

REFERENCE TITLE: **vaping; feminine hygiene; tax; exemption**

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HCR 2034

Introduced by
Representatives Teller: Campbell, Cano, Gabaldón, Longdon, Peten, Salman,
Terán, Tsosie, Senators Navarrete, Peshlakai

A CONCURRENT RESOLUTION

**ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO TAXATION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona,
2 the Senate concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to taxation, is enacted to become valid as
5 a law if approved by the voters and on proclamation of the Governor:

6 AN ACT

7 AMENDING SECTION 15-1646, ARIZONA REVISED STATUTES; AMENDING
8 TITLE 15, CHAPTER 13, ARTICLE 2, ARIZONA REVISED STATUTES, BY
9 ADDING SECTION 15-1650.05; AMENDING SECTION 15-1661, ARIZONA
10 REVISED STATUTES; AMENDING TITLE 42, CHAPTER 3, ARIZONA
11 REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTION
12 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019,
13 CHAPTER 273, SECTION 7 AND CHAPTER 288, SECTION 1; AMENDING
14 SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS
15 2019, CHAPTER 273, SECTION 8 AND CHAPTER 288, SECTION 2;
16 AMENDING SECTION 42-5159, ARIZONA REVISED STATUTES; RELATING
17 TO TAXATION.

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

19 Section 1. Section 15-1646, Arizona Revised Statutes,
20 is amended to read:

21 15-1646. Board of regents and university scholarships:
22 notification requirements

23 A. The universities under the jurisdiction of the
24 Arizona board of regents shall establish policies that ensure
25 fair and equitable access by Arizona students from public,
26 private and charter schools and homeschools to scholarships,
27 including tuition waivers, that are issued solely on the basis
28 of academic merit and for which the universities establish and
29 administer fair and equitable selection criteria. The
30 universities under the jurisdiction of the Arizona board of
31 regents shall:

32 1. Annually report to the board and publish and
33 disclose to the extent permitted by state and federal law the
34 following information related to each merit based scholarship
35 awarded to students from public, private and charter schools
36 and homeschools by each university, for the prior academic
37 year:

38 (a) The total number and dollar amount of awards and
39 total number of applicants.

40 (b) The total number and dollar amount of awards and
41 total number of applicants by type of student.

42 (c) The specific criteria used to award each
43 scholarship, including average and range of SAT and ACT
44 scores.

1 (d) The number of newly awarded scholarships and the
2 number of renewed scholarships.

3 2. Notify students in this state of scholarship awards
4 in a timely manner without regard to whether the students are
5 from public, private or charter schools or homeschools.

6 B. THE ARIZONA BOARD OF REGENTS SHALL ANNUALLY AWARD
7 REGENTS SCHOLARSHIPS TO ANY PERSON WHO MEETS ALL OF THE
8 FOLLOWING CRITERIA:

9 1. IS A RESIDENT OF THIS STATE.

10 2. OBTAINED A LETTER GRADE OF A OR B, OR THE
11 EQUIVALENT, IN EACH CORE ACADEMIC COURSE THAT IS REQUIRED FOR
12 GRADUATION FROM HIGH SCHOOL IN THIS STATE.

13 3. IS ADMITTED TO A UNIVERSITY UNDER THE JURISDICTION
14 OF THE ARIZONA BOARD OF REGENTS.

15 Sec. 2. Title 15, chapter 13, article 2, Arizona
16 Revised Statutes, is amended by adding section 15-1650.05, to
17 read:

18 15-1650.05. Electronic smoking device tax fund;
19 exemption

20 A. THE ELECTRONIC SMOKING DEVICE TAX FUND IS
21 ESTABLISHED CONSISTING OF MONIES DEPOSITED IN THE FUND
22 PURSUANT TO SECTION 42-3202 AND INTEREST EARNED ON THOSE
23 MONIES. THE ARIZONA BOARD OF REGENTS SHALL ADMINISTER THE
24 FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.

25 B. MONIES IN THE ELECTRONIC SMOKING DEVICE TAX FUND ARE
26 APPROPRIATED TO THE ARIZONA BOARD OF REGENTS FOR THE PURPOSES
27 OF:

28 1. PROVIDING REGENTS SCHOLARSHIPS PURSUANT TO SECTION
29 15-1646, SUBSECTION B.

30 2. FULFILLING THE INCREASED FUNDING REQUIREMENT
31 PROVIDED IN SECTION 15-1661, SUBSECTION J.

32 C. MONIES IN THE ELECTRONIC SMOKING DEVICE TAX FUND ARE
33 EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO
34 LAPSING OF APPROPRIATIONS.

35 Sec. 3. Section 15-1661, Arizona Revised Statutes, is
36 amended to read:

37 15-1661. Annual appropriation; enrollment audit;
38 expenditure; balance; salaries

39 A. There shall be appropriated in the general
40 ~~appropriation~~ APPROPRIATIONS bill for each fiscal year a sum
41 of monies not less than eighty-five one-hundredths of one mill
42 on the dollar of the assessed valuation of all taxable
43 property in ~~the~~ THIS state ~~for the improvement~~ TO IMPROVE,
44 support and ~~maintenance of~~ MAINTAIN the institutions under the
45 Arizona board of regents' jurisdiction, including ~~payment of~~

1 ~~PAYING~~ salaries, ~~AND~~ current expenses, ~~purchase of~~ ~~PURCHASING~~
2 equipment, making necessary repairs, ~~construction of~~
3 ~~CONSTRUCTING~~ new buildings, ~~purchase of~~ ~~PURCHASING~~ lands and
4 in general ~~PAYING~~ for ~~payment of~~ all such expenses connected
5 with ~~the management of~~ ~~MANAGING~~ the institutions under the
6 Arizona board of regents' jurisdiction. The department of
7 revenue, ~~upon~~ ~~ON~~ compiling the aggregate assessed valuation of
8 all taxable property within this state, shall compute the
9 amount of monies so determined and certify ~~such~~ ~~THAT~~ amount
10 over its seal to the department of administration and the
11 state treasurer.

