AN ACT

AMENDING SECTIONS 41-1519, 42-5061, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO COMPUTER DATA CENTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-1519, Arizona Revised Statutes, is amended to read:

41-1519. Computer data center tax relief; definitions

A. From and after August 31, 2013, tax relief is allowed for the owner or operator of a computer data center certified pursuant to this section. The same tax relief is allowed for qualified colocation tenants of the computer data center. All tax relief applies during the qualification period.

B. To qualify for the tax relief, the owner or operator shall submit to the authority an application on a form prescribed by the authority that includes all of the following:
1. The owner's or operator's name, address and telephone number.
2. The address of the site where the facility is or will be located, including, if applicable, information sufficient to identify the specific portion or portions of the facility composing the computer data center.
3. If the computer data center is to qualify under subsection E, paragraph 1 of this section, both of the following:
   (a) The anticipated investment associated with the computer data center for which the tax relief is being sought and whether the computer data center is anticipated to qualify as a sustainable redevelopment project.
   (b) An affirmation, signed by an authorized executive representing the owner or operator, that the computer data center is expected to satisfy one of the certification requirements prescribed in subsection E, paragraph 1 of this section and that the computer data center will not violate subsection L M of this section.
4. If the computer data center is to qualify under subsection E, paragraph 2 of this section, an affirmation, signed by an authorized executive representing the owner or operator, that the computer data center has satisfied the certification requirements prescribed in subsection E, paragraph 2 of this section, whether the computer data center qualifies as a sustainable redevelopment project and that the computer data center will not violate subsection L M of this section.

C. Within sixty days after receiving a complete and correct form application, the authority shall review the form application and either issue a written certification that the computer data center qualifies for the tax relief or provide written reasons for its denial. Failure to approve or deny the form application within sixty days after the date the owner or operator submits the form application to the authority constitutes certification approval of the computer data center, and the authority shall issue written certification to the owner or operator within fourteen days. The effective date of the certification is the date on which the application was submitted to the authority. The authority shall not certify any new computer data center after December 31, 2023.
D. An owner or operator may separate a facility into one or more computer data centers, which may each receive a separate certification if each computer data center individually meets the requirements prescribed in subsection E of this section. A portion of a facility or an article of computer data center equipment shall not be deemed to be a part of more than one computer data center. The owner or operator may aggregate one or more of the parcels, buildings, condominiums or modular data centers in a facility into a single computer data center if, in the aggregate, the parcels, buildings, condominiums and modular data centers meet the requirements of subsection E of this section.

E. A computer data center must meet one of the following requirements after taking into account the combined investments made by the owner, operator or qualified colocation tenants of a computer data center:

1. On or before the fifth anniversary of certification, the computer data center creates a minimum investment of at least:
   (a) Twenty-five million dollars of new investment, including costs of land, buildings, improvements, modular data centers and computer data center equipment, whether owned or leased or paid for pursuant to a right to use agreement, if the computer data center is located in a county with a population of eight hundred thousand or less persons.
   (b) Fifty million dollars of new investment, including costs of land, buildings, improvements, modular data centers and computer data center equipment, whether owned or leased or paid for pursuant to a right to use agreement, if the computer data center is located in a county with a population of more than eight hundred thousand persons.

2. During the seventy-two months immediately before September 1, 2013, the computer data center created an investment of at least two hundred fifty million dollars, including costs of land, buildings, improvements, modular data centers and computer data center equipment, whether owned or leased or paid for pursuant to a right to use agreement.

F. On or before the fifth anniversary of the certification of a new computer data center, the owner or operator shall notify the authority in writing that the computer data center for which the certification is requested has or has not satisfied the requirements prescribed in subsection E, paragraph 1 of this section. Until a new computer data center satisfies the requirements prescribed in subsection E, paragraph 1 of this section, the owner or operator shall keep detailed records of all investment created by the new computer data center, including costs of land, buildings, improvements, modular data centers and computer data center equipment, and all tax relief directly received by the owner or operator. This subsection and subsection G of this section do not apply to an existing computer data center.

G. If the department of revenue determines that the requirements of subsection E, paragraph 1 of this section have not been satisfied or that there has been a violation of subsection L of this section, the department
may revoke the certification of a new computer data center and the owner or operator may appeal the revocation pursuant to title 42, chapter 1, article 6. If certification is revoked pursuant to this subsection, the qualification period of any owner, operator or qualified colocation tenant of the new computer data center expires and the department may recapture from the owner or operator all or part of the tax relief provided directly to the owner or operator. The department may give special consideration or allow a temporary exemption from recapture of the tax relief if there is extraordinary hardship due to factors beyond the control of the owner or operator. The department may require the owner or operator to file appropriate amended tax returns to reflect any recapture of the tax relief.

