

REFERENCE TITLE: TPT; marketplace facilitators; nexus

State of Arizona
House of Representatives
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HB 2702

Introduced by

Representatives Toma: Allen J, Biasiucci, Blackman, Bolding, Bolick, Campbell, Chávez, Cook, Engel, Epstein, Espinoza, Finchem, Hernandez A, Hernandez D, Jermaine, Kavanagh, Lawrence, Lieberman, Osborne, Pawlik, Payne, Rivero, Stringer, Thorpe

AN ACT

AMENDING SECTIONS 42-5001, 42-5005, 42-5010 AND 42-5040, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 42-5042 AND 42-5043; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 104, SECTION 15 AND CHAPTER 249, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 104, SECTION 15, CHAPTER 249, SECTION 1 AND CHAPTER 263, SECTION 1; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6017; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5001, Arizona Revised Statutes, is amended to
3 read:

4 42-5001. Definitions

5 In this article and article 2 of this chapter, unless the context
6 otherwise requires:

7 1. "Business" includes all activities or acts, personal or
8 corporate, **THAT ARE** engaged in or caused to be engaged in with the object
9 of gain, benefit or advantage, either directly or indirectly, but does not
10 include either:

11 (a) Casual activities or sales.

12 (b) The transfer of electricity from a solar photovoltaic
13 generation system to an electric utility distribution system.

14 2. "Distribution base" means the portion of the revenues derived
15 from the tax levied by this article and articles 5 and 8 of this chapter
16 designated for distribution to counties, municipalities and other purposes
17 according to section 42-5029, subsection D.

18 3. "Engaging", when used with reference to engaging or continuing
19 in business, includes the exercise of corporate or franchise powers.

20 4. "Gross income" means the gross receipts of a taxpayer derived
21 from trade, business, commerce or sales and the value proceeding or
22 accruing from the sale of tangible personal property or service, or both,
23 and without any deduction on account of losses.

24 5. "Gross proceeds of sales" means the value proceeding or accruing
25 from the sale of tangible personal property without any deduction on
26 account of the cost of property sold, expense of any kind or losses, but
27 cash discounts allowed and taken on sales are not included as gross
28 income.

29 6. ~~"Gross income"~~ and ~~"gross proceeds of sales"~~ do not include
30 goods, wares or merchandise, or **THE** value thereof, returned by customers
31 if the sale price is refunded either in cash or by credit, ~~NOT~~ **OR** the
32 value of merchandise traded in on the purchase of new merchandise when the
33 trade-in allowance is deducted from the sales price of the new merchandise
34 before completion of the sale.

35 7. "Gross receipts" means the total amount of the sale, lease or
36 rental price, as the case may be, of the retail sales of retailers,
37 including any services that are a part of the sales, valued in money,
38 whether received in money or otherwise, including all receipts, cash,
39 credits and property of every kind or nature, and any amount for which
40 credit is allowed by the seller to the purchaser without any deduction
41 from the amount on account of the cost of the property sold, materials
42 used, labor or service performed, interest paid, losses or any other
43 expense. Gross receipts do not include cash discounts allowed and taken
44 ~~NOT~~ **OR** the sale price of property returned by customers if the full sale
45 price is refunded either in cash or by credit.

1 8. "MARKETPLACE FACILITATOR" MEANS A PERSON THAT CONTRACTS WITH
2 SELLERS TO FACILITATE FOR CONSIDERATION, REGARDLESS OF WHETHER DEDUCTED AS
3 A FEE FROM THE TRANSACTION, THE SALE OF THE SELLER'S PRODUCTS THROUGH A
4 PHYSICAL OR ELECTRONIC MARKETPLACE OPERATED BY THE PERSON AND THAT
5 ENGAGES:

6 (a) DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE AFFILIATED PERSONS,
7 IN ANY OF THE FOLLOWING:

8 (i) TRANSMITTING OR OTHERWISE COMMUNICATING THE OFFER OR ACCEPTANCE
9 BETWEEN THE BUYER AND THE SELLER.

10 (ii) OWNING OR OPERATING THE ELECTRONIC OR PHYSICAL INFRASTRUCTURE
11 OR THE TECHNOLOGY THAT BRINGS BUYERS AND SELLERS TOGETHER.

12 (iii) PROVIDING A VIRTUAL CURRENCY THAT BUYERS ARE ALLOWED OR
13 REQUIRED TO USE TO PURCHASE PRODUCTS FROM THE SELLER.

14 (iv) DEVELOPING SOFTWARE OR CONDUCTING RESEARCH AND DEVELOPMENT
15 ACTIVITIES RELATED TO ANY OF THE ACTIVITIES DESCRIBED IN SUBDIVISION (b)
16 OF THIS PARAGRAPH, IF THE ACTIVITIES ARE DIRECTLY RELATED TO A PHYSICAL OR
17 ELECTRONIC MARKETPLACE THAT IS OPERATED BY THE PERSON OR AN AFFILIATED
18 PERSON.

19 (b) IN ANY OF THE FOLLOWING ACTIVITIES WITH RESPECT TO THE SELLER'S
20 PRODUCTS:

21 (i) PAYMENT PROCESSING SERVICES.

22 (ii) FULFILLMENT OR STORAGE SERVICES.

23 (iii) LISTING PRODUCTS FOR SALE.

24 (iv) SETTING PRICES.

25 (v) BRANDING SALES AS THOSE OF THE MARKETPLACE FACILITATOR.

26 (vi) TAKING ORDERS.

27 (vii) ADVERTISING OR PROMOTING.

28 (viii) PROVIDING CUSTOMER SERVICE OR ACCEPTING OR ASSISTING WITH
29 RETURNS OR EXCHANGES.

30 9. "MARKETPLACE SELLER" MEANS A SELLER THAT MAKES RETAIL SALES
31 THROUGH ANY PHYSICAL OR ELECTRONIC MARKETPLACE THAT IS OPERATED BY A
32 MARKETPLACE FACILITATOR.

33 ~~8.~~ 10. "Person" or "company" includes an individual, firm,
34 partnership, joint venture, association, corporation, estate or trust,
35 this state, any county, city, town, district, other than a school
36 district, or other political subdivision and any other group or
37 combination acting as a unit, and the plural as well as the singular
38 number.

39 ~~9.~~ 11. "Qualifying community health center":

40 (a) Means an entity that is recognized as nonprofit under section
41 501(c)(3) of the United States internal revenue code, that is a
42 community-based, primary care clinic that has a community-based board of
43 directors and that is either:

44 (i) The sole provider of primary care in the community.

1 (ii) A nonhospital affiliated clinic that is located in a federally
2 designated medically underserved area in this state.

3 (b) Includes clinics that are being constructed as qualifying
4 community health centers.

5 ~~10.~~ 12. "Qualifying health care organization" means an entity that
6 is recognized as nonprofit under section 501(c) of the United States
7 internal revenue code and that uses, saves or invests at least eighty ~~per~~
8 ~~cent~~ PERCENT of all monies that it receives from all sources each year
9 only for health and medical related educational and charitable services,
10 as documented by annual financial audits prepared by an independent
11 certified public accountant, performed according to generally accepted
12 auditing standards and filed annually with the department. Monies that
13 are used, saved or invested to lease, purchase or construct a facility for
14 health and medical related education and charitable services are included
15 in the eighty ~~per cent~~ PERCENT requirement.

16 ~~11.~~ 13. "Qualifying health sciences educational institution" means
17 an entity that is recognized as nonprofit under section 501(c) of the
18 United States internal revenue code and that solely provides graduate and
19 postgraduate education in the health sciences. For the purposes of this
20 paragraph, "health sciences" includes medicine, nursing, physician's
21 assistant studies, pharmacy, physical therapy, occupational therapy,
22 biomedical sciences, podiatry, clinical psychology, cardiovascular
23 science, nurse anesthesia, dentistry, optometry and veterinary medicine.

