

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 203
HOUSE BILL 2373

AN ACT

AMENDING SECTIONS 41-1520, 42-1108, 42-1124, 42-1125, 42-1126, 42-1129, 42-1251, 42-2075, 42-3401, 42-6013, 42-6209, 43-222 AND 43-1022, ARIZONA REVISED STATUTES; REPEALING SECTION 43-1083.04, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1147, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 106, SECTION 1; AMENDING SECTION 43-1164.05, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1520, Arizona Revised Statutes, is amended to
3 read:

4 41-1520. International operations center; utility relief;
5 certification; revocation; definitions

6 A. ~~From and after June 30, 2015,~~ Utility relief is allowed for the
7 owner or operator of an international operations center that is certified
8 pursuant to this section.

9 B. To qualify for the utility relief, the owner or operator must
10 submit to the authority an application in a form prescribed by the
11 authority that includes all of the following:

12 1. The owner's or operator's name, address and telephone number.

13 2. The address of the site where the facility is or will be
14 located, including, if applicable, information sufficient to identify the
15 specific portion or portions of the facility comprising the international
16 operations center.

17 C. Within sixty days after receiving a complete and correct
18 application, the authority shall review the application and either issue a
19 written certification that the international operations center qualifies
20 for the utility relief or provide written reasons for its denial. A
21 failure to approve or deny the application within sixty days after the
22 date of submittal constitutes certification of the international
23 operations center, and the authority shall issue written certification to
24 the owner or operator within fourteen days. The authority shall send a
25 copy of the certification to the department of revenue.

26 D. The owner or operator of the international operations center
27 must achieve both of the following investment requirements after taking
28 into account the combined investments made by the owner or operator:

29 1. A minimum annual investment of ~~one hundred million dollars~~
30 \$100,000,000 in new capital assets, including costs of land, buildings and
31 international operations center equipment in each of ten consecutive
32 taxable years of the owner or operator. Investments greater than ~~one~~
33 ~~hundred million dollars~~ \$100,000,000 in any taxable year may be carried
34 forward as a credit toward the investment requirement in future years.

35 2. On or before the tenth anniversary of certification, a minimum
36 investment of at least ~~one billion two hundred fifty million dollars~~
37 \$1,250,000,000 in new capital assets, including costs of land, buildings
38 and international operations center equipment.

39 E. Within thirty days after the end of each taxable year following
40 certification, and WITHIN THIRTY DAYS AFTER the tenth anniversary of
41 certification, the owner or operator shall furnish the authority written
42 information demonstrating whether the certified international operations
43 center has or has not satisfied the investment requirements prescribed in
44 subsection D of this section. Until the investment requirements
45 prescribed in subsection D of this section are met, the owner or operator

1 shall keep detailed records of all capital investment in the international
2 operations center, including costs of land, buildings and international
3 operations center equipment, and all utility relief directly received by
4 the owner or operator.

5 F. If the authority determines that the requirements of this
6 section have not been satisfied, the authority may revoke the
7 certification of the international operations center and notify the
8 department of revenue in writing. The owner or operator may appeal the
9 revocation. The authority may give special consideration or allow a
10 temporary exception if there is extraordinary hardship due to factors
11 beyond the owner's or operator's control. If certification is revoked,
12 the department of revenue shall order the owner or operator to forfeit
13 further entitlement to utility relief. If the owner or operator fails to
14 make a minimum capital investment of ~~one hundred million dollars~~
15 \$100,000,000 in a taxable year, taking into account any excess investment
16 amounts carried forward from previous years, the owner or operator may
17 avoid revocation of its certification by paying to the department of
18 revenue within sixty days after the end of the taxable year the amount of
19 the utility relief provided pursuant to this section in that year.

20 G. The authority and the department of revenue shall prescribe
21 forms and procedures as necessary for the purposes of this section.

22 H. Proprietary business information contained in the application
23 form described in subsection B of this section and the written notice
24 described in subsection F of this section are confidential and may not be
25 disclosed to the public, except that the information shall be transmitted
26 to the department of revenue. The authority or the department of revenue
27 may disclose the name of an international operations center that has been
28 certified pursuant to this section.

29 I. Except as provided in subsection F of this section, on
30 certification, the international operations center remains certified
31 unless ownership of the international operations center is sold, conveyed,
32 transferred or otherwise directly or indirectly disposed of to another
33 entity in which the original owner holds less than a controlling interest.
34 For the purposes of this subsection, "controlling interest" means at least
35 eighty percent of the voting shares of a corporation or of the interests
36 in a noncorporate entity.

37 J. An owner or operator may be ~~comprised~~ COMPOSED of a single
38 entity or affiliated entities.

39 K. For the purposes of this section:

40 1. "International operations center" means a facility that is
41 subject to the investment thresholds under subsection D of this section
42 and that self-consumes renewable energy from a qualified facility pursuant
43 to ~~section 43-1083.04, subsection C or~~ section 43-1164.05, subsection C.

44 2. "Utility relief" means the mitigation of the tax burden on the
45 retail purchaser of electricity or natural gas through the application of

1 section 42-5063, subsection C, paragraph 7, section 42-5159, subsection G,
2 paragraph 2 and section 42-6012, paragraph 2.

3 Sec. 2. Section 42-1108, Arizona Revised Statutes, is amended to
4 read:

5 42-1108. Audit; deficiency assessments; electronic filing

6 A. If a taxpayer fails to file a return required by this title or
7 title 43, or if the department is not satisfied with the return or payment
8 of the amount of tax required to be paid under either title, the
9 department may examine any return, including any books, papers, records or
10 memoranda relating to the return, to determine the correct amount of tax.
11 This examination must occur within the time periods prescribed by section
12 42-1104 and may be accomplished through a detailed review of transactions
13 or records or by a statistically valid sampling method.

14 B. The department shall give the taxpayer notice of its
15 determination of a deficiency by mail or as prescribed by subsection C of
16 this section, and the deficiency, plus penalties and interest, is final
17 forty-five days ~~from~~ AFTER the date of receipt of the notice to the
18 taxpayer unless an appeal is taken to the department. For individual
19 income tax, the period is ninety days ~~from~~ AFTER the date of mailing. In
20 the case of a joint income tax return, the notice may be a single joint
21 notice mailed to the last known address, but if either spouse notifies the
22 department that separate residences have been established, the department
23 shall mail duplicate originals of the joint notice to each spouse.

24 C. Except for individual income tax, the department may issue
25 notice of its determination of a deficiency under subsection B of this
26 section by using an electronic portal in lieu of mail, if all of the
27 requirements of this subsection are met, for taxable periods beginning
28 from and after December 31, 2018 or when the department establishes the
29 electronic portal, whichever is later. The use of the electronic portal
30 in lieu of mail is subject to the following requirements and conditions:

31 1. The taxpayer shall provide an e-mail address to the department
32 to receive the ~~written~~ notice of its determination of a deficiency using
33 the electronic portal. The taxpayer shall notify the department of any
34 update to the taxpayer's e-mail address.

35 2. The department shall notify the taxpayer, using the taxpayer's
36 e-mail address, on the same day the notice of its determination of a
37 deficiency is posted to the electronic portal.

38 3. The date of receipt for a notice provided by electronic portal
39 is the later of the date the notice is posted to the electronic portal or
40 the date the notification is received by the taxpayer. A notification
41 sent by e-mail is considered to be received by the taxpayer on the day it
42 is sent by the department.

43 D. If a deficiency is determined and the assessment becomes final,
44 the department shall mail notice and demand to the taxpayer for the
45 payment of the deficiency. Notwithstanding section 42-1125, subsection E,

1 the deficiency assessed is due and payable at the expiration of ten days
2 ~~from~~ AFTER the date of the notice and demand.

3 E. A certificate by the department of the mailing or e-mailing of
4 the notices specified in this section is prima facie evidence of the
5 assessment of the deficiency and the giving of the notices.

6 F. Any amount of tax in excess of that disclosed by the return due
7 to a nonaudit adjustment, as listed in subsection G OR H of this section,
8 notice of which has been mailed to the taxpayer, is not a deficiency
9 assessment within the meaning of this section. The taxpayer may not
10 protest or appeal as in the case of a deficiency assessment, based on such
11 a notice, and the assessment or collection of the amount of tax
12 erroneously omitted in the return is not prohibited by this article.

13 G. An adjustment due to any of the following is considered a
14 nonaudit adjustment:

15 1. An addition, subtraction, multiplication, division or other
16 mathematical error shown on any return.

17 2. The failure of the taxpayer to properly compute the tax
18 liability based on the taxable income reported on the return.

19 3. An incorrect usage or selection of information for a filed
20 return from tax tables, schedules or similar documents provided by the
21 department if the incorrect usage is apparent from the existence of other
22 information on the return.

23 4. An entry on a return that is inconsistent with an entry on a
24 schedule, form, statement, list or other document filed with the return.

25 5. An omission of information required on the return to
26 substantiate an entry.

27 6. An entry on a return of a deduction or credit in an amount that
28 exceeds a statutory limit if the limit is a monetary figure, a percentage,
29 a ratio or a fraction and the items entered into the application of this
30 limit appear on the return, including claiming a deduction or credit that
31 is not authorized by statute for the taxable period.

32 7. Missing or incorrect taxpayer identification numbers for the
33 purposes of claiming personal exemptions, dependents or credits.

34 8. An entry of a credit or deduction that requires a preapproval if
35 the credit or deduction has not been preapproved or if the entry is for
36 more than the preapproved amount.

37 9. An entry of a credit or deduction amount carried forward from a
38 prior year that is outside of the statutory period allowed for the
39 carryforward or is for an amount that is inconsistent with the taxpayer's
40 prior year returns.

41 H. If a taxpayer that files its return electronically is allowed to
42 input the information from a document into the electronic filing program
43 instead of providing the actual document with the return, the department
44 may request a copy of the document from the taxpayer at any time. If the
45 taxpayer provides the document, the department may adjust the return to

1 reflect the amounts on the document. If the taxpayer does not provide the
2 requested document within the period provided by the department, the
3 department may deny any deduction, credit or withholding that the document
4 is intended to substantiate. AN ADJUSTMENT MADE PURSUANT TO THIS
5 SUBSECTION IS CONSIDERED A NONAUDIT ADJUSTMENT UNDER SUBSECTION G,
6 PARAGRAPH 4 OF THIS SECTION, EVEN THOUGH THE ACTUAL DOCUMENT IS NOT
7 INCLUDED WITH THE ELECTRONICALLY FILED RETURN IF THE DEPARTMENT REQUESTS
8 THE DOCUMENT WITHIN SIXTY DAYS AFTER THE DUE DATE OF THE RETURN OR THE
9 DATE ON WHICH THE RETURN WAS FILED, WHICHEVER IS LATER.