G. IF THE AUTHORITY DETERMINES THAT:

1. A NEW COMPUTER DATA CENTER THAT IS CERTIFIED UNDER SUBSECTION E, PARAGRAPH 1 OF THIS SECTION HAS NOT COMPLIED WITH THE REQUIREMENTS AND TIME PERIODS PRESCRIBED BY SUBSECTION E, PARAGRAPH 1 OF THIS SECTION, THE AUTHORITY SHALL REVOKE THE COMPUTER DATA CENTER'S CERTIFICATION. IF THE CERTIFICATION IS REVOKED, THE QUALIFICATION PERIOD OF ANY OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER AUTOMATICALLY TERMINATES, AND THE DEPARTMENT OF REVENUE MAY RECAPTURE ALL OR PART OF THE TAX RELIEF PROVIDED DIRECTLY TO THE OWNERS AND OPERATORS. A QUALIFIED COLOCATION TENANT IS NOT SUBJECT TO RECAPTURE OF ANY PART OF TAX RELIEF RECEIVED PURSUANT TO THIS SECTION, EXCEPT THAT A CONTRIBUTING QUALIFIED COLOCATION TENANT MAY BE SUBJECT TO RECAPTURE IF THEY ARE LOCATED IN A COMPUTER DATA CENTER THAT IS CERTIFIED FROM AND AFTER AUGUST 31, 2016. AN OWNER OR OPERATOR MAY APPEAL ANY REVOCATION UNDER THIS PARAGRAPH PURSUANT TO CHAPTER 6, ARTICLE 10 OF THIS TITLE.

2. THERE HAS BEEN A VIOLATION OF SUBSECTION M OF THIS SECTION WITH RESPECT TO A COMPUTER DATA CENTER:

(a) THE AUTHORITY SHALL REVOKE THE COMPUTER DATA CENTER'S CERTIFICATION AND, IF REVOKED, THE QUALIFICATION PERIOD OF ANY OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER AUTOMATICALLY TERMINATES.

(b) THE DEPARTMENT OF REVENUE MAY NOT RECAPTURE ANY TAX RELIEF PROVIDED DIRECTLY TO THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT BEFORE THE DATE OF REVOCATION.

(c) AN OWNER OR OPERATOR MAY APPEAL ANY REVOCATION UNDER THIS PARAGRAPH PURSUANT TO CHAPTER 6, ARTICLE 10 OF THIS TITLE.

H. The authority and the department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The authority and the department shall collaborate in adopting rules as necessary to avoid duplication and inconsistencies while accomplishing the purposes of this section. THE AUTHORITY HAS EXCLUSIVE AUTHORITY OVER ISSUES RELATED TO CERTIFICATION, INCLUDING DETERMINATIONS AS TO WHETHER A COMPUTER DATA CENTER HAS SATISFIED THE REQUIREMENTS OF SUBSECTION E OF THIS SECTION, CONSTITUTES A QUALIFIED SUSTAINABLE REDEVELOPMENT PROJECT OR HAS COMMITTED A
VIOLATION OF THIS SECTION. THE DEPARTMENT OF REVENUE HAS EXCLUSIVE AUTHORITY
OVER THE ADMINISTRATION OF TAX RELIEF.

I. Proprietary business information contained in the form APPLICATION
described in subsection B of this section, and the written notice described
in subsection F of this section AND THE LIST DESCRIBED IN SUBSECTION J OF
THIS SECTION are confidential and shall not be disclosed to the public except
that the information shall be transmitted to the department of revenue. The
authority or the department may disclose the name of a computer data center
that has been certified pursuant to this section.

J. The owner or operator shall provide the authority and the
department of revenue with a list of qualified colocation tenants, including
the commencement and expiration dates of each qualified colocation tenant's
agreement to use or occupy all or part of the computer data center, and shall
notify the authority and the department within thirty days after any changes
to the list of ANY CHANGES WITHIN THIRTY DAYS. THE FAILURE OF AN OWNER OR
OPERATOR TO PROVIDE THE LIST OR NOTIFY THE AUTHORITY AND DEPARTMENT OF
REVENUE OF CHANGES WITHIN THE REQUIRED TIME ARE NOT GROUNDS FOR TERMINATION
OF THE COMPUTER DATA CENTER'S CERTIFICATION, BUT MAY PRECLUDE UNLISTED
COLOCATION TENANTS FROM RECEIVING TAX RELIEF UNTIL THE LIST IS PROVIDED OR
UPDATED.

K. Except as provided in subsection G of this section, on
certification, the IF A computer data center remains certified regardless HAS
BEEN CERTIFIED, THE CERTIFICATION REMAINS IN EFFECT, EVEN IN THE EVENT of a
future transfer, sale or disposition, directly or indirectly, of the computer
data center.