12 B. The full-time equivalent student enrollment reported
13 for the previous fiscal year by each university shall be
14 audited annually by the auditor general. The auditor general
15 shall report the results of the audit to the staffs of the
16 joint legislative budget committee and the governor's office
17 of strategic planning and budgeting on or before October 15 of
18 each year. On or before July 21 of each academic year, each
19 university shall provide for the previous fall semester a
20 certified report to the auditor general of the number of
21 full-time equivalent students calculated by the university and
22 a separate report only for those students who meet the
23 residency requirements prescribed in section 15-1802. The
24 university's records used to calculate full-time equivalent
25 student enrollment shall be provided to the auditor general in
26 an electronic format prescribed by the auditor general.
27 ~~Beginning in 2006,~~ Each university shall submit to the auditor
28 general a summary of its full-time equivalent student
29 enrollment accounting policies and procedures, compilation
30 procedures and source records used for calculating full-time
31 equivalent student enrollment. These accounting policies and
32 procedures, compilation procedures and source records shall
33 comply with policies developed ~~on or before June 30, 2006~~ by
34 the Arizona board of regents, in consultation with the auditor
35 general and reviewed by the joint legislative budget
36 committee. These policies shall include a review and
37 recommendations of the necessity of minimum requirements for
38 students enrolled in classes to qualify for appropriations
39 pursuant to this section, including requirements that the
40 class be a for-credit course that is necessary for ~~the~~
41 ~~completion of~~ ~~COMPLETING~~ a degree and that the student
42 enrolled in the course be physically present in this state at
43 the time the course is conducted. The basic actual full-time
44 equivalent student enrollment shall be counted on the
45 forty-fifth day after the basic actual full-time equivalent

1 student enrollment classes begin for the fall and spring
2 semesters, as published in the university catalogs, and
3 divided by two. The Arizona board of regents shall also ~~make~~
4 ~~recommendations of~~ RECOMMEND whether each professor or
5 instructor should be required to review class rosters and make
6 additions or deletions as necessary. If so, class rosters
7 that reflect enrollment as of the forty-fifth day shall be
8 provided by the registrar's office to each professor or
9 instructor for every class section. The class roster shall
10 indicate the course number, course title, time, instructor
11 name and students enrolled. On the forty-fifth day class
12 rosters, each professor or instructor shall indicate as
13 withdrawn each student who has formally withdrawn from the
14 course, and that student shall not be counted for state aid
15 purposes. The official forty-fifth day rosters shall include
16 a manual signature and date or an electronic authorization and
17 date by the professor or instructor and shall include the
18 following certification:

19 I hereby certify that the information contained
20 in this class roster accurately reflects those
21 students who are enrolled.

22 C. The Arizona board of regents shall also report the
23 basic actual full-time equivalent student enrollment for only
24 those students who meet the residency requirements prescribed
25 in section 15-1802. The basic actual full-time equivalent
26 student enrollment for only those students who meet the
27 residency requirements prescribed in section 15-1802 that is
28 reported by each university for the previous fiscal year shall
29 be annually audited by the auditor general.

30 D. Students who have withdrawn or who have been
31 withdrawn from classes as of the forty-fifth day shall not be
32 counted for state aid purposes. A record shall be maintained
33 that identifies student withdrawals by date of withdrawal, as
34 of the forty-fifth day and after the forty-fifth day for the
35 entire semester.

36 E. Amounts appropriated as provided by subsection A OF
37 THIS SECTION shall be paid as other claims against this state
38 are paid.

39 F. The balance of appropriations as provided by
40 subsection A OF THIS SECTION at the end of the fiscal year, if
41 any, ~~shall~~ DOES not revert to the STATE general fund but shall
42 be carried forward for the continued use for which
43 appropriated.

44 G. Monies appropriated to a university under the
45 jurisdiction of the Arizona board of regents for ~~cost of~~

~~living~~ COST-OF-LIVING salary increases for university employees shall be used to provide ~~cost-of-living~~ COST-OF-LIVING salary increases to all university employees, including graduate student assistants. If monies are appropriated to a university for salary increases based on merit, the monies shall be used to provide merit increases according to the merit pay plan adopted by the Arizona board of regents.

H. The Arizona board of regents shall determine current actual full-time equivalent student enrollment at each of the institutions under the jurisdiction of the Arizona board of regents. Full-time equivalent student enrollment shall be calculated by adding the following:

1. The total number of enrolled fall and spring semester credit hours in 100-level credit courses and 200-level credit courses divided by fifteen.

2. The total number of enrolled fall and spring semester credit hours in 300-level credit courses and 400-level credit courses divided by twelve.

3. The total number of enrolled fall and spring semester credit hours in ~~graduate-level~~ GRADUATE-LEVEL credit courses divided by ten.

I. The Arizona board of regents, in its annual budget request, shall not include funding for any student who is enrolled at an institution under the jurisdiction of the Arizona board of regents and who has earned credit hours in excess of the undergraduate credit hour threshold, except that the undergraduate credit hour threshold ~~shall~~ DOES not apply to students who are enrolled in a degree program that requires credit hours above the credit threshold. For the purposes of this subsection, the undergraduate credit hour threshold is ~~one hundred fifty-five hours for students who attend a university under the jurisdiction of the board in fiscal year 2006-2007, one hundred fifty hours for students who attend a university under the jurisdiction of the board in fiscal year 2007-2008 and~~ one hundred forty-five hours for students who attend a university under the jurisdiction of the board ~~after fiscal year 2007-2008~~. The undergraduate credit hour threshold ~~shall be~~ IS based on the actual full-time equivalent student enrollment counted on the forty-fifth day after classes begin for the fall and spring semesters and any budget adjustment based on student enrollment shall occur in the fiscal year following the actual full-time equivalent student enrollment count. The undergraduate credit hour threshold ~~shall~~ DOES not apply to credits earned in ~~the pursuit of~~

PURSUING up to two baccalaureate degrees, credits earned in ~~the pursuit of~~ PURSUING up to two ~~state-regulated~~ STATE-REGULATED licensures and certificates, credits earned in ~~the pursuit of~~ PURSUING teaching certification, credits transferred from a private institution of higher education, credits transferred from an institution of higher education in another state, credits earned at another institution of higher education but that are not accepted as transfer credits at the university where the student is currently enrolled and credits earned by students who enroll at a university under the jurisdiction of the board more than twenty-four months after the end of that student's previous enrollment at a public institution of higher education in this state.

J. BEGINNING IN FISCAL YEAR 2021-2022, IN ADDITION TO THE OTHER REQUIREMENTS PRESCRIBED IN THIS SECTION, THE AMOUNT APPROPRIATED EACH FISCAL YEAR FOR IMPROVING, SUPPORTING AND MAINTAINING THE INSTITUTIONS UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS, INCLUDING PAYING SALARIES AND CURRENT EXPENSES, PURCHASING EQUIPMENT, MAKING NECESSARY REPAIRS, CONSTRUCTING NEW BUILDINGS, PURCHASING LANDS AND IN GENERAL PAYING FOR ALL SUCH EXPENSES CONNECTED WITH MANAGING THE INSTITUTIONS UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS, SHALL BE INCREASED BY THE MINIMUM GROWTH RATE OF EITHER TWO PERCENT OR THE CHANGE IN THE GDP PRICE DEFLATOR AS DEFINED IN SECTION 41-563, FROM THE SECOND PRECEDING CALENDAR YEAR TO THE CALENDAR YEAR IMMEDIATELY PRECEDING THE BUDGET YEAR, WHICHEVER IS LESS, EXCEPT THAT THE AMOUNT APPROPRIATED MAY NOT BE REDUCED BELOW THE AMOUNT APPROPRIATED FOR FISCAL YEAR 2021-2022.

