

REFERENCE TITLE: reconstruction contracting; local tax; exemption.

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1367

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6 AND CHAPTER 341, SECTION 2; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6, CHAPTER 263, SECTION 3 AND CHAPTER 341, SECTION 2; RELATING TO LOCAL EXCISE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-6004, Arizona Revised Statutes, as amended by
3 laws 2018, chapter 17, section 1, chapter 249, section 6 and chapter 341,
4 section 2, is amended to read:

5 42-6004. Exemption from municipal tax; definitions

6 A. A city, town or special taxing district shall not levy a
7 transaction privilege, sales, use or other similar tax on:

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

21 2. Interstate telecommunications services, which include that
22 portion of telecommunications services, such as subscriber line service,
23 allocable by federal law to interstate telecommunications service.

24 3. Sales of warranty or service contracts.

25 4. Sales of motor vehicles to nonresidents of this state for use
26 outside this state if the motor vehicle dealer ships or delivers the motor
27 vehicle to a destination outside this state.

28 5. Interest on finance contracts.

29 6. Dealer documentation fees on the sales of motor vehicles.

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

33 8. Sales of internet access services to the person's subscribers
34 and customers. For the purposes of this paragraph:

35 (a) "Internet" means the computer and telecommunications facilities
36 that comprise the interconnected worldwide network of networks that employ
37 the transmission control protocol or internet protocol, or any predecessor
38 or successor protocol, to communicate information of all kinds by wire or
39 radio.

40 (b) "Internet access" means a service that enables users to access
41 content, information, electronic mail or other services over the internet.
42 Internet access does not include telecommunication services provided by a
43 common carrier.

1 9. The gross proceeds of sales or gross income retained by the
2 Arizona exposition and state fair board from ride ticket sales at the
3 annual Arizona state fair.

4 10. Leasing real property between affiliated companies, businesses,
5 persons or reciprocal insurers. For the purposes of this paragraph:

6 (a) "Affiliated companies, businesses, persons or reciprocal
7 insurers" means the lessor holds a controlling interest in the lessee, the
8 lessee holds a controlling interest in the lessor, affiliated persons hold
9 a controlling interest in both the lessor and the lessee, or an unrelated
10 person holds a controlling interest in both the lessor and lessee.

11 (b) "Affiliated persons" means members of the individual's family
12 or persons who have ownership or control of a business entity.

13 (c) "Controlling interest" means direct or indirect ownership of at
14 least eighty percent of the voting shares of a corporation or of the
15 interests in a company, business or person other than a corporation.

16 (d) "Members of the individual's family" means the individual's
17 spouse and brothers and sisters, whether by whole or half blood, including
18 adopted persons, ancestors and lineal descendants.

19 (e) "Reciprocal insurer" has the same meaning prescribed in section
20 20-762.

21 11. The gross proceeds of sales or gross income derived from a
22 contract for the installation, assembly, repair or maintenance of
23 machinery, equipment or other tangible personal property that is described
24 in section 42-5061, subsection B and that has independent functional
25 utility, pursuant to the following provisions:

26 (a) The deduction provided in this paragraph includes the gross
27 proceeds of sales or gross income derived from all of the following:

28 (i) Any activity performed on machinery, equipment or other
29 tangible personal property with independent functional utility.

30 (ii) Any activity performed on any tangible personal property
31 relating to machinery, equipment or other tangible personal property with
32 independent functional utility in furtherance of any of the purposes
33 provided for under subdivision (d) of this paragraph.

34 (iii) Any activity that is related to the activities described in
35 items (i) and (ii) of this subdivision, including inspecting the
36 installation of or testing the machinery, equipment or other tangible
37 personal property.

38 (b) The deduction provided in this paragraph does not include gross
39 proceeds of sales or gross income from the portion of any contracting
40 activity that consists of the development of, or modification to, real
41 property in order to facilitate the installation, assembly, repair,
42 maintenance or removal of machinery, equipment or other tangible personal
43 property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

12. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

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

14. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change

1 order to follow the tax treatment of the contract to which the scope of
2 work of the subsequent change order directly relates.

3 (b) Any term not defined in this paragraph that is defined in
4 section 42-5075 has the same meaning prescribed in section 42-5075.