10 ~~i. For the purposes of this section, "electronic portal" means a~~
11 ~~secure location on a website established by the department that requires~~
12 ~~the taxpayer to enter a password to access.~~

13 Sec. 3. Section 42-1124, Arizona Revised Statutes, is amended to
14 read:

15 42-1124. Failure to affix stamps or pay or account for tax;
16 forfeiture of commodity; sale of forfeited
17 commodity; effect of seizure and sale; request for
18 administrative hearing; definitions

19 A. If the department or its authorized agents or representatives
20 discover any luxury subject to tax under chapter 3 of this title to which
21 official stamps have not been affixed as required or on which the tax has
22 not been paid or accounted for, the department or its agent or
23 representative may seize and take possession of the luxury, and it is
24 deemed forfeited to this state. Except as provided in subsection D or E
25 of this section, the department, within a reasonable time thereafter,
26 pursuant to a notice posted on the premises or by publication in a
27 newspaper of general circulation in the county where the sale is to take
28 place, not fewer than five days before the date of sale, shall offer for
29 sale and sell the forfeited luxuries. The department shall pay the
30 proceeds of the sale into the state general fund. The sale shall take
31 place in the county ~~which~~ THAT is most convenient and economical. The
32 department need not offer any property for sale if, in its opinion, the
33 probable cost of sale exceeds the value of the property.

34 B. The seizure and sale do not relieve any person from the
35 penalties provided for violating this title.

36 C. The department of revenue may enter into an interagency
37 agreement with the department of transportation for the purpose of
38 carrying out tobacco enforcement under chapter 3 of this title at ports of
39 entry.

40 D. All ~~cigarettes~~ TOBACCO PRODUCTS that are seized for violations
41 under this title shall be forfeited to this state. All ~~cigarettes~~ TOBACCO
42 PRODUCTS that are forfeited to this state pursuant to section 13-3711,
43 36-798.06 or 42-3461 or section 44-7111, section 6(b) shall be
44 destroyed. If a distributor defrauds this state by knowingly and
45 intentionally failing to keep or make any record, return, report or

1 inventory pertaining to ~~cigarettes~~ TOBACCO PRODUCTS, by refusing to pay
2 any luxury tax for ~~cigarettes~~ TOBACCO PRODUCTS subject to tax under
3 chapter 3 of this title or by attempting to evade or defeat any
4 requirement of this title, the distributor shall forfeit to this state all
5 fixtures, equipment and all other materials and personal property that are
6 located on the premises of the distributor. Alternatively, at the request
7 of the department, the distributor may be enjoined by an action commenced
8 by the attorney general or a county attorney in the name of the state from
9 engaging or continuing in any business for which a tax is imposed by this
10 chapter until the tax has been paid and until ~~such~~ THE person has complied
11 with this title.

12 E. The department may sell or otherwise dispose of any ~~cigarettes~~
13 TOBACCO PRODUCTS forfeited to this state on such conditions as it deems
14 most advantageous and just under the circumstances, unless ~~such cigarettes~~
15 THE TOBACCO PRODUCTS are forfeited pursuant to section 13-3711, 36-798.06
16 or 42-3461 or section 44-7111, section 6(b). The department shall deposit
17 the proceeds of any sales made pursuant to this subsection in the state
18 general fund.

19 F. The department shall give notice of the seizure and forfeiture
20 of ~~cigarettes~~ TOBACCO PRODUCTS described in this section by personal
21 service or by certified mail to all persons known by the department to
22 have any right, title or interest in the property. Notice shall include a
23 description of the ~~cigarettes~~ TOBACCO PRODUCTS seized, the reason for the
24 seizure and the time and place of the seizure. ~~The following apply to the~~
25 ~~notice under this subsection:~~

26 ~~1. Except as provided in paragraph 2 of this subsection FOR~~
27 ~~SEIZURES OF CIGARETTES OF MORE THAN SIXTY-ONE CARTONS OF TWO HUNDRED~~
28 ~~CIGARETTES EACH OR THE EQUIVALENT IN CIGARETTE COUNT, the department shall~~
29 ~~post and maintain an online notice of seizure and forfeiture on its~~
30 ~~website for a period of at least six months, beginning ~~no~~ NOT later than~~
31 ~~ten business days after the date of the personal service of the notice to~~
32 ~~a person or the date of the mailing of the notice. The online notice~~
33 ~~shall display the date on which the department posts the notice to the~~
34 ~~website, which shall serve as the date of publication of the notice.~~

35 ~~2. An online notice is not required if the amount of cigarettes~~
36 ~~seized is less than sixty-one cartons of two hundred cigarettes each.~~

37 G. Any person whose legal rights, duties or privileges are
38 determined by the notice of seizure and forfeiture may file a request for
39 an administrative hearing with the department on a form prescribed by the
40 department. The request for an administrative hearing shall contain a
41 statement of the petitioner's interest in the ~~cigarettes~~ TOBACCO PRODUCTS
42 and an explanation of why the release or recovery of the ~~cigarettes~~
43 TOBACCO PRODUCTS is warranted on the ground that the ~~cigarettes~~ TOBACCO
44 PRODUCTS were erroneously or illegally seized.

1 H. The seizure and forfeiture of ~~cigarettes or other~~ tobacco
2 products by the department is an appealable agency action as defined in
3 section 41-1092 and is governed by title 41, chapter 6, article 10 and
4 section 42-1251, except that:

5 1. A request for an administrative hearing that is filed under
6 subsection G of this section is deemed to be timely filed if the request
7 is filed with the department within ten days after the date of personal
8 service on the petitioner or the date of mailing the notice to the
9 petitioner. Any person not served personally or by mail shall file the
10 request within ten days after the date of publication of the notice. The
11 failure of a person to file a timely request constitutes a bar to that
12 person's right to any interest in the ~~cigarettes or other~~ tobacco
13 products, except insofar as the rights of that person may be established
14 in an action filed by the department under this chapter.

15 2. If a request for an administrative hearing is not filed with the
16 department at the expiration of ten days after the notice has been
17 personally served, mailed or published, the department's determination is
18 final. If a timely request for an administrative hearing has been filed
19 with the department, the department shall request a hearing by the office
20 of administrative hearings and the department shall suspend action until
21 the final order of the department has been issued. An order that is
22 issued by the office of administrative hearings ~~shall be~~ IS the final
23 order of the department thirty days after the petitioner receives the
24 decision unless a decision by the director is issued pursuant to section
25 42-1251. If the director issues a decision, that decision is the final
26 order of the department.

27 I. For the purposes of this section, "cigarette", ~~and~~ "distributor"
28 AND "TOBACCO PRODUCTS" have the same meanings prescribed in section
29 42-3001.

30 Sec. 4. Section 42-1125, Arizona Revised Statutes, is amended to
31 read:

32 42-1125. Civil penalties; definition

33 A. If a taxpayer fails to make and file a return for a tax
34 administered pursuant to this article on or before the due date of the
35 return or the due date as extended by the department, unless it is shown
36 that the failure is due to reasonable cause and not due to wilful neglect,
37 four and one-half percent of the tax required to be shown on ~~such~~ THE
38 return shall be added to the tax for each month or fraction of a month
39 elapsing between the due date of the return and the date on which it is
40 filed. The total penalty shall not exceed twenty-five percent of the tax
41 found to be remaining due. The penalty so added to the tax is due and
42 payable on notice and demand from the department. For the purpose of
43 computing the penalty imposed under this subsection, the amount required
44 to be shown as tax on a return shall be reduced by the amount of any part
45 of the tax that is paid on or before the beginning of ~~such~~ THE month and

1 by the amount of any credit against the tax that may be claimed on the
2 return. If the amount required to be shown as tax on a return is less
3 than the amount shown as tax on ~~such~~ THE return, the penalty described in
4 this subsection shall be applied by substituting ~~such~~ THE lower amount.

5 B. If a taxpayer fails or refuses to file a return on notice and
6 demand by the department, the taxpayer shall pay a penalty of twenty-five
7 percent of the tax, which is due and payable on notice and demand by the
8 department, in addition to any penalty prescribed by subsection A of this
9 section, unless it is shown that the failure is due to reasonable cause
10 and not due to wilful neglect. This penalty is payable on notice and
11 demand from the department.

12 C. If a taxpayer fails or refuses to furnish any information
13 requested in writing by the department, the department may add a penalty
14 of twenty-five percent of the amount of any deficiency tax assessed by the
15 department concerning the assessment of which the information was
16 required, unless it is shown that the failure is due to reasonable cause
17 and not due to wilful neglect.

18 D. If a person fails to pay the amount shown as tax on any return
19 within the time prescribed, a penalty of one-half of one percent, not to
20 exceed a total of ten percent, shall be added to the amount shown as tax
21 for each month or fraction of a month during which the failure continues,
22 unless it is shown that the failure is due to reasonable cause and not due
23 to wilful neglect. If the department determines that the person's failure
24 to pay was due to reasonable cause and not due to wilful neglect and that
25 a payment agreement pursuant to section 42-2057 is appropriate, the
26 department shall not impose the penalty unless the taxpayer fails to
27 comply with the payment agreement. If the taxpayer is also subject to a
28 penalty under subsection A of this section for the same tax period, the
29 total penalties under subsection A of this section and this subsection
30 shall not exceed twenty-five percent. For the purpose of computing the
31 penalty imposed under this subsection:

32 1. The amount shown as tax on a return shall be reduced by the
33 amount of any part of the tax that is paid on or before the beginning of
34 that month and by the amount of any credit against the tax that may be
35 claimed on the return.

36 2. If the amount shown as tax on a return is greater than the
37 amount required to be shown as tax on that return, the penalty shall be
38 applied by substituting the lower amount.

39 E. If a person fails to pay any amount required to be shown on any
40 return that is not so shown within twenty-one calendar days after the date
41 of notice and demand, a penalty of one-half of one percent, not to exceed
42 a total of ten percent, shall be added to the amount of tax for each month
43 or fraction of a month during which the failure continues, unless it is
44 shown that the failure is due to reasonable cause and not due to wilful
45 neglect. If the taxpayer is also subject to penalty under subsection A of

1 this section for the same tax period, the total penalties under subsection
2 A of this section and this subsection shall not exceed twenty-five
3 percent. For the purpose of computing the penalty imposed under this
4 subsection, any amount required to be shown on any return shall be reduced
5 by the amount of any part of the tax that is paid on or before the
6 beginning of that month and by the amount of any credit against the tax
7 that may be claimed on the return.

