REFERENCE TITLE: TPT; marketplace facilitators; nexus

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

HB 2702

Introduced by

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

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

42-5001. Definitions
In this article and article 2 of this chapter, unless the context otherwise requires:

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

   (a) Casual activities or sales.

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

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

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

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

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

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

7. "Gross receipts" means the total amount of the sale, lease or rental price, as the case may be, of the retail sales of retailers, including any services that are a part of the sales, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property of every kind or nature, and any amount for which credit is allowed by the seller to the purchaser without any deduction from the amount on account of the cost of the property sold, materials used, labor or service performed, interest paid, losses or any other expense. Gross receipts do not include cash discounts allowed and taken OR the sale price of property returned by customers if the full sale price is refunded either in cash or by credit.
8. "MARKETPLACE FACILITATOR" MEANS A PERSON THAT CONTRACTS WITH
SELLERS TO FACILITATE FOR CONSIDERATION, REGARDLESS OF WHETHER DEDUCTED AS
A FEE FROM THE TRANSACTION, THE SALE OF THE SELLER'S PRODUCTS THROUGH A
PHYSICAL OR ELECTRONIC MARKETPLACE OPERATED BY THE PERSON AND THAT
ENGAGES:
   (a) DIRECTLY OR INDIRECTLY, THROUGH ONE OR MORE AFFILIATED PERSONS,
IN ANY OF THE FOLLOWING:
   (i) TRANSMITTING OR OTHERWISE COMMUNICATING THE OFFER OR ACCEPTANCE
      BETWEEN THE BUYER AND THE SELLER.
   (ii) OWNING OR OPERATING THE ELECTRONIC OR PHYSICAL INFRASTRUCTURE
       OR THE TECHNOLOGY THAT BRINGS BUYERS AND SELLERS TOGETHER.
   (iii) PROVIDING A VIRTUAL CURRENCY THAT BUYERS ARE ALLOWED OR
       REQUIRED TO USE TO PURCHASE PRODUCTS FROM THE SELLER.
   (iv) DEVELOPING SOFTWARE OR CONDUCTING RESEARCH AND DEVELOPMENT
       ACTIVITIES RELATED TO ANY OF THE ACTIVITIES DESCRIBED IN SUBDIVISION (b)
       OF THIS PARAGRAPH, IF THE ACTIVITIES ARE DIRECTLY RELATED TO A PHYSICAL OR
       ELECTRONIC MARKETPLACE THAT IS OPERATED BY THE PERSON OR AN AFFILIATED
       PERSON.
   (b) IN ANY OF THE FOLLOWING ACTIVITIES WITH RESPECT TO THE SELLER'S
PRODUCTS:
   (i) PAYMENT PROCESSING SERVICES.
   (ii) FULFILLMENT OR STORAGE SERVICES.
   (iii) LISTING PRODUCTS FOR SALE.
   (iv) SETTING PRICES.
   (v) BRANDING SALES AS THOSE OF THE MARKETPLACE FACILITATOR.
   (vi) TAKING ORDERS.
   (vii) ADVERTISING OR PROMOTING.
   (viii) PROVIDING CUSTOMER SERVICE OR ACCEPTING OR ASSISTING WITH
       RETURNS OR EXCHANGES.
9. "MARKETPLACE SELLER" MEANS A SELLER THAT MAKES RETAIL SALES
THROUGH ANY PHYSICAL OR ELECTRONIC MARKETPLACE THAT IS OPERATED BY A
MARKETPLACE FACILITATOR.
10. "Person" or "company" includes an individual, firm,
    partnership, joint venture, association, corporation, estate or trust,
    this state, any county, city, town, district, other than a school
    district, or other political subdivision and any other group or
    combination acting as a unit, and the plural as well as the singular
    number.
11. "Qualifying community health center":
    (a) Means an entity that is recognized as nonprofit under section
        501(c)(3) of the United States internal revenue code, that is a
        community-based, primary care clinic that has a community-based board of
        directors and that is either:
        (i) The sole provider of primary care in the community.
(ii) A nonhospital affiliated clinic that is located in a federally
designated medically underserved area in this state.

