
28 mining classification described in section 42-5072.

29 4. Zero ~~per-cent~~ PERCENT of the tax base as computed for the business
30 of every person engaging or continuing in this state in the commercial lease
31 classification described in section 42-5069.

32 B. Except as provided by subsection J of this section, twenty ~~per-cent~~
33 PERCENT of the tax revenues collected at the rate prescribed by subsection A,
34 paragraph 1 of this section from persons on account of engaging in business
35 under the business classifications listed in subsection A, paragraph 1,
36 subdivisions (a) through (h) of this section is designated as distribution
37 base for purposes of section 42-5029.

38 C. Forty ~~per-cent~~ PERCENT of the tax revenues collected at the rate
39 prescribed by subsection A, paragraph 1 of this section from persons on
40 account of engaging in business under the business classifications listed in
41 subsection A, paragraph 1, subdivisions (i) through (l) of this section is
42 designated as distribution base for purposes of section 42-5029.

43 D. Thirty-two ~~per-cent~~ PERCENT of the tax revenues collected from
44 persons on account of engaging in business under the business classification
45 listed in subsection A, paragraph 3 of this section is designated as
46 distribution base for purposes of section 42-5029.

1 E. Fifty-three and one-third ~~per-cent~~ PERCENT of the tax revenues
2 collected from persons on account of engaging in business under the business
3 classification listed in subsection A, paragraph 4 of this section is
4 designated as distribution base for purposes of section 42-5029.

5 F. Fifty ~~per-cent~~ PERCENT of the tax revenues collected from persons
6 on account of engaging in business under the business classification listed
7 in subsection A, paragraph 2 of this section is designated as distribution
8 base for purposes of section 42-5029.

9 G. In addition to the rates prescribed by subsection A of this
10 section, if approved by the qualified electors voting at a statewide general
11 election, an additional rate increment is imposed and shall be collected
12 through June 30, 2021. The taxpayer shall pay taxes pursuant to this
13 subsection at the same time and in the same manner as under subsection A of
14 this section. The department shall separately account for the revenues
15 collected with respect to the rates imposed pursuant to this subsection and
16 the state treasurer shall distribute all of those revenues in the manner
17 prescribed by section 42-5029, subsection E. The rates imposed pursuant to
18 this subsection shall not be considered local revenues for purposes of
19 article IX, section 21, Constitution of Arizona. The additional tax rate
20 increment is levied at the rate of six-tenths of one per cent of the tax base
21 of every person engaging or continuing in this state in a business
22 classification listed in subsection A, paragraph 1 of this section.

23 H. Any increase in the rate of tax that is imposed by this chapter and
24 that is enacted by the legislature or by a vote of the people does not apply
25 with respect to contracts entered into by prime contractors or pursuant to
26 written bids made by prime contractors on or before the effective date of the
27 legislation or the date of the election enacting the increase. To qualify
28 for the exemption under this subsection, the prime contractor must maintain
29 sufficient documentation, in a manner and form prescribed by the department,
30 to verify the date of the contract or written bid.

31 I. For taxpayers taxable under this chapter other than prime
32 contractors taxable pursuant to section 42-5075:

33 1. Any increase in the rate of tax that is levied by this article or
34 article 2 of this chapter enacted by the legislature or by a vote of the
35 people does not apply for a period of one hundred twenty days from the date
36 of the tax rate increase to the gross proceeds of sales or gross income from
37 the business of the taxpayer with respect to written contracts entered into
38 before the effective date of the tax rate increase unless the taxpayer has
39 entered into a contract that contains a provision that entitles the taxpayer
40 to recover from the purchaser the amount of the additional tax levied.

41 2. The provisions of this subsection apply without regard to the
42 accounting method used by the taxpayer to report the taxes imposed under
43 article 2 of this chapter.

44 3. The provisions of this subsection shall not be considered in
45 determining the rate of tax imposed under chapter 6, article 3 of this title.

1 J. Zero ~~per cent~~ PERCENT of the tax revenues that are collected at the
2 rate prescribed by subsection A, paragraph 1 of this section from persons on
3 account of engaging in business under the business classification listed in
4 subsection A, paragraph 1, subdivision (h) of this section, and that are
5 subject to any distribution required by section 42-5032.02, is designated as
6 distribution base for the purposes of section 42-5029 until the total amount
7 subject to distribution pursuant to section 42-5032.02 has reached the
8 maximum amount prescribed by section 42-5032.02, subsection C. Thereafter,
9 twenty ~~per cent~~ PERCENT of the remaining tax revenues is designated as
10 distribution base for the purposes of section 42-5029 as provided by
11 subsection B of this section.

12 Sec. 10. Section 42-5061, Arizona Revised Statutes, is amended to
13 read:

14 42-5061. Retail classification; definitions

15 A. The retail classification is comprised of the business of selling
16 tangible personal property at retail. The tax base for the retail
17 classification is the gross proceeds of sales or gross income derived from
18 the business. The tax imposed on the retail classification does not apply to
19 the gross proceeds of sales or gross income from:

20 1. Professional or personal service occupations or businesses that
21 involve sales or transfers of tangible personal property only as
22 inconsequential elements.

23 2. Services rendered in addition to selling tangible personal property
24 at retail.

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

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

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

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

37 7. The sale of stocks and bonds.

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

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

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

45 11. Prescription eyeglasses or contact lenses.

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

1 13. Durable medical equipment that has a centers for medicare and
2 medicaid services common procedure code, is designated reimbursable by
3 medicare, is prescribed by a person who is licensed under title 32, chapter
4 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
5 customarily used to serve a medical purpose, is generally not useful to a
6 person in the absence of illness or injury and is appropriate for use in the
7 home.

8 14. Sales of motor vehicles to nonresidents of this state for use
9 outside this state if the motor vehicle dealer ships or delivers the motor
10 vehicle to a destination out of this state.

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

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

18 17. Textbooks by any bookstore that are required by any state
19 university or community college.

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

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

29 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
30 article 1.

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

38 (a) "Cash equivalents" means items or intangibles, whether or not
39 negotiable, that are sold to one or more persons, through which a value
40 denominated in money is purchased in advance and may be redeemed in full or
41 in part for tangible personal property, intangibles or services. Cash
42 equivalents include gift cards, stored value cards, gift certificates,
43 vouchers, traveler's checks, money orders or other instruments, orders or
44 electronic mechanisms, such as an electronic code, personal identification
45 number or digital payment mechanism, or any other prepaid intangible right to
46 acquire tangible personal property, intangibles or services in the future,

1 whether from the seller of the cash equivalent or from another person. Cash
2 equivalents do not include either of the following:

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

5 (ii) Prepaid calling cards or prepaid authorization numbers for
6 telecommunications services made taxable by subsection Q of this section.

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

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

14 22. Motor vehicle fuel and use fuel that are subject to a tax imposed
15 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
16 valid single trip use fuel tax permit issued under section 28-5739, sales of
17 aviation fuel that are subject to the tax imposed under section 28-8344 and
18 sales of jet fuel that are subject to the tax imposed under article 8 of this
19 chapter.

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

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

26 25. Tangible personal property sold to:

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

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

31 (c) A qualifying health care organization as defined in section
32 42-5001 if the organization is dedicated to providing educational,
33 therapeutic, rehabilitative and family medical education training for blind
34 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE
35 DISABILITIES from the time of birth to age twenty-one.

36 (d) A qualifying community health center as defined in section
37 42-5001.

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

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

1 low income persons over sixty-two years of age in a facility that qualifies
2 for a federal housing subsidy.

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

5 (h) ANY PERSON REPRESENTING OR WORKING ON BEHALF OF ANOTHER PERSON
6 DESCRIBED IN SUBDIVISIONS (a) THROUGH (g) OF THIS PARAGRAPH IF THE TANGIBLE
7 PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN
8 SECTION 42-5075, SUBSECTION 0.

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

11 27. Tangible personal property sold to:

12 (a) A person that is subject to tax under this article by reason of
13 being engaged in business classified ~~under the prime contracting~~
14 ~~classification~~ under section 42-5075 or to a subcontractor working under the
15 control of a ~~prime contractor that is subject to tax under article 1 of this~~
16 ~~chapter~~ PERSON ENGAGED IN BUSINESS CLASSIFIED UNDER SECTION 42-5075, if the
17 property so sold is any of the following:

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

21 (ii) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY PROJECT
22 DESCRIBED IN SECTION 42-5075, SUBSECTION 0.

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

25 (b) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 AND THAT
26 HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER SECTION 42-5009, SUBSECTION
27 L, IF THE PROPERTY SO SOLD IS INCORPORATED OR FABRICATED BY THE PERSON INTO
28 THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT DESCRIBED
29 IN THE CERTIFICATE.

30 28. The sale of a motor vehicle to:

31 (a) A nonresident of this state if the purchaser's state of residence
32 does not allow a corresponding use tax exemption to the tax imposed by
33 article 1 of this chapter and if the nonresident has secured a special ninety
34 day nonresident registration permit for the vehicle as prescribed by sections
35 28-2154 and 28-2154.01.

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

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

44 30. Sales of tangible personal property by a nonprofit organization
45 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
46 of the internal revenue code if the organization is associated with a major

1 league baseball team or a national touring professional golfing association
2 and no part of the organization's net earnings inures to the benefit of any
3 private shareholder or individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 42. Livestock and poultry feed, salts, vitamins and other additives for
30 livestock or poultry consumption that are sold to persons who are engaged in
31 producing livestock, poultry, or livestock or poultry products or who are
32 engaged in feeding livestock or poultry commercially. For the purposes of
33 this paragraph, "poultry" includes ratites.