8 F. In the case of a deficiency, for which a determination is made
9 of an additional amount due, that is due to negligence but without intent
10 to defraud, the person shall pay a penalty of ten percent of the amount of
11 the deficiency.

12 G. If part of a deficiency is due to fraud with intent to evade
13 tax, fifty percent of the total amount of the tax, in addition to the
14 deficiency, interest and other penalties provided in this section, shall
15 be assessed, collected and paid as if it were a deficiency.

16 H. If the amount, whether determined by the department or the
17 taxpayer, required to be withheld by the employer pursuant to title 43,
18 chapter 4 is not paid to the department on or before the date prescribed
19 for its remittance, the department may add a penalty of twenty-five
20 percent of the amount required to be withheld and paid, unless it is shown
21 that the failure is due to reasonable cause and not due to wilful neglect.

22 I. A person who, with or without intent to evade any requirement of
23 this article or any lawful administrative rule of the department of
24 revenue under this article, fails to file a return or to supply
25 information required under this article or who, with or without such
26 intent, makes, prepares, renders, signs or verifies a false or fraudulent
27 return or statement or supplies false or fraudulent information shall pay
28 a penalty of not more than ~~one thousand dollars~~ \$1,000. This penalty
29 shall be recovered by the department of law in the name of this state by
30 an action in any court of competent jurisdiction.

31 J. If the taxpayer files what purports to be a return of any tax
32 administered pursuant to this article but that is frivolous or that is
33 made with the intent to delay or impede the administration of the tax
34 laws, that person shall pay a penalty of ~~five hundred dollars~~ \$500.

35 K. If any person who is required to file or provide an information
36 return under this title or title 43 or who is required to file or provide
37 a return or report under chapter 3 of this title fails to file the return
38 or report at the prescribed time or in the manner required, or files a
39 return or report that fails to show the information required, that person
40 shall pay a penalty of ~~one hundred dollars~~ \$100 for each month or fraction
41 of a month during which the failure continues unless it is shown that the
42 failure is due to reasonable cause and not due to wilful neglect. The
43 total penalties for each return or report under this subsection shall not
44 exceed ~~five hundred dollars~~ \$500.

1 L. If it appears to the superior court that proceedings before it
2 have been instituted or maintained by a taxpayer primarily for delay or
3 that the taxpayer's position is frivolous or groundless, the court may
4 award damages in an amount not to exceed ~~one thousand dollars~~ \$1,000 to
5 this state. Damages so awarded shall be collected as a part of the tax.

6 M. A person who is required under section 43-413 to furnish a
7 statement to an employee and who wilfully furnishes a false or fraudulent
8 statement, or who wilfully fails to furnish a statement required by
9 section 43-413, is for each such failure subject to a penalty of ~~fifty~~
10 ~~dollars~~ \$50.

11 N. A person who is required to collect or truthfully account for
12 and pay a tax administered pursuant to this article, including any luxury
13 privilege tax, and who wilfully fails to collect the tax or truthfully
14 account for and pay the tax, or wilfully attempts in any manner to evade
15 or defeat the tax or its payment, is, in addition to other penalties
16 provided by law, liable for a penalty equal to the total amount of the tax
17 evaded, not collected or not accounted for and paid. Except as provided
18 in subsections U, V and W of this section, no other penalty under this
19 section relating to failure to pay tax may be imposed for any offense to
20 which this subsection applies.

21 O. For reporting periods beginning from and after February 28,
22 2011, if a taxpayer who is required under section 42-1129 to ~~make payment~~
23 ~~PAY~~ by electronic funds transfer fails to do so, that taxpayer shall pay a
24 penalty of five percent of the amount of the payment not made by
25 electronic funds transfer unless it is shown that the failure is due to
26 reasonable cause and not due to wilful neglect. For the reporting periods
27 beginning on July 1, 2015, the penalty in this subsection applies to any
28 taxpayer who is required under section 42-3053 to ~~make payment~~ ~~PAY~~ by
29 electronic funds transfer and fails to do so unless it is shown that the
30 failure is due to reasonable cause and not due to wilful neglect.

31 P. Unless due to reasonable cause and not to wilful neglect:

32 1. A person who fails to provide that person's taxpayer
33 identification number in any return, statement or other document as
34 required by section 42-1105, subsection A shall pay a penalty of ~~five~~
35 ~~dollars~~ \$5 for each such failure.

36 2. A person, when filing any return, statement or other document
37 for compensation on behalf of a taxpayer, who fails to include that
38 person's own taxpayer identification number and the taxpayer's
39 identification number shall pay a penalty of ~~fifty dollars~~ \$50 for each
40 such failure.

41 3. A person, when filing any return, statement or other document
42 without compensation on behalf of a taxpayer, who fails to include that
43 person's own taxpayer identification number and the taxpayer's
44 identification number is not subject to a penalty.

1 No other penalty under this section may be imposed if the only violation
2 is failure to provide taxpayer identification numbers.

3 Q. If a taxpayer fails to pay the full amount of estimated tax
4 required by title 43, chapter 5, article 6, a penalty is assessed equal to
5 the amount of interest that would otherwise accrue under section 42-1123
6 on the amount not paid for the period of nonpayment, not exceeding ten
7 percent of the amount not paid. The penalty prescribed by this subsection
8 is in lieu of any other penalty otherwise prescribed by this section and
9 in lieu of interest prescribed by section 42-1123.

10 R. Beginning January 1, 2015, if a taxpayer continues in business
11 without timely renewing a municipal privilege tax license as prescribed in
12 section 42-5005, subsection D, a civil penalty of up to ~~twenty-five~~
13 ~~dollars~~ \$25 shall be added to the renewal fee for each jurisdiction.

14 S. The department of law, with the consent of the department of
15 revenue, may compromise any penalty for which it may bring an action under
16 this section.

17 T. Penalties shall not be assessed under subsection D of this
18 section on additional amounts of tax paid by a taxpayer at the time the
19 taxpayer voluntarily files an amended return. This subsection does not
20 apply if:

- 21 1. The taxpayer is under audit by the department.
- 22 2. The amended return was filed on demand or request by the
23 department.

24 U. In addition to other penalties provided by law, a person who
25 knowingly and intentionally does not comply with any requirement under
26 chapter 3 of this title relating to tobacco products shall pay a penalty
27 of ~~one thousand dollars~~ \$1,000. A person who knowingly and intentionally
28 does not pay any luxury tax that relates to tobacco products imposed by
29 chapter 3 of this title shall pay a penalty that is equal to ten percent
30 of the amount of the unpaid tax.

31 V. A manufacturer or importer or a distributor, as defined in
32 section 42-3001, who knowingly and intentionally sells or possesses
33 cigarettes with false manufacturing labels or cigarettes with counterfeit
34 tax stamps, or who obtains cigarettes through the use of a counterfeit
35 license, shall pay the following penalties:

- 36 1. For a first violation involving two thousand or more cigarettes,
37 ~~one thousand dollars~~ \$1,000.
- 38 2. For a subsequent violation involving two thousand or more
39 cigarettes, ~~five thousand dollars~~ \$5,000.

40 W. The civil penalties in this section are in addition to any civil
41 penalty under chapter 3, article 10, 11 or 12 of this title.

42 X. Notwithstanding subsection A of this section:

- 43 1. And except as provided by paragraph 2 of this subsection, the
44 penalty imposed on a taxpayer that fails to make and file a return for tax
45 administered pursuant to chapter 5 or 6 of this title on or before the due

1 date of the return or the due date as extended by the department, unless
2 it is shown that the failure is due to a reasonable cause and not due to
3 wilful neglect, is four and one-half percent of the tax required to be
4 shown on the return, or ~~twenty-five dollars~~ \$25, whichever is greater.
5 The penalty shall be added to the tax for each month or fraction of a
6 month elapsing between the due date of the return and the date on which it
7 is filed. The total penalty may not exceed twenty-five percent of the tax
8 ~~found to be remaining due, or one hundred dollars~~ REQUIRED TO BE SHOWN ON
9 THE RETURN, OR \$100, whichever is greater.

10 2. The penalty imposed on a taxpayer that is required under section
11 42-5014 to file electronically and that fails to do so is five percent of
12 the ~~amount~~ TAX required to be shown on the return, or ~~twenty-five~~
13 ~~dollars~~ \$25, whichever is greater, unless the failure is due to a
14 reasonable cause and not due to wilful neglect.

15 3. FOR THE PURPOSES OF THIS SUBSECTION, "TAX REQUIRED TO BE SHOWN
16 ON THE RETURN" MEANS THE TOTAL TAX LIABILITY BEFORE DEDUCTING PAYMENTS.

17 Y. Notwithstanding subsection B of this section, the penalty
18 imposed on a taxpayer that fails to file a return pursuant to chapter 5 or
19 6 of this title on notice and demand by the department is twenty-five
20 percent of the tax, or ~~one hundred dollars~~ \$100, whichever is greater.
21 The penalty is due and payable on notice and demand by the department, in
22 addition to any penalty prescribed by subsection A of this section, unless
23 it is shown that the failure is due to a reasonable cause and not due to
24 wilful neglect.

25 Z. For the purposes of this section, and only as applied to the
26 taxes imposed by chapter 5, articles 1 through 6 and chapter 6, articles
27 1, 2 and 3 of this title, "reasonable cause" means a reasonable basis for
28 the taxpayer to believe that the tax did not apply to the business
29 activity or the storage, use or consumption of the taxpayer's tangible
30 personal property in this state.

31 Sec. 5. Section 42-1126, Arizona Revised Statutes, is amended to
32 read:

33 42-1126. Fee for bad checks; definition

34 A. The department may charge and collect a fee of ~~fifty dollars~~ \$50
35 from a taxpayer that offers a check, draft, negotiable order of withdrawal
36 or similar instrument, or an electronic funds transfer, automated clearing
37 house debit or automated clearing house credit drawn on a bank or other
38 depository institution in full or partial payment of a tax ~~administered~~
39 ~~pursuant to this article~~ if the instrument, transfer, debit or credit is
40 not paid or is dishonored by the institution.

41 B. FOR THE PURPOSES OF THIS SECTION, "TAX" INCLUDES ANY TAX,
42 PENALTY, INTEREST OR FEE ADMINISTERED PURSUANT TO THIS ARTICLE.