Sec. 4. Title 42, chapter 3, Arizona Revised Statutes, is amended by adding article 5, to read:

ARTICLE 5. ELECTRONIC SMOKING DEVICES
TAX FOR HIGHER EDUCATION

42-3201. Levy and collection of tax on electronic smoking devices: definition

A. IN ADDITION TO ALL OTHER TAXES, THERE IS LEVIED AND SHALL BE COLLECTED BY THE DEPARTMENT AND PAID TO THE STATE TREASURER IN THE MANNER PROVIDED BY THIS CHAPTER ON ALL ELECTRONIC SMOKING DEVICES AN ADDITIONAL TAX OF FORTY-THREE PERCENT OF THE WHOLESALE COST OF THE PRODUCT.

B. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC SMOKING DEVICE":

1. MEANS ANY DEVICE THAT CAN BE USED TO DELIVER AEROSOLIZED OR VAPORIZED NICOTINE TO THE INDIVIDUAL INHALING

FROM THE DEVICE, INCLUDING AN E-CIGARETTE, E-CIGAR, E-PIPE, VAPE PEN OR E-HOOKAH.

2. INCLUDES:

(a) ANY COMPONENT, PART OR ACCESSORY OF THE DEVICE, WHETHER OR NOT SOLD SEPARATELY.

(b) ANY SUBSTANCE INTENDED TO BE AEROSOLIZED OR VAPORIZED DURING THE USE OF THE DEVICE.

3. DOES NOT INCLUDE:

(a) ANY BATTERY OR BATTERY CHARGER THAT IS SOLD SEPARATELY.

(b) ANY DRUG, DEVICE OR COMBINATION PRODUCT THAT IS AUTHORIZED FOR SALE BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION. FOR THE PURPOSES OF THIS SUBDIVISION:

(i) "COMBINATION PRODUCT" MEANS A COMBINATION PRODUCT DESCRIBED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (21 UNITED STATES CODE SECTION 353(g)).

(ii) "DEVICE" AND "DRUG" HAVE THE SAME MEANINGS PRESCRIBED IN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT (21 UNITED STATES CODE SECTION 321).

42-3202. Disposition of monies; administration

A. THE MONIES COLLECTED PURSUANT TO SECTION 42-3201 SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ELECTRONIC SMOKING DEVICE TAX FUND ESTABLISHED BY SECTION 15-1650.05.

B. UNLESS OTHERWISE PROVIDED, THE ADMINISTRATION OF THIS ARTICLE IS VESTED IN AND SHALL BE EXERCISED BY THE DEPARTMENT ACCORDING TO CHAPTERS 1 AND 2 OF THIS TITLE AND ARTICLES 1, 2, 3 AND 4 OF THIS CHAPTER, THIS ARTICLE AND ARTICLES 6, 9, 10, 11 AND 12 OF THIS CHAPTER.

Sec. 5. Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended to read:

42-5061. Retail classification; definitions

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

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

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

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

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

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

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

16 7. The sale of stocks and bonds.

17 8. Drugs and medical oxygen, including delivery hose,
18 mask or tent, regulator and tank, ~~on the prescription of~~ IF
19 PRESCRIBED BY a member of the medical, dental or veterinarian
20 profession who is licensed by law to administer such
21 substances.

22 9. Prosthetic appliances as defined in section 23-501
23 and as prescribed or recommended by a health professional who
24 is licensed pursuant to title 32, chapter 7, 8, 11, 13, 14,
25 15, 16, 17 or 29.

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

27 11. Prescription eyeglasses or contact lenses.

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

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

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

41 15. Food, as provided in and subject to the conditions
42 of article 3 of this chapter and sections 42-5074 and 42-6017.

43 16. Items purchased with United States department of
44 agriculture coupons issued under the supplemental nutrition
45 assistance program pursuant to the food and nutrition act of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 25. Tangible personal property sold to:

30 (a) A qualifying hospital as defined in section
31 42-5001.

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

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

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

44 (e) A nonprofit charitable organization that has
45 qualified under section 501(c)(3) of the internal revenue code

and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

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

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

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

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

27. Tangible personal property sold to:

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

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

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

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

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

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and

1 if the nonresident has secured a special ninety day
2 nonresident registration permit for the vehicle as prescribed
3 by sections 28-2154 and 28-2154.01.

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

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

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

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

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

41 33. Sales of propagative materials to persons who use
42 those items to commercially produce agricultural,
43 horticultural, viticultural or floricultural crops in this
44 state. For the purposes of this paragraph, "propagative
45 materials":

1 (a) Includes seeds, seedlings, roots, bulbs, liners,
2 transplants, cuttings, soil and plant additives, agricultural
3 minerals, auxiliary soil and plant substances, micronutrients,
4 fertilizers, insecticides, herbicides, fungicides, soil
5 fumigants, desiccants, rodenticides, adjuvants, plant
6 nutrients and plant growth regulators.

7 (b) Except for use in commercially producing industrial
8 hemp as defined in section 3-311, does not include any
9 propagative materials used in producing any part, including
10 seeds, of any plant of the genus cannabis.

11 34. Machinery, equipment, technology or related
12 supplies that are only useful to assist a person with a
13 physical disability as defined in section 46-191 or a person
14 who has a developmental disability as defined in section
15 36-551 or has a head injury as defined in section 41-3201 to
16 be more independent and functional.

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

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

22 37. Coal, petroleum, coke, natural gas, virgin fuel oil
23 and electricity sold to a qualified environmental technology
24 manufacturer, producer or processor as defined in section
25 41-1514.02 and directly used or consumed in ~~the generation~~
26 ~~GENERATING~~ or ~~provision of~~ PROVIDING on-site power or energy
27 solely for environmental technology manufacturing, producing
28 or processing or environmental protection. This paragraph
29 ~~shall apply~~ APPLIES for twenty full consecutive calendar or
30 fiscal years from the date the first paper manufacturing
31 machine is placed in service. In the case of an environmental
32 technology manufacturer, producer or processor ~~who~~ THAT does
33 not manufacture paper, the time period ~~shall begin~~ BEGINS with
34 the date the first manufacturing, processing or production
35 equipment is placed in service.

36 38. Sales of liquid, solid or gaseous chemicals used in
37 manufacturing, processing, fabricating, mining, refining,
38 metallurgical operations, research and development and,
39 beginning on January 1, 1999, printing, if using or consuming
40 the chemicals, alone or as part of an integrated system of
41 chemicals, involves direct contact with the materials from
42 which the product is produced for the purpose of causing or
43 ~~permitting~~ ALLOWING a chemical or physical change to occur in
44 the materials as part of the production process. This
45 paragraph does not include chemicals that are used or consumed

1 in activities such as packaging, storage or transportation but
2 does not affect any deduction for such chemicals that is
3 otherwise provided by this section. For the purposes of this
4 paragraph, "printing" means a commercial printing operation
5 and includes job printing, engraving, embossing, copying and
6 bookbinding.