5 (c) This paragraph does not apply to a contract that primarily
6 involves surface or subsurface improvements to land and that is subject to
7 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
8 contract also includes vertical improvements. If a city or town imposes a
9 tax on contracts that are subject to procurement processes under those
10 provisions, the city or town shall include in the request for proposals a
11 notice to bidders when those projects are subject to the tax. This
12 subdivision does not apply to contracts with:

13 (i) Community facilities districts, fire districts, county
14 television improvement districts, community park maintenance districts,
15 cotton pest control districts, hospital districts, pest abatement
16 districts, health service districts, agricultural improvement districts,
17 county free library districts, county jail districts, county stadium
18 districts, special health care districts, public health services
19 districts, theme park districts or revitalization districts.

20 (ii) Any special taxing district not specified in item (i) of this
21 subdivision if the district does not substantially engage in the
22 modification, maintenance, repair, replacement or alteration of surface or
23 subsurface improvements to land.

24 15. Monitoring services relating to an alarm system as defined in
25 section 32-101.

26 16. Tangible personal property, job printing or publications sold
27 to or purchased by, or tangible personal property leased, rented or
28 licensed for use to or by, a qualifying health sciences educational
29 institution as defined in section 42-5001.

30 17. The transfer of title or possession of coal back and forth
31 between an owner or operator of a power plant and a person who is
32 responsible for refining coal if both of the following apply:

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

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

41 18. Tangible personal property incorporated or fabricated into a
42 project described in paragraph 14 of this subsection, that is located
43 within the exterior boundaries of an Indian reservation for which the
44 owner, as defined in section 42-5075, of the project is an Indian tribe or
45 an affiliated Indian. For the purposes of this paragraph:

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

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

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

13 19. The charges for the leasing or renting of space to make
14 attachments to utility poles as follows:

15 (a) By a person that is engaged in the business of providing or
16 furnishing electrical services or telecommunication services or that is a
17 cable operator.

18 (b) To a person that is engaged in the business of providing or
19 furnishing electrical services or telecommunication services or that is a
20 cable operator.

21 20. Until March 1, 2017, the gross proceeds of sales or gross
22 income derived from entry fees paid by participants for events that
23 consist of a run, walk, swim or bicycle ride or a similar event, or any
24 combination of these events.

25 21. The gross proceeds of sales or gross income derived from entry
26 fees paid by participants for events that are operated or conducted by
27 nonprofit organizations that are exempt from taxation under section
28 501(c)(3) of the internal revenue code and of which no part of the
29 organization's net earnings inures to the benefit of any private
30 shareholder or individual, if the event consists of a run, walk, swim or
31 bicycle ride or a similar event, or any combination of these events.

32 B. A city, town or other taxing jurisdiction shall not levy a
33 transaction privilege, sales, use, franchise or other similar tax or fee,
34 however denominated, on natural gas or liquefied petroleum gas used to
35 propel a motor vehicle.

36 C. A city, town or other taxing jurisdiction shall not levy a
37 transaction privilege, sales, gross receipts, use, franchise or other
38 similar tax or fee, however denominated, on gross proceeds of sales or
39 gross income derived from any of the following:

40 1. A motor carrier's use on the public highways in this state if
41 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
42 article 4.

43 2. Leasing, renting or licensing a motor vehicle subject to and on
44 which the fee has been paid under title 28, chapter 16, article 4.

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

4. Incarcerating or detaining in a privately operated prison, jail or detention facility prisoners who are under the jurisdiction of the United States, this state or any other state or a political subdivision of this state or of any other state.

5. Transporting for hire persons, freight or property by light motor vehicles subject to a fee under title 28, chapter 15, article 4.

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

(a) The attributable amount shall not exceed the value of the development fees actually imposed.

(b) The attributable amount is equal to the total amount of development fees paid by the taxpayer or by a contractor providing services to the taxpayer and the total development fees credited in exchange for the construction of, contribution to or dedication of real property for providing public infrastructure, public safety or other public services necessary to the development. The real property must be the subject of the development fees.

(c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.

7. Any amount attributable to fees collected by transportation network companies issued a permit pursuant to section 28-9552.