1 Sec. 6. Section 42-1129, Arizona Revised Statutes, is amended to
2 read:

3 42-1129. Payment of tax by electronic funds transfer

4 A. The department may require by rule, consistent with the state
5 treasurer's cash management policies, that any tax administered pursuant
6 to this article, except FOR individual income tax OR AS REQUIRED UNDER
7 SECTION 42-3053, be paid on or before the payment date prescribed by law
8 in monies that are immediately available to ~~the~~ THIS state on the date of
9 the transfer as provided by subsection B of this section by any taxpayer
10 that owes:

11 1. ~~Twenty thousand dollars~~ \$20,000 or more for any taxable year
12 ~~ending~~ BEGINNING before January 1, 2019.

13 2. ~~Ten thousand dollars~~ \$10,000 or more for any taxable year
14 beginning from and after December 31, 2018 through December 31, 2019.

15 3. ~~Five thousand dollars~~ \$5,000 or more for any taxable year
16 beginning from and after December 31, 2019 through December 31, 2020.

17 4. ~~Five hundred dollars~~ \$500 or more for any taxable year beginning
18 from and after December 31, 2020.

19 B. A payment in immediately available monies shall be made by
20 electronic funds transfer, with the state treasurer's approval, that
21 ensures the availability of the monies to this state on the date of
22 payment.

23 C. A taxpayer may apply to the director, on a form prescribed by
24 the department, for an annual waiver from the electronic payment
25 requirement prescribed by subsection B of this section. The application
26 must be received by the department on or before December 31. The director
27 may grant the waiver, which may be renewed, if any of the following
28 applies:

29 1. The taxpayer has no computer.

30 2. The taxpayer has no internet access.

31 3. Any other circumstance considered to be worthy by the director
32 EXISTS, including the taxpayer having a sustained record of timely
33 payments and no delinquent tax account with the department.

34 D. The taxpayer shall furnish evidence as prescribed by the
35 department that an electronic payment was remitted on or before the due
36 date.

37 E. A taxpayer who is required to ~~make payment~~ PAY by electronic
38 funds transfer but who fails to do so may be subject to the civil
39 penalties prescribed by section 42-1125, subsection 0.

40 F. A failure to make a timely payment in immediately available
41 monies as prescribed pursuant to this section is subject to the civil
42 penalties prescribed by section 42-1125, subsection D.

1 Sec. 7. Section 42-1251, Arizona Revised Statutes, is amended to
2 read:

3 42-1251. Appeal to the department; hearing

4 A. Except in the case of individual income taxes, a person from
5 whom an amount is determined to be due under article 3 of this chapter may
6 apply to the department by a petition in writing within forty-five days
7 after the notice of a proposed assessment made pursuant to section
8 42-1109, subsection B or the notice required by section 42-1108,
9 subsection B is received, or within such additional time as the department
10 may allow, for a hearing, correction or redetermination of the action
11 taken by the department. In the case of individual income taxes, the
12 period is ninety days ~~from~~ AFTER the date the notice is mailed. The
13 petition shall set forth the reasons why the hearing, correction or
14 redetermination should be granted and the amount in which any tax,
15 interest and penalties should be reduced. If only a portion of the
16 deficiency assessment is protested, all unprotested amounts of tax,
17 interest and penalties must be paid at the timethe protest is filed. The
18 department shall consider the petition and grant a hearing, if requested.
19 To represent the taxpayer at the hearing or to appear on the taxpayer's
20 behalf is deemed not to be the practice of law.

21 B. Except in the case of individual income taxes, at any time
22 during which an appeal to the department under subsection A of this
23 section is pending, a person that has conferred with a designated appeals
24 officer of the department to clarify any fact or legal issue in dispute
25 and to discuss the availability of additional documentation that may
26 assist in resolving outstanding issues may bypass the hearing process
27 before the DEPARTMENT'S HEARING OFFICER OR THE office of administrative
28 hearings and either:

29 1. Appeal to the state board of tax appeals by filing a notice of
30 appeal in writing pursuant to section 42-1253, subsection A.

31 2. Bring an action in tax court by filing a notice of appeal in
32 writing pursuant to section 42-1254, subsection C.

33 C. If the department fails to schedule a meeting within forty-five
34 days ~~of~~ AFTER the time a person files a written request with the
35 department to confer with a designated appeals officer about bypassing the
36 hearing process before the DEPARTMENT'S HEARING OFFICER OR THE office of
37 administrative hearings, the person may bypass the meeting and appeal
38 directly to the STATE board of tax appeals or bring an action in tax
39 court.

40 D. If the taxpayer does not file a petition for hearing,
41 correction, redetermination or appeal within the period provided by
42 subsection A, B or C of this section, the amount determined to be due
43 becomes final at the expiration of the period. The taxpayer is deemed to
44 have waived and abandoned the right to question the amount determined to
45 be due, unless the taxpayer pays the total deficiency assessment,

1 including interest and penalties. The taxpayer may then file a claim for
2 refund pursuant to section 42-1118 within six months after ~~payment of~~
3 **PAYING** the deficiency assessment or within the time limits prescribed by
4 section 42-1106, whichever period expires later.

5 E. All orders or decisions made on the filing of a petition for a
6 hearing, correction or redetermination under subsection A of this section
7 become final thirty days after notice has been received by the petitioner,
8 unless the petitioner appeals the order or decision to the state board of
9 tax appeals.

10 Sec. 8. Section 42-2075, Arizona Revised Statutes, is amended to
11 read:

12 **42-2075. Audit duration; applicability; initial audit contact**

13 A. An audit of a taxpayer's return or claim for refund shall not
14 exceed two years ~~from~~ **AFTER** the date of initial audit contact to the
15 issuance of a notice of proposed deficiency assessment or proposed
16 overpayment, except:

17 1. An audit of a fraudulent tax return.

18 2. An audit delayed as the result of the taxpayer's bankruptcy
19 proceeding.

20 3. An audit in which the department has issued a letter to the
21 taxpayer or the taxpayer's representative citing the potential imposition
22 of the penalty described in section 42-1125, subsection C for the
23 taxpayer's failure or refusal to provide information pursuant to the
24 department's written request.

25 4. An audit involving proceedings concerning the enforcement or
26 validity of a subpoena or subpoena duces tecum issued pursuant to section
27 42-1006, subsection C.

28 5. An audit involving a proceeding under section 42-2056.

29 6. An audit in which a taxpayer has filed a petition pursuant to
30 section 43-1148, but only in relation to the effect of the petition
31 request.

32 7. An audit in which the taxpayer provides a written request to
33 extend the audit beyond the two-year period. A request for extension
34 under this paragraph is not a substitute for a waiver of the statute of
35 limitations pursuant to section 42-1104, subsection B, paragraph 9.
36 However, a waiver of the statute of limitations is considered to be a
37 written request to extend the audit beyond the two-year period under this
38 paragraph.

39 B. This section applies to audits conducted by the department and
40 to audits conducted by the department and cities and towns pursuant to
41 section 42-6002.

42 C. For the purposes of subsection A of this section, an initial
43 audit contact occurs:

1 1. For a field audit, on the date of the first meeting between the
2 taxpayer or the taxpayer's representative and a member of the department's
3 audit staff.

4 2. For a desk or office audit or a review conducted pursuant to
5 section 42-1109, on the date of the first letter to the taxpayer regarding
6 the audit or review. A letter is not considered to be regarding the audit
7 or review if the letter is only requesting one or more of the following:

8 (a) The required filing of a tax return.

9 (b) A copy of the taxpayer's federal return.

10 (c) Required documents that the taxpayer failed to include with the
11 return.

12 (d) Documentation to resolve an inconsistency within the return or
13 a discrepancy between the return and other information that is received
14 from a third party or that is otherwise already in the department's
15 possession, if the adjustment of the return due to the inconsistency or
16 discrepancy would be considered a nonaudit adjustment under section
17 42-1108, subsection G OR H.

18 (e) Information that was left out of the taxpayer's return because
19 a submitted form was incomplete.

20 (f) Replacements for documents that are not legible.

21 Sec. 9. Section 42-3401, Arizona Revised Statutes, is amended to
22 read:

23 42-3401. Tobacco distributor licenses; application;
24 conditions; revocations, suspensions and
25 cancellations

26 A. Every person acquiring or possessing for the purpose of making
27 the initial sale or distribution in this state of any tobacco products on
28 which a tax is imposed by this chapter shall obtain from the department a
29 license to sell tobacco products. The application for the license shall
30 be in the form provided by the department and shall be accompanied by a
31 fee of ~~twenty-five dollars~~ \$25 for each place of business listed in the
32 application. The form shall state that the identity of the applicant will
33 be posted to the department's website for public inspection. The
34 application for a license shall include the applicant's name and address,
35 the applicant's principal place of business, all other places of business
36 where the applicant's business is conducted for the purpose of making the
37 initial sale or distribution of tobacco products in this state, including
38 any location that maintains an inventory of tobacco products, and any
39 other information required by the department. If the applicant is a firm,
40 partnership, limited liability company, limited liability partnership or
41 association, the applicant shall list the name and address of each of the
42 applicant's members. If the applicant is a corporation, the application
43 shall list the name and address of the applicant's officers and any person
44 who directly or indirectly owns an aggregate amount of ten percent or more
45 of the ownership interest in the corporation. If a licensee is a

1 corporation, firm, partnership, limited liability company, limited
2 liability partnership or association, the licensee under this subsection
3 shall notify the department in writing within thirty days after any change
4 in membership, legal entity status or ownership of more than fifty percent
5 of the total ownership interest in a single transaction. If a licensee
6 changes its business location, the licensee under this subsection shall
7 notify the department within thirty days after a change in location. If
8 the licensee is making a change in its business location by adding or
9 replacing one or more additional places of business that are not currently
10 listed on its application, the licensee must remit a fee of ~~twenty-five~~
11 ~~dollars~~ \$25 for each additional place of business.

12 B. For the purposes of subsection A of this section, an applicant
13 with a controlling interest in more than one business engaged in
14 activities as a distributor shall apply for a single license encompassing
15 all such businesses and list each place of business in its application.
16 For the purposes of this subsection, "controlling interest" means direct
17 or indirect ownership of at least eighty percent of the voting shares of a
18 corporation or of the interests in a company, business or person other
19 than a corporation.