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

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

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

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

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

36 42. Sales of:

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

40 (b) Livestock and poultry feed, salts, vitamins and
41 other additives for livestock or poultry consumption that are
42 sold to persons for use or consumption by their own livestock
43 or poultry, for use or consumption in the businesses of
44 farming, ranching and producing or feeding livestock, poultry,
45 or livestock or poultry products or for use or consumption in

noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56. Sales or other transfers of renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this

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

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

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

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

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

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

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

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

61. Sales of tangible personal property by a marketplace seller that are facilitated by a marketplace

1 facilitator in which the marketplace facilitator has remitted
2 or will remit the applicable tax to the department pursuant to
3 section 42-5014.

4 62. TAMPONS, SANITARY NAPKINS, MENSTRUAL SPONGES,
5 MENSTRUAL CUPS AND SIMILAR ITEMS USED FOR FEMININE HYGIENE.

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

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

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

26 3. Tangible personal property sold to persons engaged
27 in business classified under the telecommunications
28 classification, including a person representing or working on
29 behalf of such a person in a manner described in section
30 42-5075, subsection 0, and consisting of central office
31 switching equipment, switchboards, private branch exchange
32 equipment, microwave radio equipment and carrier equipment
33 including optical fiber, coaxial cable and other transmission
34 media that are components of carrier systems.

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

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

44 6. Pipes or valves four inches in diameter or larger
45 used to transport oil, natural gas, artificial gas, water or

coal slurry, including compressor units, regulators, machinery and equipment, fittings, seals and any other part that is used in operating the pipes or valves.

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

(a) A person:

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

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

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

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

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

(b) Any foreign government.

(c) Persons who are not residents of this state and who will not use such property in this state other than in removing such property from this state. This subdivision also applies to corporations that are not incorporated in this state, regardless of maintaining a place of business in this

state, if the principal corporate office is located outside this state and the property will not be used in this state other than in removing the property from this state.

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

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

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

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

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

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

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

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

14. Machinery or equipment used in research and development. For the purposes of this paragraph, "research and development" means basic and applied research in the sciences and engineering, and designing, developing or testing prototypes, processes or new products, including research and development of computer software that is embedded in or an

1 integral part of the prototype or new product or that is
2 required for machinery or equipment otherwise exempt under
3 this section to function effectively. Research and
4 development do not include manufacturing quality control,
5 routine consumer product testing, market research, sales
6 promotion, sales service, research in social sciences or
7 psychology, computer software research that is not included in
8 the definition of research and development, or other
9 nontechnological activities or technical services.

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

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

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

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

25 (ii) Over two-thirds of the transmissions, measured in
26 megabytes, transmitted by or on behalf of those direct
27 broadcast television or data transmission services during the
28 test period were transmitted by the facility to or on behalf
29 of those services. For the purposes of subdivision (b) of
30 this paragraph, "test period" means the three hundred
31 sixty-five day period beginning on the later of the date on
32 which the tangible personal property is purchased or the date
33 on which the direct broadcast satellite television or data
34 transmission service first transmits information to its
35 customers.

36 16. Clean rooms that are used for manufacturing,
37 processing, fabrication or research and development, as
38 defined in paragraph 14 of this subsection, of semiconductor
39 products. For the purposes of this paragraph, "clean room"
40 means all property that comprises or creates an environment
41 where humidity, temperature, particulate matter and
42 contamination are precisely controlled within specified
43 parameters, without regard to whether the property is actually
44 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~~ ENVIRONMENTALLY CONTROLLING housing for poultry, ~~the movement of~~ MOVING 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~~ COMMERCIALLY PRODUCING livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, if the machinery and equipment are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

20. Machinery or equipment that enables a television station to originate and broadcast or to receive and broadcast digital television signals and that was purchased to facilitate compliance with the telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States Code section 336) and the federal communications commission order issued

April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does not exempt any of the following:

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

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

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

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

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

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

7. Motors and pumps used in drip irrigation systems.

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

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or

1 gross income derived from sales of machinery, equipment,
2 materials and other tangible personal property used directly
3 and predominantly to construct a qualified environmental
4 technology manufacturing, producing or processing facility as
5 described in section 41-1514.02. This subsection applies for
6 ten full consecutive calendar or fiscal years after the start
7 of initial construction.

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

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

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

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

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

41 2. Businesses classified under the:

42 (a) Transporting classification.

43 (b) Utilities classification.

44 (c) Telecommunications classification.

45 (d) Pipeline classification.

1 (e) Private car line classification.

2 (f) Publication classification.

3 (g) Job printing classification.

4 (h) Prime contracting classification.

5 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

12 N. In computing the tax base in the case of the sale or
13 transfer of wireless telecommunications equipment as an
14 inducement to a customer to enter into or continue a contract
15 for telecommunications services that are taxable under section
16 42-5064, gross proceeds of sales or gross income does not
17 include any sales commissions or other compensation received
18 by the retailer as a result of the customer entering into or
19 continuing a contract for the telecommunications services.

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

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

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

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

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

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

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

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

8 S. If a seller is entitled to a deduction pursuant to
9 subsection B, paragraph 15, subdivision (b) of this section,
10 the department may require the purchaser to establish that the
11 requirements of subsection B, paragraph 15, subdivision (b) of
12 this section have been satisfied. If the purchaser cannot
13 establish that the requirements of subsection B, paragraph 15,
14 subdivision (b) of this section have been satisfied, the
15 purchaser is liable in an amount equal to any tax, penalty and
16 interest that the seller would have been required to pay under
17 article 1 of this chapter if the seller had not made a
18 deduction pursuant to subsection B, paragraph 15, subdivision
19 (b) of this section. Payment of the amount under this
20 subsection exempts the purchaser from liability for any tax
21 imposed under article 4 of this chapter and related to the
22 tangible personal property purchased. The amount shall be
23 treated as transaction privilege tax to the purchaser and as
24 tax revenues collected from the seller to designate the
25 distribution base pursuant to section 42-5029.

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

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

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

36 U. In computing the tax base for the sale of a motor
37 vehicle to a nonresident of this state, if the purchaser's
38 state of residence allows a corresponding use tax exemption to
39 the tax imposed by article 1 of this chapter and the rate of
40 the tax in the purchaser's state of residence is lower than
41 the rate prescribed in article 1 of this chapter or if the
42 purchaser's state of residence does not impose an excise tax,
43 and the nonresident has secured a special ninety day
44 nonresident registration permit for the vehicle as prescribed
45 by sections 28-2154 and 28-2154.01, there shall be deducted

from the tax base a portion of the gross proceeds or gross income from the sale so that the amount of transaction privilege tax that is paid in this state is equal to the excise tax that is imposed by the purchaser's state of residence on the nonexempt sale or use of the motor vehicle.