L. FOR THE PURPOSES OF QUALIFYING AND CONTINUING AS A SUSTAINABLE
REDEVELOPMENT PROJECT:

1. AFTER RECEIVING CERTIFICATION, AN OWNER MAY SUBSTANTIALLY DEMOLISH
ALL OR PART OF AN EXISTING BUILDING TO THE EXTENT REASONABLY NECESSARY TO
ACCOMMODATE FUTURE COMPUTER DATA CENTER USE, AND THE DEMOLITION IS NOT CAUSE
FOR LOSS OF CERTIFICATION AS A SUSTAINABLE REDEVELOPMENT PROJECT. AN
EXISTING BUILDING THAT HAS BEEN SUBSTANTIALLY DEMOLISHED BEFORE CERTIFICATION
IS NOT ELIGIBLE TO QUALIFY AS A SUSTAINABLE REDEVELOPMENT PROJECT.

2. AN OWNER OR OPERATOR MAY EXPAND THE BOUNDARIES OF A CERTIFIED
COMPUTER DATA CENTER BY INCREASING THE SIZE OF AN EXISTING BUILDING WITHIN A
SUSTAINABLE REDEVELOPMENT PROJECT OR BY BUILDING ADDITIONAL IMPROVEMENTS IN
AN UNLIMITED MANNER TO THE EXTENT THE EXPANSION IS CONSTRUCTED ON THE SAME
PARCEL OF LAND ON WHICH THE ORIGINAL SUSTAINABLE REDEVELOPMENT PROJECT IS
LOCATED OR ON A CONTIGUOUS PARCEL, REGARDLESS OF WHETHER THE CONTIGUOUS
PARCEL WAS WITHIN THE ORIGINAL DESCRIPTION OF THE BOUNDARIES OF THE CERTIFIED
COMPUTER DATA CENTER. EXPANSION ACTIVITIES DO NOT PREVENT A FACILITY FROM
MAINTAINING ITS CLASSIFICATION AS A SUSTAINABLE REDEVELOPMENT PROJECT.

3. ALL CONSTRUCTION ACTIVITIES AND INVESTMENTS RELATED TO DEMOLITION
AND EXPANSION ACTIVITIES DESCRIBED IN THIS SUBSECTION ARE CONSIDERED TO BE A
PART OF THE SUSTAINABLE REDEVELOPMENT PROJECT.
This section does not allow a computer data center to do either of the following:

1. Generate electricity for resale purposes.
2. Generate, provide or sell electricity outside of the computer data center.

The owner or operator may include single entities or be a single individual or entity or multiple affiliated entities.

For the purposes of this section:

1. "Computer data center" means all or part of a facility that may be composed of multiple businesses or owners, that is or will be predominantly used to house working servers and that may have uninterruptible energy supply or generator backup power, or both, cooling systems, towers and other temperature control infrastructure.

2. "Computer data center equipment" means equipment that is used to outfit, operate or benefit a computer data center and component parts, installations, refreshments, replacements and upgrades to this equipment, regardless of whether any of the property is affixed to or incorporated into real property, and whether owned, leased or used by the owner or operator pursuant to a contract for the right to use the equipment, including:
   (a) All equipment necessary for the transformation, generation, distribution or management of electricity that is required to operate computer server equipment, including generators, uninterruptible energy supplies, conduit, gaseous fuel piping, cabling, duct banks, switches, switchboards, batteries and testing equipment.
   (b) All equipment necessary to cool and maintain a controlled environment for the operation of the computer server and other components of the computer data center, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters.
   (c) All water conservation systems, including facilities or mechanisms that are designed to collect, conserve and reuse water.
   (d) All enabling software, computer server equipment, chassis, networking equipment, switches, racks, cabling, trays and conduit.
   (e) All monitoring equipment and security systems.
   (f) Modular data centers and preassembled components of any item described in this paragraph, including components used in the manufacturing of modular data centers.
   (g) Other tangible personal property that is essential to the operations of a computer data center.

3. "CONTRIBUTING QUALIFIED COLOCATION TENANT" MEANS A QUALIFIED COLOCATION TENANT THAT IS AN OPERATOR OR THAT HAD ITS ANTICIPATED INVESTMENT INCLUDED IN AN APPLICATION FOR CERTIFICATION FOR THE PURPOSES OF SATISFYING SUBSECTION E, PARAGRAPH 1 OF THIS SECTION.
4. "EXISTING BUILDING" MEANS ANY EXISTING VERTICAL BUILDING
IMPROVEMENT LOCATED AT A FACILITY USED FOR COMMERCIAL PURPOSES AT THE TIME OF
ITS ACQUISITION BY AN OWNER, BUT NOT INCLUDING SINGLE FAMILY RESIDENTIAL
STRUCTURES, BARNs OR OTHER AGRICULTURAL STRUCTURES.

