

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

HOUSE BILL 2676

AN ACT

AMENDING SECTIONS 42-5009, 42-5063, 42-5159 AND 42-6012, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5009, Arizona Revised Statutes, is amended to
3 read:

4 42-5009. Certificates establishing deductions: liability for
5 making false certificate

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

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

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

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

25 C. The department may prescribe a form for the certificate described
26 in subsection A of this section. Under such rules as it may prescribe, the
27 department may also describe transactions with respect to which a person is
28 not entitled to rely solely on the information contained in the certificate
29 provided for in subsection A of this section but must instead obtain such
30 additional information as required by the rules in order to be entitled to
31 the deduction.

32 D. If a seller is entitled to a deduction by complying with subsection
33 A of this section, the department may require the purchaser that caused the
34 execution of the certificate to establish the accuracy and completeness of
35 the information required to be contained in the certificate that would
36 entitle the seller to the deduction. If the purchaser cannot establish the
37 accuracy and completeness of the information, the purchaser is liable in an
38 amount equal to any tax, penalty and interest that the seller would have been
39 required to pay under this article if the seller had not complied with
40 subsection A of this section. Payment of the amount under this subsection
41 exempts the purchaser from liability for any tax imposed under article 4 of
42 this chapter. The amount shall be treated as tax revenues collected from the
43 seller in order to designate the distribution base for purposes of section
44 42-5029.

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

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

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

1 limitation that the department determines and that does not exceed the time
2 limitations pursuant to section 42-1104.

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

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

13 2. A copy of the nonresident registration permit authorized by section
14 28-2154.

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

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

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

38 J. To establish entitlement to the deduction described in section
39 42-5061, subsection A, paragraph 44, a public consignment auction dealer as
40 defined in section 28-4301 shall submit the valid certificate prescribed by
41 subsection H of this section to the department and retain a copy for its
42 records.

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

4 L. The department shall prescribe a form for a certificate to be used
5 by a person that is not subject to tax under section 42-5075 when the person
6 is engaged by a contractor that is subject to tax under section 42-5075 for a
7 project that is taxable under section 42-5075. The certificate permits the
8 person purchasing tangible personal property to be incorporated or fabricated
9 by the person into any real property, structure, project, development or
10 improvement to provide documentation to a retailer that the sale of tangible
11 personal property qualifies for the deduction under section 42-5061,
12 subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain
13 the certificate from the department and shall provide a copy to any such
14 person working on the project. The prime contractor shall obtain a new
15 certificate for each project to which this subsection applies. For the
16 purposes of this subsection, the following apply:

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

21 2. The department shall issue the certificate to the prime contractor
22 on receiving sufficient documentation to establish that the prime contractor
23 meets the requirements of this subsection.

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

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

38 N. A VENDOR WHO HAS REASON TO BELIEVE THAT A CERTIFICATE PRESCRIBED BY
39 THIS SECTION IS NOT ACCURATE OR COMPLETE WILL NOT BE RELIEVED OF THE BURDEN
40 OF PROVING ENTITLEMENT TO THE EXEMPTION. A VENDOR THAT ACCEPTS A CERTIFICATE
41 IN GOOD FAITH WILL BE RELIEVED OF THE BURDEN OF PROOF AND THE PURCHASER MAY
42 BE REQUIRED TO ESTABLISH THE ACCURACY OF THE CLAIMED EXEMPTION. IF THE
43 PURCHASER CANNOT ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION
44 PROVIDED IN THE CERTIFICATE, THE PURCHASER IS LIABLE FOR AN AMOUNT EQUAL TO

1 THE TRANSACTION PRIVILEGE TAX, PENALTY AND INTEREST THAT THE VENDOR WOULD
2 HAVE BEEN REQUIRED TO PAY IF THE VENDOR HAD NOT ACCEPTED THE CERTIFICATE.

3 Sec. 2. Section 42-5063, Arizona Revised Statutes, is amended to read:
4 42-5063. Utilities classification; definitions

5 A. The utilities classification is comprised of the business of:

6 1. Producing and furnishing or furnishing to consumers natural or
7 artificial gas and water.