8. Transporting for hire persons by transportation network company drivers on transactions involving transportation network services as defined in section 28-9551.

9. Transporting for hire persons by vehicle for hire companies that are issued permits pursuant to section 28-9503.

10. Transporting for hire persons by vehicle for hire drivers on transactions involving vehicle for hire services as defined in section 28-9501.

D. A city, town or other taxing jurisdiction shall not levy a transaction privilege, sales, use, franchise or other similar tax or fee, however denominated, in excess of one-tenth of one percent of the value of the entire product mined, smelted, extracted, refined, produced or prepared for sale, profit or commercial use, on persons engaged in the

1 business of mineral processing, except to the extent that the tax is
2 computed on the gross proceeds or gross income from sales at retail.

3 E. In computing the tax base, any city, town or other taxing
4 jurisdiction shall not include in the gross proceeds of sales or gross
5 income:

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

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

10 F. A city or town shall not levy a use tax on the storage, use or
11 consumption of tangible personal property in the city or town by a school
12 district or charter school.

13 G. EXCEPT AS EXPRESSLY PROVIDED BY THIS SUBSECTION, A CITY, TOWN OR
14 TAXING JURISDICTION SHALL NOT LEVY A TRANSACTION PRIVILEGE, SALES, GROSS
15 RECEIPTS, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED,
16 ON GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM RECONSTRUCTION
17 CONTRACTING. RECONSTRUCTION CONTRACTING MAY NOT BE INCLUDED IN THE TAX
18 BASE UNLESS THE GROSS BUILDING AREA INCREASES BY MORE THAN TWENTY-FIVE
19 PERCENT IN THE TWENTY-FOUR-MONTH PERIOD BEFORE THE SALE OF THE REAL
20 PROPERTY AND THE PROPERTY IS SOLD WITHIN TWENTY-FOUR MONTHS AFTER
21 SUBSTANTIAL COMPLETION. IF TAX IS ASSESSED ON RECONSTRUCTION CONTRACTING,
22 THE SPECULATIVE BUILDER MAY EXCLUDE FROM GROSS INCOME THE PRIOR VALUE
23 ALLOWED FOR RECONSTRUCTION CONTRACTING IN DETERMINING THE TAXABLE GROSS
24 INCOME. THE PRIOR VALUE IS DETERMINED BY THE TAXPAYER AND IS EQUAL TO ANY
25 OF THE FOLLOWING:

26 1. THE PROPERTY'S FULL CASH VALUE BEFORE THE RECONSTRUCTION
27 CONTRACTING IMPROVEMENT AS DETERMINED BY THE COUNTY ASSESSOR IN THE YEAR
28 IMMEDIATELY PRECEDING THE YEAR IN WHICH THE RECONSTRUCTION CONTRACTING
29 IMPROVEMENT COULD HAVE BEEN INCLUDED IN THE COUNTY ASSESSOR'S VALUATION.

30 2. THE TAXPAYER'S ACTUAL ARMS-LENGTH COST OF THE RECONSTRUCTED
31 PROPERTY BEFORE THE RECONSTRUCTION CONTRACTING ACTIVITY.

32 3. THE VALUE DETERMINED BY A LICENSED REAL ESTATE APPRAISER IN AN
33 INDEPENDENT APPRAISAL OF ALL PROPERTY INVOLVED IN THE SALE THAT IS SUBJECT
34 TO TAX UNDER RECONSTRUCTION CONTRACTING. THE VALUATION DATE SHALL BE AS OF
35 THE PREVIOUS ACQUISITION DATE OF THE PROPERTY.

36 H. GROSS INCOME FROM THE SALE OF IMPROVED REAL PROPERTY DOES NOT
37 INCLUDE THE FAIR MARKET VALUE OF LAND THAT IS INCLUDED IN THE REAL
38 PROPERTY SOLD. THE FAIR MARKET VALUE OF LAND SHALL BE DETERMINED PURSUANT
39 TO SECTION 42-5075, SUBSECTION B, PARAGRAPH 1.

40 ~~G.~~ I. For the purposes of this section:

41 1. "Cable operator" has the same meaning prescribed in section
42 9-505.