5. "Existing computer data center" means a computer data center
that is certified under subsection E, paragraph 2 of this section.

6. "Facility" means one or more parcels of land in this state and
any structures and personal property contained on the land.

7. "INVESTMENT" MEANS ALL MONIES SPENT TO ACQUIRE A FACILITY
REGARDLESS OF PRIOR USE AND ALL MONIES SPENT TO CONSTRUCT OR EXPAND A
COMPUTER DATA CENTER, INCLUDING COSTS OF LAND, BUILDINGS, IMPROVEMENTS,
MODULAR DATA CENTERS AND COMPUTER DATA CENTER EQUIPMENT. FOR NEW DATA
CENTERS, INVESTMENT INCLUDES ALL COSTS INCURRED ON OR AFTER A DATE THAT IS
THIRTY DAYS BEFORE THE DATE THE APPLICATION IS SUBMITTED TO THE AUTHORITY.

8. "Modular data center" means a portable system of information
technology, climate control, energy supply and energy distribution machinery,
equipment and related tangible personal property contained in an intermodal
freight container or similar structure.

9. "New computer data center" means a computer data center that is
certified under subsection E, paragraph 1 of this section.

10. "OPERATOR" MEANS ANY INDIVIDUAL OR ENTITY THAT OPERATES A COMPUTER
DATA CENTER AS AN OPERATOR OR LESSOR OR PURSUANT TO A CONTRACT WITH AN OWNER
OR LESSOR. OPERATOR INCLUDES A LICENSED PROPERTY MANAGEMENT COMPANY, A
PROPERTY LESSOR OR ANY OTHER INDIVIDUAL OR ENTITY RESPONSIBLE FOR THE
CONTROL, OVERSIGHT OR MAINTENANCE OF A FACILITY.

11. "Qualification period" means:

(a) With respect to the owner or operator of a computer data center, a
period of time beginning on the EFFECTIVE date of certification of the
computer data center's CERTIFICATION and expiring at the end of the
tenth full calendar year following the calendar year in which the owner or
operator filed the form for certification CONTAINING THE EFFECTIVE DATE,
except, if a computer data center is a sustainable redevelopment project,
qualification period means a period of time beginning on the EFFECTIVE date
of certification of the computer data center's CERTIFICATION and
expiring at the end of the twentieth full calendar year following the
calendar year in which the owner or operator filed the form for certification
CONTAINING THE EFFECTIVE DATE.

(b) With respect to the qualified colocation tenant of the owner or
operator of a computer data center certified under this section, a period of
time beginning on the date that the qualified colocation tenant enters into
an agreement concerning the use or occupancy of the computer data center and
expiring at the earlier of the expiration of the term of this THE agreement
or the tenth full calendar year following the calendar year in which the
qualified colocation tenant ENTERED into this THE agreement, except,
if a computer data center is a sustainable redevelopment project,
qualification period means a period of time beginning on the date that the
qualified colocation tenant enters into an agreement concerning the use or
occupancy of the computer data center and expiring at the earlier of the
expiration of the term of this agreement or the twentieth full calendar
year following the calendar year in which the tenant entered into this
agreement. The qualification period for a qualified colocation tenant
may not extend beyond the qualification period for the owner or operator of
the computer data center.

8. “Qualified colocation tenant” means an entity that contracts
with the owner, operator or another qualified colocation tenant of a
computer data center that is certified pursuant to this section to use or
occupy all or part of the computer data center for at least five hundred
kilowatts per month for a period of two or more years.

9. “Sustainable redevelopment project” means a computer data
center that satisfies the requirements in subsection E of this section and
that occupies or will occupy the structural improvements at an existing
facility that is either:
   (a) A newly constructed data center, with at least a two hundred
   million dollar investment, that attains certification under the energy star
   or green globes standard, the leadership in energy and environmental design
   green building rating standard developed by the United States green building
council or an equivalent green building standard and was not previously
   certified under these standards.
   (b) A data center that occupies an existing facility that either:
      (i) Was at least fifty percent vacant for six of the twelve months
      before the acquisition by purchase or lease of or with respect to the
      facility.
      (ii) Attains certification under the energy star or green globes
      standard, the leadership in energy and environmental design green building
      rating standard developed by the United States green building council or an
      equivalent green building standard and was not previously certified under
      these standards.

10. “Tax relief” means the deduction of the gross proceeds of sale
or gross income from the sale of qualified equipment as prescribed by section
42-5061, 42-5159 or 42-6004 that is installed in a computer data center.

Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:
42-5061. Retail classification; definitions
A. The retail classification is comprised of the business of selling
tangible personal property at retail. The tax base for the retail
classification is the gross proceeds of sales or gross income derived from
the business. The tax imposed on the retail classification does not apply to
the gross proceeds of sales or gross income from:
1. Professional or personal service occupations or businesses that involve sales or transfers of tangible personal property only as inconsequential elements.

