

Senate Engrossed

TPT; exemptions; Indian tribes

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

**CHAPTER 443**  
**SENATE BILL 1110**

AN ACT

AMENDING SECTION 28-2154.01, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 7 AND CHAPTER 288, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 8 AND CHAPTER 288, SECTION 2; AMENDING TITLE 42, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; AMENDING SECTION 42-6017, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAX EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 28-2154.01, Arizona Revised Statutes, is amended  
3 to read:  
4       28-2154.01. Special ninety day nonresident registration  
5               permits; procedures  
6       A. A dealer or an authorized third party that issues a special  
7 ninety day nonresident registration permit pursuant to section 28-2154  
8 shall send an electronic record of the permit to the department through an  
9 authorized third party or through the department's authorized third-party  
10 electronic service provider.  
11       B. The department, an authorized third party or a dealer shall not:  
12           1. Issue, assign or deliver a special ninety day nonresident  
13 registration permit to any person unless the person does all of the  
14 following:  
15           (a) Obtains the special ninety day nonresident registration permit  
16 pursuant to section 28-2154.  
17           (b) Completes an affidavit in a form prescribed by the director  
18 pursuant to section 28-2154 or completes a form prescribed by section  
19 42-5009, subsection H.  
20           (c) Presents to the department, authorized third party or motor  
21 vehicle dealer a current valid driver license issued by another state  
22 indicating an address outside of this state.  
23           (d) Provides any other information reasonably and uniformly  
24 required by the department of transportation pursuant to section 28-2154  
25 or the department of revenue pursuant to section 42-5009, subsection H.  
26       2. Issue and affix, as prescribed in subsection C of this section,  
27 a special ninety day nonresident registration permit unless the permit is  
28 recorded in the electronic records of the department.  
29       C. A person who issues a special ninety day nonresident  
30 registration permit shall affix or insert, clearly and indelibly, on the  
31 face of each permit the dates of issuance and expiration and the make and  
32 vehicle identification number of the vehicle. The special ninety day  
33 nonresident registration permit shall not bear the name or address of the  
34 person who purchased the vehicle in a position that is legible from  
35 outside of the vehicle.  
36       D. A dealer or authorized third party who issues a special ninety  
37 day nonresident registration permit shall maintain a record, in a form  
38 prescribed by the director, of all special ninety day nonresident  
39 registration permits issued by the dealer or authorized third party and a  
40 record of other information pertaining to the issuance of special ninety  
41 day nonresident registration permits that the department of transportation  
42 or the department of revenue requires.  
43       E. The dealer or authorized third party shall keep each record for  
44 at least three years after the date of entry of the record.

1       F. A dealer or authorized third party shall allow the director of  
2 the department of transportation or the director of the department of  
3 revenue full and free access to the records during regular business hours.

4       G. The electronic record is written notice of the removal of the  
5 vehicle from this state for use in the purchaser's state of residence and  
6 relieves the dealer or authorized third party of liability in accordance  
7 with the requirements of section 42-5009.

8       H. If a purchaser registers the vehicle in this state within three  
9 hundred sixty-five days after the issuance of the special ninety day  
10 nonresident registration permit, the purchaser is liable in an amount  
11 equal to any tax, penalty and interest that the motor vehicle dealer or  
12 authorized third party would have been required to pay under title 42,  
13 chapter 5 and under articles IV and VI of the model city tax code as  
14 defined in section 42-6051. At the time of issuing the special ninety day  
15 nonresident registration permit, a motor vehicle dealer or authorized  
16 third party shall inform the purchaser in writing of the purchaser's  
17 liability described in this section. Subsequent registration or use of  
18 the vehicle in this state does not create a cause of action against a  
19 dealer or authorized third party that complies with section 28-2154,  
20 subsection A, this section and section 42-5009, subsection H.

21      I. The department of transportation and the department of revenue  
22 shall jointly develop and prescribe forms for the motor vehicle dealer,  
23 the authorized third party and the purchaser to complete for the proper  
24 administration and enforcement of this section.

25      J. Compliance with this section and section 28-2154 allows delivery  
26 of the vehicle to a nonresident purchaser in this state and retains the  
27 applicable deductions pursuant to section 42-5061, subsection A, paragraph  
28, ~~subdivision (a)~~ and subsection ~~T~~ U.