43 2. "Electrical services" means transmitting or distributing
44 electricity, electric lights, current or power over lines, wires or
45 cables.

1 3. GROSS BUILDING AREA DOES NOT INCLUDE THE ADDITION OF AN INTERIOR
2 FLOOR OR MEZZANINE CONSTRUCTED IN THE TWENTY-FOUR-MONTH-PERIOD BEFORE THE
3 SALE OF THE REAL PROPERTY.

4 4. "PRIOR VALUE" MEANS THE VALUE OF THE TOTAL INTEGRATED PROPERTY,
5 WITH IMPROVEMENTS, AS EXISTING IMMEDIATELY BEFORE ANY RECONSTRUCTION
6 CONTRACTING ACTIVITY.

7 5. "RECONSTRUCTION CONTRACTING" MEANS RECONSTRUCTION ACTIVITY ON
8 REAL PROPERTY TO WHICH BOTH OF THE FOLLOWING APPLY:

9 (a) A STRUCTURE EXISTED ON THE REAL PROPERTY BEFORE THE
10 RECONSTRUCTION CONTRACTING ACTIVITY.

11 (b) THE STRUCTURE THAT EXISTED ON THE REAL PROPERTY BEFORE THE
12 RECONSTRUCTION CONTRACTING ACTIVITY STILL EXISTS IN SOME FORM ON THE REAL
13 PROPERTY AND IS INCLUDED, IN WHOLE OR IN PART, IN THE REAL PROPERTY SOLD.

14 ~~5-~~ 6. "Telecommunication services" means transmitting or relaying
15 sound, visual image, data, information, images or material over lines,
16 wires or cables by radio signal, light beam, telephone, telegraph or other
17 electromagnetic means.

18 ~~4-~~ 7. "Utility pole" means any wooden, metal or other pole used
19 for utility purposes and the pole's appurtenances that are attached or
20 authorized for attachment by the person controlling the pole.

21 Sec. 2. Section 42-6004, Arizona Revised Statutes, as amended by
22 Laws 2018, chapter 17, section 1, chapter 249, section 6, chapter 263,
23 section 3 and chapter 341, section 2, is amended to read:

24 42-6004. Exemption from municipal tax: definitions

25 A. A city, town or special taxing district shall not levy a
26 transaction privilege, sales, use or other similar tax on:

27 1. Exhibition events in this state sponsored, conducted or operated
28 by a nonprofit organization that is exempt from taxation under section
29 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
30 organization is associated with a major league baseball team or a national
31 touring professional golfing association and no part of the organization's
32 net earnings inures to the benefit of any private shareholder or
33 individual. This paragraph does not apply to an organization that is
34 owned, managed or controlled, in whole or in part, by a major league
35 baseball team, or its owners, officers, employees or agents, or by a major
36 league baseball association or professional golfing association, or its
37 owners, officers, employees or agents, unless the organization conducted
38 or operated exhibition events in this state before January 1, 2018 that
39 were exempt from state transaction privilege tax under section 42-5073.

40 2. Interstate telecommunications services, which include that
41 portion of telecommunications services, such as subscriber line service,
42 allocable by federal law to interstate telecommunications service.

43 3. Sales of warranty or service contracts.

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

4 5. Interest on finance contracts.

5 6. Dealer documentation fees on the sales of motor vehicles.

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

9 8. Sales of internet access services to the person's subscribers
10 and customers. For the purposes of this paragraph:

11 (a) "Internet" means the computer and telecommunications facilities
12 that comprise the interconnected worldwide network of networks that employ
13 the transmission control protocol or internet protocol, or any predecessor
14 or successor protocol, to communicate information of all kinds by wire or
15 radio.

16 (b) "Internet access" means a service that enables users to access
17 content, information, electronic mail or other services over the internet.
18 Internet access does not include telecommunication services provided by a
19 common carrier.

20 9. The gross proceeds of sales or gross income retained by the
21 Arizona exposition and state fair board from ride ticket sales at the
22 annual Arizona state fair.