V. For the purposes of this section:

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

2. "Aircraft" includes:

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

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

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

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

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

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

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

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

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be included in the retail classification, and that are used or consumed in ~~the~~

~~performance of~~ PERFORMING a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

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

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

Sec. 6. Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended to read:

42-5061. Retail classification; definitions

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

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

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

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

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

5. Sales to persons engaged in business classified under the restaurant classification of articles used by human

1 beings for food, drink or condiment, whether simple, mixed or
2 compounded.

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

6 7. The sale of stocks and bonds.

7 8. Drugs and medical oxygen, including delivery hose,
8 mask or tent, regulator and tank, ~~on the prescription of~~ IF
9 PRESCRIBED BY a member of the medical, dental or veterinarian
10 profession who is licensed by law to administer such
11 substances.

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

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

17 11. Prescription eyeglasses or contact lenses.

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

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

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

31 15. Food, as provided in and subject to the conditions
32 of article 3 of this chapter and sections 42-5074 and 42-6017.

33 16. Items purchased with United States department of
34 agriculture coupons issued under the supplemental nutrition
35 assistance program pursuant to the food and nutrition act of
36 2008 (P.L. 88-525; 78 Stat. 703; 7 United States Code sections
37 2011 through 2036b) by the United States department of
38 agriculture food and nutrition service or food instruments
39 issued under section 17 of the child nutrition act
40 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302;
41 P.L. 111-296; 42 United States Code section 1786).

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

44 18. Food and drink to a person that is engaged in a
45 business that is classified under the restaurant

classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

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

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

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

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

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

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

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

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

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

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

1 provide residential apartment housing for ~~low-income~~
2 LOW-INCOME persons over sixty-two years of age in a facility
3 that qualifies for a federal housing subsidy.

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

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

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

13 27. Tangible personal property sold to:

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

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

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

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

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

33 28. The sale of a motor vehicle to:

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

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

42 29. Tangible personal property purchased in this state
43 by a nonprofit charitable organization that has qualified
44 under section 501(c)(3) of the United States internal revenue
45 code and that engages in and uses such property exclusively in

1 programs for persons with mental or physical disabilities if
2 the programs are exclusively for training, job placement,
3 rehabilitation or testing.

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

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

25 32. Sales of tangible personal property by a nonprofit
26 organization that is exempt from taxation under section
27 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
28 internal revenue code if the organization sponsors or operates
29 a rodeo featuring primarily farm and ranch animals and no part
30 of the organization's net earnings inures to the benefit of
31 any private shareholder or individual.

32 33. Sales of propagative materials to persons who use
33 those items to commercially produce agricultural,
34 horticultural, viticultural or floricultural crops in this
35 state. For the purposes of this paragraph, "propagative
36 materials":

37 (a) Includes seeds, seedlings, roots, bulbs, liners,
38 transplants, cuttings, soil and plant additives, agricultural
39 minerals, auxiliary soil and plant substances, micronutrients,
40 fertilizers, insecticides, herbicides, fungicides, soil
41 fumigants, desiccants, rodenticides, adjuvants, plant
42 nutrients and plant growth regulators.

43 (b) Except for use in commercially producing industrial
44 hemp as defined in section 3-311, does not include any

1 propagative materials used in producing any part, including
2 seeds, of any plant of the genus cannabis.

3 34. Machinery, equipment, technology or related
4 supplies that are only useful to assist a person with a
5 physical disability as defined in section 46-191 or a person
6 who has a developmental disability as defined in section
7 36-551 or has a head injury as defined in section 41-3201 to
8 be more independent and functional.

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

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

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

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

44 39. Through December 31, 1994, personal property
45 liquidation transactions, conducted by a personal property

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

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

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

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

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

42. Sales of:

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

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

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

1 For the purposes of this paragraph, "poultry" includes
2 ratites.

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

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

14 46. Sales of alternative fuel, as defined in section
15 1-215, to a used oil fuel burner who has received a permit to
16 burn used oil or used oil fuel under section 49-426 or 49-480.

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

23 (a) Printed or photographic materials, beginning August
24 7, 1985.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

61. Sales of coal.

62. Sales of tangible personal property by a marketplace seller that are facilitated by a marketplace facilitator in which the marketplace facilitator has remitted or will remit the applicable tax to the department pursuant to section 42-5014.

63. TAMPONS, SANITARY NAPKINS, MENSTRUAL SPONGES, MENSTRUAL CUPS AND SIMILAR ITEMS USED FOR FEMININE HYGIENE.

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

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

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

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

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

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

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

44 7. Aircraft, navigational and communication instruments
45 and other accessories and related equipment sold to:

(a) A person:

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

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

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

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

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

(b) Any foreign government.

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

8. Machinery, tools, equipment and related supplies used or consumed directly in repairing, remodeling or

maintaining aircraft, aircraft engines or aircraft component parts by or on behalf of a certificated or licensed carrier of persons or property.

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

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

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

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

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

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

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

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

promotion, sales service, research in social sciences or psychology, computer software research that is not included in the definition of research and development, or other nontechnological activities or technical services.

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

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

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

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

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

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

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

(a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other

1 environmental conditions or manufacturing tolerances, as well
2 as the production machinery and equipment operating in
3 conjunction with the clean room environment.

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

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

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

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

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

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

1 (b) Machinery or equipment purchased to replace
2 machinery or equipment for which an exemption was previously
3 claimed and taken under this paragraph.

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

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

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

16 1. Expendable materials. For the purposes of this
17 paragraph, expendable materials do not include any of the
18 categories of tangible personal property specified in
19 subsection B of this section regardless of the cost or useful
20 life of that property.

21 2. Janitorial equipment and hand tools.

22 3. Office equipment, furniture and supplies.

23 4. Tangible personal property used in selling or
24 distributing activities, other than the telecommunications
25 transmissions described in subsection B, paragraph 15 of this
26 section.

27 5. Motor vehicles required to be licensed by this
28 state, except buses or other urban mass transit vehicles
29 specifically exempted pursuant to subsection B, paragraph 11
30 of this section, without regard to the use of such motor
31 vehicles.

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

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

36 8. Machinery and equipment or other tangible personal
37 property used by a contractor in ~~the performance of~~ PERFORMING
38 a contract.

39 D. In addition to the deductions from the tax base
40 prescribed by subsection A of this section, there shall be
41 deducted from the tax base the gross proceeds of sales or
42 gross income derived from sales of machinery, equipment,
43 materials and other tangible personal property used directly
44 and predominantly to construct a qualified environmental
45 technology manufacturing, producing or processing facility as

described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

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

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

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

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

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

2. Businesses classified under the:

- (a) Transporting classification.
- (b) Utilities classification.
- (c) Telecommunications classification.
- (d) Pipeline classification.
- (e) Private car line classification.
- (f) Publication classification.
- (g) Job printing classification.
- (h) Prime contracting classification.

1 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

7 N. In computing the tax base in the case of the sale or
8 transfer of wireless telecommunications equipment as an
9 inducement to a customer to enter into or continue a contract
10 for telecommunications services that are taxable under section
11 42-5064, gross proceeds of sales or gross income does not
12 include any sales commissions or other compensation received
13 by the retailer as a result of the customer entering into or
14 continuing a contract for the telecommunications services.

