

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

HOUSE BILL 2326

AN ACT

AMENDING SECTIONS 3-561, 3-563, 42-5009, 42-5022, 42-5061 AND 42-5159,
ARIZONA REVISED STATUTES; RELATING TO AGRICULTURAL FEED TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 3-561, Arizona Revised Statutes, is amended to
3 read:
4 3-561. Definitions
5 In this article, unless the context otherwise requires:
6 ~~2-~~ 1. "Food product" includes:
7 (a) Every product of the soil in its natural or manufactured state.
8 (b) Beef and beef products.
9 (c) Swine and pork products.
10 (d) Fowls and poultry products.
11 (e) Eggs and egg products.
12 (f) Milk and milk products.
13 (g) Lamb and sheep products.
14 (h) ANIMAL FEED THAT IS GROWN OR RAISED BY THE PRODUCER AND SOLD AS
15 FEED FOR LIVESTOCK, POULTRY OR RATITES PURCHASED OR RAISED FOR SLAUGHTER,
16 INCLUDING LIVESTOCK PURCHASED OR RAISED FOR PRODUCTION OR USE, SUCH AS MILK
17 COWS, BREEDING BULLS, LAYING HENS AND RIDING OR WORK HORSES.
18 ~~1-~~ 2. "Producer" includes owners, proprietors or tenants of
19 agricultural lands, orchards, farms and gardens ~~whereon~~ WHERE food products
20 are grown, raised or prepared for market.
21 Sec. 2. Section 3-563, Arizona Revised Statutes, is amended to read:
22 3-563. Tax, license or fee against producers and purchasers
23 prohibited
24 A. ~~No A~~ tax, license or fee ~~shall~~ MAY NOT be imposed, ~~OR levied upon,~~
25 ON OR demanded or collected from:
26 1. A producer for a sale of a food product ~~as defined in this article.~~
27 ~~, and~~
28 2. A PURCHASER OF A FOOD PRODUCT FROM A PRODUCER.
29 B. ~~No A~~ penalty or punishment ~~shall~~ MAY NOT be imposed on account of
30 the sale OF A FOOD PRODUCT, except for A violation of laws providing for
31 inspection.
32 ~~B-~~ C. A municipal ordinance ~~which~~ THAT seeks to impose or subject a
33 producer, OR A PURCHASER OF A FOOD PRODUCT FROM A PRODUCER, to a tax, license
34 or fee ~~shall be~~ IS void, except that all such products in common with similar
35 products offered for sale by persons not the producers thereof ~~shall be~~ ARE
36 subject to inspection. A municipal ordinance providing for inspection ~~shall~~
37 IS not ~~be~~ valid unless it applies in the same manner and terms to other
38 persons offering similar products for sale.
39 Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to read:
40 42-5009. Certificates establishing deductions; liability for
41 making false certificate
42 A. A person who conducts any business classified under article 2 of
43 this chapter may establish entitlement to the allowable deductions from the
44 tax base of that business by both:

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

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

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

17 C. The department may prescribe a form for the certificate described
18 in subsection A of this section. Under such rules as it may prescribe, the
19 department may also describe transactions with respect to which a person is
20 not entitled to rely solely on the information contained in the certificate
21 provided for in subsection A of this section but must instead obtain such
22 additional information as required by the rules in order to be entitled to
23 the deduction.

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

37 E. If a seller is entitled to a deduction by complying with subsection
38 B of this section, the department may require the purchaser to establish the
39 accuracy and completeness of the information provided to the seller that
40 entitled the seller to the deduction. If the purchaser cannot establish the
41 accuracy and completeness of the information, the purchaser is liable in an
42 amount 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 complied with
44 subsection B of this section. Payment of the amount under this subsection
45 exempts the purchaser from liability for any tax imposed under article 4 of

1 this chapter. The amount shall be treated as tax revenues collected from the
2 seller in order to designate the distribution base for purposes of section
3 42-5029.

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

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

37 H. The department shall prescribe forms for certificates used to
38 establish the satisfaction of the criteria necessary to qualify the sale of a
39 motor vehicle for the deductions described in section 42-5061, subsection A,
40 paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and
41 subsection U. Except as provided in subsection J of this section, to
42 establish entitlement to these deductions, a motor vehicle dealer shall
43 retain:

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

4 2. A copy of the nonresident registration permit authorized by section
5 28-2154.