23 10. Leasing real property between affiliated companies, businesses,
24 persons or reciprocal insurers. For the purposes of this paragraph:

25 (a) "Affiliated companies, businesses, persons or reciprocal
26 insurers" means the lessor holds a controlling interest in the lessee, the
27 lessee holds a controlling interest in the lessor, affiliated persons hold
28 a controlling interest in both the lessor and the lessee, or an unrelated
29 person holds a controlling interest in both the lessor and lessee.

30 (b) "Affiliated persons" means members of the individual's family
31 or persons who have ownership or control of a business entity.

32 (c) "Controlling interest" means direct or indirect ownership of at
33 least eighty percent of the voting shares of a corporation or of the
34 interests in a company, business or person other than a corporation.

35 (d) "Members of the individual's family" means the individual's
36 spouse and brothers and sisters, whether by whole or half blood, including
37 adopted persons, ancestors and lineal descendants.

38 (e) "Reciprocal insurer" has the same meaning prescribed in section
39 20-762.

40 11. The gross proceeds of sales or gross income derived from a
41 contract for the installation, assembly, repair or maintenance of
42 machinery, equipment or other tangible personal property that is described
43 in section 42-5061, subsection B and that has independent functional
44 utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

12. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

13. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For

the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

14. The gross proceeds of sales or gross income derived from a contract with the owner of real property or improvements to real property for the maintenance, repair, replacement or alteration of existing property, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:

(a) Each contract is independent of another contract, except that any change order that directly relates to the scope of work of the original contract shall be treated the same as the original contract under this paragraph, regardless of the amount of modification activities included in the change order. If a change order does not directly relate to the scope of work of the original contract, the change order shall be treated as a new contract, with the tax treatment of any subsequent change order to follow the tax treatment of the contract to which the scope of work of the subsequent change order directly relates.

(b) Any term not defined in this paragraph that is defined in section 42-5075 has the same meaning prescribed in section 42-5075.

(c) This paragraph does not apply to a contract that primarily involves surface or subsurface improvements to land and that is subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the contract also includes vertical improvements. If a city or town imposes a tax on contracts that are subject to procurement processes under those provisions, the city or town shall include in the request for proposals a notice to bidders when those projects are subject to the tax. This subdivision does not apply to contracts with:

(i) Community facilities districts, fire districts, county television improvement districts, community park maintenance districts, cotton pest control districts, hospital districts, pest abatement districts, health service districts, agricultural improvement districts, county free library districts, county jail districts, county stadium districts, special health care districts, public health services districts, theme park districts or revitalization districts.

(ii) Any special taxing district not specified in item (i) of this subdivision if the district does not substantially engage in the modification, maintenance, repair, replacement or alteration of surface or subsurface improvements to land.

15. Monitoring services relating to an alarm system as defined in section 32-101.

16. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or

1 licensed for use to or by, a qualifying health sciences educational
2 institution as defined in section 42-5001.

3 17. The sale of coal.

4 18. Tangible personal property incorporated or fabricated into a
5 project described in paragraph 14 of this subsection, 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 that Indian tribe.

21 19. The charges for the leasing or renting of space to make
22 attachments to utility poles as follows:

23 (a) By a person that is engaged in the business of providing or
24 furnishing electrical services or telecommunication services or that is a
25 cable operator.

26 (b) To a person that is engaged in the business of providing or
27 furnishing electrical services or telecommunication services or that is a
28 cable operator.

29 20. Until March 1, 2017, the gross proceeds of sales or gross
30 income derived from entry fees paid by participants for events that
31 consist of a run, walk, swim or bicycle ride or a similar event, or any
32 combination of these events.

33 21. The gross proceeds of sales or gross income derived from entry
34 fees paid by participants for events that are operated or conducted by
35 nonprofit organizations that are exempt from taxation under section
36 501(c)(3) of the internal revenue code and of which no part of the
37 organization's net earnings inures to the benefit of any private
38 shareholder or individual, if the event consists of a run, walk, swim or
39 bicycle ride or a similar event, or any combination of these events.

40 B. A city, town or other taxing jurisdiction shall not levy a
41 transaction privilege, sales, use, franchise or other similar tax or fee,
42 however denominated, on natural gas or liquefied petroleum gas used to
43 propel a motor vehicle.