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

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

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

12. "Qualifying hospital" means any of the following:
(a) A licensed hospital which is organized and operated
exclusively for charitable purposes, no part of the net earnings of which
inures to the benefit of any private shareholder or individual.
(b) A licensed nursing care institution or a licensed residential
care institution or a residential care facility operated in conjunction
with a licensed nursing care institution or a licensed kidney dialysis
center, which provides medical services, nursing services or health
related services and that is not used or held for profit.
(c) A hospital, nursing care institution or residential care
institution which is operated by the federal government, this state
or a political subdivision of this state.
(d) A facility that is under construction and that on completion
will be a facility under subdivision (a), (b) or (c) of this paragraph.

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

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

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

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

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

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

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

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

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

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

22. "Tax year" or "taxable year" means either the calendar year or the taxpayer’s fiscal year, if permission is obtained from the department to use a fiscal year as the tax period instead of the calendar year.

23. "Wholesaler" or "jobber" means any person who sells tangible personal property for resale and not for consumption by the purchaser.
Sec. 2. Section 42-5005, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

F. If the applicant is not in arrears in payment of any tax imposed by this article, the department shall issue a license authorizing the applicant to engage and continue in business on the condition that the
applicant complies with this article. The license number shall be continuous.

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

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

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

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

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

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

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

K. A person who is engaged in or conducting business at two or more locations or under two or more business names and who files a consolidated return under a single transaction privilege tax license number as provided by section 42-5020 is required to pay only a single municipal privilege tax license renewal fee for each local jurisdiction pursuant to subsection D of this section. A person who is engaged in or conducting business at two or more locations or under two or more business names and who does not file a consolidated return under a single license number is required to pay a license renewal fee for each location or license in a local jurisdiction.
L. For the purposes of this chapter and chapter 6 of this title:
  1. Through December 31, 2018, an online lodging marketplace, as defined in section 42-5076, may register with the department for a license for the payment of taxes levied by this state and one or more counties, cities, towns or special taxing districts, at the election of the online lodging marketplace, for taxes due from an online lodging operator on any online lodging transaction facilitated by the online lodging marketplace, subject to sections 42-5076 and 42-6009.
  2. Beginning from and after December 31, 2018, an online lodging marketplace, as defined in section 42-5076, shall register with the department for a license for the payment of taxes levied by this state and one or more counties, cities, towns or special taxing districts for taxes due from an online lodging operator on any online lodging transaction facilitated by the online lodging marketplace, subject to sections 42-5076 and 42-6009.

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

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

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

P. A person who violates any provision of this section is guilty of a class 3 misdemeanor.
Sec. 3. Section 42-5010, Arizona Revised Statutes, is amended to read:

42-5010. Rates; distribution base
A. The tax imposed by this article is levied and shall be collected at the following rates:

1. Five percent of the tax base as computed for the business of every person engaging or continuing in this state in the following business classifications described in article 2 of this chapter:
   (a) Transporting classification.
   (b) Utilities classification.
   (c) Telecommunications classification.
   (d) Pipeline classification.
   (e) Private car line classification.
   (f) Publication classification.
   (g) Job printing classification.
   (h) Prime contracting classification.
   (i) Amusement classification.
   (j) Restaurant classification.
   (k) Personal property rental classification.
   (l) Retail classification and amounts equal to retail transaction privilege tax due pursuant to section 42-5008.01.
   (m) MARKETPLACE FACILITATOR CLASSIFICATION.

2. Five and one-half percent of the tax base as computed for the business of every person engaging or continuing in this state in:
   (a) The transient lodging classification described in section 42-5070.
   (b) The online lodging marketplace classification described in section 42-5076 who has entered into an agreement with the department to register for, or has otherwise obtained from the department, a license to collect tax pursuant to section 42-5005, subsection L.

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

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

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

C. Forty percent of the tax revenues collected at the rate prescribed by subsection A, paragraph 1 of this section from persons on account of engaging in business under the business classifications listed...
in subsection A, paragraph 1, subdivisions (i) through (m) of this section is designated as distribution base for purposes of section 42-5029.

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

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

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

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

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

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

1. Any increase in the rate of tax that is levied by this article or article 2 of this chapter enacted by the legislature or by a vote of the people does not apply for a period of one hundred twenty days from the date of the tax rate increase to the gross proceeds of sales or gross
income from the business of the taxpayer with respect to written contracts entered into before the effective date of the tax rate increase unless the taxpayer has entered into a contract that contains a provision that entitles the taxpayer to recover from the purchaser the amount of the additional tax levied.