29      Sec. 2. Section 42-5061, Arizona Revised Statutes, as amended by  
30 Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended  
31 to read:

32      42-5061. Retail classification: definitions

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

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

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

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

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

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

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

10      7. The sale of stocks and bonds.

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

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

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

19      11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

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

43      18. Food and drink to a person that is engaged in a business that  
44 is classified under the restaurant classification and that provides such

1 food and drink without monetary charge to its employees for their own  
2 consumption on the premises during the employees' hours of employment.

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

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

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

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

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

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

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

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

39       22. Motor vehicle fuel and use fuel that are subject to a tax  
40 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
41 holder of a valid single trip use fuel tax permit issued under section  
42 28-5739, sales of aviation fuel that are subject to the tax imposed under  
43 section 28-8344 and sales of jet fuel that are subject to the tax imposed  
44 under article 8 of this chapter.

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

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

8       25. Tangible personal property sold to:

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

10          (b) A qualifying health care organization as defined in section  
11 42-5001 if the tangible personal property is used by the organization  
12 solely to provide health and medical related educational and charitable  
13 services.

14          (c) A qualifying health care organization as defined in section  
15 42-5001 if the organization is dedicated to providing educational,  
16 therapeutic, rehabilitative and family medical education training for  
17 blind and visually impaired children and children with multiple  
18 disabilities from the time of birth to age twenty-one.

19          (d) A qualifying community health center as defined in section  
20 42-5001.

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

24          (f) For taxable periods beginning from and after June 30, 2001, a  
25 nonprofit charitable organization that has qualified under section  
26 501(c)(3) of the internal revenue code and that provides residential  
27 apartment housing for ~~low income~~ **LOW-INCOME** persons over sixty-two years  
28 of age in a facility that qualifies for a federal housing subsidy, if the  
29 tangible personal property is used by the organization solely to provide  
30 residential apartment housing for ~~low income~~ **LOW-INCOME** persons over  
31 sixty-two years of age in a facility that qualifies for a federal housing  
32 subsidy.

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

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

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

41        27. Tangible personal property sold to:

42           (a) A person that is subject to tax under this article by reason of  
43 being engaged in business classified under section 42-5075 or to a  
44 subcontractor working under the control of a person engaged in business

1 classified under section 42-5075, if the property so sold is any of the  
2 following:

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

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

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

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

15 28. The sale of a motor vehicle to:

16 ~~(a)~~ a nonresident of this state if the purchaser's state of  
17 residence does not allow a corresponding use tax exemption to the tax  
18 imposed by article 1 of this chapter and if the nonresident has secured a  
19 special ninety day nonresident registration permit for the vehicle as  
20 prescribed by sections 28-2154 and 28-2154.01.

21 ~~(b) An enrolled member of an Indian tribe who resides on the Indian  
22 reservation established for that tribe.~~

23 29. Tangible personal property purchased in this state by a  
24 nonprofit charitable organization that has qualified under section  
25 501(c)(3) of the United States internal revenue code and that engages in  
26 and uses such property exclusively in programs for persons with mental or  
27 physical disabilities if the programs are exclusively for training, job  
28 placement, rehabilitation or testing.

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

42 31. Sales of commodities, as defined by title 7 United States Code  
43 section 2, that are consigned for resale in a warehouse in this state in  
44 or from which the commodity is deliverable on a contract for future

1 delivery subject to the rules of a commodity market regulated by the  
2 United States commodity futures trading commission.

3 32. Sales of tangible personal property by a nonprofit organization  
4 that is exempt from taxation under section 501(c)(3), 501(c)(4),  
5 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the  
6 organization sponsors or operates a rodeo featuring primarily farm and  
7 ranch animals and no part of the organization's net earnings inures to the  
8 benefit of any private shareholder or individual.

9 33. Sales of propagative materials to persons who use those items  
10 to commercially produce agricultural, horticultural, viticultural or  
11 floricultural crops in this state. For the purposes of this paragraph,  
12 "propagative materials":

13 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,  
14 cuttings, soil and plant additives, agricultural minerals, auxiliary soil  
15 and plant substances, micronutrients, fertilizers, insecticides,  
16 herbicides, fungicides, soil fumigants, desiccants, rodenticides,  
17 adjuvants, plant nutrients and plant growth regulators.