1 C. A city, town or other taxing jurisdiction shall not levy a
2 transaction privilege, sales, gross receipts, use, franchise or other
3 similar tax or fee, however denominated, on gross proceeds of sales or
4 gross income derived from any of the following:

5 1. A motor carrier's use on the public highways in this state if
6 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
7 article 4.

8 2. Leasing, renting or licensing a motor vehicle subject to and on
9 which the fee has been paid under title 28, chapter 16, article 4.

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

15 4. Incarcerating or detaining in a privately operated prison, jail
16 or detention facility prisoners who are under the jurisdiction of the
17 United States, this state or any other state or a political subdivision of
18 this state or of any other state.

19 5. Transporting for hire persons, freight or property by light
20 motor vehicles subject to a fee under title 28, chapter 15, article 4.

21 6. Any amount attributable to development fees that are incurred in
22 relation to the construction, development or improvement of real property
23 and paid by the taxpayer as defined in the model city tax code or by a
24 contractor providing services to the taxpayer. For the purposes of this
25 paragraph:

26 (a) The attributable amount shall not exceed the value of the
27 development fees actually imposed.

28 (b) The attributable amount is equal to the total amount of
29 development fees paid by the taxpayer or by a contractor providing
30 services to the taxpayer and the total development fees credited in
31 exchange for the construction of, contribution to or dedication of real
32 property for providing public infrastructure, public safety or other
33 public services necessary to the development. The real property must be
34 the subject of the development fees.

35 (c) "Development fees" means fees imposed to offset capital costs
36 of providing public infrastructure, public safety or other public services
37 to a development and authorized pursuant to section 9-463.05, section
38 11-1102 or title 48 regardless of the jurisdiction to which the fees are
39 paid.

40 7. Any amount attributable to fees collected by transportation
41 network companies issued a permit pursuant to section 28-9552.

42 8. Transporting for hire persons by transportation network company
43 drivers on transactions involving transportation network services as
44 defined in section 28-9551.

1 9. Transporting for hire persons by vehicle for hire companies that
2 are issued permits pursuant to section 28-9503.

3 10. Transporting for hire persons by vehicle for hire drivers on
4 transactions involving vehicle for hire services as defined in section
5 28-9501.

6 D. A city, town or other taxing jurisdiction shall not levy a
7 transaction privilege, sales, use, franchise or other similar tax or fee,
8 however denominated, in excess of one-tenth of one percent of the value of
9 the entire product mined, smelted, extracted, refined, produced or
10 prepared for sale, profit or commercial use, on persons engaged in the
11 business of mineral processing, except to the extent that the tax is
12 computed on the gross proceeds or gross income from sales at retail.

13 E. In computing the tax base, any city, town or other taxing
14 jurisdiction shall not include in the gross proceeds of sales or gross
15 income:

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

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

20 F. A city or town shall not levy a use tax on the storage, use or
21 consumption of tangible personal property in the city or town by a school
22 district or charter school.

23 G. EXCEPT AS EXPRESSLY PROVIDED BY THIS SUBSECTION, A CITY, TOWN OR
24 TAXING JURISDICTION SHALL NOT LEVY A TRANSACTION PRIVILEGE, SALES, GROSS
25 RECEIPTS, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED,
26 ON GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM RECONSTRUCTION
27 CONTRACTING. RECONSTRUCTION CONTRACTING MAY NOT BE INCLUDED IN THE TAX
28 BASE UNLESS THE GROSS BUILDING AREA INCREASES BY MORE THAN TWENTY-FIVE
29 PERCENT IN THE TWENTY-FOUR-MONTH PERIOD BEFORE THE SALE OF THE REAL
30 PROPERTY AND THE PROPERTY IS SOLD WITHIN TWENTY-FOUR MONTHS AFTER
31 SUBSTANTIAL COMPLETION. IF TAX IS ASSESSED ON RECONSTRUCTION CONTRACTING,
32 THE SPECULATIVE BUILDER MAY EXCLUDE FROM GROSS INCOME THE PRIOR VALUE
33 ALLOWED FOR RECONSTRUCTION CONTRACTING IN DETERMINING THE TAXABLE GROSS
34 INCOME. THE PRIOR VALUE IS DETERMINED BY THE TAXPAYER AND IS EQUAL TO ANY
35 OF THE FOLLOWING:

36 1. THE PROPERTY'S FULL CASH VALUE BEFORE THE RECONSTRUCTION
37 CONTRACTING IMPROVEMENT AS DETERMINED BY THE COUNTY ASSESSOR IN THE YEAR
38 IMMEDIATELY PRECEDING THE YEAR IN WHICH THE RECONSTRUCTION CONTRACTING
39 IMPROVEMENT COULD HAVE BEEN INCLUDED IN THE COUNTY ASSESSOR'S VALUATION.