24 ~~12.~~ 14. "Qualifying hospital" means any of the following:

25 (a) A licensed hospital ~~which~~ THAT is organized and operated
26 exclusively for charitable purposes, no part of the net earnings of which
27 inures to the benefit of any private shareholder or individual.

28 (b) A licensed nursing care institution or a licensed residential
29 care institution or a residential care facility operated in conjunction
30 with a licensed nursing care institution or a licensed kidney dialysis
31 center, ~~which~~ THAT provides medical services, nursing services or health
32 related services and THAT is not used or held for profit.

33 (c) A hospital, nursing care institution or residential care
34 institution ~~which~~ THAT is operated by the federal government, this state
35 or a political subdivision of this state.

36 (d) A facility that is under construction and that on completion
37 will be a facility under subdivision (a), (b) or (c) of this paragraph.

38 ~~13.~~ 15. "Retailer" includes every person engaged in the business
39 classified under the retail classification pursuant to section 42-5061
40 and, when in the opinion of the department it is necessary for the
41 efficient administration of this article, includes dealers, distributors,
42 supervisors, employers and salesmen, representatives, peddlers or
43 canvassers as the agents of the dealers, distributors, supervisors or
44 employers under whom they operate or from whom they obtain the tangible
45 personal property sold by them, whether in making sales on their own

1 behalf or on behalf of the dealers, distributors, supervisors or
2 employers.

3 ~~14.~~ 16. "Sale" means any transfer of title or possession, or both,
4 exchange, barter, lease or rental, conditional or otherwise, in any manner
5 or by any means whatever, including consignment transactions and auctions,
6 of tangible personal property or other activities taxable under this
7 chapter, for a consideration, and includes:

8 (a) Any transaction by which the possession of property is
9 transferred but the seller retains the title as security for the payment
10 of the price.

11 (b) Fabricating tangible personal property for consumers who
12 furnish either directly or indirectly the materials used in the
13 fabrication work.

14 (c) Furnishing, preparing or serving for a consideration any
15 tangible personal property consumed on the premises of the person
16 furnishing, preparing or serving the tangible personal property.

17 17. "SELLER" MEANS A PERSON THAT MAKES RETAIL SALES.

18 ~~15.~~ 18. "Solar daylighting" means a device that is specifically
19 designed to capture and redirect the visible portion of the solar beam,
20 while controlling the infrared portion, for use in illuminating interior
21 building spaces in lieu of artificial lighting.

22 ~~16.~~ 19. "Solar energy device" means a system or series of
23 mechanisms THAT ARE designed primarily to provide heating, to provide
24 cooling, to produce electrical power, to produce mechanical power, to
25 provide solar daylighting or to provide any combination of the foregoing
26 by means of collecting and transferring solar generated energy into such
27 uses either by active or passive means, including wind generator systems
28 that produce electricity. Solar energy systems may also have the
29 capability of storing solar energy for future use. Passive systems shall
30 clearly be designed as a solar energy device, such as a trombe wall, and
31 not merely as a part of a normal structure, such as a window.

32 ~~17.~~ 20. "Tangible personal property" means personal property ~~which~~
33 THAT may be seen, weighed, measured, felt or touched or THAT is in any
34 other manner perceptible to the senses.

35 ~~19.~~ 21. "Taxpayer" means any person who is liable for any tax
36 ~~which is~~ imposed by this article.

37 ~~18.~~ 22. "Tax year" or "taxable year" means either the calendar
38 year or the taxpayer's fiscal year, if permission is obtained from the
39 department to use a fiscal year as the tax period instead of the calendar
40 year.

41 ~~20.~~ 23. "Wholesaler" or "jobber" means any person who sells
42 tangible personal property for resale and not for consumption by the
43 purchaser.

1 Sec. 2. Section 42-5005, Arizona Revised Statutes, is amended to
2 read:

3 42-5005. Transaction privilege tax and municipal privilege
4 tax licenses: fees: renewal: revocation:
5 violation; classification

6 A. Every person who receives gross proceeds of sales or gross
7 income on which a transaction privilege tax is imposed by this article and
8 who desires to engage or continue in business shall apply to the
9 department for an annual transaction privilege tax license accompanied by
10 a fee of ~~twelve dollars~~ \$12. A person shall not engage or continue in
11 business until the person has obtained a transaction privilege tax
12 license.

13 B. A person desiring to engage or continue in business within a
14 city or town that imposes a municipal privilege tax shall apply to the
15 department of revenue for an annual municipal privilege tax license
16 accompanied by a fee of up to ~~fifty dollars~~ \$50, as established by
17 ordinance of the city or town. The person shall submit the fee with each
18 new license application. The person may not engage or continue in
19 business until the person has obtained a municipal privilege tax license.
20 The department must collect, hold, pay and manage the fees in trust for
21 the city or town and may not use the monies for any other purposes. **THIS**
22 **SUBSECTION DOES NOT APPLY TO A PERSON WHOSE ONLY BUSINESS WITHIN A CITY OR**
23 **TOWN EXCEEDS THE THRESHOLDS PROVIDED IN SECTION 42-5043.**

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

30 D. A municipal privilege tax license is valid only for the calendar
31 year in which it is issued, but it may be renewed for the following
32 calendar year by the payment of a license renewal fee of up to ~~fifty~~
33 ~~dollars~~ \$50. The renewal fee is due and payable on January 1 and is
34 considered delinquent if not received on or before the last business day
35 of January. The department must collect, hold, pay and manage the fees in
36 trust for the city or town and may not use the monies for any other
37 purposes. **THIS SUBSECTION DOES NOT APPLY TO A PERSON WHOSE ONLY BUSINESS**
38 **WITHIN A CITY OR TOWN EXCEEDS THE THRESHOLDS PROVIDED IN SECTION 42-5043.**

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

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

1 applicant complies with this article. The license number shall be
2 continuous.

3 G. The transaction privilege tax license and the municipal
4 privilege tax license are not transferable on a complete change of
5 ownership or change of location of the business. For the purposes of this
6 subsection:

7 1. "Location" means the business address appearing in the
8 application for the license and on the transaction privilege tax or
9 municipal privilege tax license.

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

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

14 H. When the ownership or location of a business on which a
15 transaction privilege tax or municipal privilege tax is imposed has been
16 changed within the meaning of subsection G of this section, the licensee
17 shall surrender the license to the department. The license shall be
18 reissued to the new owners or for the new location on application by the
19 taxpayer and payment of the ~~twelve-dollar~~ \$12 fee for a transaction
20 privilege tax license and a fee of up to ~~fifty-dollars~~ \$50 per
21 jurisdiction for a municipal privilege tax license. The department must
22 collect, hold, pay and manage the fees in trust for the city or town and
23 may not use the monies for any other purposes.

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

31 J. A person who is engaged in or conducting a business in two or
32 more locations or under two or more business names shall procure a
33 municipal privilege tax license for each location or business name
34 regardless of whether all locations or business names are reported on a
35 consolidated return.

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

1 L. For the purposes of this chapter and chapter 6 of this title:

2 1. Through December 31, 2018, an online lodging marketplace, as
3 defined in section 42-5076, may register with the department for a license
4 for the payment of taxes levied by this state and one or more counties,
5 cities, towns or special taxing districts, at the election of the online
6 lodging marketplace, for taxes due from an online lodging operator on any
7 online lodging transaction facilitated by the online lodging marketplace,
8 subject to sections 42-5076 and 42-6009.

9 2. Beginning from and after December 31, 2018, an online lodging
10 marketplace, as defined in section 42-5076, shall register with the
11 department for a license for the payment of taxes levied by this state and
12 one or more counties, cities, towns or special taxing districts for taxes
13 due from an online lodging operator on any online lodging transaction
14 facilitated by the online lodging marketplace, subject to sections 42-5076
15 and 42-6009.