20 C. The department shall issue a license authorizing the applicant
21 to acquire or possess tobacco products in this state on the condition that
22 the applicant complies with this chapter and the rules of the department.
23 The license:

24 1. Shall be nontransferable. A licensee may not transfer its
25 license to a new owner when selling its business, and any court-appointed
26 trustee, receiver or other person shall obtain a license in its own name
27 in cases of liquidation, insolvency, or bankruptcy or pursuant to a court
28 order if the business remains in operation as a distributor of tobacco
29 products. A licensee shall apply for a new license if it changes its
30 legal entity status or otherwise changes the legal structure of its
31 business.

32 2. Shall be valid for one year unless earlier ~~CANCELED OR~~ revoked
33 by the department.

34 3. Shall be displayed in a conspicuous place at the licensee's
35 place of business. If the licensee operates from more than one place of
36 business, the licensee must display a copy of its license in a conspicuous
37 place at each location.

38 D. As a condition of licensure under this section, an applicant
39 agrees to the following conditions:

40 1. A person may not hold or store any tobacco products, whether
41 within or outside of this state, for sale or distribution in this state by
42 or on behalf of a distributor at any place other than a location that has
43 been disclosed to the department pursuant to subsection A of this section.
44 This paragraph does not include a person holding or storing tobacco

1 products by or on behalf of the distributor when the tobacco products are
2 in transit to a distributor or retailer as part of a lawful sale.

3 2. All tobacco products held or stored, whether within or outside
4 of this state, for sale or distribution in this state by or on behalf of a
5 distributor:

6 (a) Shall be accessible to the department during normal business
7 hours without a judicial warrant or prior written consent of the
8 distributor.

9 (b) May not be held or stored at a residential location or in a
10 vehicle.

11 E. A person who is convicted of an offense described in section
12 42-1127, subsection E is permanently ineligible to hold a license issued
13 under this section.

14 F. The department may not issue or renew a license to an applicant
15 and may revoke a license issued under subsection C of this section if any
16 of the following applies:

17 1. The applicant or licensee owes ~~one thousand dollars~~ \$1,000 or
18 more in delinquent taxes imposed on tobacco products under this chapter
19 that are not under protest or subject to a payment agreement.

20 2. The department has revoked any license held by the applicant or
21 licensee within the previous two years.

22 3. The applicant or licensee has been convicted of a crime that
23 relates to stolen or counterfeit cigarettes.

24 4. The applicant or licensee has imported cigarettes into the
25 United States for sale or distribution in violation of 19 United States
26 Code section 1681a.

27 5. The applicant or licensee has imported cigarettes into the
28 United States for sale or distribution without fully complying with the
29 federal cigarette labeling and advertising act (P.L. 89-92; 79 Stat. 282;
30 15 United States Code section 1331).

31 6. The applicant or licensee is in violation of section 13-3711 or
32 section 36-798.06, subsection A.

33 7. Pursuant to section 44-7111, section 6(a), the applicant or
34 licensee is in violation of section 44-7111, section 3(c).

35 8. The civil rights of the applicant or licensee have been
36 suspended under section 13-904. An applicant or licensee whose civil
37 rights have been suspended ~~will be~~ IS ineligible to hold a license for a
38 period of five years following the restoration of the applicant's or
39 licensee's civil rights.

40 G. In addition to any other civil or criminal penalty and except as
41 otherwise provided in this section, the department may deny the issuance
42 or renewal of or suspend or revoke a license issued under subsection C of
43 this section if the person violates any requirement under this title more
44 than two times within a three-year period or fails to otherwise maintain
45 the conditions of licensure in this section.

1 H. The department shall publish on its website the names of each
2 person who is issued a license under subsection C of this section,
3 including any trade names or business names used by the licensee. The
4 department shall update the published names at least once each month.

5 I. A person may not apply for or hold a distributor's license if
6 that person does not engage in the activities described in subsection A of
7 this section. In addition to any other applicable penalty, the department
8 may cancel the license of any licensee that fails to incur any tax
9 liability under this chapter for twelve consecutive months.

10 J. Any suspension, revocation, cancellation or denial of a license
11 issued under this section by the department must comply with section
12 41-1092.11, subsection B.

13 K. Notwithstanding any other law, for the purposes of subsection F,
14 paragraphs 1 and 2 of this section, section 42-1127, subsection C and
15 section 42-3461, subsection B, if a distributor has listed in its
16 application more than one place of business, any suspension, revocation,
17 cancellation, denial or nonrenewal of the distributor's license shall
18 apply only with effect to remove the place of business or business
19 location at which the activity occurred from the distributor's
20 license. If such a removal occurs, the distributor shall be subject to
21 restrictions that the department prescribes by rule.

22 Sec. 10. Section 42-6013, Arizona Revised Statutes, is amended to
23 read:

24 42-6013. Electronic consolidated real property management tax
25 returns; definition

26 A. For taxable periods beginning from and after December 31, 2017,
27 a city or town that levies a transaction privilege tax under this section
28 shall allow persons who are licensed pursuant to title 32, chapter 20 and
29 who are licensed with the department pursuant to section 42-5005,
30 subsection M to file electronic consolidated tax returns with the
31 department with respect to gross proceeds or gross income derived from the
32 individual properties under management on behalf of the property owners,
33 subject to the following conditions and requirements:

34 1. The department shall administer, collect and enforce the tax
35 that is reported and paid pursuant to an electronic consolidated return
36 and remit the collected revenues to the appropriate city or town.

37 2. The tax may not be collected from any property owner whose
38 licensee has provided written documentation to the property owner and to
39 the city or town that the licensee has reported and remitted or will
40 report and remit the applicable tax with respect to the property under
41 management.

42 3. The department shall develop an electronic consolidated return
43 form that separately identifies each owner's property locations and the
44 gross income and deductions for each property location. The licensee

1 shall file the return electronically using the consolidated return form
2 developed by the department.

3 4. All participating property owners included in the same
4 electronic consolidated return must be on the same tax payment schedule
5 and use the same cash receipts or accrual basis of reporting.

6 5. A licensee filing an electronic consolidated return:

7 (a) Acts in a fiduciary capacity as the property owners' agent.

8 (b) Is responsible and accountable to the property owners and to
9 the city or town for fully and accurately reporting and paying to the
10 department the tax and any other amounts due.

11 (c) Is subject to audit, as provided by law, of the electronic
12 consolidated returns, including data in the licensee's possession that is
13 used in compiling and filing the electronic consolidated returns.

14 (d) **NOTWITHSTANDING SECTION 42-1129, SUBSECTION A, SHALL REMIT THE**
15 **APPLICABLE TAX IN MONIES THAT ARE IMMEDIATELY AVAILABLE TO THIS STATE ON**
16 **THE DATE OF THE TRANSFER IN ACCORDANCE WITH SECTION 42-1129, SUBSECTION B.**

17 6. A property owner:

18 (a) Remains ultimately responsible, accountable and liable for
19 both:

20 (i) The accuracy of information the property owner furnishes to the
21 licensee.

22 (ii) The return and payment of the full tax liability, **INCLUDING**
23 **ANY PENALTIES PRESCRIBED BY SECTION 42-1125.**

24 (b) Is subject to audit, as provided by law, of the records in the
25 property owner's possession that are submitted to the licensee for the
26 purposes of the electronic consolidated return.

27 (c) May withdraw any of the property owner's properties from the
28 electronic consolidated return on thirty days' written notice to the
29 licensee, the department and the tax collector of the city or town.

30 B. For the purposes of this section, "licensee" means a person who
31 is licensed pursuant to title 32, chapter 20 and who is licensed with the
32 department pursuant to section 42-5005, subsection M.

33 Sec. 11. Section 42-6209, Arizona Revised Statutes, is amended to
34 read:

35 **42-6209. Abatement of tax for government property**
36 **improvements in single central business district;**
37 **definition**

38 A. A city or town may abate the tax provided for under this article
39 for a limited period beginning when the certificate of occupancy is issued
40 and ending eight years after the certificate of occupancy is issued on a
41 government property improvement that is constructed either before or after
42 July 20, 1996 and that meets the following requirements:

43 1. The improvement is located in a single central business district
44 in the city or town and is subject to a lease or development agreement
45 entered into on or after April 1, 1985. For the purposes of this section:

1 (a) A city or town shall not designate more than one central
2 business district within its corporate boundaries.

3 (b) A city or town shall not approve or enter into a development
4 agreement or lease for a government property improvement within one year
5 after the designation of the central business district in which the
6 improvement is located.

7 (c) "Central business district" means a single and contiguous
8 geographical area that is designated by resolution of the governing body
9 of the city or town and that is geographically compact and not larger than
10 the greatest of the existing total land area of the central business
11 district of the city or town as of January 1, 2018, two and one-half
12 percent of the total land area within the exterior boundaries of the city
13 or town or nine hundred sixty acres. For the purposes of this
14 subdivision, any central business district formed before January 1, 2018
15 is considered to be geographically compact. For the expanded areas of an
16 existing central business district only and the new designation of a
17 central business district formed on or after January 1, 2018 and for the
18 purposes of this subdivision, "geographically compact" means a form or
19 shape that has a length that is not more than twice its width as measured
20 from at least four points on the exterior boundary of the expanded areas
21 of an existing central business district or a central business district
22 formed on or after January 1, 2018.

23 2. The improvement is located entirely within a slum or blighted
24 area that is ~~established~~ DESIGNATED pursuant to title 36, chapter 12,
25 article 3.

26 3. The government property improvement resulted or will result in
27 an increase in property value of at least one hundred percent.

28 B. The prime lessee shall notify the county treasurer and the
29 government lessor and apply for the abatement before the taxes under this
30 article are due and payable in the first year after the certificate of
31 occupancy is issued.

32 C. Except as provided by subsection D of this section, each lease
33 between a prime lessee and a government lessor for which the tax is abated
34 under this section ~~and~~ that is entered into from and after May 31, 2010,
35 and that does not meet the conditions provided in section 42-6203,
36 subsection A, ~~must~~ must be approved by a simple majority vote of the governing
37 body without ~~the use of~~ USING a consent calendar and shall not be approved
38 unless:

39 1. The government lessor notifies the governing bodies of the
40 county and any city, town and school district in which the government
41 property improvement is located at least sixty days before the approval.
42 The notice must include the name and address of the intended prime lessee,
43 the location and proposed use of the government property improvement and
44 the proposed term of the lease or development agreement.