34 43. Sales of implants used as growth promotants and injectable
35 medicines, not already exempt under paragraph 8 of this subsection, for
36 livestock or poultry owned by or in possession of persons who are engaged in
37 producing livestock, poultry, or livestock or poultry products or who are
38 engaged in feeding livestock or poultry commercially. For the purposes of
39 this paragraph, "poultry" includes ratites.

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

44 45. Tangible personal property sold to a person engaged in business and
45 subject to tax under the transient lodging classification if the tangible
46 personal property is a personal hygiene item or articles used by human beings

1 for food, drink or condiment, except alcoholic beverages, that are furnished
2 without additional charge to and intended to be consumed by the transient
3 during the transient's occupancy.

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

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

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

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

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

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

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

29 51. Sales of tangible personal property to be incorporated or installed
30 as part of environmental response or remediation activities under section
31 42-5075, subsection B, paragraph 6.

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

37 53. Through August 31, 2014, sales of Arizona centennial medallions by
38 the historical advisory commission.

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

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

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

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

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

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

19 58. Computer data center equipment purchased by the owner, operator or
20 qualified colocation tenant of the computer data center or an authorized
21 agent of the owner, operator or qualified colocation tenant during the
22 qualification period for use in a computer data center that is certified by
23 the Arizona commerce authority under section 41-1519. To qualify for this
24 deduction, at the time of purchase, the owner, operator or qualified
25 colocation tenant must present to the retailer its certificate that is issued
26 pursuant to section 41-1519 and that establishes its qualification for the
27 deduction. For the purposes of this paragraph, "computer data center",
28 "computer data center equipment", "qualification period" and "qualified
29 colocation tenant" have the same meanings prescribed in section 41-1519.

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

33 60. SALES OF TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO
34 A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, THAT IS LOCATED WITHIN
35 THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS
36 DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN
37 AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

38 (a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO
39 IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT
40 THE INDIAN RESERVATION WAS ESTABLISHED.

41 (b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF
42 AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF
43 AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS
44 INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

45 (c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR
46 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES

1 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF
2 THE INDIAN TRIBE.

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

7 1. Machinery, or equipment, used directly in manufacturing,
8 processing, fabricating, job printing, refining or metallurgical operations.
9 The terms "manufacturing", "processing", "fabricating", "job printing",
10 "refining" and "metallurgical" as used in this paragraph refer to and include
11 those operations commonly understood within their ordinary meaning.
12 "Metallurgical operations" includes leaching, milling, precipitating,
13 smelting and refining.

14 2. Mining machinery, or equipment, used directly in the process of
15 extracting ores or minerals from the earth for commercial purposes, including
16 equipment required to prepare the materials for extraction and handling,
17 loading or transporting such extracted material to the surface. "Mining"
18 includes underground, surface and open pit operations for extracting ores and
19 minerals.

20 3. Tangible personal property sold to persons engaged in business
21 classified under the telecommunications classification, INCLUDING A PERSON
22 REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN
23 SECTION 42-5075, SUBSECTION 0, and consisting of central office switching
24 equipment, switchboards, private branch exchange equipment, microwave radio
25 equipment and carrier equipment including optical fiber, coaxial cable and
26 other transmission media that are components of carrier systems.

27 4. Machinery, equipment or transmission lines used directly in
28 producing or transmitting electrical power, but not including distribution.
29 Transformers and control equipment used at transmission substation sites
30 constitute equipment used in producing or transmitting electrical power.

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

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

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

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

46 (b) Any foreign government.

1 (c) Persons who are not residents of this state and who will not use
2 such property in this state other than in removing such property from this
3 state. This subdivision also applies to corporations that are not
4 incorporated in this state, regardless of maintaining a place of business in
5 this state, if the principal corporate office is located outside this state
6 and the property will not be used in this state other than in removing the
7 property from this state.

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

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

14 10. Machinery or equipment used directly to drill for oil or gas or
15 used directly in the process of extracting oil or gas from the earth for
16 commercial purposes.

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

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

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

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

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

37 14. Machinery or equipment used in research and development. For the
38 purposes of this paragraph, "research and development" means basic and
39 applied research in the sciences and engineering, and designing, developing
40 or testing prototypes, processes or new products, including research and
41 development of computer software that is embedded in or an integral part of
42 the prototype or new product or that is required for machinery or equipment
43 otherwise exempt under this section to function effectively. Research and
44 development do not include manufacturing quality control, routine consumer
45 product testing, market research, sales promotion, sales service, research in
46 social sciences or psychology, computer software research that is not

1 included in the definition of research and development, or other
2 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

44 18. Machinery or equipment, including related structural components,
45 that is employed in connection with manufacturing, processing, fabricating,
46 job printing, refining, mining, natural gas pipelines, metallurgical

1 operations, telecommunications, producing or transmitting electricity or
2 research and development and that is used directly to meet or exceed rules or
3 regulations adopted by the federal energy regulatory commission, the United
4 States environmental protection agency, the United States nuclear regulatory
5 commission, the Arizona department of environmental quality or a political
6 subdivision of this state to prevent, monitor, control or reduce land, water
7 or air pollution.

8 19. Machinery and equipment that are sold to a person engaged in the
9 commercial production of livestock, livestock products or agricultural,
10 horticultural, viticultural or floricultural crops or products in this state,
11 ~~and that~~ INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A
12 PERSON IN A MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION 0, IF THE
13 MACHINERY AND EQUIPMENT are used directly and primarily to prevent, monitor,
14 control or reduce air, water or land pollution.

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

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

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

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

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

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

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

41 2. Janitorial equipment and hand tools.

42 3. Office equipment, furniture and supplies.

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

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

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

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

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

10 D. In addition to the deductions from the tax base prescribed by
11 subsection A of this section, there shall be deducted from the tax base the
12 gross proceeds of sales or gross income derived from sales of machinery,
13 equipment, materials and other tangible personal property used directly and
14 predominantly to construct a qualified environmental technology
15 manufacturing, producing or processing facility as described in section
16 41-1514.02. This subsection applies for ten full consecutive calendar or
17 fiscal years after the start of initial construction.

18 E. In computing the tax base, gross proceeds of sales or gross income
19 from retail sales of heavy trucks and trailers does not include any amount
20 attributable to federal excise taxes imposed by 26 United States Code section
21 4051.

22 F. In computing the tax base, gross proceeds of sales or gross income
23 from the sale of use fuel, as defined in section 28-5601, does not include
24 any amount attributable to federal excise taxes imposed by 26 United States
25 Code section 4091.

26 G. If a person is engaged in an occupation or business to which
27 subsection A of this section applies, the person's books shall be kept so as
28 to show separately the gross proceeds of sales of tangible personal property
29 and the gross income from sales of services, and if not so kept the tax shall
30 be imposed on the total of the person's gross proceeds of sales of tangible
31 personal property and gross income from services.

32 H. If a person is engaged in the business of selling tangible personal
33 property at both wholesale and retail, the tax under this section applies
34 only to the gross proceeds of the sales made other than at wholesale if the
35 person's books are kept so as to show separately the gross proceeds of sales
36 of each class, and if the books are not so kept, the tax under this section
37 applies to the gross proceeds of every sale so made.

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

- 46 1. Transporting classification.

- 1 2. Utilities classification.
- 2 3. Telecommunications classification.
- 3 4. Pipeline classification.
- 4 5. Private car line classification.
- 5 6. Publication classification.
- 6 7. Job printing classification.
- 7 8. Prime contracting classification.
- 8 9. Restaurant classification.

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

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

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

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

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

28 K. There shall be deducted from the tax base fifty ~~per-cent~~ PERCENT of
29 the gross proceeds or gross income from any sale of tangible personal
30 property made directly to the United States government or its departments or
31 agencies that is not deducted under subsection J of this section.

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

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

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

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

42 N. There shall be deducted from the tax base the amount received from
43 sales of solar energy devices. The retailer shall register with the
44 department as a solar energy retailer. By registering, the retailer
45 acknowledges that it will make its books and records relating to sales of
46 solar energy devices available to the department for examination.

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

8 P. For the purposes of this section, a sale of wireless
9 telecommunications equipment to a person who holds the equipment for sale or
10 transfer to a customer as an inducement to enter into or continue a contract
11 for telecommunications services that are taxable under section 42-5064 is
12 considered to be a sale for resale in the regular course of business.

13 Q. Retail sales of prepaid calling cards or prepaid authorization
14 numbers for telecommunications services, including sales of reauthorization
15 of a prepaid card or authorization number, are subject to tax under this
16 section.

17 R. For the purposes of this section, the diversion of gas from a
18 pipeline by a person engaged in the business of:

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

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

25 S. For the purposes of this section, the transfer of title or
26 possession of coal from an owner or operator of a power plant to a person in
27 the business of refining coal is not a sale of coal if both of the following
28 apply:

29 1. The transfer of title or possession of the coal is for the purpose
30 of refining the coal.

31 2. The title or possession of the coal is transferred back to the
32 owner or operator of the power plant after completion of the coal refining
33 process. For the purposes of this paragraph, "coal refining process"
34 means the application of a coal additive system that aids in the reduction of
35 power plant emissions during the combustion of coal and the treatment of flue
36 gas.

37 T. If a seller is entitled to a deduction pursuant to subsection B,
38 paragraph 15, subdivision (b) of this section, the department may require the
39 purchaser to establish that the requirements of subsection B, paragraph 15,
40 subdivision (b) of this section have been satisfied. If the purchaser cannot
41 establish that the requirements of subsection B, paragraph 15, subdivision
42 (b) of this section have been satisfied, the purchaser is liable in an amount
43 equal to any tax, penalty and interest which the seller would have been
44 required to pay under article 1 of this chapter if the seller had not made a
45 deduction pursuant to subsection B, paragraph 15, subdivision (b) of this
46 section. Payment of the amount under this subsection exempts the purchaser

1 from liability for any tax imposed under article 4 of this chapter and
2 related to the tangible personal property purchased. The amount shall be
3 treated as transaction privilege tax to the purchaser and as tax revenues
4 collected from the seller to designate the distribution base pursuant to
5 section 42-5029.