16 M. For the purposes of this chapter and chapter 6 of this title, a
17 person who is licensed pursuant to title 32, chapter 20 and who files an
18 electronic consolidated tax return for individual real properties under
19 management on behalf of the property owners may be licensed with the
20 department for the payment of taxes levied by this state and by any
21 county, city or town with respect to those properties. There is no fee
22 for a license issued pursuant to this subsection.

23 N. If a person violates this article or any rule adopted under this
24 article, the department upon hearing may revoke any transaction privilege
25 tax or municipal privilege tax license issued to the person. The
26 department shall provide ten days' written notice of the hearing, stating
27 the time and place and requiring the person to appear and show cause why
28 the license or licenses should not be revoked. The department shall
29 provide written notice to the person of the revocation of the license.
30 The notices may be served personally or by mail pursuant to section
31 42-5037. After revocation, the department shall not issue a new license
32 to the person unless the person presents evidence satisfactory to the
33 department that the person will comply with this article and with the
34 rules adopted under this article. The department may prescribe the terms
35 under which a revoked license may be reissued.

36 O. The department may revoke any transaction privilege tax or
37 municipal privilege tax license issued to any person who fails for
38 thirteen consecutive months to make and file a return required by this
39 article on or before the due date or the due date as extended by the
40 department unless the failure is due to a reasonable cause and not due to
41 wilful neglect.

42 P. A person who violates any provision of this section is guilty of
43 a class 3 misdemeanor.

1 Sec. 3. Section 42-5010, Arizona Revised Statutes, is amended to
2 read:

3 42-5010. Rates; distribution base

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

6 1. Five percent of the tax base as computed for the business of
7 every person engaging or continuing in this state in the following
8 business classifications described in article 2 of this chapter:

9 (a) Transporting classification.

10 (b) Utilities classification.

11 (c) Telecommunications classification.

12 (d) Pipeline classification.

13 (e) Private car line classification.

14 (f) Publication classification.

15 (g) Job printing classification.

16 (h) Prime contracting classification.

17 (i) Amusement classification.

18 (j) Restaurant classification.

19 (k) Personal property rental classification.

20 (l) Retail classification and amounts equal to retail transaction
21 privilege tax due pursuant to section 42-5008.01.

22 (m) MARKETPLACE FACILITATOR CLASSIFICATION.

23 2. Five and one-half percent of the tax base as computed for the
24 business of every person engaging or continuing in this state in:

25 (a) The transient lodging classification described in section
26 42-5070.

27 (b) The online lodging marketplace classification described in
28 section 42-5076 who has entered into an agreement with the department to
29 register for, or has otherwise obtained from the department, a license to
30 collect tax pursuant to section 42-5005, subsection L.

31 3. Three and one-eighth percent of the tax base as computed for the
32 business of every person engaging or continuing in this state in the
33 mining classification described in section 42-5072.

34 4. Zero percent of the tax base as computed for the business of
35 every person engaging or continuing in this state in the commercial lease
36 classification described in section 42-5069.

37 B. Except as provided by subsection J of this section, twenty
38 percent of the tax revenues collected at the rate prescribed by subsection
39 A, paragraph 1 of this section from persons on account of engaging in
40 business under the business classifications listed in subsection A,
41 paragraph 1, subdivisions (a) through (h) of this section is designated as
42 distribution base for purposes of section 42-5029.

43 C. Forty percent of the tax revenues collected at the rate
44 prescribed by subsection A, paragraph 1 of this section from persons on
45 account of engaging in business under the business classifications listed

1 in subsection A, paragraph 1, subdivisions (i) through ~~(j)~~ (m) of this
2 section is designated as distribution base for purposes of section
3 42-5029.

4 D. Thirty-two percent of the tax revenues collected from persons on
5 account of engaging in business under the business classification listed
6 in subsection A, paragraph 3 of this section is designated as distribution
7 base for purposes of section 42-5029.

8 E. Fifty-three and one-third percent of the tax revenues collected
9 from persons on account of engaging in business under the business
10 classification listed in subsection A, paragraph 4 of this section is
11 designated as distribution base for purposes of section 42-5029.

12 F. Fifty percent of the tax revenues collected from persons on
13 account of engaging in business under the business classification listed
14 in subsection A, paragraph 2 of this section is designated as distribution
15 base for purposes of section 42-5029.

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

31 H. Any increase in the rate of tax that is imposed by this chapter
32 and that is enacted by the legislature or by a vote of the people does not
33 apply with respect to contracts entered into by prime contractors or
34 pursuant to written bids made by prime contractors on or before the
35 effective date of the legislation or the date of the election enacting the
36 increase. To qualify for the exemption under this subsection, the prime
37 contractor must maintain sufficient documentation, in a manner and form
38 prescribed by the department, to verify the date of the contract or
39 written bid.

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

42 1. Any increase in the rate of tax that is levied by this article
43 or article 2 of this chapter enacted by the legislature or by a vote of
44 the people does not apply for a period of one hundred twenty days from the
45 date of the tax rate increase to the gross proceeds of sales or gross

1 income from the business of the taxpayer with respect to written contracts
2 entered into before the effective date of the tax rate increase unless the
3 taxpayer has entered into a contract that contains a provision that
4 entitles the taxpayer to recover from the purchaser the amount of the
5 additional tax levied.

6 2. The provisions of this subsection apply without regard to the
7 accounting method used by the taxpayer to report the taxes imposed under
8 article 2 of this chapter.

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

12 J. Zero percent of the tax revenues that are collected at the rate
13 prescribed by subsection A, paragraph 1 of this section from persons on
14 account of engaging in business under the business classification listed
15 in subsection A, paragraph 1, subdivision (h) of this section, and that
16 are subject to any distribution required by section 42-5032.02, is
17 designated as distribution base for the purposes of section 42-5029 until
18 the total amount subject to distribution pursuant to section 42-5032.02
19 has reached the maximum amount prescribed by section 42-5032.02,
20 subsection C. Thereafter, twenty percent of the remaining tax revenues is
21 designated as distribution base for the purposes of section 42-5029 as
22 provided by subsection B of this section.

23 Sec. 4. Section 42-5040, Arizona Revised Statutes, is amended to
24 read:

25 42-5040. Sourcing of certain transactions involving tangible
26 personal property; definitions

27 A. Except as provided in section 42-5075, retail sales of tangible
28 personal property shall be sourced as follows:

29 1. To the seller's business location if the seller receives the
30 order at a business location in this state.

31 2. Except as provided in section 42-5008.01, to the purchaser's
32 location in this state if the seller receives the order at a business
33 location outside this state.

34 B. For the purposes of this section, an order is received when all
35 of the information necessary to accept the order has been received by or
36 on behalf of the seller, regardless of where the order is accepted or
37 approved. The place of business or residence of the purchaser does not
38 determine where the order is received.

39 C. The gross receipts from leasing or renting tangible personal
40 property shall be sourced as follows:

41 1. To the lessor's business location if the lessor has a business
42 location in this state.

43 2. To the lessee's address if the lessor does not have a business
44 location in this state. The gross receipts are taxable when the property

1 is shipped, delivered or otherwise brought into this state for use in this
2 state.

3 D. FOR MARKETPLACE FACILITATORS, ALL SALES THE MARKETPLACE
4 FACILITATOR FACILITATES ON BEHALF OF A MARKETPLACE SELLER SHALL BE SOURCED
5 TO THE PURCHASER'S LOCATION IN THIS STATE.

6 ~~D.~~ E. For the purposes of this section:

7 1. "Lessee's address" means the residential address of an
8 individual lessee and the primary business address of any other lessee.

9 2. "Lessor's business location" means the business address that
10 appears on the lessor's transaction privilege tax license.