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

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

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

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

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

7. The sale of stocks and bonds.

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

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25. Tangible personal property sold to:
   (a) A qualifying hospital as defined in section 42-5001.
   (b) A qualifying health care organization as defined in section
       42-5001 if the tangible personal property is used by the organization solely
       to provide health and medical related educational and charitable services.
   (c) A qualifying health care organization as defined in section
       42-5001 if the organization is dedicated to providing educational,
       therapeutic, rehabilitative and family medical education training for blind
       and visually impaired children and children with multiple disabilities from
       the time of birth to age twenty-one.
   (d) A qualifying community health center as defined in section
       42-5001.
   (e) A nonprofit charitable organization that has qualified under
       section 501(c)(3) of the internal revenue code and that regularly serves
       meals to the needy and indigent on a continuing basis at no cost.
   (f) For taxable periods beginning from and after June 30, 2001, a
       nonprofit charitable organization that has qualified under section 501(c)(3)
       of the internal revenue code and that provides residential apartment housing
       for low income persons over sixty-two years of age in a facility that
       qualifies for a federal housing subsidy, if the tangible personal property is
       used by the organization solely to provide residential apartment housing for
       low income persons over sixty-two years of age in a facility that qualifies
       for a federal housing subsidy.
   (g) A qualifying health sciences educational institution as defined in
       section 42-5001.
   (h) Any person representing or working on behalf of another person
       described in subdivisions (a) through (g) of this paragraph if the tangible
       personal property is incorporated or fabricated into a project described in
       section 42-5075, subsection O.

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

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

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

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

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

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

28. The sale of a motor vehicle to:

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

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

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

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

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

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.

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

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

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

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

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

39. Through December 31, 1994, personal property liquidation transactions, conducted by a personal property liquidator. From and after December 31, 1994, personal property liquidation transactions shall be taxable under this section provided that nothing in this subsection shall be construed to authorize the taxation of casual activities or transactions under this chapter. For the purposes of this paragraph:
(a) "Personal property liquidation transaction" means a sale of personal property made by a personal property liquidator acting solely on behalf of the owner of the personal property sold at the dwelling of the owner or on the death of any owner, on behalf of the surviving spouse, if any, any devisee or heir or the personal representative of the estate of the deceased, if one has been appointed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:
   (a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.
   (b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

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

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

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

57. Computer data center equipment purchased by the owner,
operator or qualified colocation tenant of the A computer data center THAT IS
CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an
authorized agent of the owner, operator or qualified colocation tenant during
the qualification period for use in THE QUALIFIED computer data center
that is certified by the Arizona commerce authority under section 41-1519.
To qualify for this deduction, at the time of purchase, the owner, operator
or qualified colocation tenant must present to the retailer its certificate
that is issued pursuant to section 41-1519 and that establishes its
qualification for the deduction. For the purposes of this paragraph,
"computer data center", "computer data center equipment", "qualification
period" and "qualified colocation tenant" have the same meanings prescribed
in section 41-1519.

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

59. Sales of tangible personal property incorporated or fabricated into
a project described in section 42-5075, subsection O, that is located within
the exterior boundaries of an Indian reservation for which the owner, as
defined in section 42-5075, of the project is an Indian tribe or an
affiliated Indian. For the purposes of this paragraph:
(a) "Affiliated Indian" means an individual native American Indian who
is duly registered on the tribal rolls of the Indian tribe for whose benefit
the Indian reservation was established.
(b) "Indian reservation" means all lands that are within the limits of
areas set aside by the United States for the exclusive use and occupancy of
an Indian tribe by treaty, law or executive order and that are recognized as
Indian reservations by the United States department of the interior.
(c) "Indian tribe" means any organized nation, tribe, band or
community that is recognized as an Indian tribe by the United States
department of the interior and includes any entity formed under the laws of
the Indian tribe.

B. In addition to the deductions from the tax base prescribed by
subsection A of this section, the gross proceeds of sales or gross income
derived from sales of the following categories of tangible personal property
shall be deducted from the tax base:
1. Machinery, or equipment, used directly in manufacturing,
processing, fabricating, job printing, refining or metallurgical operations.
The terms "manufacturing", "processing", "fabricating", "job printing",
"refining" and "metallurgical" as used in this paragraph refer to and include
those operations commonly understood within their ordinary meaning.
"Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

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

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

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

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

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

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.
   (b) Any foreign government.
   (c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

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

9. Railroad rolling stock, rails, ties and signal control equipment

10. Machinery or equipment used directly to drill for oil or gas or

11. Buses or other urban mass transit vehicles that are used directly


13. New machinery and equipment consisting of tractors, tractor-drawn

14. Machinery or equipment used in research and development. For the

15. Tangible personal property that is used by either of the following

(a) Any direct broadcast satellite television or data transmission

service that operates pursuant to 47 Code of Federal Regulations part 25.
(b) Any satellite television or data transmission facility, if both of
the following conditions are met:

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

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

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

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

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

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

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

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

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

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

(a) Repair or replacement parts purchased for the machinery or
equipment described in this paragraph.
(b) Machinery or equipment purchased to replace machinery or equipment
for which an exemption was previously claimed and taken under this paragraph.
(c) Any machinery or equipment purchased after the television station
has ceased analog broadcasting, or purchased after November 1, 2009,
whichever occurs first.