6 U. For the purposes of section 42-5032.01, the department shall
7 separately account for revenues collected under the retail classification
8 from businesses selling tangible personal property at retail:

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

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

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

26 W. For the purposes of this section:

27 1. "Aircraft" includes:

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

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

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

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

42 X. For the purposes of subsection J of this section:

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

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

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

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

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

16 6. "Subcontract" means an agreement between a contractor and any
17 person who is not an employee of the contractor for furnishing of supplies or
18 services that, in whole or in part, are necessary to the performance of one
19 or more government contracts, or under which any portion of the contractor's
20 obligation under one or more government contracts is performed, undertaken or
21 assumed and that includes provisions causing title to overhead materials or
22 other tangible personal property used in the performance of the subcontract
23 to pass to the government or that includes provisions incorporating such
24 title passing clauses in a government contract into the subcontract. ~~For the~~
25 ~~purposes of this paragraph, "contractor" has its ordinary and common meaning~~
26 ~~and does not have the meaning prescribed by section 42-5001.~~

27 Sec. 11. Section 42-5075, Arizona Revised Statutes, is amended to
28 read:

29 42-5075. Prime contracting classification; exemptions;
30 definitions

31 A. The prime contracting classification is comprised of the business
32 of prime contracting and ~~dealership of manufactured buildings~~ **THE BUSINESS OF**
33 **MANUFACTURED BUILDING DEALER**. Sales for resale to another ~~dealership of~~
34 manufactured ~~buildings~~ **BUILDING DEALER** are not subject to tax. Sales for
35 resale do not include sales to a lessor of manufactured buildings. The sale
36 of a used manufactured building is not taxable under this chapter. ~~The~~
37 ~~proceeds from alteration and repairs to a used manufactured building are~~
38 ~~taxable under this section.~~

39 B. The tax base for the prime contracting classification is sixty-five
40 ~~per cent~~ **PERCENT** of the gross proceeds of sales or gross income derived from
41 the business. The following amounts shall be deducted from the gross
42 proceeds of sales or gross income before computing the tax base:

43 1. The sales price of land, which shall not exceed the fair market
44 value.

45 2. Sales and installation of groundwater measuring devices required
46 under section 45-604 and groundwater monitoring wells required by law,

1 including monitoring wells installed for acquiring information for a permit
2 required by law.

3 3. The sales price of furniture, furnishings, fixtures, appliances and
4 attachments that are not incorporated as component parts of or attached to a
5 manufactured building or the setup site. The sale of such items may be
6 subject to the taxes imposed by article 1 of this chapter separately and
7 distinctly from the sale of the manufactured building.

8 4. The gross proceeds of sales or gross income received from a
9 contract entered into for the ~~construction, addition, subtraction,~~
10 ~~improvement, movement, wrecking or demolition~~ MODIFICATION of any building,
11 highway, road, railroad, excavation, manufactured building or other
12 structure, project, development or improvement located in a military reuse
13 zone for providing aviation or aerospace services or for a manufacturer,
14 assembler or fabricator of aviation or aerospace products within an active
15 military reuse zone after the zone is initially established or renewed under
16 section 41-1531. To be eligible to qualify for this deduction, before
17 beginning work under the contract, the prime contractor must have applied for
18 a letter of qualification from the department of revenue.

19 5. The gross proceeds of sales or gross income derived from a contract
20 to construct a qualified environmental technology manufacturing, producing or
21 processing facility, as described in section 41-1514.02, and from subsequent
22 construction and installation contracts that begin within ten years after the
23 start of initial construction. To qualify for this deduction, before
24 beginning work under the contract, the prime contractor must obtain a letter
25 of qualification from the department of revenue. This paragraph shall apply
26 for ten full consecutive calendar or fiscal years after the start of initial
27 construction.

28 6. The gross proceeds of sales or gross income from a contract to
29 provide for one or more of the following actions, or a contract for site
30 preparation, constructing, furnishing or installing machinery, equipment or
31 other tangible personal property, including structures necessary to protect
32 exempt incorporated materials or installed machinery or equipment, and
33 tangible personal property incorporated into the project, to perform one or
34 more of the following actions in response to a release or suspected release
35 of a hazardous substance, pollutant or contaminant from a facility to the
36 environment, unless the release was authorized by a permit issued by a
37 governmental authority:

38 (a) Actions to monitor, assess and evaluate such a release or a
39 suspected release.

40 (b) Excavation, removal and transportation of contaminated soil and
41 its treatment or disposal.

42 (c) Treatment of contaminated soil by vapor extraction, chemical or
43 physical stabilization, soil washing or biological treatment to reduce the
44 concentration, toxicity or mobility of a contaminant.

1 (d) Pumping and treatment or in situ treatment of contaminated
2 groundwater or surface water to reduce the concentration or toxicity of a
3 contaminant.

4 (e) The installation of structures, such as cutoff walls or caps, to
5 contain contaminants present in groundwater or soil and prevent them from
6 reaching a location where they could threaten human health or welfare or the
7 environment.

8 This paragraph does not include asbestos removal or the construction or use
9 of ancillary structures such as maintenance sheds, offices or storage
10 facilities for unattached equipment, pollution control equipment, facilities
11 or other control items required or to be used by a person to prevent or
12 control contamination before it reaches the environment.

13 7. The gross proceeds of sales or gross income that is derived from a
14 contract for the installation, assembly, repair or maintenance of machinery,
15 equipment or other tangible personal property that is either deducted from
16 the tax base of the retail classification under section 42-5061, subsection B
17 or that is exempt from use tax under section 42-5159, subsection B and that
18 has independent functional utility, pursuant to the following provisions:

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

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

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

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

30 (b) The deduction provided in this paragraph does not include gross
31 proceeds of sales or gross income from the portion of any contracting
32 activity that consists of the development of, or modification to, real
33 property in order to facilitate the installation, assembly, repair,
34 maintenance or removal of machinery, equipment or other tangible personal
35 property that is either deducted from the tax base of the retail
36 classification under section 42-5061, subsection B or exempt from use tax
37 under section 42-5159, subsection B.

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

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

45 (i) Assembling the machinery, equipment or other tangible personal
46 property.

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

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

6 (iv) Stabilizing or protecting the machinery, equipment or other
7 tangible personal property during operation by bolting, burying or performing
8 other similar nonpermanent connections to either real property or real
9 property improvements.

10 8. The gross proceeds of sales or gross income attributable to the
11 purchase of machinery, equipment or other tangible personal property that is
12 exempt from or deductible from transaction privilege and use tax under:

13 (a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

14 (b) Section 42-5061, subsection B.

15 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
16 (c), (d), (e), (f), ~~(i)~~, (j), (k) ~~or~~, (l), (m) OR (n) or paragraph 54.

17 (d) Section 42-5159, subsection B.

18 9. The gross proceeds of sales or gross income received from a
19 contract for the construction of an environmentally controlled facility for
20 the raising of poultry for the production of eggs and the sorting, cooling
21 and packaging of eggs.

22 10. The gross proceeds of sales or gross income that is derived from a
23 contract entered into with a person who is engaged in the commercial
24 production of livestock, livestock products or agricultural, horticultural,
25 viticultural or floricultural crops or products in this state for the
26 ~~construction, alteration, repair, improvement, movement, wrecking or~~
27 ~~demolition or addition to or subtraction from~~ MODIFICATION OF any building,
28 highway, road, excavation, manufactured building or other structure, project,
29 development or improvement used directly and primarily to prevent, monitor,
30 control or reduce air, water or land pollution.

31 11. The gross proceeds of sales or gross income that is derived from
32 the installation, assembly, repair or maintenance of clean rooms that are
33 deducted from the tax base of the retail classification pursuant to section
34 42-5061, subsection B, paragraph 16.

35 12. For taxable periods beginning from and after June 30, 2001, the
36 gross proceeds of sales or gross income derived from a contract entered into
37 for the construction of a residential apartment housing facility that
38 qualifies for a federal housing subsidy for low income persons over sixty-two
39 years of age and that is owned by a nonprofit charitable organization that
40 has qualified under section 501(c)(3) of the internal revenue code.

41 13. For taxable periods beginning from and after December 31, 1996 and
42 ending before January 1, 2017, the gross proceeds of sales or gross income
43 derived from a contract to provide and install a solar energy device. The
44 contractor shall register with the department as a solar energy contractor.
45 By registering, the contractor acknowledges that it will make its books and

1 records relating to sales of solar energy devices available to the department
2 for examination.

3 14. The gross proceeds of sales or gross income derived from a contract
4 entered into for the construction of a launch site, as defined in 14 Code of
5 Federal Regulations section 401.5.

6 15. The gross proceeds of sales or gross income derived from a contract
7 entered into for the construction of a domestic violence shelter that is
8 owned and operated by a nonprofit charitable organization that has qualified
9 under section 501(c)(3) of the internal revenue code.

10 16. The gross proceeds of sales or gross income derived from contracts
11 to perform postconstruction treatment of real property for termite and
12 general pest control, including wood destroying organisms.

13 17. The gross proceeds of sales or gross income received from contracts
14 entered into before July 1, 2006 for constructing a state university research
15 infrastructure project if the project has been reviewed by the joint
16 committee on capital review before the university enters into the
17 construction contract for the project. For the purposes of this paragraph,
18 "research infrastructure" has the same meaning prescribed in section 15-1670.

19 18. The gross proceeds of sales or gross income received from a
20 contract for the construction of any building, or other structure, project,
21 development or improvement owned by a qualified business under section
22 41-1516 for harvesting or processing qualifying forest products removed from
23 qualifying projects as defined in section 41-1516 if actual construction
24 begins before January 1, 2024. To qualify for this deduction, the prime
25 contractor must obtain a letter of qualification from the Arizona commerce
26 authority before beginning work under the contract.