8 2. Providing to retail electric customers ancillary services, electric
9 distribution services, electric generation services, electric transmission
10 services and other services related to providing electricity.

11 B. The utilities classification does not include:

12 1. Sales of ancillary services, electric distribution services,
13 electric generation services, electric transmission services and other
14 services related to providing electricity, gas or water to a person who
15 resells the services.

16 2. Sales of natural gas or liquefied petroleum gas used to propel a
17 motor vehicle.

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

21 4. Sales of ancillary services, electric distribution services,
22 electric generation services, electric transmission services and other
23 services that are related to providing electricity to a retail electric
24 customer who is located outside this state for use outside this state if the
25 electricity is delivered to a point of sale outside this state.

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

33 6. The leasing or renting of space to make attachments to utility
34 poles as follows:

35 (a) By a person that is engaged in business under this section.

36 (b) To a person that is engaged in business under this section or
37 section 42-5064 or that is a cable operator.

38 C. The tax base for the utilities classification is the gross proceeds
39 of sales or gross income derived from the business, but the following shall
40 be deducted from the tax base:

41 1. Revenues received by a municipally owned utility in the form of
42 fees charged to persons constructing residential, commercial or industrial
43 developments or connecting residential, commercial or industrial developments
44 to a municipal utility system or systems if the fees are segregated and used

1 only for capital expansion, system enlargement or debt service of the utility
2 system or systems.

3 2. Revenues received by any person or persons owning a utility system
4 in the form of reimbursement or contribution compensation for property and
5 equipment installed to provide utility access to, on or across the land of an
6 actual utility consumer if the property and equipment become the property of
7 the utility. This deduction shall not exceed the value of such property and
8 equipment.

9 3. Gross proceeds of sales or gross income derived from sales to:

10 (a) Qualifying hospitals as defined in section 42-5001.

11 (b) A qualifying health care organization as defined in section
12 42-5001 if the tangible personal property is used by the organization solely
13 to provide health and medical related educational and charitable services.

14 4. The portion of gross proceeds of sales or gross income that is
15 derived from sales to a qualified environmental technology manufacturer,
16 producer or processor as defined in section 41-1514.02 of a utility product
17 and that is used directly in environmental technology manufacturing,
18 producing or processing. This paragraph shall apply for twenty full
19 consecutive calendar or fiscal years from the date the first paper
20 manufacturing machine is placed in service. In the case of a qualified
21 environmental technology manufacturer, producer or processor who does not
22 manufacture paper, the time period shall begin with the date the first
23 manufacturing, processing or production equipment is placed in service.

24 5. The portion of gross proceeds of sales or gross income attributable
25 to transfers of electricity by any retail electric customer owning a solar
26 photovoltaic energy generating system to an electric distribution system, if
27 the electricity transferred is generated by the customer's system.

28 6. Gross proceeds of sales or gross income derived from sales of
29 electricity or natural gas to a ~~business that is principally engaged~~
30 ~~in QUALIFIED~~ manufacturing or smelting ~~operations and that uses at least~~
31 ~~fifty one percent of the electricity or natural gas in the manufacturing or~~
32 ~~smelting operations~~ BUSINESS. A UTILITY THAT CLAIMS THIS DEDUCTION SHALL
33 REPORT EACH MONTH, ON A FORM PRESCRIBED BY THE DEPARTMENT, THE NAME AND
34 ADDRESS OF EACH QUALIFIED MANUFACTURING OR SMELTING BUSINESS FOR WHICH THIS
35 DEDUCTION IS TAKEN. This paragraph does not apply to gas transportation
36 services. For the purposes of this paragraph:

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

41 (b) "Manufacturing" means the performance as a business of an
42 integrated series of operations that places tangible personal property in a
43 form, composition or character different from that in which it was acquired
44 and transforms it into a different product with a distinctive name, character

1 or use. Manufacturing does not include ~~processing, fabricating,~~ job
2 printing, PUBLISHING, PACKAGING, mining, generating electricity or operating
3 a restaurant.