11 Sec. 5. Title 42, chapter 5, article 1, Arizona Revised Statutes,
12 is amended by adding sections 42-5042 and 42-5043, to read:

13 42-5042. Liability of marketplace facilitator

14 A. A MARKETPLACE FACILITATOR IS NOT LIABLE FOR FAILING TO PAY THE
15 CORRECT AMOUNT OF TRANSACTION PRIVILEGE TAX FOR A MARKETPLACE SELLER'S
16 SALES THROUGH THE MARKETPLACE FACILITATOR'S MARKETPLACE TO THE EXTENT THAT
17 THE MARKETPLACE FACILITATOR DEMONSTRATES ANY OF THE FOLLOWING TO THE
18 SATISFACTION OF THE DEPARTMENT:

19 1. THE FAILURE TO PAY THE CORRECT AMOUNT OF TAX WAS DUE TO
20 INCORRECT INFORMATION GIVEN TO THE MARKETPLACE FACILITATOR BY THE
21 MARKETPLACE SELLER, AND THE MARKETPLACE FACILITATOR AND THE MARKETPLACE
22 SELLER ARE NOT AFFILIATED ENTITIES.

23 2. THE MARKETPLACE FACILITATOR AND THE MARKETPLACE SELLER ARE NOT
24 AFFILIATED ENTITIES, AND THE FAILURE TO PAY THE CORRECT AMOUNT OF TAX WAS
25 DUE TO AN ERROR OTHER THAN AN ERROR IN SOURCING THE SALE UNDER SECTION
26 42-5040.

27 B. IF THE MARKETPLACE FACILITATOR IS RELIEVED OF LIABILITY UNDER
28 SUBSECTION A, PARAGRAPH 2 OF THIS SECTION, THE MARKETPLACE SELLER IS ALSO
29 RELIEVED OF LIABILITY FOR THE AMOUNT OF UNCOLLECTED OR UNPAID TAX DUE.

30 C. THE LIABILITY RELIEF PROVIDED IN SUBSECTION A, PARAGRAPH 2 OF
31 THIS SECTION MAY NOT EXCEED THE FOLLOWING:

32 1. FOR CALENDAR YEAR 2019, SEVEN PERCENT OF THE TOTAL TAX DUE UNDER
33 THIS CHAPTER ON TAXABLE SALES FACILITATED BY THE MARKETPLACE FACILITATOR
34 ON BEHALF OF A MARKETPLACE SELLER AND SOURCED TO THIS STATE UNDER SECTION
35 42-5040 DURING THE SAME CALENDAR YEAR.

36 2. FOR CALENDAR YEARS 2020, 2021, 2022, 2023 AND 2024, FIVE PERCENT
37 OF THE TOTAL TAX DUE UNDER THIS CHAPTER ON TAXABLE SALES FACILITATED BY
38 THE MARKETPLACE FACILITATOR ON BEHALF OF A MARKETPLACE SELLER AND SOURCED
39 TO THIS STATE UNDER SECTION 42-5040 DURING THE SAME CALENDAR YEAR.

40 3. FOR CALENDAR YEAR 2025, THREE PERCENT OF THE TOTAL TAX DUE UNDER
41 THIS CHAPTER ON TAXABLE SALES FACILITATED BY THE MARKETPLACE FACILITATOR
42 ON BEHALF OF A MARKETPLACE SELLER AND SOURCED TO THIS STATE UNDER SECTION
43 42-5040 DURING THE SAME CALENDAR YEAR.

44 4. FOR CALENDAR YEAR 2026 AND EACH CALENDAR YEAR THEREAFTER, ZERO
45 PERCENT OF THE TOTAL TAX DUE UNDER THIS CHAPTER ON TAXABLE SALES

1 FACILITATED BY THE MARKETPLACE FACILITATOR ON BEHALF OF A MARKETPLACE
2 SELLER AND SOURCED TO THIS STATE UNDER SECTION 42-5040 DURING THE SAME
3 CALENDAR YEAR.

4 D. A CLASS ACTION MAY NOT BE BROUGHT AGAINST A MARKETPLACE
5 FACILITATOR IN ANY COURT OF THIS STATE ON BEHALF OF PURCHASERS ARISING
6 FROM OR IN ANY WAY RELATED TO AN OVERPAYMENT OF TRANSACTION PRIVILEGE TAX
7 COLLECTED BY THE MARKETPLACE FACILITATOR, REGARDLESS OF WHETHER THAT CLAIM
8 IS CHARACTERIZED AS A TAX REFUND CLAIM. IF A MARKETPLACE FACILITATOR
9 MAKES AN OVERPAYMENT OF TRANSACTION PRIVILEGE TAX IN CONNECTION WITH A
10 TRANSACTION WITH A PURCHASER IN THIS STATE, THE PURCHASER MAY SEEK A
11 REFUND DIRECTLY FROM THE DEPARTMENT AS PROVIDED UNDER SECTION 42-1118.

12 E. THE DEPARTMENT MAY WAIVE PENALTIES AND INTEREST IF THE
13 MARKETPLACE FACILITATOR SEEKS LIABILITY RELIEF, THE DEPARTMENT RULES THAT
14 REASONABLE CAUSE EXISTS AND THE MARKETPLACE FACILITATOR PAID TAX ON SALES
15 FACILITATED FOR A MARKETPLACE SELLER DURING THE PERIOD FOR WHICH RELIEF IS
16 SOUGHT.

17 F. THE DEPARTMENT MAY DETERMINE THE MANNER IN WHICH A MARKETPLACE
18 FACILITATOR MAY CLAIM THE LIABILITY RELIEF PROVIDED FOR IN THIS SECTION.

19 G. THIS SECTION DOES NOT AFFECT THE OBLIGATION OF ANY PURCHASER TO
20 PAY USE TAX AS TO ANY APPLICABLE TAXABLE TRANSACTION IN WHICH THE
21 MARKETPLACE SELLER OR THE MARKETPLACE FACILITATOR DOES NOT PAY TRANSACTION
22 PRIVILEGE TAX.

23 42-5043. Nexus; out-of-state businesses

24 A. NOTWITHSTANDING ANY OTHER LAW, ANY PERSON THAT CONDUCTS BUSINESS
25 IN AN ACTIVITY CLASSIFIED UNDER ARTICLE 2 OF THIS CHAPTER WITH PURCHASERS
26 IN THIS STATE IS ENGAGING OR CONTINUING IN BUSINESS IN THIS STATE, IS
27 SUBJECT TO THIS CHAPTER AND SHALL PAY THE TAXES LEVIED UNDER THIS ARTICLE,
28 ARTICLE 2 OF THIS CHAPTER AND CHAPTER 6 OF THIS TITLE AND ANY DULY ENACTED
29 SPECIAL DISTRICT TRANSACTION PRIVILEGE TAXES IMPOSED UNDER TITLE 48 IF THE
30 PERSON MEETS ANY OF THE FOLLOWING CRITERIA IN THE PREVIOUS OR CURRENT
31 CALENDAR YEAR:

32 1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
33 PERSON'S TRANSACTIONS WITH PURCHASERS IN THIS STATE IS MORE THAN \$100,000.

34 2. THE PERSON ENGAGES IN AT LEAST TWO HUNDRED SEPARATE TRANSACTIONS
35 WITH PURCHASERS IN THIS STATE.

36 3. IF THE PERSON IS A MARKETPLACE FACILITATOR, THE GROSS PROCEEDS
37 OF SALES OR GROSS INCOME DERIVED FROM THE MARKETPLACE FACILITATOR'S
38 TRANSACTIONS WITH PURCHASERS IN THIS STATE ON ITS OWN BEHALF OR ON BEHALF
39 OF AT LEAST ONE MARKETPLACE SELLER IS MORE THAN \$100,000.