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

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

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

29 J. To establish entitlement to the deduction described in section
30 42-5061, subsection A, paragraph 44, a public consignment auction dealer as
31 defined in section 28-4301 shall submit the valid certificate prescribed by
32 subsection H of this section to the department and retain a copy for its
33 records.

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

37 L. The department shall prescribe a form for a certificate to be used
38 by a person that is not subject to tax under section 42-5075 when the person
39 is engaged by a contractor that is subject to tax under section 42-5075 for a
40 project that is taxable under section 42-5075. The certificate permits the
41 person purchasing tangible personal property to be incorporated or fabricated
42 by the person into any real property, structure, project, development or
43 improvement to provide documentation to a retailer that the sale of tangible
44 personal property qualifies for the deduction under section 42-5061,
45 subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain

1 the certificate from the department and shall provide a copy to any such
2 person working on the project. The prime contractor shall obtain a new
3 certificate for each project to which this subsection applies. For the
4 purposes of this subsection, the following apply:

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

9 2. The department shall issue the certificate to the prime contractor
10 on receiving sufficient documentation to establish that the prime contractor
11 meets the requirements of this subsection.

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

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

26 N. THE REQUIREMENTS OF SUBSECTIONS A AND B OF THIS SECTION DO NOT
27 APPLY TO OWNERS, PROPRIETORS OR TENANTS OF AGRICULTURAL LANDS OR FARMS WHO
28 SELL LIVESTOCK OR POULTRY FEED THAT IS GROWN OR RAISED ON THEIR LANDS TO ANY
29 OF THE FOLLOWING:

30 1. PERSONS WHO FEED THEIR OWN LIVESTOCK OR POULTRY.

31 2. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF PRODUCING LIVESTOCK OR
32 POULTRY COMMERCIALY.

33 3. PERSONS WHO ARE ENGAGED IN THE BUSINESS OF FEEDING LIVESTOCK OR
34 POULTRY COMMERCIALY OR WHO BOARD LIVESTOCK NONCOMMERCIALY.

35 Sec. 4. Section 42-5022, Arizona Revised Statutes, is amended to read:
36 42-5022. Burden of proving sale not at retail

37 The burden of proving that a sale of tangible personal property was not
38 a sale at retail shall be ~~upon~~ ON the person who made ~~it~~ THE SALE, unless
39 EITHER:

40 1. ~~Such~~ THE person has taken from the purchaser a certificate signed
41 by and bearing the name and address of the purchaser that the property was
42 purchased for resale in the ordinary course of business and that he has a
43 valid license, with the number thereof, to sell the kind of property
44 purchased.

1 2. THE PERSON IS EXEMPT FROM THE REQUIREMENT OF A CERTIFICATE PURSUANT
2 TO SECTION 42-5009, SUBSECTION N.

3 Sec. 5. Section 42-5061, Arizona Revised Statutes, is amended to read:
4 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

27 7. The sale of stocks and bonds.

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

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

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

35 11. Prescription eyeglasses or contact lenses.

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

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

1 14. Sales of motor vehicles to nonresidents of this state for use
2 outside this state if the motor vehicle dealer ships or delivers the motor
3 vehicle to a destination out of this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 25. Tangible personal property sold to:

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

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

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

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

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

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

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

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

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

7 27. Tangible personal property sold to:

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

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

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

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

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

24 28. The sale of a motor vehicle to:

25 (a) A nonresident of this state if the purchaser's state of residence
26 does not allow a corresponding use tax exemption to the tax imposed by
27 article 1 of this chapter and if the nonresident has secured a special ninety
28 day nonresident registration permit for the vehicle as prescribed by sections
29 28-2154 and 28-2154.01.

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

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

38 30. Sales of tangible personal property by a nonprofit organization
39 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
40 of the internal revenue code if the organization is associated with a major
41 league baseball team or a national touring professional golfing association
42 and no part of the organization's net earnings inures to the benefit of any
43 private shareholder or individual.

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

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

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

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

21 35. Sales of natural gas or liquefied petroleum gas used to propel a
22 motor vehicle.