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

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

1. Expendable materials. For the purposes of this paragraph,
expendable materials do not include any of the categories of tangible
personal property specified in subsection B of this section regardless of the
cost or useful life of that property.
2. Janitorial equipment and hand tools.
3. Office equipment, furniture and supplies.
4. Tangible personal property used in selling or distributing
activities, other than the telecommunications transmissions described in
subsection B, paragraph 15 of this section.
5. Motor vehicles required to be licensed by this state, except buses
or other urban mass transit vehicles specifically exempted pursuant to
subsection B, paragraph 11 of this section, without regard to the use of such
motor vehicles.
6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

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

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

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

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

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

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

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
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   I. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:
      1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
      2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.
      3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.
      4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.
   J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.
   K. The department shall require every person claiming a deduction provided by subsection I or J of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.
   L. In computing the tax base, gross proceeds of sales or gross income does not include:
      1. A manufacturer’s cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer’s right in the rebate to the retailer.
      2. The waste tire disposal fee imposed pursuant to section 44-1302.
   M. There shall be deducted from the tax base the amount received from sales of solar energy devices. The retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.
   N. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer.
as a result of the customer entering into or continuing a contract for the telecommunications services.

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

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

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

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

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

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

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

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

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

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

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

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

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

V. For the purposes of this section:

1. "Aircraft" includes:
   (a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.
   (b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

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

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

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

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

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

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

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

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

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

Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

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

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

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

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

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

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

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

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

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

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

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

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

12. Materials that are purchased by or for publicly funded libraries
including school district libraries, charter school libraries, community
college libraries, state university libraries or federal, state, county or
municipal libraries for use by the public as follows:
   (a) Printed or photographic materials, beginning August 7, 1985.
   (b) Electronic or digital media materials, beginning July 17, 1994.

13. Tangible personal property purchased by:
   (a) A hospital organized and operated exclusively for charitable
       purposes, no part of the net earnings of which inures to the benefit of any
       private shareholder or individual.
   (b) A hospital operated by this state or a political subdivision of
       this state.
(c) A licensed nursing care institution or a licensed residential care institution or a residential care facility operated in conjunction with a licensed nursing care institution or a licensed kidney dialysis center, which provides medical services, nursing services or health related services and is not used or held for profit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Tangible personal property sold by:

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

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

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

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

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

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.
20. Hearing aids as defined in section 36-1901.

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

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

23. Items purchased with United States department of agriculture food
    stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
    958) or food instruments issued under section 17 of the child nutrition act
    section 1786).

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

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

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

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

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

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

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

31. Coal, petroleum, coke, natural gas, virgin fuel oil and
    electricity purchased by a qualified environmental technology manufacturer,
    producer or processor as defined in section 41-1514.02 and directly used or
    consumed in the generation or provision of on-site power or energy solely for
    environmental technology manufacturing, producing or processing or
    environmental protection. This paragraph shall apply for twenty full
    consecutive calendar or fiscal years from the date the first paper
    manufacturing machine is placed in service. In the case of an environmental
    technology manufacturer, producer or processor who does not manufacture
    paper, the time period shall begin with the date the first manufacturing,
    processing or production equipment is placed in service.
32. Motor vehicles that are removed from inventory by a motor vehicle
dealer as defined in section 28-4301 and that are provided to:
   (a) Charitable or educational institutions that are exempt from
taxation under section 501(c)(3) of the internal revenue code.
   (b) Public educational institutions.
   (c) State universities or affiliated organizations of a state
university if no part of the organization's net earnings inures to the
benefit of any private shareholder or individual.
33. Natural gas or liquefied petroleum gas used to propel a motor
vehicle.
34. Machinery, equipment, technology or related supplies that are only
useful to assist a person with a physical disability as defined in section
46-191 or a person who has a developmental disability as defined in section
36-551 or has a head injury as defined in section 41-3201 to be more
independent and functional.
35. Liquid, solid or gaseous chemicals used in manufacturing,
processing, fabricating, mining, refining, metallurgical operations, research
and development and, beginning on January 1, 1999, printing, if using or
consuming the chemicals, alone or as part of an integrated system of
chemicals, involves direct contact with the materials from which the product
is produced for the purpose of causing or permitting a chemical or physical
change to occur in the materials as part of the production process. This
paragraph does not include chemicals that are used or consumed in activities
such as packaging, storage or transportation but does not affect any
exemption for such chemicals that is otherwise provided by this section. For
the purposes of this paragraph, "printing" means a commercial printing
operation and includes job printing, engraving, embossing, copying and
bookbinding.
36. Food, drink and condiment purchased for consumption within the
premises of any prison, jail or other institution under the jurisdiction of
the state department of corrections, the department of public safety, the
department of juvenile corrections or a county sheriff.
37. A motor vehicle and any repair and replacement parts and tangible
personal property becoming a part of such motor vehicle sold to a motor
carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
and who is engaged in the business of leasing or renting such property.
38. Tangible personal property that is or directly enters into and
becomes an ingredient or component part of cards used as prescription plan
identification cards.
39. Overhead materials or other tangible personal property that is
used in performing a contract between the United States government and a
manufacturer, modifier, assembler or repairer, including property used in
performing a subcontract with a government contractor who is a manufacturer,
modifier, assembler or repairer, to which title passes to the government
under the terms of the contract or subcontract. For the purposes of this paragraph:

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

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

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

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

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

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

44. Alternative fuel vehicles if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional diesel fuel motor vehicle to convert the vehicle to operate on an alternative fuel, as defined in section 1-215.
45. Gas diverted from a pipeline, by a person engaged in the business of:

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

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

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

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

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

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

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

(a) “Application services” means software applications provided remotely using hypertext transfer protocol or another network protocol.

(b) “Curriculum design or enhancement” means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

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

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

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

54. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the A computer data center THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in THE QUALIFIED computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, “computer data center”, “computer data center equipment”, “qualification period” and “qualified colocation tenant” have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:
   (a) The transfer of title or possession of the coal is for the purpose of refining the coal.
   (b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, “coal refining process” means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. Tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:
   (a) “Affiliated Indian” means an individual native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.
   (b) “Indian reservation” means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.
   (c) “Indian tribe” means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:
   1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations.
The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning.

"Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.

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

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

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

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

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

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate under federal aviation regulations (14 Code of Federal Regulations part 121) or a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.
   (b) Any foreign government, or sold to persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state.

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.
9. Rolling stock, rails, ties and signal control equipment used directly to transport persons or property.

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

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


13. New machinery and equipment consisting of tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for commercial production of agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:
   (a) "New machinery and equipment" means machinery or equipment that has never been sold at retail except pursuant to leases or rentals that do not total two years or more.
   (b) "Self-powered implements" includes machinery and equipment that are electric-powered.

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

15. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:
   (a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.
   (b) Any satellite television or data transmission facility, if both of the following conditions are met:
(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.

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

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

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

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

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

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

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.
19. Machinery and equipment that are used in the commercial production
of livestock, livestock products or agricultural, horticultural, viticultural
or floricultural crops or products in this state and that are used directly
and primarily to prevent, monitor, control or reduce air, water or land
pollution.

20. Machinery or equipment that enables a television station to
originate and broadcast or to receive and broadcast digital television
signals and that was purchased to facilitate compliance with the
telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
Code section 336) and the federal communications commission order issued
April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
not exempt any of the following:
   (a) Repair or replacement parts purchased for the machinery or
equipment described in this paragraph.
   (b) Machinery or equipment purchased to replace machinery or equipment
for which an exemption was previously claimed and taken under this paragraph.
   (c) Any machinery or equipment purchased after the television station
has ceased analog broadcasting, or purchased after November 1, 2009,
whichever occurs first.

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

C. The exemptions provided by subsection B of this section do not
include:
   1. Expendable materials. For the purposes of this paragraph,
expendable materials do not include any of the categories of tangible
personal property specified in subsection B of this section regardless of the
cost or useful life of that property.
   2. Janitorial equipment and hand tools.
   3. Office equipment, furniture and supplies.
   4. Tangible personal property used in selling or distributing
activities, other than the telecommunications transmissions described in
subsection B, paragraph 15 of this section.
   5. Motor vehicles required to be licensed by this state, except buses
or other urban mass transit vehicles specifically exempted pursuant to
subsection B, paragraph 11 of this section, without regard to the use of such
motor vehicles.
   6. Shops, buildings, docks, depots and all other materials of whatever
kind or character not specifically included as exempt.
   7. Motors and pumps used in drip irrigation systems.
   8. Machinery and equipment or tangible personal property used by a
contractor in the performance of a contract.
D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

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

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

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

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

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

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

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

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

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

   (b) "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.
(c) "Principally engaged" means at least fifty-one percent of the business is a manufacturing or smelting operation.