40 4. IF THE PERSON IS A MARKETPLACE FACILITATOR, THE MARKETPLACE
41 FACILITATOR ENGAGES IN AT LEAST TWO HUNDRED SEPARATE TRANSACTIONS WITH
42 PURCHASERS IN THIS STATE ON ITS OWN BEHALF OR ON BEHALF OF AT LEAST ONE
43 MARKETPLACE SELLER.

1 B. FOR THE PURPOSES OF DETERMINING WHETHER A PERSON MEETS ANY OF
2 THE CRITERIA PRESCRIBED IN SUBSECTION A OF THIS SECTION, ALL MEMBERS OF
3 THE PERSON'S AFFILIATED GROUP SHALL BE AGGREGATED.

4 Sec. 6. Section 42-5061, Arizona Revised Statutes, as amended by
5 Laws 2018, chapter 104, section 15 and chapter 249, section 1, is amended
6 to read:

7 42-5061. Retail classification; definitions

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

13 1. Professional or personal service occupations or businesses that
14 involve sales or transfers of tangible personal property only as
15 inconsequential elements.

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

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

21 4. Sales of tangible personal property by any nonprofit
22 organization organized and operated exclusively for charitable purposes
23 and recognized by the United States internal revenue service under section
24 501(c)(3) of the internal revenue code.

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

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

30 7. The sale of stocks and bonds.

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

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

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

39 11. Prescription eyeglasses or contact lenses.

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

41 13. Durable medical equipment that has a centers for medicare and
42 medicaid services common procedure code, is designated reimbursable by
43 medicare, is prescribed by a person who is licensed under title 32,
44 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
45 primarily and customarily used to serve a medical purpose, is generally

1 not useful to a person in the absence of illness or injury and is
2 appropriate for use in the home.

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

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

8 16. Items purchased with United States department of agriculture
9 coupons issued under the supplemental nutrition assistance program
10 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
11 7 United States Code sections 2011 through 2036b) by the United States
12 department of agriculture food and nutrition service or food instruments
13 issued under section 17 of the child nutrition act (P.L. 95-627; 92
14 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
15 section 1786).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 25. Tangible personal property sold to:

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

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

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

38 (d) A qualifying community health center as defined in section
39 42-5001.

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

43 (f) For taxable periods beginning from and after June 30, 2001, a
44 nonprofit charitable organization that has qualified under section
45 501(c)(3) of the internal revenue code and that provides residential

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

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

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

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

14 27. Tangible personal property sold to:

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

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

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

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

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

32 28. The sale of a motor vehicle to:

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

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

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

1 30. Sales of tangible personal property by a nonprofit organization
2 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
3 501(c)(6) of the internal revenue code if the organization is associated
4 with a major league baseball team or a national touring professional
5 golfing association and no part of the organization's net earnings inures
6 to the benefit of any private shareholder or individual. This paragraph
7 does not apply to an organization that is owned, managed or controlled, in
8 whole or in part, by a major league baseball team, or its owners,
9 officers, employees or agents, or by a major league baseball association
10 or professional golfing association, or its owners, officers, employees or
11 agents, unless the organization conducted or operated exhibition events in
12 this state before January 1, 2018 that were exempt from taxation under
13 section 42-5073.

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

19 32. Sales of tangible personal property by a nonprofit organization
20 that is exempt from taxation under section 501(c)(3), 501(c)(4),
21 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
22 organization sponsors or operates a rodeo featuring primarily farm and
23 ranch animals and no part of the organization's net earnings inures to the
24 benefit of any private shareholder or individual.

25 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
26 propagative material to persons who use those items to commercially
27 produce agricultural, horticultural, viticultural or floricultural crops
28 in this state.

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

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

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

39 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
40 electricity sold to a qualified environmental technology manufacturer,
41 producer or processor as defined in section 41-1514.02 and directly used
42 or consumed in the generation or provision of on-site power or energy
43 solely for environmental technology manufacturing, producing or processing
44 or environmental protection. This paragraph shall apply for twenty full
45 consecutive calendar or fiscal years from the date the first paper

1 manufacturing machine is placed in service. In the case of an
2 environmental technology manufacturer, producer or processor who does not
3 manufacture paper, the time period shall begin with the date the first
4 manufacturing, processing or production equipment is placed in service.

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

18 39. Through December 31, 1994, personal property liquidation
19 transactions, conducted by a personal property liquidator. From and after
20 December 31, 1994, personal property liquidation transactions shall be
21 taxable under this section provided that nothing in this subsection shall
22 be construed to authorize the taxation of casual activities or
23 transactions under this chapter. For the purposes of this paragraph:

24 (a) "Personal property liquidation transaction" means a sale of
25 personal property made by a personal property liquidator acting solely on
26 behalf of the owner of the personal property sold at the dwelling of the
27 owner or on the death of any owner, on behalf of the surviving spouse, if
28 any, any devisee or heir or the personal representative of the estate of
29 the deceased, if one has been appointed.

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

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

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

41 42. Sales of:

42 (a) Livestock and poultry to persons engaging in the businesses of
43 farming, ranching or producing livestock or poultry.

44 (b) Livestock and poultry feed, salts, vitamins and other additives
45 for livestock or poultry consumption that are sold to persons for use or

1 consumption by their own livestock or poultry, for use or consumption in
2 the businesses of farming, ranching and producing or feeding livestock,
3 poultry, or livestock or poultry products or for use or consumption in
4 noncommercial boarding of livestock. For the purposes of this paragraph,
5 "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (b) "Curriculum design or enhancement" means planning, implementing
19 or reporting on courses of study, lessons, assignments or other learning
20 activities.

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

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

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

37 57. Computer data center equipment sold to the owner, operator or
38 qualified colocation tenant of a computer data center that is certified by
39 the Arizona commerce authority under section 41-1519 or an authorized
40 agent of the owner, operator or qualified colocation tenant during the
41 qualification period for use in the qualified computer data center. For
42 the purposes of this paragraph, "computer data center", "computer data
43 center equipment", "qualification period" and "qualified colocation
44 tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

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

21 60. Sales of works of fine art, as defined in section 44-1771, at
22 an art auction or gallery in this state to nonresidents of this state for
23 use outside this state if the vendor ships or delivers the work of fine
24 art to a destination outside this state.

25 61. SALES OF TANGIBLE PERSONAL PROPERTY BY A MARKETPLACE SELLER, IF
26 THE SALE IS FACILITATED BY A MARKETPLACE FACILITATOR AND THE MARKETPLACE
27 SELLER HAS RECEIVED DOCUMENTATION FROM THE MARKETPLACE FACILITATOR THAT
28 THE MARKETPLACE FACILITATOR HAS PAID THE APPLICABLE TAX AND HAS REMITTED
29 OR WILL REMIT THE APPLICABLE TAX TO THE DEPARTMENT PURSUANT TO SECTIONS
30 42-5014 AND 42-5077.

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

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

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

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

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

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

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

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

24 7. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold to:

26 (a) A person:

27 (i) Holding, or exempted by federal law from obtaining, a federal
28 certificate of public convenience and necessity for use as, in conjunction
29 with or becoming part of an aircraft to be used to transport persons for
30 hire in intrastate, interstate or foreign commerce.

31 (ii) That is certificated or licensed under federal aviation
32 administration regulations (14 Code of Federal Regulations part 121 or
33 135) as a scheduled or unscheduled carrier of persons for hire for use as
34 or in conjunction with or becoming part of an aircraft to be used to
35 transport persons for hire in intrastate, interstate or foreign commerce.

36 (iii) Holding a foreign air carrier permit for air transportation
37 for use as or in conjunction with or becoming a part of aircraft to be
38 used to transport persons, property or United States mail in intrastate,
39 interstate or foreign commerce.

