

REFERENCE TITLE: TPT; marketplace facilitators; nexus

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House of Representatives  
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## HB 2702

Introduced by

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

### AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 42-5001, Arizona Revised Statutes, is amended to  
3 read:

4 **42-5001. Definitions**

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

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

11 (a) Casual activities or sales.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           (i) PAYMENT PROCESSING SERVICES.

22           (ii) FULFILLMENT OR STORAGE SERVICES.

23           (iii) LISTING PRODUCTS FOR SALE.

24           (iv) SETTING PRICES.

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

26           (vi) TAKING ORDERS.

27           (vii) ADVERTISING OR PROMOTING.

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

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

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

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3       **42-5010. Rates; distribution base**

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

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

- 9           (a) Transporting classification.
- 10          (b) Utilities classification.
- 11          (c) Telecommunications classification.
- 12          (d) Pipeline classification.
- 13          (e) Private car line classification.
- 14          (f) Publication classification.
- 15          (g) Job printing classification.
- 16          (h) Prime contracting classification.
- 17          (i) Amusement classification.
- 18          (j) Restaurant classification.
- 19          (k) Personal property rental classification.
- 20          (l) Retail classification and amounts equal to retail transaction  
21 privilege tax due pursuant to section 42-5008.01.

22       (m) **MARKETPLACE FACILITATOR CLASSIFICATION.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 42-5042. Liability of marketplace facilitator

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7       42-5061. Retail classification: definitions

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

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

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

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

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

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

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

30       7. The sale of stocks and bonds.

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

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

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

39       11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 25. Tangible personal property sold to:

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

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

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

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

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

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

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

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

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

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

14 27. Tangible personal property sold to:

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

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

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

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

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

32 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41           42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) A person:

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

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

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

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

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

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

9 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 16 2. Janitorial equipment and hand tools.

17                   3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

21 2. Businesses classified under the:  
22 (a) Transporting classification.  
23 (b) Utilities classification.  
24 (c) Telecommunications classification.  
25 (d) Pipeline classification.  
26 (e) Private car line classification.  
27 (f) Publication classification.  
28 (g) Job printing classification.  
29 (h) Prime contracting classification.  
30 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14       V. For the purposes of this section:

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

18       2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **42-5061. *Retail classification: definitions***

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

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

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

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

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

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

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

44 7. The sale of stocks and bonds.

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

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

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

9       11. Prescription eyeglasses or contact lenses.

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

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

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

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

23       16. Items purchased with United States department of agriculture  
24 coupons issued under the supplemental nutrition assistance program  
25 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
26 7 United States Code sections 2011 through 2036b) by the United States  
27 department of agriculture food and nutrition service or food instruments  
28 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.  
29 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
30 section 1786).

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

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

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

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

44       21. The sale of cash equivalents and the sale of precious metal  
45 bullion and monetized bullion to the ultimate consumer, but the sale of

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

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

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

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

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

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

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

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

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

41 25. Tangible personal property sold to:

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

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

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

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

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

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

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

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

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

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

29 27. Tangible personal property sold to:

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

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

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

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

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

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

3 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41       61. Sales of coal.

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

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

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

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

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

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

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

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

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

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

43 (a) A person:

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

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

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

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

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

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

26 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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

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

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

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

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

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

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

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

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

32       2. Janitorial equipment and hand tools.

33       3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

39       2. Businesses classified under the:  
40           (a) Transporting classification.  
41           (b) Utilities classification.  
42           (c) Telecommunications classification.  
43           (d) Pipeline classification.

- (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

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

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

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

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

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

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

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

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

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

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

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

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

23      U. For the purposes of this section:

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

27       2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

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

32      42-5077. Marketplace facilitator classification

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

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

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

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

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

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

27      42-6017. Marketplace sellers; requirements

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

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

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

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

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

5       Sec. 10. Applicability

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

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

10      Sec. 11. Conditional enactment

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