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

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

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

1. "Aircraft" includes:

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

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

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

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

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

42-6004. Exemption from municipal tax; definitions

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

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

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

3. Sales of warranty or service contracts.

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

5. Interest on finance contracts.

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

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

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

9. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:
   (a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.
   (b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

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


12. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:
   (a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.
   (b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.
   (c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.
   (d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.
   (e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. 15. The gross proceeds of sales or gross income derived from a
contract with the owner of real property or improvements to real property for
the maintenance, repair, replacement or alteration of existing property,
except as specified in this paragraph. The gross proceeds of sales or gross
income derived from a de minimis amount of modification activity does not
subject the contract or any part of the contract to tax. For the purposes of
this paragraph:

(a) Each contract is independent of another contract, except that any
change order that directly relates to the scope of work of the original
contract shall be treated the same as the original contract under this
paragraph. Regardless of the amount of modification activities
included in the change order. If a change order does not directly relate to
the scope of work of the original contract, the change order shall be treated
as a new contract, with the tax treatment of any subsequent change order to
follow the tax treatment of the contract to which the scope of work of the
subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section
42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily
involves surface or subsurface improvements to land and that is subject to
title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
contract also includes vertical improvements. If a city or town imposes a
tax on contracts that are subject to procurement processes under those
provisions, the city or town shall include in the request for proposals a
notice to bidders when those projects are subject to the tax. This
subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television
improvement districts, community park maintenance districts, cotton pest
control districts, hospital districts, pest abatement districts, health
service districts, agricultural improvement districts, county free library
districts, county jail districts, county stadium districts, special health
care districts, public health services districts, theme park districts,
regional attraction districts or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this
subdivision if the district does not substantially engage in the
1 modification, maintenance, repair, replacement or alteration of surface or
2 subsurface improvements to land.
3  17. Monitoring services relating to an alarm system as defined in
4 section 32-101.
5  18. Tangible personal property, job printing or publications sold
6 to or purchased by, or tangible personal property leased, rented or licensed
7 for use to or by, a qualifying health sciences educational institution as
8 defined in section 42-5001.
9  19. The transfer of title or possession of coal back and forth
10 between an owner or operator of a power plant and a person who is responsible
11 for refining coal if both of the following apply:
12   (a) The transfer of title or possession of the coal is for the purpose
13 of refining the coal.
14   (b) The title or possession of the coal is transferred back to the
15 owner or operator of the power plant after completion of the coal refining
16 process. For the purposes of this subdivision, “coal refining process” means
17 the application of a coal additive system that aids the reduction of power
18 plant emissions during the combustion of coal and the treatment of flue gas.
19  20. The gross proceeds of sales or gross income from sales of low
20 or reduced cost articles of food or drink to eligible elderly or homeless
21 persons or persons with a disability by a business subject to tax under
22 section 42-5074 that contracts with the department of economic security and
23 that is approved by the food and nutrition service of the United States
24 department of agriculture pursuant to the supplemental nutrition assistance
25 program established by the food and nutrition act of 2008 (P.L. 110-246; 122
26 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the
27 purchases are made with the benefits issued pursuant to the supplemental
28 nutrition assistance program.
29  21. Tangible personal property incorporated or fabricated into a
30 project described in paragraph 16 of this subsection, that is located
31 within the exterior boundaries of an Indian reservation for which the owner,
32 as defined in section 42-5075, of the project is an Indian tribe or an
33 affiliated Indian. For the purposes of this paragraph:
34   (a) “Affiliated Indian” means an individual native American Indian who
35 is duly registered on the tribal rolls of the Indian tribe for whose benefit
36 the Indian reservation was established.
37   (b) “Indian reservation” means all lands that are within the limits of
38 areas set aside by the United States for the exclusive use and occupancy of
39 an Indian tribe by treaty, law or executive order and that are recognized as
40 Indian reservations by the United States department of the interior.
41   (c) “Indian tribe” means any organized nation, tribe, band or
42 community that is recognized as an Indian tribe by the United States
43 department of the interior and includes any entity formed under the laws of
44 that Indian tribe.
21. The charges for the leasing or renting of space to make attachments to utility poles as follows:

(a) By a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

(b) To a person that is engaged in the business of providing or furnishing electrical services or telecommunication services or that is a cable operator.

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

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

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

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

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

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

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

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

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

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.
(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

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

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

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.
2. The waste tire disposal fee imposed pursuant to section 44-1302.

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

G. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed by IN section 9-505.
2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.
3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or any other electromagnetic means.
4. "Utility pole" means any wooden, metal or other pole used for utility purposes and the pole's appurtenances that are attached or authorized for attachment by the person controlling the pole.

Sec. 5. Retroactivity
Sections 42-5061, 42-5159 and 42-6004, Arizona Revised Statutes, as amended by this act, are effective retroactively to from and after September 12, 2013.