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

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

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

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

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

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

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

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

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

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

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

2. To the lessee's address if the lessor does not have a business location in this state. The gross receipts are taxable when the property
is shipped, delivered or otherwise brought into this state for use in this state.

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

E. For the purposes of this section:

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

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

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

42-5042. Liability of marketplace facilitator

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

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

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

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

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

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

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

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

4. FOR CALENDAR YEAR 2026 AND EACH CALENDAR YEAR THEREAFTER, ZERO PERCENT OF THE TOTAL TAX DUE UNDER THIS CHAPTER ON TAXABLE SALES
FACILITATED BY THE MARKETPLACE FACILITATOR ON BEHALF OF A MARKETPLACE SELLER AND SOURCED TO THIS STATE UNDER SECTION 42-5040 DURING THE SAME CALENDAR YEAR.

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


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

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

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

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

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

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

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

4. IF THE PERSON IS A MARKETPLACE FACILITATOR, THE MARKETPLACE FACILITATOR ENGAGES IN AT LEAST TWO HUNDRED SEPARATE TRANSACTIONS WITH PURCHASERS IN THIS STATE ON ITS OWN BEHALF OR ON BEHALF OF AT LEAST ONE MARKETPLACE SELLER.
B. FOR THE PURPOSES OF DETERMINING WHETHER A PERSON MEETS ANY OF
THE CRITERIA PRESCRIBED IN SUBSECTION A OF THIS SECTION, ALL MEMBERS OF
THE PERSON’S AFFILIATED GROUP SHALL BE AGGREGATED.

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

42-5061. Retail classification; definitions
A. The retail classification is comprised of the business of
selling tangible personal property at retail. The tax base for the retail
classification is the gross proceeds of sales or gross income derived from
the business. The tax imposed on the retail classification does not apply
to the gross proceeds of sales or gross income from:
1. Professional or personal service occupations or businesses that
involve sales or transfers of tangible personal property only as
inconsequential elements.
2. Services rendered in addition to selling tangible personal
property at retail.
3. Sales of warranty or service contracts. The storage, use or
consumption of tangible personal property provided under the conditions of
such contracts is subject to tax under section 42-5156.
4. Sales of tangible personal property by any nonprofit
organization organized and operated exclusively for charitable purposes
and recognized by the United States internal revenue service under section
501(c)(3) of the internal revenue code.
5. Sales to persons engaged in business classified under the
restaurant classification of articles used by human beings for food, drink
or condiment, whether simple, mixed or compounded.
6. Business activity that is properly included in any other
business classification that is taxable under this article.
7. The sale of stocks and bonds.
8. Drugs and medical oxygen, including delivery hose, mask or tent,
regulator and tank, on the prescription of a member of the medical, dental
or veterinarian profession who is licensed by law to administer such
substances.
9. Prosthetic appliances as defined in section 23-501 and as
prescribed or recommended by a health professional who is licensed
pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
10. Insulin, insulin syringes and glucose test strips.
11. Prescription eyeglasses or contact lenses.
12. Hearing aids as defined in section 36-1901.
13. Durable medical equipment that has a centers for medicare and
medicaid services common procedure code, is designated reimbursable by
medicare, is prescribed by a person who is licensed under title 32,
chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
primarily and customarily used to serve a medical purpose, is generally
14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