40 (iv) Operating an aircraft to transport persons in any manner for
41 compensation or hire, or for use in a fractional ownership program that
42 meets the requirements of federal aviation administration regulations (14
43 Code of Federal Regulations part 91, subpart K), including as an air
44 carrier, a foreign air carrier or a commercial operator or under a
45 restricted category, within the meaning of 14 Code of Federal Regulations,

1 regardless of whether the operation or aircraft is regulated or certified
2 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
3 of Federal Regulations.

4 (v) That will lease or otherwise transfer operational control,
5 within the meaning of federal aviation administration operations
6 specification A008, or its successor, of the aircraft, instruments or
7 accessories to one or more persons described in item (i), (ii), (iii) or
8 (iv) of this subdivision, subject to section 42-5009, subsection Q.

9 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 21. Qualifying equipment that is purchased from and after June 30,
5 2004 through June 30, 2024 by a qualified business under section 41-1516
6 for harvesting or processing qualifying forest products removed from
7 qualifying projects as defined in section 41-1516. To qualify for this
8 deduction, the qualified business at the time of purchase must present its
9 certification approved by the department.

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

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

16 2. Janitorial equipment and hand tools.

17 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

1 the tax shall be imposed on the total of the person's gross proceeds of
2 sales of tangible personal property and gross income from services.

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

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

17 1. Agricultural producers who are owners, proprietors or tenants of
18 agricultural lands, orchards, farms or gardens where agricultural products
19 are grown, raised or prepared for market and who are marketing their own
20 agricultural products.

21 2. Businesses classified under the:

22 (a) Transporting classification.

23 (b) Utilities classification.

24 (c) Telecommunications classification.

25 (d) Pipeline classification.

26 (e) Private car line classification.

27 (f) Publication classification.

28 (g) Job printing classification.

29 (h) Prime contracting classification.

30 (i) Restaurant classification.

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

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

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

41 3. Overhead materials or other tangible personal property that is
42 used in performing a contract between the United States government and a
43 manufacturer, modifier, assembler or repairer, including property used in
44 performing a subcontract with a government contractor who is a

1 manufacturer, modifier, assembler or repairer, to which title passes to
2 the government under the terms of the contract or subcontract.

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

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

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

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

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

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

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

28 N. In computing the tax base in the case of the sale or transfer of
29 wireless telecommunications equipment as an inducement to a customer to
30 enter into or continue a contract for telecommunications services that are
31 taxable under section 42-5064, gross proceeds of sales or gross income
32 does not include any sales commissions or other compensation received by
33 the retailer as a result of the customer entering into or continuing a
34 contract for the telecommunications services.

35 O. For the purposes of this section, a sale of wireless
36 telecommunications equipment to a person who holds the equipment for sale
37 or transfer to a customer as an inducement to enter into or continue a
38 contract for telecommunications services that are taxable under section
39 42-5064 is considered to be a sale for resale in the regular course of
40 business.

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

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

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

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

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

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

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

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

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

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

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

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

14 V. For the purposes of this section:

15 1. "Agricultural aircraft" means an aircraft that is built for
16 agricultural use for the aerial application of pesticides or fertilizer or
17 for aerial seeding.

18 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

44 4. "Overhead materials" means tangible personal property, the gross
45 proceeds of sales or gross income derived from that would otherwise be

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

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

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

18 Sec. 7. Section 42-5061, Arizona Revised Statutes, as amended by
19 Laws 2018, chapter 104, section 15, chapter 249, section 1 and chapter
20 263, section 1, is amended to read:

21 42-5061. Retail classification; definitions

22 A. The retail classification is comprised of the business of
23 selling tangible personal property at retail. The tax base for the retail
24 classification is the gross proceeds of sales or gross income derived from
25 the business. The tax imposed on the retail classification does not apply
26 to the gross proceeds of sales or gross income from:

27 1. Professional or personal service occupations or businesses that
28 involve sales or transfers of tangible personal property only as
29 inconsequential elements.

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

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

35 4. Sales of tangible personal property by any nonprofit
36 organization organized and operated exclusively for charitable purposes
37 and recognized by the United States internal revenue service under section
38 501(c)(3) of the internal revenue code.

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

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

44 7. The sale of stocks and bonds.

- 1 8. Drugs and medical oxygen, including delivery hose, mask or tent,
2 regulator and tank, on the prescription of a member of the medical, dental
3 or veterinarian profession who is licensed by law to administer such
4 substances.
- 5 9. Prosthetic appliances as defined in section 23-501 and as
6 prescribed or recommended by a health professional who is licensed
7 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 8 10. Insulin, insulin syringes and glucose test strips.
- 9 11. Prescription eyeglasses or contact lenses.
- 10 12. Hearing aids as defined in section 36-1901.
- 11 13. Durable medical equipment that has a centers for medicare and
12 medicaid services common procedure code, is designated reimbursable by
13 medicare, is prescribed by a person who is licensed under title 32,
14 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
15 primarily and customarily used to serve a medical purpose, is generally
16 not useful to a person in the absence of illness or injury and is
17 appropriate for use in the home.
- 18 14. Sales of motor vehicles to nonresidents of this state for use
19 outside this state if the motor vehicle dealer ships or delivers the motor
20 vehicle to a destination out of this state.
- 21 15. Food, as provided in and subject to the conditions of article 3
22 of this chapter and section 42-5074.
- 23 16. Items purchased with United States department of agriculture
24 coupons issued under the supplemental nutrition assistance program
25 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
26 7 United States Code sections 2011 through 2036b) by the United States
27 department of agriculture food and nutrition service or food instruments
28 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
29 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
30 section 1786).
- 31 17. Textbooks by any bookstore that are required by any state
32 university or community college.
- 33 18. Food and drink to a person that is engaged in a business that
34 is classified under the restaurant classification and that provides such
35 food and drink without monetary charge to its employees for their own
36 consumption on the premises during the employees' hours of employment.
- 37 19. Articles of food, drink or condiment and accessory tangible
38 personal property to a school district or charter school if such articles
39 and accessory tangible personal property are to be prepared and served to
40 persons for consumption on the premises of a public school within the
41 district or on the premises of the charter school during school hours.
- 42 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
43 article 1.
- 44 21. The sale of cash equivalents and the sale of precious metal
45 bullion and monetized bullion to the ultimate consumer, but the sale of

1 coins or other forms of money for manufacture into jewelry or works of art
2 is subject to the tax and the gross proceeds of sales or gross income
3 derived from the redemption of any cash equivalent by the holder as a
4 means of payment for goods or services that are taxable under this article
5 is subject to the tax. For the purposes of this paragraph:

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

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

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

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

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

28 22. Motor vehicle fuel and use fuel that are subject to a tax
29 imposed under title 28, chapter 16, article 1, sales of use fuel to a
30 holder of a valid single trip use fuel tax permit issued under section
31 28-5739, sales of aviation fuel that are subject to the tax imposed under
32 section 28-8344 and sales of jet fuel that are subject to the tax imposed
33 under article 8 of this chapter.

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

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

41 25. Tangible personal property sold to:

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

43 (b) A qualifying health care organization as defined in section
44 42-5001 if the tangible personal property is used by the organization

1 solely to provide health and medical related educational and charitable
2 services.

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

8 (d) A qualifying community health center as defined in section
9 42-5001.

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

13 (f) For taxable periods beginning from and after June 30, 2001, a
14 nonprofit charitable organization that has qualified under section
15 501(c)(3) of the internal revenue code and that provides residential
16 apartment housing for low income persons over sixty-two years of age in a
17 facility that qualifies for a federal housing subsidy, if the tangible
18 personal property is used by the organization solely to provide
19 residential apartment housing for low income persons over sixty-two years
20 of age in a facility that qualifies for a federal housing subsidy.

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

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

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

29 27. Tangible personal property sold to:

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

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

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

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

42 (b) A person that is not subject to tax under section 42-5075 and
43 that has been provided a copy of a certificate under section 42-5009,
44 subsection L, if the property so sold is incorporated or fabricated by the

1 person into the real property, structure, project, development or
2 improvement described in the certificate.