27 19. Any amount of the gross proceeds of sales or gross income
28 attributable to development fees that are incurred in relation to a contract
29 for construction, development or improvement of real property and that are
30 paid by a prime contractor or subcontractor. For the purposes of this
31 paragraph:

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

34 (b) The attributable amount is equal to the total amount of
35 development fees paid by the prime contractor or subcontractor, and the total
36 development fees credited in exchange for the construction of, contribution
37 to or dedication of real property for providing public infrastructure, public
38 safety or other public services necessary to the development. The real
39 property must be the subject of the development fees.

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

44 ~~20. The gross proceeds of sales or gross income derived from a contract~~
45 ~~with the owner of real property for the maintenance, repair or replacement of~~
46 ~~existing property if the contract does not include modification activities.~~

~~For the purposes of this paragraph, each contract or project is independent of another contract. A contractor that has gross proceeds of sales or gross income derived from a contract that is not subject to tax under this paragraph is subject to tax on a contract that includes modification activities.~~

~~21.~~ 20. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste, conditionally exempt small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "conditionally exempt small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

(b) "Municipal solid waste landfill" has the same meaning prescribed in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(d) "Renewable energy" has the same meaning prescribed in section 41-1511.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7 of this section is subject to the following provisions:

1. A prime contractor may establish entitlement to the deduction by both:

(a) Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the base.

(b) Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the deductibility of the property under section 42-5061, subsection B, and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the prime contractor has reason to believe that the information contained in the certificate is not accurate or complete.

2. A person who does not comply with paragraph 1 of this subsection may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

1 3. The department may prescribe a form for the certificate described
2 in paragraph 1, subdivision (b) of this subsection. The department may also
3 adopt rules that describe the transactions with respect to which a person is
4 not entitled to rely solely on the information contained in the certificate
5 provided in paragraph 1, subdivision (b) of this subsection but must instead
6 obtain such additional information as required in order to be entitled to the
7 deduction.

8 4. If a prime contractor is entitled to a deduction by complying with
9 paragraph 1 of this subsection, the department may require the purchaser who
10 caused the execution of the certificate to establish the accuracy and
11 completeness of the information required to be contained in the certificate
12 that would entitle the prime contractor to the deduction. If the purchaser
13 cannot establish the accuracy and completeness of the information, the
14 purchaser is liable in an amount equal to any tax, penalty and interest that
15 the prime contractor would have been required to pay under article 1 of this
16 chapter if the prime contractor had not complied with paragraph 1 of this
17 subsection. Payment of the amount under this paragraph exempts the purchaser
18 from liability for any tax imposed under article 4 of this chapter. The
19 amount shall be treated as a transaction privilege tax to the purchaser and
20 as tax revenues collected from the prime contractor in order to designate the
21 distribution base for purposes of section 42-5029.

22 D. Subcontractors or others who perform ~~services in respect to any~~
23 ~~improvement, building, highway, road, railroad, excavation, manufactured~~
24 ~~building or other structure, project, development or improvement~~ **MODIFICATION**
25 **ACTIVITIES** are not subject to tax if they can demonstrate that the job was
26 within the control of a prime contractor or contractors or a dealership of
27 manufactured buildings and that the prime contractor or dealership is liable
28 for the tax on the gross income, gross proceeds of sales or gross receipts
29 attributable to the job and from which the subcontractors or others were
30 paid.

31 E. Amounts received by a contractor for a project are excluded from
32 the contractor's gross proceeds of sales or gross income derived from the
33 business if the person who hired the contractor executes and provides a
34 certificate to the contractor stating that the person providing the
35 certificate is a prime contractor and is liable for the tax under article 1
36 of this chapter. The department shall prescribe the form of the certificate.
37 If the contractor has reason to believe that the information contained on the
38 certificate is erroneous or incomplete, the department may disregard the
39 certificate. If the person who provides the certificate is not liable for
40 the tax as a prime contractor, that person is nevertheless deemed to be the
41 prime contractor in lieu of the contractor and is subject to the tax under
42 this section on the gross receipts or gross proceeds received by the
43 contractor.

44 F. Every person engaging or continuing in this state in the business
45 of prime contracting or dealership of manufactured buildings shall present to
46 the purchaser of such prime contracting or manufactured building a written

1 receipt of the gross income or gross proceeds of sales from such activity and
2 shall separately state the taxes to be paid pursuant to this section.

3 G. For the purposes of section 42-5032.01, the department shall
4 separately account for revenues collected under the prime contracting
5 classification from any prime contractor engaged in the preparation or
6 construction of a multipurpose facility, and related infrastructure, that is
7 owned, operated or leased by the tourism and sports authority pursuant to
8 title 5, chapter 8.

9 H. For the purposes of section 42-5032.02, from and after
10 September 30, 2013, the department shall separately account for revenues
11 reported and collected under the prime contracting classification from any
12 prime contractor engaged in the construction of any buildings and associated
13 improvements that are for the benefit of a manufacturing facility. For the
14 purposes of this subsection, "associated improvements" and "manufacturing
15 facility" have the same meanings prescribed in section 42-5032.02.

16 I. The gross proceeds of sales or gross income derived from a contract
17 for lawn maintenance services are not subject to tax under this section if
18 the contract does not include landscaping activities. Lawn maintenance
19 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
20 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
21 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
22 lawn de-thatching, seeding winter lawns, leaf and debris collection and
23 removal, tree or shrub pruning or clipping, garden and gravel raking and
24 applying pesticides, as defined in section 3-361, and fertilizer materials,
25 as defined in section 3-262.

26 J. ~~EXCEPT AS PROVIDED IN SUBSECTION O OF THIS SECTION,~~ the gross
27 proceeds of sales or gross income derived from landscaping activities are
28 subject to tax under this section. Landscaping includes installing lawns,
29 grading or leveling ground, installing gravel or boulders, planting trees and
30 other plants, felling trees, removing or mulching tree stumps, removing other
31 imbedded plants, building ~~or modifying~~ irrigation berms, ~~repairing sprinkler~~
32 ~~or watering systems,~~ installing railroad ties and installing underground
33 sprinkler or watering systems.

34 K. The portion of gross proceeds of sales or gross income attributable
35 to the actual direct costs of providing architectural or engineering services
36 that are incorporated in a contract is not subject to tax under this section.
37 For the purposes of this subsection, "direct costs" means the portion of the
38 actual costs that are directly expended in providing architectural or
39 engineering services.

40 L. Operating a landfill or a solid waste disposal facility is not
41 subject to taxation under this section, including filling, compacting and
42 creating vehicle access to and from cell sites within the landfill.
43 Constructing roads to a landfill or solid waste disposal facility and
44 constructing cells within a landfill or solid waste disposal facility may be
45 deemed prime contracting under this section.

1 M. The following apply in determining the taxable situs of sales of
2 manufactured buildings:

3 1. For sales in this state where the manufactured building dealer
4 contracts to deliver the building to a setup site or to perform the setup in
5 this state, the taxable situs is the setup site.

6 2. For sales in this state where the manufactured building dealer does
7 not contract to deliver the building to a setup site or does not perform the
8 setup, the taxable situs is the location of the dealership where the building
9 is delivered to the buyer.

10 3. For sales in this state where the ~~dealership of~~ manufactured
11 ~~buildings~~ BUILDING DEALER contracts to deliver the building to a setup site
12 that is outside this state, the situs is outside this state and the
13 transaction is excluded from tax.

14 N. The gross proceeds of sales or gross income attributable to a
15 written contract for design phase services or professional services, executed
16 before modification begins and with terms, conditions and pricing of all of
17 these services separately stated in the contract from those for construction
18 phase services, is not subject to tax under this section, regardless of
19 whether the services are provided sequential to or concurrent with prime
20 contracting activities that are subject to tax under this section. This
21 subsection does not include the gross proceeds of sales or gross income
22 attributable to construction phase services. For the purposes of this
23 subsection:

24 1. "Construction phase services" means services for the execution and
25 completion of any modification, including the following:

26 (a) Administration or supervision of any modification performed on the
27 project, including team management and coordination, scheduling, cost
28 controls, submittal process management, field management, safety program,
29 close-out process and warranty period services.

30 (b) Administration or supervision of any modification performed
31 pursuant to a punch list. For the purposes of this subdivision, "punch list"
32 means minor items of modification work performed after substantial completion
33 and before final completion of the project.

34 (c) Administration or supervision of any modification performed
35 pursuant to change orders. For the purposes of this subdivision, "change
36 order" means a written instrument issued after execution of a contract for
37 modification work, providing for all of the following:

38 (i) The scope of a change in the modification work, contract for
39 modification work or other contract documents.

40 (ii) The amount of an adjustment, if any, to the guaranteed maximum
41 price as set in the contract for modification work. For the purposes of this
42 item, "guaranteed maximum price" means the amount guaranteed to be the
43 maximum amount due to a prime contractor for the performance of all
44 modification work for the project.

45 (iii) The extent of an adjustment, if any, to the contract time of
46 performance set forth in the contract.

1 (d) Administration or supervision of any modification performed
2 pursuant to change directives. For the purposes of this subdivision, "change
3 directive" means a written order directing a change in modification work
4 before agreement on an adjustment of the guaranteed maximum price or contract
5 time.

6 (e) Inspection to determine the dates of substantial completion or
7 final completion.

8 (f) Preparation of any manuals, warranties, as-built drawings, spares
9 or other items the prime contractor must furnish pursuant to the contract for
10 modification work. For the purposes of this subdivision, "as-built drawing"
11 means a drawing that indicates field changes made to adapt to field
12 conditions, field changes resulting from change orders or buried and
13 concealed installation of piping, conduit and utility services.