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

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

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

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

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

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

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

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the
future, whether from the seller of the cash equivalent or from another
person. Cash equivalents do not include either of the following:
   (i) Items or intangibles that are sold to one or more persons,
through which a value is not denominated in money.
   (ii) Prepaid calling cards or prepaid authorization numbers for
telecommunications services made taxable by subsection P of this section.
   (b) "Monetized bullion" means coins and other forms of money that
are manufactured from gold, silver or other metals and that have been or
are used as a medium of exchange in this or another state, the United
States or a foreign nation.
   (c) "Precious metal bullion" means precious metal, including gold,
silver, platinum, rhodium and palladium, that has been smelted or refined
so that its value depends on its contents and not on its form.
22. Motor vehicle fuel and use fuel that are subject to a tax
imposed under title 28, chapter 16, article 1, sales of use fuel to a
holder of a valid single trip use fuel tax permit issued under section
28-5739, sales of aviation fuel that are subject to the tax imposed under
section 28-8344 and sales of jet fuel that are subject to the tax imposed
under article 8 of this chapter.
23. Tangible personal property sold to a person engaged in the
business of leasing or renting such property under the personal property
rental classification if such property is to be leased or rented by such
person.
24. Tangible personal property sold in interstate or foreign
commerce if prohibited from being so taxed by the constitution of the
United States or the constitution of this state.
25. Tangible personal property sold to:
   (a) A qualifying hospital as defined in section 42-5001.
   (b) A qualifying health care organization as defined in section
42-5001 if the tangible personal property is used by the organization
solely to provide health and medical related educational and charitable
services.
   (c) A qualifying health care organization as defined in section
42-5001 if the organization is dedicated to providing educational,
therapeutic, rehabilitative and family medical education training for
blind and visually impaired children and children with multiple
disabilities from the time of birth to age twenty-one.
   (d) A qualifying community health center as defined in section
42-5001.
   (e) A nonprofit charitable organization that has qualified under
section 501(c)(3) of the internal revenue code and that regularly serves
meals to the needy and indigent on a continuing basis at no cost.
   (f) For taxable periods beginning from and after June 30, 2001, a
nonprofit charitable organization that has qualified under section
501(c)(3) of the internal revenue code and that provides residential
apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

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

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

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

27. Tangible personal property sold to:
   (a) A person that is subject to tax under this article by reason of being engaged in business classified under section 42-5075 or to a subcontractor working under the control of a person engaged in business classified under section 42-5075, if the property so sold is any of the following:
      (i) Incorporated or fabricated by the person into any real property, structure, project, development or improvement as part of the business.
      (ii) Incorporated or fabricated by the person into any project described in section 42-5075, subsection 0.
      (iii) Used in environmental response or remediation activities under section 42-5075, subsection B, paragraph 6.
   (b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the person into the real property, structure, project, development or improvement described in the certificate.

28. The sale of a motor vehicle to:
   (a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.
   (b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.
30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.

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

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

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

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

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

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

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

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

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

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

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

42. Sales of:
(a) Livestock and poultry to persons engaging in the businesses of
farming, ranching or producing livestock or poultry.
(b) Livestock and poultry feed, salts, vitamins and other additives
for livestock or poultry consumption that are sold to persons for use or
consumption by their own livestock or poultry, for use or consumption in
the businesses of farming, ranching and producing or feeding livestock,
poultry, or livestock or poultry products or for use or consumption in
noncommercial boarding of livestock. For the purposes of this paragraph,
"poultry" includes ratites.

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

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

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

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

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

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

49. Sales of alternative fuel vehicles if the vehicle was
manufactured as a diesel fuel vehicle and converted to operate on
alternative fuel and equipment that is installed in a conventional diesel
fuel motor vehicle to convert the vehicle to operate on an alternative
fuel, as defined in section 1-215.
50. Sales of any spirituous, vinous or malt liquor by a person that is licensed in this state as a wholesaler by the department of liquor licenses and control pursuant to title 4, chapter 2, article 1.

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

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

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

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

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

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

57. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.
58. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

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

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


B. In addition to the deductions from the tax base prescribed by subsection A of this section, the gross proceeds of sales or gross income derived from sales of the following categories of tangible personal property shall be deducted from the tax base:
   1. Machinery, or equipment, used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. The terms "manufacturing", "processing", "fabricating", "job printing", "refining" and "metallurgical" as used in this paragraph refer to and include those operations commonly understood within their ordinary meaning. "Metallurgical operations" includes leaching, milling, precipitating, smelting and refining.
   2. Mining machinery, or equipment, used directly in the process of extracting ores or minerals from the earth for commercial purposes, including equipment required to prepare the materials for extraction and handling, loading or transporting such extracted material to the surface.
"Mining" includes underground, surface and open pit operations for extracting ores and minerals.

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

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

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

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

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person:
      (i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.
      (ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.
      (iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.
      (iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations,
regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

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

(b) Any foreign government.

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

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

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

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

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


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

(a) "New machinery and equipment" means machinery and equipment that have never been sold at retail except pursuant to leases or rentals that do not total two years or more.
(b) "Self-powered implements" includes machinery and equipment that are electric-powered.