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

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

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

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

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

35 R. If a seller is entitled to a deduction pursuant to
36 subsection B, paragraph 15, subdivision (b) of this section,
37 the department may require the purchaser to establish that the
38 requirements of subsection B, paragraph 15, subdivision (b) of
39 this section have been satisfied. If the purchaser cannot
40 establish that the requirements of subsection B, paragraph 15,
41 subdivision (b) of this section have been satisfied, the
42 purchaser is liable in an amount equal to any tax, penalty and
43 interest that the seller would have been required to pay under
44 article 1 of this chapter if the seller had not made a
45 deduction pursuant to subsection B, paragraph 15, subdivision

1 (b) of this section. Payment of the amount under this
2 subsection exempts the purchaser from liability for any tax
3 imposed under article 4 of this chapter and related to the
4 tangible personal property purchased. The amount shall be
5 treated as transaction privilege tax to the purchaser and as
6 tax revenues collected from the seller to designate the
7 distribution base pursuant to section 42-5029.

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

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

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

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

33 U. For the purposes of this section:

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

37 2. "Aircraft" includes:

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

42 (b) Tangible personal property that is permanently
43 affixed or attached as a component part of an aircraft that is
44 owned or operated by a certificated or licensed carrier of
45 persons or property.

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

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

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

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

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

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

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

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

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

1 provisions incorporating such title passing clauses in a
2 government contract into the subcontract.

3 Sec. 7. Section 42-5159, Arizona Revised Statutes, is
4 amended to read:

5 42-5159. Exemptions

6 A. The tax levied by this article does not apply to the
7 storage, use or consumption in this state of the following
8 described tangible personal property:

9 1. Tangible personal property, sold in this state, the
10 gross receipts from the sale of which are included in the
11 measure of the tax imposed by articles 1 and 2 of this
12 chapter.

13 2. Tangible personal property, the sale or use of which
14 has already been subjected to an excise tax at a rate equal to
15 or exceeding the tax imposed by this article under the laws of
16 another state of the United States. If the excise tax imposed
17 by the other state is at a rate less than the tax imposed by
18 this article, the tax imposed by this article is reduced by
19 the amount of the tax already imposed by the other state.

20 3. Tangible personal property, the storage, use or
21 consumption of which the constitution or laws of the United
22 States prohibit this state from taxing or to the extent that
23 the rate or imposition of tax is unconstitutional under the
24 laws of the United States.

25 4. Tangible personal property that directly enters into
26 and becomes an ingredient or component part of any
27 manufactured, fabricated or processed article, substance or
28 commodity for sale in the regular course of business.

29 5. Motor vehicle fuel and use fuel, the sales,
30 distribution or use of which in this state is subject to the
31 tax imposed under title 28, chapter 16, article 1, use fuel
32 that is sold to or used by a person holding a valid single
33 trip use fuel tax permit issued under section 28-5739,
34 aviation fuel, the sales, distribution or use of which in this
35 state is subject to the tax imposed under section 28-8344, and
36 jet fuel, the sales, distribution or use of which in this
37 state is subject to the tax imposed under article 8 of this
38 chapter.

39 6. Tangible personal property brought into this state
40 by an individual who was a nonresident at the time the
41 property was purchased for storage, use or consumption by the
42 individual if the first actual use or consumption of the
43 property was outside this state, unless the property is used
44 in conducting a business in this state.

1 7. Purchases of implants used as growth promotants and
2 injectable medicines, not already exempt under paragraph 16 of
3 this subsection, for livestock and poultry owned by, or in
4 possession of, persons who are engaged in producing livestock,
5 poultry, or livestock or poultry products, or who are engaged
6 in feeding livestock or poultry commercially. For the
7 purposes of this paragraph, "poultry" includes ratites.

8 8. Purchases of:

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

12 (b) Livestock and poultry feed, salts, vitamins and
13 other additives sold to persons for use or consumption in the
14 businesses of farming, ranching and producing or feeding
15 livestock or poultry or for use or consumption in
16 noncommercial boarding of livestock. For the purposes of this
17 paragraph, "poultry" includes ratites.

18 9. Propagative materials for use in commercially
19 producing agricultural, horticultural, viticultural or
20 floricultural crops in this state. For the purposes of this
21 paragraph, "propagative materials":

22 (a) Includes seeds, seedlings, roots, bulbs, liners,
23 transplants, cuttings, soil and plant additives, agricultural
24 minerals, auxiliary soil and plant substances, micronutrients,
25 fertilizers, insecticides, herbicides, fungicides, soil
26 fumigants, desiccants, rodenticides, adjuvants, plant
27 nutrients and plant growth regulators.

28 (b) Except for use in commercially producing industrial
29 hemp as defined in section 3-311, does not include any
30 propagative materials used in producing any part, including
31 seeds, of any plant of the genus cannabis.

32 10. Tangible personal property not exceeding \$200 in
33 any one month purchased by an individual at retail outside the
34 continental limits of the United States for the individual's
35 own personal use and enjoyment.

36 11. Advertising supplements that are intended for sale
37 with newspapers published in this state and that have already
38 been subjected to an excise tax under the laws of another
39 state in the United States that equals or exceeds the tax
40 imposed by this article.

41 12. Materials that are purchased by or for publicly
42 funded libraries, including school district libraries, charter
43 school libraries, community college libraries, state
44 university libraries or federal, state, county or municipal
45 libraries, for use by the public as follows:

1 (a) Printed or photographic materials, beginning August
2 7, 1985.

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

5 13. Tangible personal property purchased by:

6 (a) A hospital organized and operated exclusively for
7 charitable purposes, no part of the net earnings of which
8 inures to the benefit of any private shareholder or
9 individual.

10 (b) A hospital operated by this state or a political
11 subdivision of this state.

12 (c) A licensed nursing care institution or a licensed
13 residential care institution or a residential care facility
14 operated in conjunction with a licensed nursing care
15 institution or a licensed kidney dialysis center, which
16 provides medical services, nursing services or health related
17 services and is not used or held for profit.

18 (d) A qualifying health care organization, as defined
19 in section 42-5001, if the tangible personal property is used
20 by the organization solely to provide health and medical
21 related educational and charitable services.

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

28 (f) A nonprofit charitable organization that has
29 qualified under section 501(c)(3) of the United States
30 internal revenue code and that engages in and uses such
31 property exclusively in programs for persons with mental or
32 physical disabilities if the programs are exclusively for
33 training, job placement, rehabilitation or testing.

34 (g) A person that is subject to tax under this chapter
35 by reason of being engaged in business classified under
36 section 42-5075, or a subcontractor working under the control
37 of a person that is engaged in business classified under
38 section 42-5075, if the tangible personal property is any of
39 the following:

40 (i) Incorporated or fabricated by the person into a
41 structure, project, development or improvement in fulfillment
42 of a contract.