14 (g) Preparation of status reports after modification work has begun
15 detailing the progress of work performed, including preparation of any of the
16 following:

17 (i) Master schedule updates.

18 (ii) Modification work cash flow projection updates.

19 (iii) Site reports made on a periodic basis.

20 (iv) Identification of discrepancies, conflicts or ambiguities in
21 modification work documents that require resolution.

22 (v) Identification of any health and safety issues that have arisen in
23 connection with the modification work.

24 (h) Preparation of daily logs of modification work, including
25 documentation of personnel, weather conditions and on-site occurrences.

26 (i) Preparation of any submittals or shop drawings used by the prime
27 contractor to illustrate details of the modification work performed.

28 (j) Administration or supervision of any other activities for which a
29 prime contractor receives a certificate for payment or certificate for final
30 payment based on the progress of modification work performed on the project.

31 2. "Design phase services" means services for developing and
32 completing a design for a project that are not construction phase services,
33 including the following:

34 (a) Evaluating surveys, reports, test results or any other information
35 on-site conditions for the project, including physical characteristics, legal
36 limitations and utility locations for the site.

37 (b) Evaluating any criteria or programming objectives for the project
38 to ascertain requirements for the project, such as physical requirements
39 affecting cost or projected utilization of the project.

40 (c) Preparing drawings and specifications for architectural program
41 documents, schematic design documents, design development documents,
42 modification work documents or documents that identify the scope of or
43 materials for the project.

44 (d) Preparing an initial schedule for the project, excluding the
45 preparation of updates to the master schedule after modification work has
46 begun.

1 (e) Preparing preliminary estimates of costs of modification work
2 before completion of the final design of the project, including an estimate
3 or schedule of values for any of the following:

4 (i) Labor, materials, machinery and equipment, tools, water, heat,
5 utilities, transportation and other facilities and services used in the
6 execution and completion of modification work, regardless of whether they are
7 temporary or permanent or whether they are incorporated in the modifications.

8 (ii) The cost of labor and materials to be furnished by the owner of
9 the real property.

10 (iii) The cost of any equipment of the owner of the real property to
11 be assigned by the owner to the prime contractor.

12 (iv) The cost of any labor for installation of equipment separately
13 provided by the owner of the real property that has been designed, specified,
14 selected or specifically provided for in any design document for the project.

15 (v) Any fee paid by the owner of the real property to the prime
16 contractor pursuant to the contract for modification work.

17 (vi) Any bond and insurance premiums.

18 (vii) Any applicable taxes.

19 (viii) Any contingency fees for the prime contractor that may be used
20 before final completion of the project.

21 (f) Reviewing and evaluating cost estimates and project documents to
22 prepare recommendations on site use, site improvements, selection of
23 materials, building systems and equipment, modification feasibility,
24 availability of materials and labor, local modification activity as related
25 to schedules and time requirements for modification work.

26 (g) Preparing the plan and procedures for selection of subcontractors,
27 including any prequalification of subcontractor candidates.

28 3. "Professional services" means architect services, assayer services,
29 engineer services, geologist services, land surveying services or landscape
30 architect services that are within the scope of those services as provided in
31 title 32, chapter 1 and for which gross proceeds of sales or gross income has
32 not otherwise been deducted under subsection K of this section.

33 0. The gross proceeds of sales or gross income derived from a contract
34 with the owner of real property or ~~the person owning the~~ improvements to ~~the~~
35 real property for the maintenance, repair, replacement or alteration of
36 existing property is not subject to tax under this section if the contract
37 does not include modification activities, except as specified in this
38 subsection. The gross proceeds of sales or gross income derived from a de
39 minimis amount of modification activity ~~that is essential to the completion~~
40 ~~of the maintenance, repair, replacement or alteration contract~~ does not
41 subject the ~~entire~~ contract OR ANY PART OF THE CONTRACT to tax under this
42 section. For the purposes of this subsection: ~~, each contract or project is~~
43 ~~independent of any other contract.~~

44 1. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO
45 A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT
46 PRESCRIBED IN SECTION 42-5008.01.

1 2. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY
2 CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL
3 CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS
4 CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES INCLUDED IN THE
5 CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF
6 WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW
7 CONTRACT, WITH THE TAX TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO FOLLOW THE
8 TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE SUBSEQUENT
9 CHANGE ORDER DIRECTLY RELATES.

10 P. NOTWITHSTANDING SUBSECTION O OF THIS SECTION, A CONTRACT THAT
11 PRIMARILY INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS
12 SUBJECT TO TITLE 28, CHAPTER 19, 20 OR 22 OR TITLE 34, CHAPTER 2 OR 6 IS
13 TAXABLE UNDER THIS SECTION, EVEN IF THE CONTRACT ALSO INCLUDES VERTICAL
14 IMPROVEMENTS. AGENCIES THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE
15 PROVISIONS SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A NOTICE TO BIDDERS
16 WHEN THOSE PROJECTS ARE SUBJECT TO THIS SECTION. THIS SUBSECTION DOES NOT
17 APPLY TO CONTRACTS WITH:

18 1. COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION
19 IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST
20 CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH
21 SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY
22 DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, SPECIAL HEALTH
23 CARE DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS, THEME PARK DISTRICTS,
24 REGIONAL ATTRACTION DISTRICTS OR REVITALIZATION DISTRICTS.

25 2. ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN PARAGRAPH 1 OF THIS
26 SUBSECTION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE MODIFICATION,
27 MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF SURFACE OR SUBSURFACE
28 IMPROVEMENTS TO LAND.

29 ~~P.~~ Q. Notwithstanding subsection ~~Q~~ R, paragraph ~~8~~ 10 of this
30 section, a person owning real property who enters into a contract for sale of
31 the real property, who is responsible to the new owner of the property for
32 modifications made to the property in the period subsequent to the transfer
33 of title and who receives a consideration for the modifications is considered
34 a prime contractor solely for purposes of taxing the gross proceeds of sale
35 or gross income received for the modifications made subsequent to the
36 transfer of title. The original owner's gross proceeds of sale or gross
37 income received for the modifications shall be determined according to the
38 following methodology:

39 1. If any part of the contract for sale of the property specifies
40 amounts to be paid to the original owner for the modifications to be made in
41 the period subsequent to the transfer of title, the amounts are included in
42 the original owner's gross proceeds of sale or gross income under this
43 section. Proceeds from the sale of the property that are received after
44 transfer of title and that are unrelated to the modifications made subsequent
45 to the transfer of title are not considered gross proceeds of sale or gross
46 income from the modifications.

1 2. If the original owner enters into an agreement separate from the
2 contract for sale of the real property providing for amounts to be paid to
3 the original owner for the modifications to be made in the period subsequent
4 to the transfer of title to the property, the amounts are included in the
5 original owner's gross proceeds of sale or gross income received for the
6 modifications made subsequent to the transfer of title.

7 3. If the original owner is responsible to the new owner for
8 modifications made to the property in the period subsequent to the transfer
9 of title and derives any gross proceeds of sale or gross income from the
10 project subsequent to the transfer of title other than a delayed disbursement
11 from escrow unrelated to the modifications, it is presumed that the amounts
12 are received for the modifications made subsequent to the transfer of title
13 unless the contrary is established by the owner through its books, records
14 and papers kept in the regular course of business.

15 4. The tax base of the original owner is computed in the same manner
16 as a prime contractor under this section.

17 ~~R.~~ R. For the purposes of this section:

18 1. "ALTERATION" MEANS AN ACTIVITY OR ACTION THAT CAUSES A DIRECT
19 PHYSICAL CHANGE TO EXISTING PROPERTY. FOR THE PURPOSES OF THIS PARAGRAPH:

20 (a) FOR EXISTING PROPERTY THAT IS PROPERLY CLASSIFIED AS CLASS TWO
21 PROPERTY UNDER SECTION 42-12002, PARAGRAPH 1, SUBDIVISION (c) OR PARAGRAPH 2,
22 SUBDIVISION (c) AND THAT IS USED FOR RESIDENTIAL PURPOSES, CLASS THREE
23 PROPERTY UNDER SECTION 42-12003 OR CLASS FOUR PROPERTY UNDER 42-12004, THIS
24 PARAGRAPH DOES NOT APPLY IF THE CONTRACT AMOUNT IS MORE THAN TWENTY-FIVE
25 PERCENT OF THE MOST RECENT FULL CASH VALUE ESTABLISHED UNDER CHAPTER 13,
26 ARTICLE 2 OF THIS TITLE AS OF THE DATE OF ANY BID FOR THE WORK OR THE DATE OF
27 THE CONTRACT, WHICHEVER VALUE IS HIGHER.

28 (b) FOR ALL EXISTING PROPERTY OTHER THAN EXISTING PROPERTY DESCRIBED
29 IN SUBDIVISION (a) OF THIS PARAGRAPH, THIS PARAGRAPH DOES NOT APPLY IF ANY OF
30 THE FOLLOWING IS TRUE:

31 (i) THE CONTRACT AMOUNT IS MORE THAN SEVEN HUNDRED FIFTY THOUSAND
32 DOLLARS.

33 (ii) THE SCOPE OF WORK DIRECTLY RELATES TO MORE THAN FORTY PERCENT OF
34 THE EXISTING SQUARE FOOTAGE OF THE EXISTING PROPERTY.

35 (iii) THE SCOPE OF WORK INVOLVES EXPANDING THE SQUARE FOOTAGE OF MORE
36 THAN TEN PERCENT OF THE EXISTING PROPERTY.

37 (c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT
38 TO CAUSE A PROJECT TO QUALIFY AS AN ALTERATION. THE DEPARTMENT HAS THE
39 BURDEN OF PROOF THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A
40 CONTRACT.