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

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

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

16. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 14 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:
(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Businesses classified under the:
   (a) Transporting classification.
   (b) Utilities classification.
   (c) Telecommunications classification.
   (d) Pipeline classification.
   (e) Private car line classification.
   (f) Publication classification.
   (g) Job printing classification.
   (h) Prime contracting classification.
   (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

P. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.
Q. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of:

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

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

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

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

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

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

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

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

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

V. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

42-5061. Retail classification; definitions

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

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

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

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

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

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

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

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

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

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

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

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

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

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of
coins or other forms of money for manufacture into jewelry or works of art
is subject to the tax and the gross proceeds of sales or gross income
derived from the redemption of any cash equivalent by the holder as a
means of payment for goods or services that are taxable under this article
is subject to the tax. For the purposes of this paragraph:
(a) "Cash equivalents" means items or intangibles, whether or not
negotiable, that are sold to one or more persons, through which a value
denominated in money is purchased in advance and may be redeemed in full
or in part for tangible personal property, intangibles or services. Cash
equivalents include gift cards, stored value cards, gift certificates,
vouchers, traveler's checks, money orders or other instruments, orders or
electronic mechanisms, such as an electronic code, personal identification
number or digital payment mechanism, or any other prepaid intangible right
to acquire tangible personal property, intangibles or services in the
future, whether from the seller of the cash equivalent or from another
person. Cash equivalents do not include either of the following:
(i) Items or intangibles that are sold to one or more persons,
through which a value is not denominated in money.
(ii) Prepaid calling cards or prepaid authorization numbers for
telecommunications services made taxable by subsection P of this section.
(b) "Monetized bullion" means coins and other forms of money that
are manufactured from gold, silver or other metals and that have been or
are used as a medium of exchange in this or another state, the United
States or a foreign nation.
(c) "Precious metal bullion" means precious metal, including gold,
silver, platinum, rhodium and palladium, that has been smelted or refined
so that its value depends on its contents and not on its form.
22. Motor vehicle fuel and use fuel that are subject to a tax
imposed under title 28, chapter 16, article 1, sales of use fuel to a
holder of a valid single trip use fuel tax permit issued under section
28-5739, sales of aviation fuel that are subject to the tax imposed under
section 28-8344 and sales of jet fuel that are subject to the tax imposed
under article 8 of this chapter.
23. Tangible personal property sold to a person engaged in the
business of leasing or renting such property under the personal property
rental classification if such property is to be leased or rented by such
person.
24. Tangible personal property sold in interstate or foreign
commerce if prohibited from being so taxed by the constitution of the
United States or the constitution of this state.
25. Tangible personal property sold to:
(a) A qualifying hospital as defined in section 42-5001.
(b) A qualifying health care organization as defined in section
42-5001 if the tangible personal property is used by the organization
solely to provide health and medical related educational and charitable services.

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

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

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

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

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

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

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

27. Tangible personal property sold to:

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

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

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

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

(b) A person that is not subject to tax under section 42-5075 and that has been provided a copy of a certificate under section 42-5009, subsection L, if the property so sold is incorporated or fabricated by the
28. The sale of a motor vehicle to:
   (a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.
   (b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.
29. Tangible personal property purchased in this state by a nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.
30. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual. This paragraph does not apply to an organization that is owned, managed or controlled, in whole or in part, by a major league baseball team, or its owners, officers, employees or agents, or by a major league baseball association or professional golfing association, or its owners, officers, employees or agents, unless the organization conducted or operated exhibition events in this state before January 1, 2018 that were exempt from taxation under section 42-5073.
31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.
32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
33. Sales of seeds, seedlings, roots, bulbs, cuttings and other propagative material to persons who use those items to commercially produce agricultural, horticultural, viticultural or floricultural crops in this state.
34. Machinery, equipment, technology or related supplies that are only useful to assist a person with a physical disability as defined in section 46-191 or a person who has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55. Sales of repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.
56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power utility to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

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

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

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

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

61. Sales of coal.

62. Sales of tangible personal property by a marketplace seller, if the sale is facilitated by a marketplace facilitator and the marketplace seller has received documentation from the marketplace facilitator that the marketplace facilitator has paid the applicable tax and has remitted the tax.
OR WILL REMIT THE APPLICABLE TAX TO THE DEPARTMENT PURSUANT TO SECTIONS 42-5014 AND 42-5077.