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

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

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

(i) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code if the property is purchased from the parent or an affiliate organization that is located outside this state.

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

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

(l) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

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

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

(o) A person representing or working on behalf of any person described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) or (n) of this paragraph, if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection 0.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a

commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

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

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

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, ~~on the prescription of~~ IF PRESCRIBED BY a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

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

21. Durable medical equipment that has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person

1 who is licensed under title 32, chapter 7, 13, 17 or 29, can
 2 withstand repeated use, is primarily and customarily used to
 3 serve a medical purpose, is generally not useful to a person
 4 in the absence of illness or injury and is appropriate for use
 5 in the home.

6 22. Food, as provided in and subject to the conditions
 7 of article 3 of this chapter and sections 42-5074 and 42-6017.

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

17 24. Food and drink provided without monetary charge by
 18 a taxpayer that is subject to section 42-5074 to its employees
 19 for their own consumption on the premises during the
 20 employees' hours of employment.

21 25. Tangible personal property that is used or consumed
 22 in a business subject to section 42-5074 for human food, drink
 23 or condiment, whether simple, mixed or compounded.

24 26. Food, drink or condiment and accessory tangible
 25 personal property that are acquired for use by or provided to
 26 a school district or charter school if they are to be either
 27 served or prepared and served to persons for consumption on
 28 the premises of a public school in the school district or on
 29 the premises of the charter school during school hours.

30 27. Lottery tickets or shares purchased pursuant to
 31 title 5, chapter 5.1, article 1.

32 28. Textbooks, sold by a bookstore, that are required
 33 by any state university or community college.

34 29. Magazines, other periodicals or other publications
 35 produced by this state to encourage tourist travel.

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

39 31. Coal, petroleum, coke, natural gas, virgin fuel oil
 40 and electricity purchased by a qualified environmental
 41 technology manufacturer, producer or processor as defined in
 42 section 41-1514.02 and directly used or consumed in ~~the~~
 43 ~~generation~~ GENERATING or ~~provision of~~ PROVIDING on-site power
 44 or energy solely for environmental technology manufacturing,
 45 producing or processing or environmental protection. This

1 paragraph ~~shall apply~~ APPLIES for twenty full consecutive
2 calendar or fiscal years from the date the first paper
3 manufacturing machine is placed in service. In the case of an
4 environmental technology manufacturer, producer or processor
5 ~~who~~ THAT does not manufacture paper, the time period ~~shall~~
6 ~~begin~~ BEGINS with the date the first manufacturing, processing
7 or production equipment is placed in service.

8 32. Motor vehicles that are removed from inventory by a
9 motor vehicle dealer as defined in section 28-4301 and that
10 are provided to:

11 (a) Charitable or educational institutions that are
12 exempt from taxation under section 501(c)(3) of the internal
13 revenue code.

14 (b) Public educational institutions.

15 (c) State universities or affiliated organizations of a
16 state university if no part of the organization's net earnings
17 inures to the benefit of any private shareholder or
18 individual.

19 33. Natural gas or liquefied petroleum gas used to
20 propel a motor vehicle.

21 34. Machinery, equipment, technology or related
22 supplies that are only useful to assist a person with a
23 physical disability as defined in section 46-191 or a person
24 who has a developmental disability as defined in section
25 36-551 or has a head injury as defined in section 41-3201 to
26 be more independent and functional.

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

43 36. Food, drink and condiment purchased for consumption
44 within the premises of any prison, jail or other institution
45 under the jurisdiction of the state department of corrections,

the department of public safety, the department of juvenile corrections or a county sheriff.

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

38. Tangible personal property that is or directly enters into and becomes an ingredient or component part of cards used as prescription plan identification cards.

39. 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. For the purposes of this paragraph:

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

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

40. Through December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061. From and after December 31, 1994, tangible personal property sold pursuant to a personal property liquidation transaction, as defined in section 42-5061, if the gross proceeds of the sales were

1 included in the measure of the tax imposed by article 1 of
2 this chapter or if the personal property liquidation was a
3 casual activity or transaction.

4 41. Wireless telecommunications equipment that is held
5 for sale or transfer to a customer as an inducement to enter
6 into or continue a contract for telecommunications services
7 that are taxable under section 42-5064.

8 42. Alternative fuel, as defined in section 1-215,
9 purchased by a used oil fuel burner who has received a permit
10 to burn used oil or used oil fuel under section 49-426 or
11 49-480.

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

22 44. Alternative fuel vehicles if the vehicle was
23 manufactured as a diesel fuel vehicle and converted to operate
24 on alternative fuel and equipment that is installed in a
25 conventional diesel fuel motor vehicle to convert the vehicle
26 to operate on an alternative fuel, as defined in section
27 1-215.

28 45. Gas diverted from a pipeline, by a person engaged
29 in the business of:

30 (a) Operating a natural or artificial gas pipeline, and
31 used or consumed for the sole purpose of fueling compressor
32 equipment that pressurizes the pipeline.

33 (b) Converting natural gas into liquefied natural gas,
34 and used or consumed for the sole purpose of fueling
35 compressor equipment used in the conversion process.

36 46. Tangible personal property that is excluded, exempt
37 or deductible from transaction privilege tax pursuant to
38 section 42-5063.

39 47. Tangible personal property purchased to be
40 incorporated or installed as part of environmental response or
41 remediation activities under section 42-5075, subsection B,
42 paragraph 6.

43 48. Tangible personal property sold by a nonprofit
44 organization that is exempt from taxation under section
45 501(c)(6) of the internal revenue code if the organization

1 produces, organizes or promotes cultural or civic related
2 festivals or events and no part of the organization's net
3 earnings inures to the benefit of any private shareholder or
4 individual.

5 49. Prepared food, drink or condiment donated by a
6 restaurant as classified in section 42-5074, subsection A to a
7 nonprofit charitable organization that has qualified under
8 section 501(c)(3) of the internal revenue code and that
9 regularly serves meals to the needy and indigent on a
10 continuing basis at no cost.

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

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

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

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

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

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

39 54. Computer data center equipment sold to the owner,
40 operator or qualified colocation tenant of a computer data
41 center that is certified by the Arizona commerce authority
42 under section 41-1519 or an authorized agent of the owner,
43 operator or qualified colocation tenant during the
44 qualification period for use in the qualified computer data
45 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.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

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

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

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

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

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

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

57. Cash equivalents, precious metal bullion and monetized bullion purchased by the ultimate consumer, but coins or other forms of money for manufacture into jewelry or works of art are subject to tax, and tangible personal property that is purchased through the redemption of any cash equivalent by the holder as a means of payment for goods that are subject to tax under this article is subject to tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and

that may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other tangible instruments or orders. Cash equivalents do not include either of the following:

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

(ii) Prepaid calling cards for telecommunications services.