41 (d) IF A PROJECT FOR WHICH THE OWNER AND THE PERSON PERFORMING THE
42 WORK REASONABLY BELIEVED, AT THE INCEPTION OF THE CONTRACT, WOULD BE TREATED
43 AS AN ALTERATION UNDER THIS PARAGRAPH AND, ON COMPLETION OF THE PROJECT, THE
44 PROJECT EXCEEDED THE APPLICABLE THRESHOLD DESCRIBED IN EITHER SUBDIVISION (a)
45 OR (b) OF THIS PARAGRAPH BY NO MORE THAN TWENTY-FIVE PERCENT OF THE

1 APPLICABLE THRESHOLD FOR ANY REASON, THE WORK PERFORMED UNDER THE CONTRACT
2 QUALIFIES AS AN ALTERATION.

3 (e) A CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE
4 ORIGINAL CONTRACT SHALL BE TREATED AS PART OF THE ORIGINAL CONTRACT, AND THE
5 CONTRACT AMOUNT SHALL INCLUDE ANY AMOUNT ATTRIBUTABLE TO A CHANGE ORDER THAT
6 DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT.

7 (f) ALTERATION DOES NOT INCLUDE MAINTENANCE, REPAIR OR REPLACEMENT.

8 ~~1-~~ 2. "Contracting" means engaging in business as a contractor.

9 ~~2-~~ 3. "Contractor" is synonymous with the term "builder" and means
10 any person or organization that undertakes to or offers to undertake to, or
11 purports to have the capacity to undertake to, or submits a bid to, or does
12 personally or by or through others, modify any building, highway, road,
13 railroad, excavation, manufactured building or other structure, project,
14 development or improvement, or to do any part of such a project, including
15 the erection of scaffolding or other structure or works in connection with
16 such a project, and includes subcontractors and specialty contractors. For
17 all purposes of taxation or deduction, this definition shall govern without
18 regard to whether or not such contractor is acting in fulfillment of a
19 contract.

20 ~~3-~~ 4. "Manufactured building" means a manufactured home, mobile home
21 or factory-built building, as defined in section 41-2142.

22 ~~4-~~ 5. "Manufactured building dealer" means a dealer who either:

23 (a) Is licensed pursuant to title 41, chapter 16 and who sells
24 manufactured buildings to the final consumer.

25 (b) Supervises, performs or coordinates the excavation and completion
26 of site improvements or the setup or moving of a manufactured building
27 including the contracting, if any, with any subcontractor or specialty
28 contractor for the completion of the contract.

29 ~~5-~~ 6. "Modification" means construction, ~~improvement, movement,~~
30 GRADING AND LEVELING GROUND, wreckage or demolition. MODIFICATION DOES NOT
31 INCLUDE:

32 (a) ANY PROJECT DESCRIBED IN SUBSECTION O OF THIS SECTION.

33 (b) ANY WRECKAGE OR DEMOLITION OF EXISTING PROPERTY, OR ANY OTHER
34 ACTIVITY THAT IS A NECESSARY COMPONENT OF A PROJECT DESCRIBED IN SUBSECTION O
35 OF THIS SECTION.

36 (c) ANY MOBILIZATION OR DEMOBILIZATION RELATED TO A PROJECT DESCRIBED
37 IN SUBSECTION O OF THIS SECTION, SUCH AS THE ERECTION OR REMOVAL OF TEMPORARY
38 FACILITIES TO BE USED BY THOSE PERSONS WORKING ON THE PROJECT.

39 ~~6-~~ 7. "Modify" means to ~~construct, improve, move, wreck or demolish~~
40 MAKE A MODIFICATION OR CAUSE A MODIFICATION TO BE MADE.

41 8. "OWNER" MEANS THE PERSON THAT HOLDS TITLE TO THE REAL PROPERTY OR
42 IMPROVEMENTS TO REAL PROPERTY THAT IS THE SUBJECT OF THE WORK, AS WELL AS AN
43 AGENT OF THE TITLE HOLDER AND ANY PERSON WITH THE AUTHORITY TO PERFORM OR
44 AUTHORIZE WORK ON THE REAL PROPERTY OR IMPROVEMENTS, INCLUDING A TENANT AND A
45 PROPERTY MANAGER. FOR THE PURPOSES OF SUBSECTION O OF THIS SECTION, A PERSON
46 WHO IS HIRED BY A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, OR A

1 SUBCONTRACTOR OF A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, IS
2 CONSIDERED TO BE HIRED BY THE OWNER.

3 ~~7-~~ 9. "Prime contracting" means engaging in business as a prime
4 contractor.

5 ~~8-~~ 10. "Prime contractor" means a contractor who supervises, performs
6 or coordinates the modification of any building, highway, road, railroad,
7 excavation, manufactured building or other structure, project, development or
8 improvement including the contracting, if any, with any subcontractors or
9 specialty contractors and who is responsible for the completion of the
10 contract. Except as provided in subsections E and ~~P-~~ Q of this section, a
11 person who owns real property, who engages one or more contractors to modify
12 that real property and who does not itself modify that real property is not a
13 prime contractor within the meaning of this paragraph regardless of the
14 existence of a contract for sale or the subsequent sale of that real
15 property.

16 11. "REPLACEMENT" MEANS THE REMOVAL OF ONE COMPONENT OR SYSTEM OF
17 EXISTING PROPERTY OR TANGIBLE PERSONAL PROPERTY INSTALLED IN EXISTING
18 PROPERTY, INCLUDING MACHINERY OR EQUIPMENT, AND THE INSTALLATION OF A NEW
19 COMPONENT OR SYSTEM OR NEW TANGIBLE PERSONAL PROPERTY, INCLUDING MACHINERY OR
20 EQUIPMENT, THAT PROVIDES THE SAME OR UPGRADED DESIGN OR FUNCTIONALITY,
21 REGARDLESS OF THE CONTRACT AMOUNT.

22 ~~9-~~ 12. "Sale of a used manufactured building" does not include a
23 lease of a used manufactured building.

24 Sec. 12. Section 42-5159, Arizona Revised Statutes, is amended to
25 read:

26 42-5159. Exemptions

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

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

33 2. Tangible personal property the sale or use of which has already
34 been subjected to an excise tax at a rate equal to or exceeding the tax
35 imposed by this article under the laws of another state of the United States.
36 If the excise tax imposed by the other state is at a rate less than the tax
37 imposed by this article, the tax imposed by this article is reduced by the
38 amount of the tax already imposed by the other state.

39 3. Tangible personal property, the storage, use or consumption of
40 which the constitution or laws of the United States prohibit this state from
41 taxing or to the extent that the rate or imposition of tax is
42 unconstitutional under the laws of the United States.

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

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

9 6. Tangible personal property brought into this state by an individual
10 who was a nonresident at the time the property was purchased for storage, use
11 or consumption by the individual if the first actual use or consumption of
12 the property was outside this state, unless the property is used in
13 conducting a business in this state.

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

20 8. Livestock, poultry, supplies, feed, salts, vitamins and other
21 additives for use or consumption in the businesses of farming, ranching and
22 feeding livestock or poultry, not including fertilizers, herbicides and
23 insecticides. For the purposes of this paragraph, "poultry" includes
24 ratites.

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

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

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

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

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

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

41 13. Tangible personal property purchased by:

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

45 (b) A hospital operated by this state or a political subdivision of
46 this state.

1 (c) A licensed nursing care institution or a licensed residential care
2 institution or a residential care facility operated in conjunction with a
3 licensed nursing care institution or a licensed kidney dialysis center, which
4 provides medical services, nursing services or health related services and is
5 not used or held for profit.

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

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

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

19 (g) A person that is subject to tax under ~~article 1 of~~ this chapter by
20 reason of being engaged in business classified ~~under the prime contracting~~
21 ~~classification~~ under section 42-5075, or a subcontractor working under the
22 control of a ~~prime contractor~~ PERSON THAT IS ENGAGED IN BUSINESS CLASSIFIED
23 UNDER SECTION 42-5075, if the tangible personal property is any of the
24 following:

25 (i) Incorporated or fabricated by the ~~contractor~~ PERSON into a
26 structure, project, development or improvement in fulfillment of a contract.

27 (ii) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY PROJECT
28 DESCRIBED IN SECTION 42-5075, SUBSECTION O.

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

31 (h) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 AND THAT
32 HAS BEEN PROVIDED A COPY OF A CERTIFICATE DESCRIBED IN SECTION 42-5009,
33 SUBSECTION L, IF THE PROPERTY PURCHASED IS INCORPORATED OR FABRICATED BY THE
34 PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT
35 DESCRIBED IN THE CERTIFICATE.

36 ~~(h)~~ (i) A nonprofit charitable organization that has qualified under
37 section 501(c)(3) of the internal revenue code if the property is purchased
38 from the parent or an affiliate organization that is located outside this
39 state.

40 ~~(i)~~ (j) A qualifying community health center as defined in section
41 42-5001.

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

45 ~~(k)~~ (l) A person engaged in business under the transient lodging
46 classification if the property is a personal hygiene item or articles used by

1 human beings for food, drink or condiment, except alcoholic beverages, which
2 are furnished without additional charge to and intended to be consumed by the
3 transient during the transient's occupancy.

4 ~~(+)~~ (m) For taxable periods beginning from and after June 30, 2001, a
5 nonprofit charitable organization that has qualified under section 501(c)(3)
6 of the internal revenue code and that provides residential apartment housing
7 for low income persons over sixty-two years of age in a facility that
8 qualifies for a federal housing subsidy, if the tangible personal property is
9 used by the organization solely to provide residential apartment housing for
10 low income persons over sixty-two years of age in a facility that qualifies
11 for a federal housing subsidy.

12 ~~(+)~~ (n) A qualifying health sciences educational institution as
13 defined in section 42-5001.