40 2. THE TAXPAYER'S ACTUAL ARMS-LENGTH COST OF THE RECONSTRUCTED
41 PROPERTY BEFORE THE RECONSTRUCTION CONTRACTING ACTIVITY.

42 3. THE VALUE DETERMINED BY A LICENSED REAL ESTATE APPRAISER IN AN
43 INDEPENDENT APPRAISAL OF ALL PROPERTY INVOLVED IN THE SALE THAT IS SUBJECT
44 TO TAX UNDER RECONSTRUCTION CONTRACTING. THE VALUATION DATE SHALL BE AS OF
45 THE PREVIOUS ACQUISITION DATE OF THE PROPERTY.

1 H. GROSS INCOME FROM THE SALE OF IMPROVED REAL PROPERTY DOES NOT
2 INCLUDE THE FAIR MARKET VALUE OF LAND THAT IS INCLUDED IN THE REAL
3 PROPERTY SOLD. THE FAIR MARKET VALUE OF LAND SHALL BE DETERMINED PURSUANT
4 TO SECTION 42-5075, SUBSECTION B, PARAGRAPH 1.

5 ~~6.~~ I. For the purposes of this section:

6 1. "Cable operator" has the same meaning prescribed in section
7 9-505.

8 2. "Electrical services" means transmitting or distributing
9 electricity, electric lights, current or power over lines, wires or
10 cables.

11 3. GROSS BUILDING AREA DOES NOT INCLUDE THE ADDITION OF AN INTERIOR
12 FLOOR OR MEZZANINE CONSTRUCTED IN THE TWENTY-FOUR-MONTH-PERIOD BEFORE THE
13 SALE OF THE REAL PROPERTY.

14 4. "PRIOR VALUE" MEANS THE VALUE OF THE TOTAL INTEGRATED PROPERTY,
15 WITH IMPROVEMENTS, AS EXISTING IMMEDIATELY BEFORE ANY RECONSTRUCTION
16 CONTRACTING ACTIVITY.

17 5. "RECONSTRUCTION CONTRACTING" MEANS RECONSTRUCTION ACTIVITY ON
18 REAL PROPERTY TO WHICH BOTH OF THE FOLLOWING APPLY:

19 (a) A STRUCTURE EXISTED ON THE REAL PROPERTY BEFORE THE
20 RECONSTRUCTION CONTRACTING ACTIVITY.

21 (b) THE STRUCTURE THAT EXISTED ON THE REAL PROPERTY BEFORE THE
22 RECONSTRUCTION CONTRACTING ACTIVITY STILL EXISTS IN SOME FORM ON THE REAL
23 PROPERTY AND IS INCLUDED, IN WHOLE OR IN PART, IN THE REAL PROPERTY SOLD.

24 ~~5.~~ 6. "Telecommunication services" means transmitting or relaying
25 sound, visual image, data, information, images or material over lines,
26 wires or cables by radio signal, light beam, telephone, telegraph or other
27 electromagnetic means.

28 ~~4.~~ 7. "Utility pole" means any wooden, metal or other pole used
29 for utility purposes and the pole's appurtenances that are attached or
30 authorized for attachment by the person controlling the pole.

31 Sec. 3. Conditional enactment

32 Section 42-6004, Arizona Revised Statutes, as amended by Laws 2018,
33 chapter 17, section 1, chapter 249, section 6, chapter 263, section 3 and
34 chapter 341, section 2 and this act, becomes effective on the date
35 prescribed by Laws 2018, chapter 263, section 5 but only on the occurrence
36 of the condition prescribed in Laws 2018, chapter 263, section 5.