3 28. The sale of a motor vehicle to:

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

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

11 29. Tangible personal property purchased in this state by a
12 nonprofit charitable organization that has qualified under section
13 501(c)(3) of the United States internal revenue code and that engages in
14 and uses such property exclusively in programs for persons with mental or
15 physical disabilities if the programs are exclusively for training, job
16 placement, rehabilitation or testing.

17 30. Sales of tangible personal property by a nonprofit organization
18 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
19 501(c)(6) of the internal revenue code if the organization is associated
20 with a major league baseball team or a national touring professional
21 golfing association and no part of the organization's net earnings inures
22 to the benefit of any private shareholder or individual. This paragraph
23 does not apply to an organization that is owned, managed or controlled, in
24 whole or in part, by a major league baseball team, or its owners,
25 officers, employees or agents, or by a major league baseball association
26 or professional golfing association, or its owners, officers, employees or
27 agents, unless the organization conducted or operated exhibition events in
28 this state before January 1, 2018 that were exempt from taxation under
29 section 42-5073.

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

35 32. Sales of tangible personal property by a nonprofit organization
36 that is exempt from taxation under section 501(c)(3), 501(c)(4),
37 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
38 organization sponsors or operates a rodeo featuring primarily farm and
39 ranch animals and no part of the organization's net earnings inures to the
40 benefit of any private shareholder or individual.

41 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
42 propagative material to persons who use those items to commercially
43 produce agricultural, horticultural, viticultural or floricultural crops
44 in this state.

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

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

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

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

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

35 39. Through December 31, 1994, personal property liquidation
36 transactions, conducted by a personal property liquidator. From and after
37 December 31, 1994, personal property liquidation transactions shall be
38 taxable under this section provided that nothing in this subsection shall
39 be construed to authorize the taxation of casual activities or
40 transactions under this chapter. For the purposes of this paragraph:

41 (a) "Personal property liquidation transaction" means a sale of
42 personal property made by a personal property liquidator acting solely on
43 behalf of the owner of the personal property sold at the dwelling of the
44 owner or on the death of any owner, on behalf of the surviving spouse, if

1 any, any devisee or heir or the personal representative of the estate of
2 the deceased, if one has been appointed.

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

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

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

14 42. Sales of:

15 (a) Livestock and poultry to persons engaging in the businesses of
16 farming, ranching or producing livestock or poultry.

17 (b) Livestock and poultry feed, salts, vitamins and other additives
18 for livestock or poultry consumption that are sold to persons for use or
19 consumption by their own livestock or poultry, for use or consumption in
20 the businesses of farming, ranching and producing or feeding livestock,
21 poultry, or livestock or poultry products or for use or consumption in
22 noncommercial boarding of livestock. For the purposes of this paragraph,
23 "poultry" includes ratites.

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

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

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

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

43 47. Sales of materials that are purchased by or for publicly funded
44 libraries including school district libraries, charter school libraries,

1 community college libraries, state university libraries or federal, state,
2 county or municipal libraries for use by the public as follows:

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

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

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

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

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

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

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

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

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

35 (b) "Curriculum design or enhancement" means planning, implementing
36 or reporting on courses of study, lessons, assignments or other learning
37 activities.

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

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

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

9 57. Computer data center equipment sold to the owner, operator or
10 qualified colocation tenant of a computer data center that is certified by
11 the Arizona commerce authority under section 41-1519 or an authorized
12 agent of the owner, operator or qualified colocation tenant during the
13 qualification period for use in the qualified computer data center. For
14 the purposes of this paragraph, "computer data center", "computer data
15 center equipment", "qualification period" and "qualified colocation
16 tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

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

37 60. Sales of works of fine art, as defined in section 44-1771, at
38 an art auction or gallery in this state to nonresidents of this state for
39 use outside this state if the vendor ships or delivers the work of fine
40 art to a destination outside this state.

41 61. Sales of coal.

42 62. SALES OF TANGIBLE PERSONAL PROPERTY BY A MARKETPLACE SELLER, IF
43 THE SALE IS FACILITATED BY A MARKETPLACE FACILITATOR AND THE MARKETPLACE
44 SELLER HAS RECEIVED DOCUMENTATION FROM THE MARKETPLACE FACILITATOR THAT
45 THE MARKETPLACE FACILITATOR HAS PAID THE APPLICABLE TAX AND HAS REMITTED

1 OR WILL REMIT THE APPLICABLE TAX TO THE DEPARTMENT PURSUANT TO SECTIONS
2 42-5014 AND 42-5077.

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

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

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

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

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

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

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

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

43 (a) A person:

44 (i) Holding, or exempted by federal law from obtaining, a federal
45 certificate of public convenience and necessity for use as, in conjunction

1 with or becoming part of an aircraft to be used to transport persons for
2 hire in intrastate, interstate or foreign commerce.

3 (ii) That is certificated or licensed under federal aviation
4 administration regulations (14 Code of Federal Regulations part 121 or
5 135) as a scheduled or unscheduled carrier of persons for hire for use as
6 or in conjunction with or becoming part of an aircraft to be used to
7 transport persons for hire in intrastate, interstate or foreign commerce.

8 (iii) Holding a foreign air carrier permit for air transportation
9 for use as or in conjunction with or becoming a part of aircraft to be
10 used to transport persons, property or United States mail in intrastate,
11 interstate or foreign commerce.

12 (iv) Operating an aircraft to transport persons in any manner for
13 compensation or hire, or for use in a fractional ownership program that
14 meets the requirements of federal aviation administration regulations
15 (14 Code of Federal Regulations part 91, subpart K), including as an air
16 carrier, a foreign air carrier or a commercial operator or under a
17 restricted category, within the meaning of 14 Code of Federal Regulations,
18 regardless of whether the operation or aircraft is regulated or certified
19 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
20 of Federal Regulations.

21 (v) That will lease or otherwise transfer operational control,
22 within the meaning of federal aviation administration operations
23 specification A008, or its successor, of the aircraft, instruments or
24 accessories to one or more persons described in item (i), (ii), (iii) or
25 (iv) of this subdivision, subject to section 42-5009, subsection Q.

26 (b) Any foreign government.

27 (c) Persons who are not residents of this state and who will not
28 use such property in this state other than in removing such property from
29 this state. This subdivision also applies to corporations that are not
30 incorporated in this state, regardless of maintaining a place of business
31 in this state, if the principal corporate office is located outside this
32 state and the property will not be used in this state other than in
33 removing the property from this state.

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

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

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

43 11. Buses or other urban mass transit vehicles that are used
44 directly to transport persons or property for hire or pursuant to a
45 governmentally adopted and controlled urban mass transportation program

1 and that are sold to bus companies holding a federal certificate of
2 convenience and necessity or operated by any city, town or other
3 governmental entity or by any person contracting with such governmental
4 entity as part of a governmentally adopted and controlled program to
5 provide urban mass transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 19. Machinery and equipment that are sold to a person engaged in
43 the commercial production of livestock, livestock products or
44 agricultural, horticultural, viticultural or floricultural crops or
45 products in this state, including a person representing or working on

1 behalf of such a person in a manner described in section 42-5075,
2 subsection 0, if the machinery and equipment are used directly and
3 primarily to prevent, monitor, control or reduce air, water or land
4 pollution.

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

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

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

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

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

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

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

32 2. Janitorial equipment and hand tools.

33 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

35 1. Agricultural producers who are owners, proprietors or tenants of
36 agricultural lands, orchards, farms or gardens where agricultural products
37 are grown, raised or prepared for market and who are marketing their own
38 agricultural products.

39 2. Businesses classified under the:

40 (a) Transporting classification.

41 (b) Utilities classification.

42 (c) Telecommunications classification.

43 (d) Pipeline classification.

1 (e) Private car line classification.