14 (o) A PERSON REPRESENTING OR WORKING ON BEHALF OF ANY PERSON DESCRIBED
15 IN SUBDIVISION (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) OR (n) OF
16 THIS PARAGRAPH, IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR
17 FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION 0.

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

23 15. Tangible personal property sold by:

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

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

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

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

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

44 18. Prescription eyeglasses and contact lenses.

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

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

1 21. Durable medical equipment that has a centers for medicare and
2 medicaid services common procedure code, is designated reimbursable by
3 medicare, is prescribed by a person who is licensed under title 32, chapter
4 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
5 used to serve a medical purpose, is generally not useful to a person in the
6 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

25 27. Lottery tickets or shares purchased pursuant to title 5, chapter
26 5.1, article 1.

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

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

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

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

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

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

3 (b) Public educational institutions.

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

7 33. Natural gas or liquefied petroleum gas used to propel a motor
8 vehicle.

9 34. Machinery, equipment, technology or related supplies that are only
10 useful to assist a person ~~who has~~ WITH a physical disability as defined in
11 section 46-191, ~~OR A PERSON WHO~~ has a developmental disability as defined in
12 section 36-551 or has a head injury as defined in section 41-3201 to be more
13 independent and functional.

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

27 36. Food, drink and condiment purchased for consumption within the
28 premises of any prison, jail or other institution under the jurisdiction of
29 the state department of corrections, the department of public safety, the
30 department of juvenile corrections or a county sheriff.

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

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

38 39. Overhead materials or other tangible personal property that is used
39 in performing a contract between the United States government and a
40 manufacturer, modifier, assembler or repairer, including property used in
41 performing a subcontract with a government contractor who is a manufacturer,
42 modifier, assembler or repairer, to which title passes to the government
43 under the terms of the contract or subcontract. For the purposes of this
44 paragraph:

45 (a) "Overhead materials" means tangible personal property, the gross
46 proceeds of sales or gross income derived from which would otherwise be

1 included in the retail classification, that is used or consumed in the
2 performance of a contract, the cost of which is charged to an overhead
3 expense account and allocated to various contracts based on generally
4 accepted accounting principles and consistent with government contract
5 accounting standards.

6 (b) "Subcontract" means an agreement between a contractor and any
7 person who is not an employee of the contractor for furnishing of supplies or
8 services that, in whole or in part, are necessary to the performance of one
9 or more government contracts, or under which any portion of the contractor's
10 obligation under one or more government contracts is performed, undertaken or
11 assumed, and that includes provisions causing title to overhead materials or
12 other tangible personal property used in the performance of the subcontract
13 to pass to the government or that includes provisions incorporating such
14 title passing clauses in a government contract into the subcontract.

15 40. Through December 31, 1994, tangible personal property sold pursuant
16 to a personal property liquidation transaction, as defined in section
17 42-5061. From and after December 31, 1994, tangible personal property sold
18 pursuant to a personal property liquidation transaction, as defined in
19 section 42-5061, if the gross proceeds of the sales were included in the
20 measure of the tax imposed by article 1 of this chapter or if the personal
21 property liquidation was a casual activity or transaction.

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

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

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

36 44. Alternative fuel vehicles if the vehicle was manufactured as a
37 diesel fuel vehicle and converted to operate on alternative fuel and
38 equipment that is installed in a conventional diesel fuel motor vehicle to
39 convert the vehicle to operate on an alternative fuel, as defined in section
40 1-215.

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

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

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

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

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

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

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

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

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

25 (b) "Curriculum design or enhancement" means planning, implementing or
26 reporting on courses of study, lessons, assignments or other learning
27 activities.

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

32 52. Repair parts installed in equipment used directly by a qualified
33 business under section 41-1516 in harvesting, processing or transporting
34 qualifying forest products removed from qualifying projects as defined in
35 section 41-1516.

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

43 54. Computer data center equipment purchased by the owner, operator or
44 qualified colocation tenant of the computer data center or an authorized
45 agent of the owner, operator or qualified colocation tenant during the
46 qualification period for use in a computer data center that is certified by

1 the Arizona commerce authority under section 41-1519. To qualify for this
2 deduction, at the time of purchase, the owner, operator or qualified
3 colocation tenant must present to the retailer its certificate that is issued
4 pursuant to section 41-1519 and that establishes its qualification for the
5 deduction. For the purposes of this paragraph, "computer data center",
6 "computer data center equipment", "qualification period" and "qualified
7 colocation tenant" have the same meanings prescribed in section 41-1519.

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

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

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

17 56. TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A
18 PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, THAT IS LOCATED WITHIN
19 THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS
20 DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN
21 AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

22 (a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO
23 IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT
24 THE INDIAN RESERVATION WAS ESTABLISHED.

25 (b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF
26 AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF
27 AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS
28 INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

29 (c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR
30 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES
31 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF
32 THE INDIAN TRIBE.

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

36 1. Machinery, or equipment, used directly in manufacturing,
37 processing, fabricating, job printing, refining or metallurgical operations.
38 The terms "manufacturing", "processing", "fabricating", "job printing",
39 "refining" and "metallurgical" as used in this paragraph refer to and include
40 those operations commonly understood within their ordinary meaning.
41 "Metallurgical operations" includes leaching, milling, precipitating,
42 smelting and refining.

43 2. Machinery, or equipment, used directly in the process of extracting
44 ores or minerals from the earth for commercial purposes, including equipment
45 required to prepare the materials for extraction and handling, loading or
46 transporting such extracted material to the surface. "Mining" includes

1 underground, surface and open pit operations for extracting ores and
2 minerals.

3 3. Tangible personal property sold to persons engaged in business
4 classified under the telecommunications classification under section 42-5064,
5 **INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A**
6 **MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION 0**, and consisting of central
7 office switching equipment, switchboards, private branch exchange equipment,
8 microwave radio equipment and carrier equipment including optical fiber,
9 coaxial cable and other transmission media that are components of carrier
10 systems.

11 4. Machinery, equipment or transmission lines used directly in
12 producing or transmitting electrical power, but not including distribution.
13 Transformers and control equipment used at transmission substation sites
14 constitute equipment used in producing or transmitting electrical power.

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

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

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

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

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

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

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

39 10. Machinery or equipment used directly to drill for oil or gas or
40 used directly in the process of extracting oil or gas from the earth for
41 commercial purposes.

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

1 contracting with such governmental entity as part of a governmentally adopted
2 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

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

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

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

44 For the purposes of subdivision (b) of this paragraph, "test period"
45 means the three hundred sixty-five day period beginning on the later of the
46 date on which the tangible personal property is purchased or the date on

1 which the direct broadcast satellite television or data transmission service
2 first transmits information to its customers.

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

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

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

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

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

33 19. Machinery and equipment that are used in the commercial production
34 of livestock, livestock products or agricultural, horticultural, viticultural
35 or floricultural crops or products in this state and that are used directly
36 and primarily to prevent, monitor, control or reduce air, water or land
37 pollution.

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

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

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

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

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

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

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

18 2. Janitorial equipment and hand tools.

19 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

34 1. Revenues received from sales of ancillary services, electric
35 distribution services, electric generation services, electric transmission
36 services and other services related to providing electricity to a retail
37 electric customer who is located outside this state for use outside this
38 state if the electricity is delivered to a point of sale outside this state.

39 2. Revenues received from providing electricity, including ancillary
40 services, electric distribution services, electric generation services,
41 electric transmission services and other services related to providing
42 electricity with respect to which the transaction privilege tax imposed under
43 section 42-5063 has been paid.

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

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

3 1. Fees charged by a municipally owned utility to persons constructing
4 residential, commercial or industrial developments or connecting residential,
5 commercial or industrial developments to a municipal utility system or
6 systems if the fees are segregated and used only for capital expansion,
7 system enlargement or debt service of the utility system or systems.

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

13 G. The tax levied by this article does not apply to the purchase price
14 of electricity or natural gas by a business that is principally engaged in
15 manufacturing or smelting operations and that uses at least fifty-one ~~per~~
16 ~~cent~~ PERCENT of the electricity or natural gas in the manufacturing or
17 smelting operations. This subsection does not apply to gas transportation
18 services. For the purposes of this subsection:

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

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

29 3. "Principally engaged" means at least fifty-one ~~per-cent~~ PERCENT of
30 the business is a manufacturing or smelting operation.

31 4. "Smelting" means to melt or fuse a metalliferous mineral, often
32 with an accompanying chemical change, usually to separate the metal.

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

34 1. "Aircraft" includes:

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

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

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

44 I. For the purposes of subsection D of this section, "ancillary
45 services", "electric distribution service", "electric generation service",

1 "electric transmission service" and "other services" have the same meanings
2 prescribed in section 42-5063.

3 Sec. 13. Section 42-6004, Arizona Revised Statutes, is amended to
4 read:

5 42-6004. Exemption from municipal tax

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

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

14 2. Interstate telecommunications services, which include that portion
15 of telecommunications services, such as subscriber line service, allocable by
16 federal law to interstate telecommunications service.

17 3. Sales of warranty or service contracts.

18 4. Sales of motor vehicles to nonresidents of this state for use
19 outside this state if the motor vehicle dealer ships or delivers the motor
20 vehicle to a destination outside this state.

21 5. Interest on finance contracts.

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

23 7. Sales of food or other items purchased with United States
24 department of agriculture food stamp coupons issued under the food stamp act
25 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
26 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
27 section 4302; 42 United States Code section 1786) but may impose such a tax
28 on other sales of food. If a city, town or special taxing district exempts
29 sales of food from its tax or imposes a different transaction privilege rate
30 on the gross proceeds of sales or gross income from sales of food and nonfood
31 items, it shall use the definition of food prescribed by rule adopted by the
32 department pursuant to section 42-5106.

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

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

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

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

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

4 11. Through August 31, 2014, sales of Arizona centennial medallions by
5 the historical advisory commission.