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

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

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

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

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

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

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

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

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

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

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

38      42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43       3. Tangible personal property sold to persons engaged in business  
44 classified under the telecommunications classification, including a person  
45 representing or working on behalf of such a person in a manner described

1 in section 42-5075, subsection 0, and consisting of central office  
2 switching equipment, switchboards, private branch exchange equipment,  
3 microwave radio equipment and carrier equipment including optical fiber,  
4 coaxial cable and other transmission media that are components of carrier  
5 systems.

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

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

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

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

21 (a) A person:

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

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

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

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

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

6       (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44               (a) Includes the integrated systems, fixtures, piping, movable  
45 partitions, lighting and all property that is necessary or adapted to

1 reduce contamination or to control airflow, temperature, humidity,  
2 chemical purity or other environmental conditions or manufacturing  
3 tolerances, as well as the production machinery and equipment operating in  
4 conjunction with the clean room environment.

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

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

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

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

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

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

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

42 (c) Any machinery or equipment purchased after the television  
43 station has ceased analog broadcasting, or purchased after November 1,  
44 2009, whichever occurs first.

1       21. Qualifying equipment that is purchased from and after June 30,  
2 2004 through June 30, 2024 by a qualified business under section 41-1516  
3 for harvesting or processing qualifying forest products removed from  
4 qualifying projects as defined in section 41-1516. To qualify for this  
5 deduction, the qualified business at the time of purchase must present its  
6 certification approved by the department.

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

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

13       2. Janitorial equipment and hand tools.

14       3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43       U. In computing the tax base for the sale of a motor vehicle to a  
44 nonresident of this state, if the purchaser's state of residence allows a  
45 corresponding use tax exemption to the tax imposed by article 1 of this

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

11 V. For the purposes of this section:

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

15 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

42 4. "Overhead materials" means tangible personal property, the gross  
43 proceeds of sales or gross income derived from that would otherwise be  
44 included in the retail classification, and that are used or consumed in  
45 ~~the performance of~~ PERFORMING a contract, the cost of which is charged to

1 an overhead expense account and allocated to various contracts based on  
2 generally accepted accounting principles and consistent with government  
3 contract accounting standards.

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

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

16 Sec. 3. Section 42-5061, Arizona Revised Statutes, as amended by  
17 Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended  
18 to read:

19 **42-5061. Retail classification: definitions**

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

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

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

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

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

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

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

42 7. The sale of stocks and bonds.

43 8. Drugs and medical oxygen, including delivery hose, mask or tent,  
44 regulator and tank, ~~on the prescription of~~ **IF PRESCRIBED BY** a member of

1 the medical, dental or veterinarian profession who is licensed by law to  
2 administer such substances.

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

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

7 11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

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

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

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

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

42 21. The sale of cash equivalents and the sale of precious metal  
43 bullion and monetized bullion to the ultimate consumer, but the sale of  
44 coins or other forms of money for manufacture into jewelry or works of art  
45 is subject to the tax and the gross proceeds of sales or gross income

1 derived from the redemption of any cash equivalent by the holder as a  
2 means of payment for goods or services that are taxable under this article  
3 is subject to the tax. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

39 25. Tangible personal property sold to:

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

41 (b) A qualifying health care organization as defined in section  
42 42-5001 if the tangible personal property is used by the organization  
43 solely to provide health and medical related educational and charitable  
44 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.

6 (d) A qualifying community health center as defined in section  
7 42-5001.

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

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

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

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

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

28 27. Tangible personal property sold to:

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

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

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

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

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

7       ~~(b) An enrolled member of an Indian tribe who resides on the Indian  
8 reservation established for that tribe.~~

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

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

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

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

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

43       (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,  
44 cuttings, soil and plant additives, agricultural minerals, auxiliary soil  
45 and plant substances, micronutrients, fertilizers, insecticides,

1 herbicides, fungicides, soil fumigants, desiccants, rodenticides,  
2 adjuvants, plant nutrients and plant growth regulators.

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

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

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

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

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

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

43 39. Through December 31, 1994, personal property liquidation  
44 transactions, conducted by a personal property liquidator. From and after  
45 December 31, 1994, personal property liquidation transactions shall be

1 taxable under this section provided that nothing in this subsection shall  
2 be construed to authorize the taxation of casual activities or  
3 transactions under this chapter. For the purposes of this paragraph:

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

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

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

16 41. A motor vehicle and any repair and replacement parts and  
17 tangible personal property becoming a part of such motor vehicle sold to a  
18 motor carrier ~~who~~ THAT is subject to a fee prescribed in title 28, chapter  
19 16, article 4 and ~~who~~ THAT is engaged in the business of leasing or  
20 renting such property.