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

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

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

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

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

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

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

7. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person:
      (i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction
with or becoming part of an aircraft to be used to transport persons for
hire in intrastate, interstate or foreign commerce.

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

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

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

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

(b) Any foreign government.

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

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Businesses classified under the:
   (a) Transporting classification.
   (b) Utilities classification.
   (c) Telecommunications classification.
   (d) Pipeline classification.
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(e) Private car line classification.
(f) Publication classification.
(g) Job printing classification.
(h) Prime contracting classification.
(i) Restaurant classification.

I. The gross proceeds of sales or gross income derived from the following shall be deducted from the tax base for the retail classification:
   1. Sales made directly to the United States government or its departments or agencies by a manufacturer, modifier, assembler or repairer.
   2. Sales made directly to a manufacturer, modifier, assembler or repairer if such sales are of any ingredient or component part of products sold directly to the United States government or its departments or agencies by the manufacturer, modifier, assembler or repairer.
   3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a manufacturer, modifier, assembler or repairer, to which title passes to the government under the terms of the contract or subcontract.
   4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.

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

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

L. In computing the tax base, gross proceeds of sales or gross income does not include:
   1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.
   2. The waste tire disposal fee imposed pursuant to section 44-1302.

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

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

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

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

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

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

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

R. If a seller is entitled to a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 15, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 15, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.
S. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:

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

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

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

U. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

42-5077. Marketplace facilitator classification

A. The marketplace facilitator classification is comprised of the business of facilitating retail sales as a marketplace facilitator.

B. The tax base for the marketplace facilitator classification is the gross proceeds of sales or gross income from all sales the marketplace facilitator facilitates on behalf of marketplace sellers sourced to this state under section 42-5040 if the marketplace seller is not an affiliate of the marketplace facilitator. The tax base shall be calculated in accordance with section 42-5061 for gross proceeds of sales or gross income from retail sales of tangible personal property. This subsection does not interfere with the ability of a marketplace facilitator and a marketplace seller to enter into agreements with each other to fulfill the requirements of this section.
C. A MARKETPLACE FACILITATOR SHALL PAY THE TAX IMPOSED UNDER THIS
ARTICLE, ARTICLE 1 OF THIS CHAPTER, CHAPTER 6 OF THIS TITLE AND ANY DULY
ENACTED SPECIAL DISTRICT TRANSACTION PRIVILEGE TAXES IMPOSED UNDER TITLE
48 ON ALL SALES FACILITATED BY THE MARKETPLACE FACILITATOR AND SOURCED TO
THIS STATE UNDER SECTION 42-5040 REGARDLESS OF WHETHER THE MARKETPLACE
SELLER FOR WHOM SALES ARE FACILITATED IS REQUIRED TO BE REGISTERED WITH
THE DEPARTMENT AS PROVIDED IN SECTION 42-5005 OR WOULD HAVE BEEN REQUIRED
TO PAY THE TAX IMPOSED BY THIS ARTICLE, ARTICLE 1 OF THIS CHAPTER OR
CHAPTER 6 OF THIS TITLE OR BY A SPECIAL DISTRICT HAD THE SALE NOT BEEN
FACILITATED BY THE MARKETPLACE FACILITATOR.

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

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

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

42-6017. Marketplace sellers; requirements

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

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

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

3. A NEXUS PROVISION IS ADOPTED FOR OUT-OF-STATE BUSINESSES THAT
IS THE SAME AS THE NEXUS PROVISIONS PROVIDED IN SECTION 42-5043,
SUBSECTION A, PARAGRAPHS 1 AND 2.
4. ANY DEFINITIONS RELATING TO THE TAXATION OF THE ITEMS DESCRIBED
IN PARAGRAPHS 1 AND 2 OF THIS SECTION ARE AMENDED OR ADOPTED, AS
NECESSARY, SO THAT THE DEFINITIONS ARE THE SAME AS THE DEFINITIONS
PRESCRIBED IN SECTIONS 42-5001 AND 42-5101.

Sec. 10. Applicability
A. The tax reporting and payment requirements imposed by this act
apply prospectively.
B. This act applies to taxable periods beginning on or after the
first day of the month following the effective date of this act.

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