1 2. The government lessor determines that, within the term of the
2 lease or development agreement, the economic and fiscal benefit to this
3 state and the county, city or town in which the government property
4 improvement is located will exceed the benefits received by the prime
5 lessee as a result of the development agreement or lease on the basis of
6 an estimate of those benefits prepared by an independent third party in a
7 manner and method acceptable to the governing body of the government
8 lessor. The estimate must be provided to the government lessor and the
9 governing bodies of the county and any city, town and school district in
10 which the government property improvement is located at least thirty days
11 before the vote of the governing body. A lease or development agreement
12 between a prime lessee and a government lessor involving residential
13 rental housing is exempt from the economic estimate analysis requirements
14 of this paragraph.

15 3. The lease or development agreement provides that the government
16 lessor may not approve an amendment to change the use of the government
17 property improvement during the period of abatement unless:

18 (a) The government lessor notifies the governing bodies of the
19 county and any city, town and school district in which the government
20 property improvement is located at least sixty days before the approval.
21 The notice must include the name and address of the prime lessee, the
22 location and proposed use of the government property improvement and the
23 remaining term of the lease or development agreement.

24 (b) The government lessor determines that, within the remaining
25 term of the lease or development agreement, the economic and fiscal
26 benefit to this state and the county, city or town in which the government
27 property improvement is located will exceed the benefits received by the
28 prime lessee as a result of the change in the lease or development
29 agreement on the basis of an estimate of those benefits prepared by an
30 independent third party in a manner and method acceptable to the governing
31 body of the government lessor. The estimate must be provided to the
32 government lessor and the governing bodies of the county and any city,
33 town and school district in which the government property improvement is
34 located at least thirty days before the vote of the governing body. A
35 change in use under a lease or development agreement between a prime
36 lessee and a government lessor to residential rental housing is exempt
37 from the economic estimate analysis requirements of this subdivision.

38 D. Subsection C of this section does not apply if:

39 1. The tax is not abated under this section.

40 2. The government lessor is acting as a commercial landlord without
41 a development agreement in a lease for a use ancillary to a government
42 property improvement used for a public purpose.

43 E. **THE DESIGNATION OF** a slum or blighted area that is originally
44 designated from and after September 30, 2018 and in which a central
45 business district is located automatically terminates on the tenth

1 anniversary after ~~its~~ THE designation unless the city or town formally
2 renews or modifies all or part of the slum or blighted area
3 designation. The termination of a slum or blighted area DESIGNATION under
4 this subsection does not affect any existing project described in section
5 35-701, paragraph 7, subdivision (a), item ~~(xi)~~ (ix) that is within the
6 designated area. Before the tenth anniversary of its designation, the
7 city or town shall review the area and, pursuant to the review, shall
8 either renew, modify or terminate the designation. If the city or town
9 renews or modifies the original designation, the slum or blighted area
10 designation is subject to subsequent reviews on a ten-year cycle. If the
11 city or town fails to renew or modify the designation, the slum or
12 blighted area designation automatically terminates five years after the
13 review. This subsection does not apply to leases or development
14 agreements ~~for the~~ TO lease of government property if either of the
15 following conditions ~~are~~ IS met with respect to any such excluded area:

16 1. The lease of the government property improvement was entered
17 into before the termination or modification of the slum or blighted area
18 designation.

19 2. A development agreement, ordinance or resolution was approved by
20 the governing body of the government lessor before the termination or
21 modification of the slum or blighted area designation that authorized a
22 lease on the occurrence of specified conditions and the lease was entered
23 into within five years after the date the development agreement was
24 entered into or the ordinance or resolution was approved by the governing
25 body.

26 F. Before October 1, 2020, each city or town shall review THE
27 DESIGNATION OF each slum or blighted area that was originally designated
28 before September 30, 2018 and in which a central business district is
29 located. All such slum or blighted areas in which a central business
30 district is located are considered to be valid. Pursuant to the review,
31 the city or town shall either renew, modify or terminate the
32 designation. If the city or town renews or modifies the original
33 designation, the slum or blighted area designation is subject to
34 subsequent reviews on a ten-year cycle. If the city or town fails to
35 renew or modify the designation, the slum or blighted area designation
36 automatically terminates from and after September 30, 2025, or five years
37 after any subsequent review. The termination of a slum or blighted area
38 designation under this subsection does not affect:

39 1. Any existing project described in section 35-701, paragraph 7,
40 subdivision (a), item (ix) that is within the designated area.

41 2. Any lease or development agreement ~~for the~~ TO lease of
42 government property if either of the following conditions ~~are~~ IS met with
43 respect to the slum or blighted area:

1 (a) The lease of the government property improvement was entered
2 into before the termination or modification of the slum or blighted area
3 designation.

4 (b) A development agreement, ordinance or resolution was approved
5 by the governing body of the government lessor before the termination or
6 modification of the slum or blighted area designation that authorized a
7 lease on the occurrence of specified conditions and the lease was entered
8 into within five years after the date the development agreement was
9 entered into or the ordinance or resolution was approved by the governing
10 body.

11 G. Notwithstanding section 42-6206, subsection C, beginning with
12 development agreements, ordinances or resolutions ~~for the T0 lease of~~
13 government property improvements approved by the governing body of the
14 government lessor from and after December 31, 2016, the lease period for a
15 property for which the tax is abated under this section may not exceed
16 eight years, including any abatement period, regardless of whether the
17 lease is transferred or conveyed to subsequent prime lessees during that
18 period. As soon as reasonably practicable but within twelve months after
19 the expiration date of the lease, the government lessor must convey to the
20 current prime lessee title to the government property improvement and the
21 underlying land. Property conveyed to the prime lessee under this
22 subsection does not qualify for classification as class six property or
23 for any other discounted assessment regardless of the location or
24 condition of the property. This subsection does not apply to leases or
25 ~~the~~ development agreements ~~for the T0 lease of~~ government property if
26 either of the following occurred before January 1, 2017:

27 1. A corresponding resolution or ordinance for the lease or intent
28 to lease such property subject to this section was approved by the
29 governing body of the government lessor.

30 2. A proposal was submitted to the government lessor in response to
31 a request for proposals.

32 Sec. 12. Section 43-222, Arizona Revised Statutes, is amended to
33 read:

34 43-222. Income tax credit review schedule

35 The joint legislative income tax credit review committee shall
36 review the following income tax credits:

37 1. For years ending in 0 and 5, sections 43-1079.01, 43-1087,
38 43-1088, 43-1089.04, 43-1167.01 and 43-1175.

39 2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02,
40 43-1083, 43-1083.02, 43-1164.03 and 43-1183.

41 3. For years ending in 2 and 7, sections 43-1073, 43-1080, 43-1085,
42 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, 43-1169 and
43 43-1181.

44 4. For years ending in 3 and 8, sections 43-1074.01, 43-1081,
45 43-1168, 43-1170 and 43-1178.

1 5. For years ending in 4 and 9, sections 43-1076, 43-1081.01,
2 ~~43-1083.04~~, 43-1084, 43-1162, 43-1164.05, 43-1170.01 and 43-1184 and,
3 beginning in 2019, sections 43-1083.03 and 43-1164.04.

4 Sec. 13. Section 43-1022, Arizona Revised Statutes, is amended to
5 read:

6 43-1022. Subtractions from Arizona gross income

7 In computing Arizona adjusted gross income, the following amounts
8 shall be subtracted from Arizona gross income:

9 1. The amount of exemptions allowed by section 43-1023.

10 2. Benefits, annuities and pensions in an amount totaling not more
11 than ~~two thousand five hundred dollars~~ \$2,500 received from one or more of
12 the following:

13 (a) The United States government service retirement and disability
14 fund, the United States foreign service retirement and disability system
15 and any other retirement system or plan established by federal law, **EXCEPT**
16 **RETIRED OR RETAINER PAY OF THE UNIFORMED SERVICES OF THE UNITED STATES**
17 **THAT QUALIFY FOR A SUBTRACTION UNDER PARAGRAPH 30 OF THIS SECTION.**

18 (b) The Arizona state retirement system, the corrections officer
19 retirement plan, the public safety personnel retirement system, the
20 elected officials' retirement plan, an optional retirement program
21 established by the Arizona board of regents under section 15-1628, an
22 optional retirement program established by a community college district
23 board under section 15-1451 or a retirement plan established for employees
24 of a county, city or town in this state.

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

28 4. Interest income received on obligations of the United States,
29 ~~less~~ **MINUS** any interest on indebtedness, or other related expenses, and
30 deducted in arriving at Arizona gross income, ~~which~~ **THAT** were incurred or
31 continued to purchase or carry such obligations.

32 5. The excess of a partner's share of income required to be
33 included under section 702(a)(8) of the internal revenue code over the
34 income required to be included under chapter 14, article 2 of this title.

35 6. The excess of a partner's share of partnership losses determined
36 pursuant to chapter 14, article 2 of this title over the losses allowable
37 under section 702(a)(8) of the internal revenue code.

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

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

1 9. The amount of prizes or winnings less than ~~five thousand dollars~~
2 **\$5,000** in a single taxable year from any of the state lotteries
3 established and operated pursuant to title 5, chapter 5.1, article 1.

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

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

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

18 13. The amount of unreimbursed medical and hospital costs, adoption
19 counseling, legal and agency fees and other nonrecurring costs of adoption
20 not to exceed ~~three thousand dollars~~ **\$3,000**. In the case of a husband and
21 wife who file separate returns, the subtraction may be taken by either
22 taxpayer or may be divided between them, but the total subtractions
23 allowed both husband and wife shall not exceed ~~three thousand~~
24 ~~dollars~~ **\$3,000**. The subtraction under this paragraph may be taken for the
25 costs that are described in this paragraph and that are incurred in prior
26 years, but the subtraction may be taken only in the year during which the
27 final adoption order is granted.

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

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

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

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

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

45 19. For property placed in service:

1 (a) In taxable years beginning before December 31, 2012, an amount
2 equal to the depreciation allowable pursuant to section 167(a) of the
3 internal revenue code for the taxable year computed as if the election
4 described in section 168(k)(2)(D)(iii) of the internal revenue code had
5 been made for each applicable class of property in the year the property
6 was placed in service.

7 (b) In taxable years beginning from and after December 31, 2012
8 through December 31, 2013, an amount determined in the year the asset was
9 placed in service based on the calculation in subdivision (a) of this
10 paragraph. In the first taxable year beginning from and after December
11 31, 2013, the taxpayer may elect to subtract the amount necessary to make
12 the depreciation claimed to date for the purposes of this title the same
13 as it would have been if subdivision (c) of this paragraph had applied for
14 the entire time the asset was in service. Subdivision (c) of this
15 paragraph applies for the remainder of the asset's life. If the taxpayer
16 does not make the election under this subdivision, subdivision (a) of this
17 paragraph applies for the remainder of the asset's life.