4 ~~(c) "Principally engaged" means at least fifty one percent of the~~
5 ~~business is a manufacturing or smelting operation.~~

6 (c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE
7 FOLLOWING:

8 (i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS
9 STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED
10 PRODUCTS WILL BE EXPORTED OUT-OF-STATE FOR INCORPORATION INTO ANOTHER PRODUCT
11 OR SOLD OUT-OF-STATE FOR A FINAL SALE.

12 (ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS
13 INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR
14 SMELTED BY THE BUSINESS.

15 (iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE
16 FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
17 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

18 (iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS
19 WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
20 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

21 (v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF
22 ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS
23 AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY
24 RELATED TO MANUFACTURING OR SMELTING.

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

27 7. Gross proceeds of sales or gross income derived from sales of
28 electricity or natural gas to a business that operates an international
29 operations center in this state and that is certified by the Arizona commerce
30 authority pursuant to section 41-1520.

31 D. For the purposes of this section:

32 1. "Ancillary services" means those services so designated in federal
33 energy regulatory commission order 888 adopted in 1996 that include the
34 services necessary to support the transmission of electricity from resources
35 to loads while maintaining reliable operation of the transmission system
36 according to good utility practice.

37 2. "Cable operator" has the same meaning prescribed in section 9-505.

38 3. "Electric distribution service" means distributing electricity to
39 retail electric customers through the use of electric distribution
40 facilities.

41 4. "Electric generation service" means providing electricity for sale
42 to retail electric customers but excluding electric distribution or
43 transmission services.

1 5. "Electric transmission service" means transmitting electricity to
2 retail electric customers or to electric distribution facilities so
3 classified by the federal energy regulatory commission or, to the extent
4 permitted by law, so classified by the Arizona corporation commission.

5 6. "Other services" includes metering, meter reading services, billing
6 and collecting services.

7 7. "Retail electric customer" means a person who purchases electricity
8 for that person's own use, including use in that person's trade or business
9 and not for resale, redistribution or retransmission.

10 8. "Utility pole" means any wooden, metal or other pole used for
11 utility purposes and the pole's appurtenances that are attached or authorized
12 for attachment by the person controlling the pole.

13 Sec. 3. Section 42-5159, Arizona Revised Statutes, is amended to read:
14 42-5159. Exemptions

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

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

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

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

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

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

42 6. Tangible personal property brought into this state by an individual
43 who was a nonresident at the time the property was purchased for storage, use
44 or consumption by the individual if the first actual use or consumption of

1 the property was outside this state, unless the property is used in
2 conducting a business in this state.

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

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

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

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

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

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

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

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

31 13. Tangible personal property purchased by:

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

35 (b) A hospital operated by this state or a political subdivision of
36 this state.

37 (c) A licensed nursing care institution or a licensed residential care
38 institution or a residential care facility operated in conjunction with a
39 licensed nursing care institution or a licensed kidney dialysis center, which
40 provides medical services, nursing services or health related services and is
41 not used or held for profit.

42 (d) A qualifying health care organization, as defined in section
43 42-5001, if the tangible personal property is used by the organization solely
44 to provide health and medical related educational and charitable services.

1 (e) A qualifying health care organization as defined in section
2 42-5001 if the organization is dedicated to providing educational,
3 therapeutic, rehabilitative and family medical education training for blind
4 and visually impaired children and children with multiple disabilities from
5 the time of birth to age twenty-one.

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

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

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

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

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

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

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

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

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

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

41 (m) For taxable periods beginning from and after June 30, 2001, a
42 nonprofit charitable organization that has qualified under section 501(c)(3)
43 of the internal revenue code and that provides residential apartment housing
44 for low income persons over sixty-two years of age in a facility that

1 qualifies for a federal housing subsidy, if the tangible personal property is
2 used by the organization solely to provide residential apartment housing for
3 low income persons over sixty-two years of age in a facility that qualifies
4 for a federal housing subsidy.

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

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

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

16 15. Tangible personal property sold by:

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

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

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

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

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

37 18. Prescription eyeglasses and contact lenses.