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

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

37 38. Sales of liquid, solid or gaseous chemicals used in manufacturing,
38 processing, fabricating, mining, refining, metallurgical operations, research
39 and development and, beginning on January 1, 1999, printing, if using or
40 consuming the chemicals, alone or as part of an integrated system of
41 chemicals, involves direct contact with the materials from which the product
42 is produced for the purpose of causing or permitting a chemical or physical
43 change to occur in the materials as part of the production process. This
44 paragraph does not include chemicals that are used or consumed in activities
45 such as packaging, storage or transportation but does not affect any

1 deduction for such chemicals that is otherwise provided by this section. For
2 the purposes of this paragraph, "printing" means a commercial printing
3 operation and includes job printing, engraving, embossing, copying and
4 bookbinding.

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

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

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

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

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

27 42. SALES OF:

28 (a) LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF
29 FARMING, RANCHING OR PRODUCING LIVESTOCK OR POULTRY.

30 (b) Livestock and poultry feed, salts, vitamins and other additives
31 for livestock or poultry consumption that are sold to persons ~~who are~~
32 ~~engaged~~ FOR USE OR CONSUMPTION BY THEIR OWN LIVESTOCK OR POULTRY, FOR USE OR
33 CONSUMPTION in THE BUSINESSES OF FARMING, RANCHING AND producing OR FEEDING
34 livestock, poultry, or livestock or poultry products or ~~who are engaged~~
35 ~~in feeding livestock or poultry commercially~~ FOR USE OR CONSUMPTION IN
36 NONCOMMERCIAL BOARDING OF LIVESTOCK. For the purposes of this paragraph,
37 "poultry" includes ratites.

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

44 44. Sales of motor vehicles at auction to nonresidents of this state
45 for use outside this state if the vehicles are shipped or delivered out of

1 this state, regardless of where title to the motor vehicles passes or its
2 free on board point.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (b) "Indian reservation" means all lands that are within the limits of
44 areas set aside by the United States for the exclusive use and occupancy of

1 an Indian tribe by treaty, law or executive order and that are recognized as
2 Indian reservations by the United States department of the interior.

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

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

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

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

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

31 4. Machinery, equipment or transmission lines used directly in
32 producing or transmitting electrical power, but not including distribution.
33 Transformers and control equipment used at transmission substation sites
34 constitute equipment used in producing or transmitting electrical power.

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

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

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

44 (a) A person holding a federal certificate of public convenience and
45 necessity, a supplemental air carrier certificate under federal aviation

1 regulations (14 Code of Federal Regulations part 121) or a foreign air
2 carrier permit for air transportation for use as or in conjunction with or
3 becoming a part of aircraft to be used to transport persons, property or
4 United States mail in intrastate, interstate or foreign commerce.

5 (b) Any foreign government.

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

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

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

19 10. Machinery or equipment used directly to drill for oil or gas or
20 used directly in the process of extracting oil or gas from the earth for
21 commercial purposes.

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

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

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

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

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

42 14. Machinery or equipment used in research and development. For the
43 purposes of this paragraph, "research and development" means basic and
44 applied research in the sciences and engineering, and designing, developing
45 or testing prototypes, processes or new products, including research and

1 development of computer software that is embedded in or an integral part of
2 the prototype or new product or that is required for machinery or equipment
3 otherwise exempt under this section to function effectively. Research and
4 development do not include manufacturing quality control, routine consumer
5 product testing, market research, sales promotion, sales service, research in
6 social sciences or psychology, computer software research that is not
7 included in the definition of research and development, or other
8 nontechnological activities or technical services.

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

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

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

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

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

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

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

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

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

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

5 18. Machinery or equipment, including related structural components,
6 that is employed in connection with manufacturing, processing, fabricating,
7 job printing, refining, mining, natural gas pipelines, metallurgical
8 operations, telecommunications, producing or transmitting electricity or
9 research and development and that is used directly to meet or exceed rules or
10 regulations adopted by the federal energy regulatory commission, the United
11 States environmental protection agency, the United States nuclear regulatory
12 commission, the Arizona department of environmental quality or a political
13 subdivision of this state to prevent, monitor, control or reduce land, water
14 or air pollution.