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

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

58. TAMPONS, SANITARY NAPKINS, MENSTRUAL SPONGES, MENSTRUAL CUPS AND SIMILAR ITEMS USED FOR FEMININE HYGIENE.

B. In addition to the exemptions allowed by subsection A of this section, the following categories of tangible personal property are also exempt:

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a person in a manner described in section 42-5075, subsection 0, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and

carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

(a) A person:

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

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

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

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

is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

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

(b) Any foreign government.

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

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

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

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

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

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

13. New machinery and equipment consisting of agricultural aircraft, tractors, tractor-drawn implements, self-powered implements, machinery and equipment necessary for extracting milk, and machinery and equipment necessary for cooling milk and livestock, and drip irrigation lines not already exempt under paragraph 6 of this subsection and that are used for ~~commercial production of~~ **COMMERCIAL PRODUCING**

agricultural, horticultural, viticultural and floricultural crops and products in this state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period

beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

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

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

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

17. Machinery and equipment that are used directly in ~~the feeding of poultry, the environmental control of~~ ENVIRONMENTALLY CONTROLLING housing for poultry, ~~the movement of MOVING~~ 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 used in ~~the commercial production of~~ COMMERCIALY PRODUCING livestock,

1 livestock products or agricultural, horticultural,
2 viticultural or floricultural crops or products in this state,
3 including production by a person representing or working on
4 behalf of such a person in a manner described in section
5 42-5075, subsection 0, if the machinery and equipment are used
6 directly and primarily to prevent, monitor, control or reduce
7 air, water or land pollution.

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

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

18 (b) Machinery or equipment purchased to replace
19 machinery or equipment for which an exemption was previously
20 claimed and taken under this paragraph.

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

24 21. Qualifying equipment that is purchased from and
25 after June 30, 2004 through June 30, 2024 by a qualified
26 business under section 41-1516 for harvesting or processing
27 qualifying forest products removed from qualifying projects as
28 defined in section 41-1516. To qualify for this exemption,
29 the qualified business must obtain and present its
30 certification from the Arizona commerce authority at the time
31 of purchase.

32 22. Machinery, equipment, materials and other tangible
33 personal property used directly and predominantly to construct
34 a qualified environmental technology manufacturing, producing
35 or processing facility as described in section
36 41-1514.02. This paragraph applies for ten full consecutive
37 calendar or fiscal years after the start of initial
38 construction.

39 C. The exemptions provided by subsection B of this
40 section do not include:

41 1. Expendable materials. For the purposes of this
42 paragraph, expendable materials do not include any of the
43 categories of tangible personal property specified in
44 subsection B of this section regardless of the cost or useful
45 life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

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

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

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or tangible personal property used by a contractor in ~~the performance of~~ PERFORMING a contract.

D. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Revenues received from sales of ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity to a retail electric customer who is located outside this state for use outside this state if the electricity is delivered to a point of sale outside this state.

2. Revenues received from providing electricity, including ancillary services, electric distribution services, electric generation services, electric transmission services and other services related to providing electricity with respect to which the transaction privilege tax imposed under section 42-5063 has been paid.

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or

1 systems if the fees are segregated and used only for capital
2 expansion, system enlargement or debt service of the utility
3 system or systems.

4 2. Reimbursement or contribution compensation to any
5 person or persons owning a utility system for property and
6 equipment installed to provide utility access to, on or across
7 the land of an actual utility consumer if the property and
8 equipment become the property of the utility. This deduction
9 shall not exceed the value of such property and equipment.

10 G. The tax levied by this article does not apply to the
11 purchase price of electricity, natural gas or liquefied
12 petroleum gas by:

13 1. A qualified manufacturing or smelting business. A
14 utility that claims this deduction shall report each month, on
15 a form prescribed by the department, the name and address of
16 each qualified manufacturing or smelting business for which
17 this deduction is taken. This paragraph applies to gas
18 transportation services. For the purposes of this paragraph:

19 (a) "Gas transportation services" means the services of
20 transporting natural gas to a natural gas customer or to a
21 natural gas distribution facility if the natural gas was
22 purchased from a supplier other than the utility.

23 (b) "Manufacturing" means the performance as a business
24 of an integrated series of operations that places tangible
25 personal property in a form, composition or character
26 different from that in which it was acquired and transforms it
27 into a different product with a distinctive name, character or
28 use. Manufacturing does not include job printing, publishing,
29 packaging, mining, generating electricity or operating a
30 restaurant.

31 (c) "Qualified manufacturing or smelting business"
32 means one of the following:

33 (i) A business that manufactures or smelts tangible
34 products in this state, of which at least fifty-one percent of
35 the manufactured or smelted products will be exported out of
36 state for incorporation into another product or sold out of
37 state for a final sale.

38 (ii) A business that derives at least fifty-one percent
39 of its gross income from the sale of manufactured or smelted
40 products manufactured or smelted by the business.

41 (iii) A business that uses at least fifty-one percent
42 of its square footage in this state for manufacturing or
43 smelting and business activities directly related to
44 manufacturing or smelting.

1 (iv) A business that employs at least fifty-one percent
2 of its workforce in this state in manufacturing or smelting
3 and business activities directly related to manufacturing or
4 smelting.

5 (v) A business that uses at least fifty-one percent of
6 the value of its capitalized assets in this state, as
7 reflected on the business's books and records, for
8 manufacturing or smelting and business activities directly
9 related to manufacturing or smelting.

10 (d) "Smelting" means to melt or fuse a metalliferous
11 mineral, often with an accompanying chemical change, usually
12 to separate the metal.

13 2. A business that operates an international operations
14 center in this state and that is certified by the Arizona
15 commerce authority pursuant to section 41-1520.

16 H. A city or town may exempt proceeds from sales of
17 paintings, sculptures or similar works of fine art if such
18 works of fine art are sold by the original artist. For the
19 purposes of this subsection, fine art does not include an art
20 creation such as jewelry, macrame, glasswork, pottery,
21 woodwork, metalwork, furniture or clothing if the art creation
22 has a dual purpose, both aesthetic and utilitarian, whether
23 sold by the artist or by another person.

24 I. For the purposes of subsection B of this section:

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

28 2. "Aircraft" includes:

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

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

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

41 J. For the purposes of subsection D of this section,
42 "ancillary services", "electric distribution service",
43 "electric generation service", "electric transmission service"
44 and "other services" have the same meanings prescribed in
45 section 42-5063.

1 Sec. 8. Conditional enactment

2 Section 42-5061, Arizona Revised Statutes, as amended by
3 Laws 2019, chapter 273, section 8 and chapter 288 section 2
4 and this act, becomes effective on the date prescribed by Laws
5 2018, chapter 263, section 5, but only on the occurrence of
6 the condition prescribed by Laws 2018, chapter 263, section 5.

7 2. The Secretary of State shall submit this proposition to the
8 voters at the next general election as provided by article IV, part 1,
9 section 1, Constitution of Arizona.