2 (f) Publication classification.

3 (g) Job printing classification.

4 (h) Prime contracting classification.

5 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

42 M. There shall be deducted from the tax base the amount received
43 from sales of solar energy devices. The retailer shall register with the
44 department as a solar energy retailer. By registering, the retailer

1 acknowledges that it will make its books and records relating to sales of
2 solar energy devices available to the department for examination.

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

10 O. For the purposes of this section, a sale of wireless
11 telecommunications equipment to a person who holds the equipment for sale
12 or transfer to a customer as an inducement to enter into or continue a
13 contract for telecommunications services that are taxable under section
14 42-5064 is considered to be a sale for resale in the regular course of
15 business.

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

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

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

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

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

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

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

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

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

23 U. For the purposes of this section:

24 1. "Agricultural aircraft" means an aircraft that is built for
25 agricultural use for the aerial application of pesticides or fertilizer or
26 for aerial seeding.

27 2. "Aircraft" includes:

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

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

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

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

1 V. For the purposes of subsection I of this section:

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

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

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

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

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

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

30 Sec. 8. Title 42, chapter 5, article 2, Arizona Revised Statutes,
31 is amended by adding section 42-5077, to read:

32 42-5077. Marketplace facilitator classification

33 A. THE MARKETPLACE FACILITATOR CLASSIFICATION IS COMPRISED OF THE
34 BUSINESS OF FACILITATING RETAIL SALES AS A MARKETPLACE FACILITATOR.

35 B. THE TAX BASE FOR THE MARKETPLACE FACILITATOR CLASSIFICATION IS
36 THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM ALL SALES THE MARKETPLACE
37 FACILITATOR FACILITATES ON BEHALF OF MARKETPLACE SELLERS SOURCED TO THIS
38 STATE UNDER SECTION 42-5040 IF THE MARKETPLACE SELLER IS NOT AN AFFILIATE
39 OF THE MARKETPLACE FACILITATOR. THE TAX BASE SHALL BE CALCULATED IN
40 ACCORDANCE WITH SECTION 42-5061 FOR GROSS PROCEEDS OF SALES OR GROSS
41 INCOME FROM RETAIL SALES OF TANGIBLE PERSONAL PROPERTY. THIS SUBSECTION
42 DOES NOT INTERFERE WITH THE ABILITY OF A MARKETPLACE FACILITATOR AND A
43 MARKETPLACE SELLER TO ENTER INTO AGREEMENTS WITH EACH OTHER TO FULFILL THE
44 REQUIREMENTS OF THIS SECTION.

1 C. A MARKETPLACE FACILITATOR SHALL PAY THE TAX IMPOSED UNDER THIS
2 ARTICLE, ARTICLE 1 OF THIS CHAPTER, CHAPTER 6 OF THIS TITLE AND ANY DULY
3 ENACTED SPECIAL DISTRICT TRANSACTION PRIVILEGE TAXES IMPOSED UNDER TITLE
4 48 ON ALL SALES FACILITATED BY THE MARKETPLACE FACILITATOR AND SOURCED TO
5 THIS STATE UNDER SECTION 42-5040 REGARDLESS OF WHETHER THE MARKETPLACE
6 SELLER FOR WHOM SALES ARE FACILITATED IS REQUIRED TO BE REGISTERED WITH
7 THE DEPARTMENT AS PROVIDED IN SECTION 42-5005 OR WOULD HAVE BEEN REQUIRED
8 TO PAY THE TAX IMPOSED BY THIS ARTICLE, ARTICLE 1 OF THIS CHAPTER OR
9 CHAPTER 6 OF THIS TITLE OR BY A SPECIAL DISTRICT HAD THE SALE NOT BEEN
10 FACILITATED BY THE MARKETPLACE FACILITATOR.

11 D. A MARKETPLACE FACILITATOR SHALL REPORT THE TAX DUE UNDER THIS
12 SECTION FROM TRANSACTIONS CONDUCTED ON BEHALF OF MARKETPLACE SELLERS
13 SEPARATELY FROM THE TAX DUE FROM TRANSACTIONS MADE DIRECTLY BY THE
14 MARKETPLACE FACILITATOR, OR AFFILIATES OF THE MARKETPLACE FACILITATOR,
15 USING A SEPARATE RETURN.

16 E. NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT SHALL AUDIT THE
17 MARKETPLACE FACILITATOR FOR SALES MADE BY MARKETPLACE SELLERS THAT ARE
18 FACILITATED BY THE MARKETPLACE FACILITATOR. THE DEPARTMENT SHALL AUDIT
19 THE MARKETPLACE SELLERS ONLY FOR SALES FACILITATED BY A MARKETPLACE
20 FACILITATOR TO THE EXTENT THE MARKETPLACE FACILITATOR SEEKS RELIEF UNDER
21 SECTION 42-5042, SUBSECTION A, PARAGRAPH 1. THIS SUBSECTION DOES NOT
22 PROHIBIT THE DEPARTMENT FROM AUDITING MARKETPLACE FACILITATORS FOR SALES
23 MADE BY THE MARKETPLACE FACILITATOR ON ITS OWN BEHALF OR ON BEHALF OF THE
24 MARKETPLACE FACILITATOR'S AFFILIATES.

25 Sec. 9. Title 42, chapter 6, article 1, Arizona Revised Statutes,
26 is amended by adding section 42-6017, to read:

27 42-6017. Marketplace sellers; requirements

28 A CITY, TOWN OR OTHER TAXING JURISDICTION MAY LEVY A TRANSACTION
29 PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE, HOWEVER
30 DENOMINATED, ON A PERSON THAT IS NOT A MARKETPLACE SELLER, AS DEFINED IN
31 SECTION 42-5001, AND THAT IS ENGAGING OR CONTINUING IN BUSINESS IN THIS
32 STATE PURSUANT TO SECTION 42-5043, SUBSECTION A, PARAGRAPHS 1 AND 2
33 SUBJECT TO THE FOLLOWING REQUIREMENTS:

34 1. ANY TAX ON RETAIL SALES OF TANGIBLE PERSONAL PROPERTY IS
35 AMENDED, AS NECESSARY, SO THAT THE ACTIVITIES TAXED ARE THE SAME AS
36 PRESCRIBED IN SECTION 42-5061.

37 2. NOTWITHSTANDING SECTION 42-6015, ANY TAX ON RETAIL SALES OF FOOD
38 FOR HOME CONSUMPTION IS AMENDED, AS NECESSARY, SO THAT IT IS THE SAME AS
39 PRESCRIBED IN SECTION 42-5102.

40 3. A NEXUS PROVISION IS ADOPTED FOR OUT-OF-STATE BUSINESSES THAT
41 IS THE SAME AS THE NEXUS PROVISIONS PROVIDED IN SECTION 42-5043,
42 SUBSECTION A, PARAGRAPHS 1 AND 2.

1 4. ANY DEFINITIONS RELATING TO THE TAXATION OF THE ITEMS DESCRIBED
2 IN PARAGRAPHS 1 AND 2 OF THIS SECTION ARE AMENDED OR ADOPTED, AS
3 NECESSARY, SO THAT THE DEFINITIONS ARE THE SAME AS THE DEFINITIONS
4 PRESCRIBED IN SECTIONS 42-5001 AND 42-5101.

5 Sec. 10. Applicability

6 A. The tax reporting and payment requirements imposed by this act
7 apply prospectively.

8 B. This act applies to taxable periods beginning on or after the
9 first day of the month following the effective date of this act.

10 Sec. 11. Conditional enactment

11 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2018,
12 chapter 104, section 15, chapter 249, section 1 and chapter 263, section 1
13 and this act, becomes effective on the date prescribed by Laws 2018,
14 chapter 263, section 5 but only on the occurrence of the condition
15 prescribed by Laws 2018, chapter 263, section 5.