15 19. Machinery and equipment that are sold to a person engaged in the
16 commercial production of livestock, livestock products or agricultural,
17 horticultural, viticultural or floricultural crops or products in this state,
18 including a person representing or working on behalf of such a person in a
19 manner described in section 42-5075, subsection 0, if the machinery and
20 equipment are used directly and primarily to prevent, monitor, control or
21 reduce air, water or land pollution.

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

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

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

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

36 21. Qualifying equipment that is purchased from and after June 30,
37 2004 through June 30, 2024 by a qualified business under section 41-1516 for
38 harvesting or processing qualifying forest products removed from qualifying
39 projects as defined in section 41-1516. To qualify for this deduction, the
40 qualified business at the time of purchase must present its certification
41 approved by the department.

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

44 1. Expendable materials. For the purposes of this paragraph,
45 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of the
2 cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

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

17 D. In addition to the deductions from the tax base prescribed by
18 subsection A of this section, there shall be deducted from the tax base the
19 gross proceeds of sales or gross income derived from sales of machinery,
20 equipment, materials and other tangible personal property used directly and
21 predominantly to construct a qualified environmental technology
22 manufacturing, producing or processing facility as described in section
23 41-1514.02. This subsection applies for ten full consecutive calendar or
24 fiscal years after the start of initial construction.

25 E. In computing the tax base, gross proceeds of sales or gross income
26 from retail sales of heavy trucks and trailers does not include any amount
27 attributable to federal excise taxes imposed by 26 United States Code section
28 4051.

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

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

41 H. A person who engages in manufacturing, baling, crating, boxing,
42 barreling, canning, bottling, sacking, preserving, processing or otherwise
43 preparing for sale or commercial use any livestock, agricultural or
44 horticultural product or any other product, article, substance or commodity
45 and who sells the product of such business at retail in this state is deemed,

1 as to such sales, to be engaged in business classified under the retail
2 classification. This subsection does not apply to:

3 1. AGRICULTURAL PRODUCERS WHO ARE OWNERS, PROPRIETORS OR TENANTS OF
4 AGRICULTURAL LANDS, ORCHARDS, FARMS OR GARDENS WHERE AGRICULTURAL PRODUCTS
5 ARE GROWN, RAISED OR PREPARED FOR MARKET AND WHO ARE MARKETING THEIR OWN
6 AGRICULTURAL PRODUCTS.

7 2. Businesses classified under the:

8 ~~1.~~ (a) Transporting classification.

9 ~~2.~~ (b) Utilities classification.

10 ~~3.~~ (c) Telecommunications classification.

11 ~~4.~~ (d) Pipeline classification.

12 ~~5.~~ (e) Private car line classification.

13 ~~6.~~ (f) Publication classification.

14 ~~7.~~ (g) Job printing classification.

15 ~~8.~~ (h) Prime contracting classification.

16 ~~9.~~ (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 P. Retail sales of prepaid calling cards or prepaid authorization
24 numbers for telecommunications services, including sales of reauthorization
25 of a prepaid card or authorization number, are subject to tax under this
26 section.

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

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

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

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

39 1. The transfer of title or possession of the coal is for the purpose
40 of refining the coal.

41 2. 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 paragraph, "coal refining process"
44 means the application of a coal additive system that aids in the reduction of

1 power plant emissions during the combustion of coal and the treatment of flue
2 gas.

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

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

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

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

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

38 V. For the purposes of this section:

39 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

37 Sec. 6. Section 42-5159, Arizona Revised Statutes, is amended to read:
38 42-5159. Exemptions

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

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

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

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

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

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

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

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

33 8. PURCHASES OF:

34 (a) LIVESTOCK AND POULTRY TO PERSONS ENGAGING IN THE BUSINESSES OF
35 FARMING, RANCHING OR PRODUCING LIVESTOCK OR POULTRY.

36 (b) Livestock, ~~AND~~ poultry FEED, supplies, ~~feed~~, salts, vitamins and
37 other additives SOLD TO PERSONS for use or consumption in the businesses of
38 farming, ranching and PRODUCING OR feeding livestock or poultry, ~~not~~
39 ~~including fertilizers, herbicides and insecticides~~ OR FOR USE OR CONSUMPTION
40 IN NONCOMMERCIAL BOARDING OF LIVESTOCK. For the purposes of this paragraph,
41 "poultry" includes ratites.

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

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

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

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

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

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

15 13. Tangible personal property purchased by:

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

19 (b) A hospital operated by this state or a political subdivision of
20 this state.