21 42. Sales of:

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

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

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

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

41 45. Tangible personal property sold to a person engaged in business  
42 and subject to tax under the transient lodging classification if the  
43 tangible personal property is a personal hygiene item or articles used by  
44 human beings for food, drink or condiment, except alcoholic beverages,

1 that are furnished without additional charge to and intended to be  
2 consumed by the transient during the transient's occupancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5       61. Sales of coal.

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

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

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

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

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

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

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

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

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

7           (a) A person:

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

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

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

21           (iv) Operating an aircraft to transport persons in any manner for  
22 compensation or hire, or for use in a fractional ownership program that  
23 meets the requirements of federal aviation administration regulations  
24 (14 Code of Federal Regulations part 91, subpart K), including as an air  
25 carrier, a foreign air carrier or a commercial operator or under a  
26 restricted category, within the meaning of 14 Code of Federal Regulations,  
27 regardless of whether the operation or aircraft is regulated or certified  
28 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
29 of Federal Regulations.

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

35           (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36       17. Machinery and equipment used directly in ~~the~~ feeding ~~of~~  
37 poultry, ~~the environmental control of~~ ENVIRONMENTALLY CONTROLLING housing  
38 for poultry, ~~the movement of~~ MOVING eggs within a production and packaging  
39 facility or ~~the~~ sorting or cooling ~~of~~ eggs. This exemption does not apply  
40 to vehicles used for transporting eggs.

41       18. Machinery or equipment, including related structural  
42 components, that is employed in connection with manufacturing, processing,  
43 fabricating, job printing, refining, mining, natural gas pipelines,  
44 metallurgical operations, telecommunications, producing or transmitting  
45 electricity or research and development and that is used directly to meet

1 or exceed rules or regulations adopted by the federal energy regulatory  
2 commission, the United States environmental protection agency, the United  
3 States nuclear regulatory commission, the Arizona department of  
4 environmental quality or a political subdivision of this state to prevent,  
5 monitor, control or reduce land, water or air pollution.

6 19. Machinery and equipment that are sold to a person engaged in  
7 ~~the commercial production of~~ COMMERCIALLY PRODUCING livestock, livestock  
8 products or agricultural, horticultural, viticultural or floricultural  
9 crops or products in this state, including a person representing or  
10 working on behalf of such a person in a manner described in section  
11 42-5075, subsection 0, if the machinery and equipment are used directly  
12 and primarily to prevent, monitor, control or reduce air, water or land  
13 pollution.

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

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

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

26 (c) Any machinery or equipment purchased after the television  
27 station has ceased analog broadcasting, or purchased after November 1,  
28 2009, whichever occurs first.

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

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

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

41 2. Janitorial equipment and hand tools.

42 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

- 1       2. Businesses classified under the:
- 2       (a) Transporting classification.
- 3       (b) Utilities classification.
- 4       (c) Telecommunications classification.
- 5       (d) Pipeline classification.
- 6       (e) Private car line classification.
- 7       (f) Publication classification.
- 8       (g) Job printing classification.
- 9       (h) Prime contracting classification.
- 10      (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

1       2. The waste tire disposal fee imposed pursuant to section 44-1302.  
2       M. There shall be deducted from the tax base the amount received  
3 from sales of solar energy devices. The retailer shall register with the  
4 department as a solar energy retailer. By registering, the retailer  
5 acknowledges that it will make its books and records relating to sales of  
6 solar energy devices available to the department for examination.

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

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

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

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

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

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

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

1 privilege tax to the purchaser and as tax revenues collected from the  
2 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

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

25 U. For the purposes of this section:

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

29 2. "Aircraft" includes:

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

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

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

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

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

2       1. "Assembler" means a person who unites or combines products,

3       wares or articles of manufacture so as to produce a change in form or

4       substance without changing or altering the component parts.

5       2. "Manufacturer" means a person who is principally engaged in ~~the~~

6       ~~fabrication, production~~ FABRICATING, PRODUCING or ~~manufacture of~~

7       MANUFACTURING products, wares or articles for use from raw or prepared

8       materials, imparting to those materials new forms, qualities, properties

9       and combinations.