18 (c) In taxable years beginning from and after December 31, 2013
19 through December 31, 2015, an amount equal to the depreciation allowable
20 pursuant to section 167(a) of the internal revenue code for the taxable
21 year as computed as if the additional allowance for depreciation had been
22 ten percent of the amount allowed pursuant to section 168(k) of the
23 internal revenue code.

24 (d) In taxable years beginning from and after December 31, 2015
25 through December 31, 2016, an amount equal to the depreciation allowable
26 pursuant to section 167(a) of the internal revenue code for the taxable
27 year as computed as if the additional allowance for depreciation had been
28 fifty-five percent of the amount allowed pursuant to section 168(k) of the
29 internal revenue code.

30 (e) In taxable years beginning from and after December 31, 2016, an
31 amount equal to the depreciation allowable pursuant to section 167(a) of
32 the internal revenue code for the taxable year as computed as if the
33 additional allowance for depreciation had been the full amount allowed
34 pursuant to section 168(k) of the internal revenue code.

35 20. With respect to property that is sold or otherwise disposed of
36 during the taxable year by a taxpayer that complied with section 43-1021,
37 paragraph 14 with respect to that property, the amount of depreciation
38 that has been allowed pursuant to section 167(a) of the internal revenue
39 code to the extent that the amount has not already reduced Arizona taxable
40 income in the current or prior taxable years.

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

1 (a) ~~Two thousand dollars~~ \$2,000 for a single individual or a head
2 of household.

3 (b) ~~Four thousand dollars~~ \$4,000 for a married couple filing a
4 joint return. In the case of a husband and wife who file separate
5 returns, the subtraction may be taken by either taxpayer or may be divided
6 between them, but the total subtractions allowed both husband and wife
7 shall not exceed ~~four thousand dollars~~ \$4,000.

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

13 23. The amount of previously deferred discharge of indebtedness
14 income that is included in the computation of federal adjusted gross
15 income in the current taxable year pursuant to section 108(i) of the
16 internal revenue code as added by section 1231 of the American recovery
17 and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount
18 was previously added to Arizona gross income pursuant to section 43-1021,
19 paragraph 16.

20 24. The portion of the net operating loss carryforward that would
21 have been allowed as a deduction in the current year pursuant to section
22 172 of the internal revenue code if the election described in section
23 172(b)(1)(H) of the internal revenue code had not been made in the year of
24 the loss that exceeds the actual net operating loss carryforward that was
25 deducted in arriving at federal adjusted gross income. This subtraction
26 only applies to taxpayers who made an election under section 172(b)(1)(H)
27 of the internal revenue code as amended by section 1211 of the American
28 recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by
29 section 13 of the worker, homeownership, and business assistance act of
30 2009 (P.L. 111-92).

31 25. For taxable years beginning from and after December 31, 2013,
32 the amount of any net capital gain included in federal adjusted gross
33 income for the taxable year derived from investment in a qualified small
34 business as determined by the Arizona commerce authority pursuant to
35 section 41-1518.

36 26. An amount of any net long-term capital gain included in federal
37 adjusted gross income for the taxable year that is derived from an
38 investment in an asset acquired after December 31, 2011, as follows:

39 (a) For taxable years beginning from and after December 31, 2012
40 through December 31, 2013, ten percent of the net long-term capital gain
41 included in federal adjusted gross income.

42 (b) For taxable years beginning from and after December 31, 2013
43 through December 31, 2014, twenty percent of the net long-term capital
44 gain included in federal adjusted gross income.

1 (c) For taxable years beginning from and after December 31, 2014,
2 twenty-five percent of the net long-term capital gain included in federal
3 adjusted gross income. For the purposes of this paragraph, a transferee
4 that receives an asset by gift or at the death of a transferor is
5 considered to have acquired the asset when the asset was acquired by the
6 transferor. If the date an asset is acquired cannot be verified, a
7 subtraction under this paragraph is not allowed.

8 27. If an individual is not claiming itemized deductions pursuant
9 to section 43-1042, the amount of premium costs for long-term care
10 insurance, as defined in section 20-1691.

11 28. The amount of eligible access expenditures paid or incurred
12 during the taxable year to comply with the requirements of the Americans
13 with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9,
14 article 8 as provided by section 43-1024.

15 29. For taxable years beginning from and after December 31, 2017,
16 the amount of any net capital gain included in Arizona gross income for
17 the taxable year that is derived from the exchange of one kind of legal
18 tender for another kind of legal tender. For the purposes of this
19 paragraph:

20 (a) "Legal tender" means a medium of exchange, including specie,
21 that is authorized by the United States Constitution or Congress ~~for the~~
22 ~~payment of TO PAY~~ debts, public charges, taxes and dues.

23 (b) "Specie" means coins having precious metal content.

24 30. Benefits, annuities and pensions received as retired or
25 retainer pay of the uniformed services of the United States in amounts as
26 follows:

27 (a) For taxable years through December 31, 2018, an amount totaling
28 not more than ~~two thousand five hundred dollars~~ \$2,500.

29 (b) For taxable years beginning from and after December 31, 2018,
30 an amount totaling not more than ~~three thousand five hundred~~
31 ~~dollars~~ \$3,500.

32 Sec. 14. Repeal

33 Section ~~43-1083.04~~, Arizona Revised Statutes, is repealed.

34 Sec. 15. Section 43-1147, Arizona Revised Statutes, as amended by
35 Laws 2018, chapter 106, section 1, is amended effective from and after
36 December 31, 2019, to read:

37 ~~43-1147. Situs of sales of other than tangible personal~~
38 ~~property; definitions~~

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

42 1. The income-producing activity is performed in this state.

43 2. The income-producing activity is performed both in and outside
44 this state and a greater proportion of the income-producing activity is

1 performed in this state than in any other state, based on costs of
2 performance.

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

10 1. December 31, 2013 through December 31, 2014, by the sum of the
11 following:

12 (a) Eighty-five percent of the market sales.

13 (b) Fifteen percent of the income-producing activity sales.

14 2. December 31, 2014 through December 31, 2015, by the sum of the
15 following:

16 (a) Ninety percent of the market sales.

17 (b) Ten percent of the income-producing activity sales.

18 3. December 31, 2015 through December 31, 2016, by the sum of the
19 following:

20 (a) Ninety-five percent of the market sales.

21 (b) Five percent of the income-producing activity sales.

22 4. December 31, 2016, by one hundred percent of the market sales.

23 C. A multistate service provider may elect to treat sales from
24 services as being in this state under subsection B of this section as
25 follows:

26 1. The election must be made on the taxpayer's timely filed
27 original income tax return. The election is:

28 (a) Effective retroactively for the full taxable year of the income
29 tax return on which the election is made.

30 (b) Binding on the taxpayer for at least five consecutive taxable
31 years, regardless of whether the taxpayer no longer meets the percentage
32 threshold of a multistate service provider during that time period, except
33 as provided by paragraph 2 of this subsection. To continue with the
34 election after the five consecutive taxable years, the taxpayer must meet
35 the qualifications to be considered a multistate service provider and
36 renew the election for another five consecutive taxable years.

37 2. During the election period, the election may be terminated as
38 follows:

39 (a) Without the permission of the department on the acquisition or
40 merger of the taxpayer.

41 (b) With the permission of the department before the expiration of
42 five consecutive taxable years.

43 D. For a multistate service provider under subsection E, paragraph
44 3, subdivision (b) of this section, an election under subsection B of this
45 section is limited to the treatment of sales for educational services.

1 E. For the purposes of this section:

2 1. "Income-producing activity sales" means the total sales from
3 services that are sales in this state under subsection A of this section.

4 2. "Market sales" means the total sales from services AND SALES OF
5 INTANGIBLES, AS DEFINED IN PARAGRAPH 3, SUBDIVISION (a) OF THIS
6 SUBSECTION, for which the purchaser received the benefit of the service OR
7 INTANGIBLES in this state.

8 3. "Multistate service provider" means either:

9 (a) A taxpayer that derives more than eighty-five percent of its
10 sales from services or sales from intangibles provided to purchasers who
11 receive the benefit of the service OR INTANGIBLES outside this state in
12 the taxable year of election, and includes all taxpayers required to file
13 a combined report pursuant to section 43-942 and all members of an
14 affiliated group included in a consolidated return pursuant to section
15 43-947. In calculating the eighty-five percent, sales to students
16 receiving educational services at campuses physically located in this
17 state shall be excluded from the calculation. For the purposes of this
18 subdivision, "sales from intangibles" means sales derived from credit and
19 charge card receivables, including fees, merchant discounts, interchanges,
20 interest and related revenue.

21 (b) A taxpayer that is a regionally accredited institution of
22 higher education with at least one university campus in this state that
23 has more than two thousand students residing on the campus, and includes
24 all taxpayers required to file a combined report pursuant to section
25 43-942 and all members of an affiliated group included in a consolidated
26 return pursuant to section 43-947.

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

36 5. "Sales for educational services" means tuition and fees required
37 for enrollment and fees required for courses of instruction, transcripts
38 and graduation.

39 Sec. 16. Section 43-1164.05, Arizona Revised Statutes, is amended
40 to read:

41 43-1164.05. Credit for renewable energy investment and
42 production for self-consumption by
43 international operations centers; definitions

44 A. A credit is allowed against the taxes imposed by this title for
45 investment in new renewable energy facilities that produce energy for

1 self-consumption using renewable energy resources if the power will be
2 used primarily for an international operations center.

3 B. The taxpayer is eligible for the credit if all of the following
4 apply:

5 1. The taxpayer invests at least ~~one hundred million dollars~~
6 ~~\$100,000,000~~ \$100,000,000 in one or more new renewable energy facilities in this state
7 that produce energy for self-consumption using renewable energy
8 resources. The minimum investment must be completed within a three-year
9 period beginning on the date the initial application is received or by
10 December 31, 2018, whichever is earlier.

11 2. A portion of the energy produced at each renewable energy
12 facility is used for self-consumption in this state. By the fifth year a
13 renewable energy facility is in operation, at least fifty-one percent of
14 the energy produced must be used for self-consumption in this state.
15 Self-consumption includes the power used by related entities if the
16 related entities are directly or indirectly under the same ownership
17 interests that collectively own more than eighty percent. Power that a
18 renewable energy facility transfers to a utility qualifies as
19 self-consumption if the utility is the same utility that provides power to
20 the owner's international operations center in this state.