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

26 (d) A qualifying health care organization, as defined in section
27 42-5001, if the tangible personal property is used by the organization solely
28 to provide health and medical related educational and charitable services.

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

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

39 (g) A person that is subject to tax under this chapter by reason of
40 being engaged in business classified under section 42-5075, or a
41 subcontractor working under the control of a person that is engaged in
42 business classified under section 42-5075, if the tangible personal property
43 is any of the following:

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

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

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

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

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

16 (j) A qualifying community health center as defined in section
17 42-5001.

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

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

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

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

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

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

- 1 15. Tangible personal property sold by:
- 2 (a) Any nonprofit organization organized and operated exclusively for
- 3 charitable purposes and recognized by the United States internal revenue
- 4 service under section 501(c)(3) of the internal revenue code.
- 5 (b) A nonprofit organization that is exempt from taxation under
- 6 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
- 7 organization is associated with a major league baseball team or a national
- 8 touring professional golfing association and no part of the organization's
- 9 net earnings inures to the benefit of any private shareholder or individual.
- 10 (c) A nonprofit organization that is exempt from taxation under
- 11 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
- 12 internal revenue code if the organization sponsors or operates a rodeo
- 13 featuring primarily farm and ranch animals and no part of the organization's
- 14 net earnings inures to the benefit of any private shareholder or individual.
- 15 16. Drugs and medical oxygen, including delivery hose, mask or tent,
- 16 regulator and tank, on the prescription of a member of the medical, dental or
- 17 veterinarian profession who is licensed by law to administer such substances.
- 18 17. Prosthetic appliances, as defined in section 23-501, prescribed or
- 19 recommended by a person who is licensed, registered or otherwise
- 20 professionally credentialed as a physician, dentist, podiatrist,
- 21 chiropractor, naturopath, homeopath, nurse or optometrist.
- 22 18. Prescription eyeglasses and contact lenses.
- 23 19. Insulin, insulin syringes and glucose test strips.
- 24 20. Hearing aids as defined in section 36-1901.
- 25 21. Durable medical equipment that has a centers for medicare and
- 26 medicaid services common procedure code, is designated reimbursable by
- 27 medicare, is prescribed by a person who is licensed under title 32, chapter
- 28 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
- 29 used to serve a medical purpose, is generally not useful to a person in the
- 30 absence of illness or injury and is appropriate for use in the home.
- 31 22. Food, as provided in and subject to the conditions of article 3 of
- 32 this chapter and section 42-5074.
- 33 23. Items purchased with United States department of agriculture food
- 34 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
- 35 958) or food instruments issued under section 17 of the child nutrition act
- 36 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
- 37 section 1786).
- 38 24. Food and drink provided without monetary charge by a taxpayer that
- 39 is subject to section 42-5074 to its employees for their own consumption on
- 40 the premises during the employees' hours of employment.
- 41 25. Tangible personal property that is used or consumed in a business
- 42 subject to section 42-5074 for human food, drink or condiment, whether
- 43 simple, mixed or compounded.
- 44 26. Food, drink or condiment and accessory tangible personal property
- 45 that are acquired for use by or provided to a school district or charter

1 school if they are to be either served or prepared and served to persons for
2 consumption on the premises of a public school in the school district or on
3 the premises of the charter school during school hours.

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

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

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

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

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

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

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

28 (b) Public educational institutions.

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

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

34 34. Machinery, equipment, technology or related supplies that are only
35 useful to assist a person with a physical disability as defined in section
36 46-191 or a person who has a developmental disability as defined in section
37 36-551 or has a head injury as defined in section 41-3201 to be more
38 independent and functional.

39 35. Liquid, solid or gaseous chemicals used in manufacturing,
40 processing, fabricating, mining, refining, metallurgical operations, research
41 and development and, beginning on January 1, 1999, printing, if using or
42 consuming the chemicals, alone or as part of an integrated system of
43 chemicals, involves direct contact with the materials from which the product
44 is produced for the purpose of causing or permitting a chemical or physical
45 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 exemption 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 36. Food, drink and condiment purchased for consumption within the
8 premises of any prison, jail or other institution under the jurisdiction of
9 the state department of corrections, the department of public safety, the
10 department of juvenile corrections or a county sheriff.