10      3. "Modifier" means a person who reworks, changes or adds to

11      products, wares or articles of manufacture.

12      4. "Overhead materials" means tangible personal property, the gross

13      proceeds of sales or gross income derived from that would otherwise be

14      included in the retail classification, and that are used or consumed in

15      ~~the performance of~~ PERFORMING a contract, the cost of which is charged to

16      an overhead expense account and allocated to various contracts based on

17      generally accepted accounting principles and consistent with government

18      contract accounting standards.

19      5. "Repairer" means a person who restores or renews products, wares

20      or articles of manufacture.

21      6. "Subcontract" means an agreement between a contractor and any

22      person who is not an employee of the contractor for furnishing ~~of~~ supplies

23      or services that, in whole or in part, are necessary to ~~the performance of~~

24      PERFORM one or more government contracts, or under which any portion of

25      the contractor's obligation under one or more government contracts is

26      performed, undertaken or assumed and that includes provisions causing

27      title to overhead materials or other tangible personal property used in

28      ~~the performance of~~ PERFORMING the subcontract to pass to the government or

29      that includes provisions incorporating such title passing clauses in a

30      government contract into the subcontract.

31      Sec. 4. Title 42, chapter 5, Arizona Revised Statutes, is amended

32      by adding article 3.1, to read:

33      ARTICLE 3.1. TAX EXEMPTION FOR SALES TO INDIAN TRIBES, TRIBALLY

34      OWNED BUSINESSES, TRIBAL ENTITIES AND AFFILIATED INDIANS

35      42-5121. Definitions

36      IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

37      1. "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN

38      WHO IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE

39      BENEFIT THE INDIAN RESERVATION WAS ESTABLISHED.

40      2. "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS

41      OF AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND

42      OCCUPANCY OF AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT

43      ARE RECOGNIZED AS INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF

44      THE INTERIOR.

1       3. "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR  
2 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES  
3 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS  
4 OF THE INDIAN TRIBE.

5       42-5122. Tax exemption; sales to Indian tribes, tribally  
6       owned businesses, tribal entities and affiliated  
7       Indians

8       THE TAXES IMPOSED BY THIS CHAPTER DO NOT APPLY TO THE GROSS PROCEEDS  
9 OF SALES OR GROSS INCOME DERIVED FROM ANY OF THE FOLLOWING:

10      1. BUSINESS ACTIVITIES PERFORMED BY AN INDIAN TRIBE, A TRIBALLY  
11 OWNED BUSINESS, A TRIBAL ENTITY OR AN AFFILIATED INDIAN IF THE BUSINESS  
12 ACTIVITY TAKES PLACE ON AN INDIAN RESERVATION.

13      2. BUSINESS ACTIVITIES PERFORMED BY A NONAFFILIATED INDIAN OR  
14 NON-INDIAN VENDOR ON AN INDIAN RESERVATION FOR AN INDIAN TRIBE, A TRIBAL  
15 ENTITY OR AN AFFILIATED INDIAN.

16      3. CONTRACTING ACTIVITIES PERFORMED ON AN INDIAN RESERVATION BY AN  
17 INDIAN TRIBE, A TRIBALLY OWNED BUSINESS, A TRIBAL ENTITY OR AN AFFILIATED  
18 INDIAN.

19      4. CONTRACTING ACTIVITIES PERFORMED FOR AN INDIAN TRIBE, A TRIBALLY  
20 OWNED BUSINESS, A TRIBAL ENTITY OR AN AFFILIATED INDIAN ON AN INDIAN  
21 RESERVATION BY A NONAFFILIATED INDIAN OR NON-INDIAN CONTRACTOR.

22      5. RETAIL SALES OF TANGIBLE PERSONAL PROPERTY TO AN INDIAN TRIBE, A  
23 TRIBALLY OWNED BUSINESS, A TRIBAL ENTITY OR AN AFFILIATED INDIAN IF THE  
24 SALE OF TANGIBLE PERSONAL PROPERTY TAKES PLACE ON AN INDIAN RESERVATION.  
25 A SALE IS DEEMED TO TAKE PLACE ON AN INDIAN RESERVATION IF THE TANGIBLE  
26 PERSONAL PROPERTY IS ORDERED FROM AND DELIVERED ON AN INDIAN RESERVATION.