21 3. The power that is used for self-consumption under paragraph 2 of
22 this subsection is used for an international operations center in this
23 state. A lessor of an international operations center facility that uses
24 power for self-consumption under paragraph 2 of this subsection satisfies
25 the requirements of this paragraph if the lessee is an international
26 operations center and the power is transferred as part of the lease to the
27 lessee.

28 C. Subject to subsection F of this section, the credit authorized
29 by this section is ~~five million dollars~~ \$5,000,000 per year for five years
30 for each renewable energy facility. The maximum credit allowed per
31 taxpayer per year is ~~five million dollars~~ \$5,000,000. The taxpayer,
32 including all affiliates of the taxpayer, may not cumulate tax credits
33 under this section over different taxable years exceeding, in the
34 aggregate, ~~twenty-five million dollars~~ \$25,000,000. The initial credit
35 for each facility is claimed in the year that the facility becomes
36 operational. A credit, other than carryovers allowed under subsection M
37 of this section, may not be claimed for any taxable year beginning after
38 December 31, 2025.

39 D. To qualify as a separate renewable energy facility for the
40 purposes of this section, a facility must be located at least one mile
41 from any other renewable energy facility for which the taxpayer is
42 claiming a credit under this section.

43 E. To be eligible for the credit under this section, the taxpayer
44 must apply to the department for certification of the credit on a form
45 prescribed by the department. The application shall include:

- 1 1. The name, address and social security number or federal employer
2 identification number of the applicant.
- 3 2. An estimate of the total investment the taxpayer will make, over
4 a three-year period beginning on the date the application is received, in
5 new renewable energy facilities in this state that produce energy for
6 self-consumption using renewable energy resources.
- 7 3. The expected location of each of the taxpayer's facilities that
8 comprise the total investment in paragraph 2 of this subsection and the
9 earliest date that each facility is expected to be operational.
- 10 4. A statement that the portion of the power generated by each
11 facility, as required by subsection B, paragraph 2 of this section, shall
12 be for self-consumption and shall be used for international operations
13 center use.
- 14 5. Any additional information that the department requires.
- 15 F. The department shall review each application under subsection E
16 of this section and preapprove the taxpayer for a specified amount of
17 credit that is authorized. Credits are allowed under this section ~~and~~
18 ~~section 43-1083.04~~ on a ~~first come, first served~~ FIRST-COME, FIRST-SERVED
19 basis. The department may not authorize tax credits under this section
20 ~~and section 43-1083.04~~ that exceed in the aggregate a total of ~~ten million~~
21 ~~dollars~~ \$10,000,000 for any calendar year. The portion of each year's
22 limit that is reserved for each taxpayer must be based on the year that
23 each credit is expected to be claimed using the dates provided in
24 subsection E, paragraph 3 of this section. If the year a facility is
25 completed is different from the estimated completion date provided in
26 subsection E, paragraph 3 of this section, the taxpayer must amend the
27 application with the new dates. If an application is received that, if
28 authorized, would require the department to exceed the ~~ten million dollar~~
29 \$10,000,000 limit, the department shall grant the applicant only the
30 remaining credit amount that would not exceed the ~~ten million dollar~~
31 \$10,000,000 limit. After the department authorizes ~~ten million dollars~~
32 \$10,000,000 in tax credits, the department shall deny any subsequent
33 applications that are received for that calendar year. The department may
34 not authorize any additional tax credits that exceed the ~~ten million~~
35 ~~dollar~~ \$10,000,000 limit even if the amounts that have been certified to
36 any taxpayer are not claimed or a taxpayer otherwise fails to meet the
37 requirements to claim the additional credit.
- 38 G. If a taxpayer fails to start construction within six months
39 after submitting the application under subsection E of this section, the
40 preapproval issued under subsection F of this section is void and all
41 monies reserved from the limits specified in subsection F of this section
42 revert back to the limit for the year for which they were reserved.
- 43 H. Each year after initial preapproval, on or before the
44 anniversary date of the application specified in subsection E of this
45 section, the taxpayer must submit to the department:

1 1. Documentation of the taxpayer's progress toward the investment
2 required by subsection B, paragraph 1 of this section. This documentation
3 is not required after the department receives a report stating that the
4 required investment threshold has been reached.

5 2. Documentation for each facility that demonstrates that the
6 required portion of the power generated by each renewable energy facility
7 is for self-consumption as required by subsection B, paragraph 2 of this
8 section.

9 3. If applicable, certification from the Arizona commerce authority
10 pursuant to section 41-1520.

11 I. The taxpayer must submit a request for final certification to
12 the department within thirty days after each of the renewable energy
13 facilities for which an authorization was given under subsection F of this
14 section becomes operational. Within thirty days after receiving a
15 completed request under this subsection, the department shall review the
16 request and either issue a final certification of the credit to the
17 taxpayer or issue a denial of the credit if it is determined that the
18 requirements of this section have not been met. Every final certification
19 issued under this subsection must include a facility code issued by the
20 department that is unique to each facility. To show that the facility has
21 been certified, the taxpayer shall include with the tax return the
22 facility code for each facility for which a credit is claimed. If the
23 taxpayer is the owner or operator of an international operations center,
24 the taxpayer must submit the request for final certification for each of
25 the renewable energy facilities for which capital investment will be
26 claimed towards the required investment threshold and must submit
27 additional evidence to the department within sixty days after the end of
28 the fifth year of operation of each facility that the requirements of
29 subsection B, paragraph 2 of this section have been met.

30 J. If the taxpayer fails to make the required investment in
31 renewable energy facilities within the time period required by subsection
32 B, paragraph 1 of this section or if the certification of an international
33 operations center has been revoked under section 41-1520 due to a failure
34 to make a ~~one billion two hundred fifty million dollar~~ \$1,250,000,000
35 investment in the center within ten years after certification or if the
36 taxpayer fails to receive final certification of the credit under
37 subsection I of this section, the taxpayer is not eligible and must cease
38 claiming any further credits under this section and shall reimburse the
39 amount of all credits previously received under this section. The
40 reimbursement must be made on the taxpayer's income tax return for the
41 taxable year in which it is first known that the required investment would
42 not be made within the required time or the taxable year in which the
43 certification was revoked. The department may give special consideration
44 or allow a temporary exemption from reimbursement if there is
45 extraordinary hardship due to factors beyond the taxpayer's control. If

1 the reimbursement is due to revocation of the certification of an
2 international operations center due to a failure to invest ~~one billion two~~
3 ~~hundred fifty million dollars~~ \$1,250,000,000 in the center within ten
4 years after certification, the credits shall be reimbursed in inverse
5 proportion to the total capital investment made in the international
6 operations center divided by ~~one billion two hundred fifty million dollars~~
7 \$1,250,000,000. The department may require reimbursement before the tenth
8 anniversary of certification of an international operations center if the
9 facility has been closed or relocated or the taxpayer has otherwise
10 demonstrated that the ~~one billion two hundred fifty million dollar~~
11 ~~\$1,250,000,000~~ investment will not be timely made.

12 K. If a particular facility ceases to meet the requirements of this
13 section or if the facility is sold, the taxpayer may not claim any future
14 credits related to that facility.

15 L. Co-owners of a business, including corporate partners in a
16 partnership and CORPORATE members of a limited liability company TREATED
17 AS A PARTNERSHIP, may each claim the pro rata share of the credit allowed
18 under this section based on ownership interest. ONLY CO-OWNERS THAT ARE
19 CORPORATIONS MAY CLAIM A SHARE OF THE CREDIT ALLOWED UNDER THIS SECTION.
20 The total of the credits allowed all the owners of the business may not
21 exceed the amount that would have been allowed for a sole owner of the
22 business.

23 M. If the allowable tax credit for a taxpayer exceeds the taxes
24 otherwise due under this title on the claimant's income, or if there are
25 no taxes due under this title, the amount of the claim not used to offset
26 taxes under this title may be carried forward for not more than five
27 consecutive taxable years as a credit against subsequent years' income tax
28 liability.

29 N. A taxpayer may not claim a credit under this section and section
30 43-1164.03 regarding the same facilities.

31 O. The department shall adopt rules and publish and prescribe forms
32 and procedures as necessary to effectuate the purposes of this section.

33 P. For the purposes of this section:

34 1. "Biomass" means organic material that is available on a
35 renewable or recurring basis, including:

36 (a) Forest-related materials, including mill residues, logging
37 residues, forest thinnings, slash, brush, low-commercial value materials
38 or undesirable species, salt cedar and other phreatophyte or woody
39 vegetation removed from river basins or watersheds and woody material
40 harvested for the purpose of forest fire fuel reduction or forest health
41 and watershed improvement.

42 (b) Agricultural-related materials, including orchard trees,
43 vineyard, grain or crop residues, including straws and stover, aquatic
44 plants and agricultural processed coproducts and waste products, including
45 fats, oils, greases, whey and lactose.

1 (c) Animal waste, including manure and slaughterhouse and other
2 processing waste.

3 (d) Solid woody waste materials, including landscape or
4 right-of-way tree trimmings, rangeland maintenance residues, waste
5 pallets, crates and manufacturing, construction and demolition wood wastes
6 but excluding pressure-treated, chemically treated or painted wood wastes
7 and wood contaminated with plastic.

8 (e) Crops and trees planted for the purpose of being used to
9 produce energy.

10 (f) Landfill gas, wastewater treatment gas and biosolids, including
11 organic waste by-products generated during the wastewater treatment
12 process.

13 2. "International operations center" means a facility that is
14 certified by the Arizona commerce authority pursuant to section 41-1520.

15 3. "Renewable energy facility" means a facility in which the
16 taxpayer invested at least ~~thirty million dollars~~ \$30,000,000, that has at
17 least twenty megawatts generating capacity or a minimum typical annual
18 generation of forty thousand megawatt hours, that is located on land in
19 this state owned or leased by the taxpayer and that produces electricity
20 using a renewable energy resource.

21 4. "Renewable energy resource" means a resource that generates
22 electricity through the use of only the following energy sources:

23 (a) Solar light.

24 (b) Solar heat.

25 (c) Wind.

26 (d) Biomass, including fuel cells supplied directly or indirectly
27 with biomass generated fuels.

28 Sec. 17. Savings clause

29 The repeal of the income tax credit under this act does not affect
30 the continuing validity of any amount of the credit carried forward from
31 previous taxable years for application against subsequent tax liabilities
32 as allowed by prior law.

APPROVED BY THE GOVERNOR MAY 10, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2019.