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

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

40 21. Durable medical equipment that has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32, chapter
43 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily

1 used to serve a medical purpose, is generally not useful to a person in the
2 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

21 27. Lottery tickets or shares purchased pursuant to title 5, chapter
22 5.1, article 1.

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

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

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

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

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

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

1 (b) Public educational institutions.

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

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

7 34. Machinery, equipment, technology or related supplies that are only
8 useful to assist a person with a physical disability as defined in section
9 46-191 or a person who has a developmental disability as defined in section
10 36-551 or has a head injury as defined in section 41-3201 to be more
11 independent and functional.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (b) "Curriculum design or enhancement" means planning, implementing or
29 reporting on courses of study, lessons, assignments or other learning
30 activities.

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

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

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

1 kilowatt hour equivalent of conventional energy resources displaced by
2 distributed renewable energy resources.

3 54. Computer data center equipment purchased by the owner, operator or
4 qualified colocation tenant of the computer data center or an authorized
5 agent of the owner, operator or qualified colocation tenant during the
6 qualification period for use in a computer data center that is certified by
7 the Arizona commerce authority under section 41-1519. To qualify for this
8 deduction, at the time of purchase, the owner, operator or qualified
9 colocation tenant must present to the retailer its certificate that is issued
10 pursuant to section 41-1519 and that establishes its qualification for the
11 deduction. For the purposes of this paragraph, "computer data center",
12 "computer data center equipment", "qualification period" and "qualified
13 colocation tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

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

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

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

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

42 1. Machinery, or equipment, used directly in manufacturing,
43 processing, fabricating, job printing, refining or metallurgical operations.
44 The terms "manufacturing", "processing", "fabricating", "job printing",

1 "refining" and "metallurgical" as used in this paragraph refer to and include
2 those operations commonly understood within their ordinary meaning.
3 "Metallurgical operations" includes leaching, milling, precipitating,
4 smelting and refining.

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

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

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

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

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

30 7. Aircraft, navigational and communication instruments and other
31 accessories and related equipment sold to:

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

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

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

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

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

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

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

14 13. New machinery and equipment consisting of tractors, tractor-drawn
15 implements, self-powered implements, machinery and equipment necessary for
16 extracting milk, and machinery and equipment necessary for cooling milk and
17 livestock, and drip irrigation lines not already exempt under paragraph 6 of
18 this subsection and that are used for commercial production of agricultural,
19 horticultural, viticultural and floricultural crops and products in this
20 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 19. Machinery and equipment that are used in the commercial production
2 of livestock, livestock products or agricultural, horticultural, viticultural
3 or floricultural crops or products in this state and that are used directly
4 and primarily to prevent, monitor, control or reduce air, water or land
5 pollution.

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

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

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

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

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

26 C. The exemptions provided by subsection B of this section do not
27 include:

28 1. Expendable materials. For the purposes of this paragraph,
29 expendable materials do not include any of the categories of tangible
30 personal property specified in subsection B of this section regardless of the
31 cost or useful life of that property.

32 2. Janitorial equipment and hand tools.

33 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 1. A ~~business that is principally engaged in~~ QUALIFIED manufacturing
33 or smelting ~~operations and that uses at least fifty-one percent of the~~
34 ~~electricity or natural gas in the manufacturing or smelting operations~~
35 BUSINESS. A UTILITY THAT CLAIMS THIS DEDUCTION SHALL REPORT EACH MONTH, ON A
36 FORM PRESCRIBED BY THE DEPARTMENT, THE NAME AND ADDRESS OF EACH QUALIFIED
37 MANUFACTURING OR SMELTING BUSINESS FOR WHICH THIS DEDUCTION IS TAKEN. This
38 paragraph does not apply to gas transportation services. For the purposes of
39 this paragraph:

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

1 (b) "Manufacturing" means the performance as a business of an
2 integrated series of operations that places tangible personal property in a
3 form, composition or character different from that in which it was acquired
4 and transforms it into a different product with a distinctive name, character
5 or use. Manufacturing does not include ~~processing, fabricating,~~ job
6 printing, PUBLISHING, PACKAGING, mining, generating electricity or operating
7 a restaurant.