6 12. Leasing real property between affiliated companies, businesses,
7 persons or reciprocal insurers. For the purposes of this paragraph:

8 (a) "Affiliated companies, businesses, persons or reciprocal insurers"
9 means the lessor holds a controlling interest in the lessee, the lessee holds
10 a controlling interest in the lessor, affiliated persons hold a controlling
11 interest in both the lessor and the lessee, or an unrelated person holds a
12 controlling interest in both the lessor and lessee.

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

15 (c) "Controlling interest" means direct or indirect ownership of at
16 least eighty ~~per-cent~~ PERCENT of the voting shares of a corporation or of the
17 interests in a company, business or person other than a corporation.

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

21 (e) "Reciprocal insurer" has the same meaning prescribed in section
22 20-762.

23 13. The gross proceeds of sales or gross income derived from a contract
24 for the installation, assembly, repair or maintenance of machinery, equipment
25 or other tangible personal property THAT IS described in section 42-5061,
26 subsection B and that has independent functional utility, pursuant to the
27 following provisions:

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

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

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

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

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

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

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

8 (i) Assembling the machinery, equipment or other tangible personal
9 property.

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

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

15 (iv) Stabilizing or protecting the machinery, equipment or other
16 tangible personal property during operation by bolting, burying or performing
17 other dissimilar nonpermanent connections to either real property or real
18 property improvements.

19 14. The leasing or renting of certified ignition interlock devices
20 installed pursuant to the requirements prescribed by section 28-1461. For
21 the purposes of this paragraph, "certified ignition interlock device" has the
22 same meaning prescribed in section 28-1301.

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

34 16. The gross proceeds of sales or gross income derived from a contract
35 with the owner of real property or ~~the person owning the~~ improvements to ~~the~~
36 real property for the maintenance, repair, ~~or~~ replacement or alteration of
37 existing property ~~is not subject to tax under this section if the contract~~
38 ~~does not include modification activities~~, except as specified in this
39 paragraph. The gross proceeds of sales or gross income derived from a
40 de minimis amount of modification activity ~~that is essential to the~~
41 ~~completion of the maintenance, repair, replacement or alteration contract~~
42 does not subject the ~~entire~~ contract **OR ANY PART OF THE CONTRACT** to tax ~~under~~
43 ~~this section~~. For the purposes of this paragraph:

44 (a) Each contract ~~or project~~ is independent of another contract,
45 **EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF**
46 **THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT**

1 UNDER THIS CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES
2 INCLUDED IN THE CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO
3 THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED
4 AS A NEW CONTRACT, WITH THE TAX TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO
5 FOLLOW THE TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE
6 SUBSEQUENT CHANGE ORDER DIRECTLY RELATES.

7 ~~(b) "Modification" means construction, alteration, addition,~~
8 ~~subtraction, improvement, movement, wreckage or demolition.~~

9 (b) ANY TERM NOT DEFINED IN THIS PARAGRAPH THAT IS DEFINED IN SECTION
10 42-5075 HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5075.

11 (c) THIS PARAGRAPH DOES NOT APPLY TO A CONTRACT THAT PRIMARILY
12 INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS SUBJECT TO
13 TITLE 28, CHAPTER 19, 20 OR 22 OR TITLE 34, CHAPTER 2 OR 6 EVEN IF THE
14 CONTRACT ALSO INCLUDES VERTICAL IMPROVEMENTS. IF A CITY OR TOWN IMPOSES A
15 TAX ON CONTRACTS THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE
16 PROVISIONS, THE CITY OR TOWN SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A
17 NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THE TAX. THIS
18 SUBDIVISION DOES NOT APPLY TO CONTRACTS WITH:

19 (i) COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION
20 IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST
21 CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH
22 SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY
23 DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, SPECIAL HEALTH
24 CARE DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS, THEME PARK DISTRICTS,
25 REGIONAL ATTRACTION DISTRICTS OR REVITALIZATION DISTRICTS.

26 (ii) ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN ITEM (i) OF THIS
27 SUBDIVISION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE
28 MODIFICATION, MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF SURFACE OR
29 SUBSURFACE IMPROVEMENTS TO LAND.

30 17. Monitoring services relating to an alarm system as defined in
31 section 32-101.

32 18. Tangible personal property, job printing or publications sold to or
33 purchased by, or tangible personal property leased, rented or licensed for
34 use to or by, a qualifying health sciences educational institution as defined
35 in section 42-5001.

36 19. The transfer of title or possession of coal back and forth between
37 an owner or operator of a power plant and a person who is responsible for
38 refining coal if both of the following apply:

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

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

1 20. The gross proceeds of sales or gross income from sales of low or
2 reduced cost articles of food or drink to eligible elderly, ~~disabled~~ or
3 homeless persons **OR PERSONS WITH A DISABILITY** by a business subject to tax
4 under section 42-5074 that contracts with the department of economic security
5 and that is approved by the food and nutrition service of the United States
6 department of agriculture pursuant to the supplemental nutrition assistance
7 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
8 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the
9 purchases are made with the benefits issued pursuant to the supplemental
10 nutrition assistance program.

11 21. **TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A**
12 **PROJECT DESCRIBED IN PARAGRAPH 16 OF THIS SUBSECTION, THAT IS LOCATED WITHIN**
13 **THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS**
14 **DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN**
15 **AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:**

16 (a) **"AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO**
17 **IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT**
18 **THE INDIAN RESERVATION WAS ESTABLISHED.**

19 (b) **"INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF**
20 **AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF**
21 **AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS**
22 **INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.**

23 (c) **"INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR**
24 **COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES**
25 **DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF**
26 **THAT INDIAN TRIBE.**

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

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

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

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

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

45 4. Incarcerating or detaining in a privately operated prison, jail or
46 detention facility prisoners who are under the jurisdiction of the United

1 States, this state or any other state or a political subdivision of this
2 state or of any other state.

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

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

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

11 (b) The attributable amount is equal to the total amount of
12 development fees paid by the taxpayer or by a contractor providing services
13 to the taxpayer and the total development fees credited in exchange for the
14 construction of, contribution to or dedication of real property for providing
15 public infrastructure, public safety or other public services necessary to
16 the development. The real property must be the subject of the development
17 fees.

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

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

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

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

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

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

38 Sec. 14. Legislative intent

39 This act is intended to clarify and simplify the transaction privilege
40 tax reform measures enacted by Laws 2014, chapter 263 until such time as the
41 prime contracting transaction privilege tax classification can be repealed.

42 Sec. 15. Exemption from rulemaking

43 For the purposes of this act, the department of revenue is exempt from
44 the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes,
45 through December 31, 2015.

1 Sec. 16. Retroactivity; persons canceling transaction privilege
2 tax prime contracting licenses; safe harbor; change
3 orders; transition; application; definition

4 A. This act applies retroactively to from and after December 31, 2014.

5 B. With respect to any person canceling a transaction privilege tax
6 license for the purposes of section 42-5075, Arizona Revised Statutes, on or
7 before the last day of the first month that occurs at least sixty days after
8 the enactment date of this act, the following provisions apply, and the
9 department of revenue shall provide written guidelines that include these
10 provisions in addition to any forms necessary to effectuate this act. For
11 any materials on hand that the person purchased exempt from tax under section
12 42-5061, subsection A, paragraph 27 or section 42-5159, subsection A,
13 paragraph 13, subdivision (g), Arizona Revised Statutes, with no intent to
14 evade taxation, the person may make a reasonable estimation of the value of
15 all such items on hand at the time the tax license is canceled. If the
16 reasonable estimate of the value is:

17 1. Ten thousand dollars or less, the person is not liable for any tax
18 or similar amounts that otherwise would be due by law.

19 2. More than ten thousand dollars, the person is not liable for any
20 tax or similar amounts that otherwise would be due by law on the first ten
21 thousand dollars, and the value in excess of ten thousand dollars is subject
22 to tax in an amount determined, reported and paid pursuant to any of the
23 following:

24 (a) Pursuant to section 42-5008.01, subsection B, Arizona Revised
25 Statutes.

26 (b) In a single payment, based on any tax that the seller would have
27 been required to pay under title 42, chapter 5 or 6, Arizona Revised
28 Statutes, if the seller were located at the person's principal place of
29 business in this state.

30 (c) In twelve equal monthly installments to be reported and paid to
31 the department beginning immediately following the month in which the
32 person's license is canceled, based on any tax that the seller would have
33 been required to pay under title 42, chapter 5 or 6, Arizona Revised
34 Statutes, if the seller were located at the person's principal place of
35 business in this state.

36 C. For contracts that are bid or entered into or for any other binding
37 obligation executed on or before the last day of the first month that occurs
38 at least sixty days after the enactment date of this act:

39 1. A person may treat the contract as a contract that is taxable under
40 section 42-5075, Arizona Revised Statutes.

41 2. A person shall be held harmless from any additional tax, penalty
42 and interest if the department of revenue determines, under audit, that the
43 person's good faith treatment of the contract, as either subject to tax under
44 section 42-5075, Arizona Revised Statutes, or excluded from tax under section
45 42-5075, subsection 0, Arizona Revised Statutes, was incorrect.

1 D. The treatment of change orders under this act does not alter or
2 affect the treatment of change orders in any other context, including with
3 respect to the application of changes in the rate of tax.

4 E. For the purposes of this section, "enactment date" means the date
5 the governor signs this act or the date the secretary of state receives the
6 transmission of the unsigned act from the governor pursuant to article V,
7 section 7, Constitution of Arizona.

8 Sec. 17. Emergency

9 This act is an emergency measure that is necessary to preserve the
10 public peace, health or safety and is operative immediately as provided by
11 law.

APPROVED BY THE GOVERNOR FEBRUARY 24, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 24, 2015.