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

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

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

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

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

41 40. Through December 31, 1994, tangible personal property sold
42 pursuant to a personal property liquidation transaction, as defined in
43 section 42-5061. From and after December 31, 1994, tangible personal
44 property sold pursuant to a personal property liquidation transaction, as
45 defined in section 42-5061, if the gross proceeds of the sales were included

1 in the measure of the tax imposed by article 1 of this chapter or if the
2 personal property liquidation was a casual activity or transaction.

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

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

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

17 44. Alternative fuel vehicles if the vehicle was manufactured as a
18 diesel fuel vehicle and converted to operate on alternative fuel and
19 equipment that is installed in a conventional diesel fuel motor vehicle to
20 convert the vehicle to operate on an alternative fuel, as defined in section
21 1-215.

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

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

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

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

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

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

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

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

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

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

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

14 52. Repair parts installed in equipment used directly by a qualified
15 business under section 41-1516 in harvesting, processing or transporting
16 qualifying forest products removed from qualifying projects as defined in
17 section 41-1516.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 10. Machinery or equipment used directly to drill for oil or gas or
26 used directly in the process of extracting oil or gas from the earth for
27 commercial purposes.

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

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

36 13. New machinery and equipment consisting of tractors, tractor-drawn
37 implements, self-powered implements, machinery and equipment necessary for
38 extracting milk, and machinery and equipment necessary for cooling milk and
39 livestock, and drip irrigation lines not already exempt under paragraph 6 of
40 this subsection and that are used for commercial production of agricultural,
41 horticultural, viticultural and floricultural crops and products in this
42 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

44 (a) Includes the integrated systems, fixtures, piping, movable
45 partitions, lighting and all property that is necessary or adapted to reduce

1 contamination or to control airflow, temperature, humidity, chemical purity
2 or other environmental conditions or manufacturing tolerances, as well as the
3 production machinery and equipment operating in conjunction with the clean
4 room environment.

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

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

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

21 19. Machinery and equipment that are used in the commercial production
22 of livestock, livestock products or agricultural, horticultural, viticultural
23 or floricultural crops or products in this state and that are used directly
24 and primarily to prevent, monitor, control or reduce air, water or land
25 pollution.

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

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

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

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

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

1 C. The exemptions provided by subsection B of this section do not
2 include:

3 1. Expendable materials. For the purposes of this paragraph,
4 expendable materials do not include any of the categories of tangible
5 personal property specified in subsection B of this section regardless of the
6 cost or useful life of that property.

7 2. Janitorial equipment and hand tools.

8 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

23 1. Revenues received from sales of ancillary services, electric
24 distribution services, electric generation services, electric transmission
25 services and other services related to providing electricity to a retail
26 electric customer who is located outside this state for use outside this
27 state if the electricity is delivered to a point of sale outside this state.

28 2. Revenues received from providing electricity, including ancillary
29 services, electric distribution services, electric generation services,
30 electric transmission services and other services related to providing
31 electricity with respect to which the transaction privilege tax imposed under
32 section 42-5063 has been paid.

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

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

38 1. Fees charged by a municipally owned utility to persons constructing
39 residential, commercial or industrial developments or connecting residential,
40 commercial or industrial developments to a municipal utility system or
41 systems if the fees are segregated and used only for capital expansion,
42 system enlargement or debt service of the utility system or systems.

43 2. Reimbursement or contribution compensation to any person or persons
44 owning a utility system for property and equipment installed to provide
45 utility access to, on or across the land of an actual utility consumer if the

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

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

5 1. A business that is principally engaged in manufacturing or smelting
6 operations and that uses at least fifty-one percent of the electricity or
7 natural gas in the manufacturing or smelting operations. This paragraph does
8 not apply to gas transportation services. For the purposes of this
9 paragraph:

10 (a) "Gas transportation services" means the services of transporting
11 natural gas to a natural gas customer or to a natural gas distribution
12 facility if the natural gas was purchased from a supplier other than the
13 utility.

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

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

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

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

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

28 1. "Aircraft" includes:

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

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

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

38 I. For the purposes of subsection D of this section, "ancillary
39 services", "electric distribution service", "electric generation service",
40 "electric transmission service" and "other services" have the same meanings
41 prescribed in section 42-5063.