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

10 (c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE
11 FOLLOWING:

12 (i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS
13 STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED
14 PRODUCTS WILL BE EXPORTED OUT-OF-STATE FOR INCORPORATION INTO ANOTHER PRODUCT
15 OR SOLD OUT-OF-STATE FOR A FINAL SALE.

16 (ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS
17 INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR
18 SMELTED BY THE BUSINESS.

19 (iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE
20 FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
21 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

22 (iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS
23 WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
24 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

25 (v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF
26 ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS
27 AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY
28 RELATED TO MANUFACTURING OR SMELTING.

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

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

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

35 1. "Aircraft" includes:

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

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

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

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

5 Sec. 4. Section 42-6012, Arizona Revised Statutes, is amended to read:
6 42-6012. Municipal transaction privilege tax: sales of
7 electricity or natural gas

8 A city or town that levies a transaction privilege, sales, gross
9 receipts, use, franchise or other similar fee or tax, however denominated, on
10 the business of producing, providing or furnishing electricity, electric
11 lights, current, power or natural gas shall either tax or exempt in whole the
12 gross proceeds of sales or gross income from sales by those businesses to
13 either of the following businesses:

14 1. ~~Businesses that use at least fifty-one percent of the electricity,~~
15 ~~electric lights, current, power or natural gas in~~ A QUALIFIED manufacturing
16 or smelting ~~operation~~ BUSINESS located in that city or town. A UTILITY THAT
17 CLAIMS THIS DEDUCTION SHALL REPORT EACH MONTH, ON A FORM PRESCRIBED BY THE
18 DEPARTMENT, THE NAME AND ADDRESS OF EACH QUALIFIED MANUFACTURING OR SMELTING
19 BUSINESS FOR WHICH THIS DEDUCTION IS TAKEN. This paragraph does not apply to
20 gas transportation services. For the purposes of this paragraph:

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

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

31 (c) "QUALIFIED MANUFACTURING OR SMELTING BUSINESS" MEANS ONE OF THE
32 FOLLOWING:

33 (i) A BUSINESS THAT MANUFACTURES OR SMELTS TANGIBLE PRODUCTS IN THIS
34 STATE, OF WHICH AT LEAST FIFTY-ONE PERCENT OF THE MANUFACTURED OR SMELTED
35 PRODUCTS WILL BE EXPORTED OUT-OF-STATE FOR INCORPORATION INTO ANOTHER PRODUCT
36 OR SOLD OUT-OF-STATE FOR A FINAL SALE.

37 (ii) A BUSINESS THAT DERIVES AT LEAST FIFTY-ONE PERCENT OF ITS GROSS
38 INCOME FROM THE SALE OF MANUFACTURED OR SMELTED PRODUCTS MANUFACTURED OR
39 SMELTED BY THE BUSINESS.

40 (iii) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF ITS SQUARE
41 FOOTAGE IN THIS STATE FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
42 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

1 (iv) A BUSINESS THAT EMPLOYS AT LEAST FIFTY-ONE PERCENT OF ITS
2 WORKFORCE IN THIS STATE IN MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES
3 DIRECTLY RELATED TO MANUFACTURING OR SMELTING.

4 (v) A BUSINESS THAT USES AT LEAST FIFTY-ONE PERCENT OF THE VALUE OF
5 ITS CAPITALIZED ASSETS IN THIS STATE, AS REFLECTED ON THE BUSINESS'S BOOKS
6 AND RECORDS, FOR MANUFACTURING OR SMELTING AND BUSINESS ACTIVITIES DIRECTLY
7 RELATED TO MANUFACTURING OR SMELTING.

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

10 2. Businesses that operate an international operations center in this
11 state and that are certified by the Arizona commerce authority pursuant to
12 section 41-1520.

13 Sec. 5. Effective date

14 Sections 42-5063, 42-5159 and 42-6012, Arizona Revised Statutes, as
15 amended by this act, are effective from and after December 31, 2016.