27      6. THE SALE OF A MOTOR VEHICLE TO AN ENROLLED MEMBER OF AN INDIAN  
28 TRIBE WHO RESIDES ON THE INDIAN RESERVATION ESTABLISHED FOR THAT INDIAN  
29 TRIBE.

30       42-5123. Records of transaction

31       NONAFFILIATED INDIANS AND NON-INDIAN VENDORS SHALL MAINTAIN  
32 SUFFICIENT DOCUMENTATION OF THEIR TAXABLE AND NONTAXABLE GROSS PROCEEDS  
33 AND GROSS INCOME, UNDER ANY METHOD OF RECORDING THAT PROPERLY REFLECTS  
34 SUCH TAXABLE AND NONTAXABLE GROSS PROCEEDS AND GROSS INCOME, TO ENABLE THE  
35 DEPARTMENT TO DETERMINE WHICH TRANSACTIONS ARE SUBJECT TO TRANSACTION  
36 PRIVILEGE TAX. ANY GROSS PROCEEDS AND GROSS INCOME THAT CANNOT BE  
37 IDENTIFIED AS NONTAXABLE IS CONSIDERED TAXABLE.

38       Sec. 5. Section 42-6017, Arizona Revised Statutes, is amended to  
39 read:

40       42-6017. Municipal taxation of businesses selling tangible  
41       personal property at retail: state preemption;  
42       exceptions; definitions

43       A. Except as provided in this section, section 42-5061 supersedes  
44 all city or town ordinances or other local laws insofar as the ordinances

1 or local laws now or hereafter relate to the taxation of business  
2 activities classified under section 42-5061.

3 B. The municipal tax rate for businesses selling tangible personal  
4 property at retail for marketplace facilitators is the municipal tax rate  
5 that is in effect in the city or town for businesses selling tangible  
6 personal property at retail on September 30, 2019, until the city or town  
7 changes the tax rate.

8 C. A city or town may:

9 1. Notwithstanding section 42-5061, subsection A, paragraph 15,  
10 levy a transaction privilege tax on the gross proceeds of sales or gross  
11 income derived from the business of selling food at retail by the persons  
12 described in section 42-5102, subsection A, subject to the conditions of  
13 sections 42-5074, 42-5101 and 42-6015.

14 2. Notwithstanding section 42-5061, subsection A, paragraph 17,  
15 levy a transaction privilege tax on the gross proceeds of sales or gross  
16 income derived from a bookstore selling textbooks that are required by any  
17 state university or community college.

18 3. Notwithstanding section 42-5061, subsection A, paragraph 33,  
19 paragraph 42, subdivision (b) and paragraph 43 and subsection B, paragraph  
20 5, continue to levy an existing transaction privilege tax that was levied  
21 on or before May 1, 2019 on the gross proceeds of sales or gross income  
22 derived from the sales of:

23 (a) Propagative materials to persons who use those items to  
24 commercially produce agricultural, horticultural, viticultural or  
25 floricultural crops in this state. This subdivision does not apply and a  
26 city or town may not continue to levy a transaction privilege tax pursuant  
27 to this subdivision as follows:

28 (i) For a city or town with a population of fifty thousand persons  
29 or less, from and after June 30, 2021.

30 (ii) For a city or town with a population of more than fifty  
31 thousand persons, from and after December 31, 2019.

32 (b) Livestock and poultry feed, salts, vitamins and other additives  
33 for livestock or poultry consumption that are sold to persons for use or  
34 consumption by their own livestock or poultry, for use or consumption in  
35 the businesses of farming, ranching and producing or feeding livestock,  
36 poultry, or livestock or poultry products or for use or consumption in  
37 noncommercial boarding of livestock.

38 (c) Implants used as growth promotants and injectable medicines,  
39 not already exempt under section 42-5061, subsection A, paragraph 8, for  
40 livestock or poultry owned by or in possession of persons who are engaged  
41 in producing livestock, poultry, or livestock or poultry products or who  
42 are engaged in feeding livestock or poultry commercially. This  
43 subdivision does not apply and a city or town may not continue to levy a  
44 transaction privilege tax pursuant to this subdivision as follows:

(i) For a city or town with a population of fifty thousand persons or less, from and after June 30, 2021.

(ii) For a city or town with a population of more than fifty thousand persons, from and after December 31, 2019.

(d) 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. This subdivision does not apply and a city or town may not continue to levy a transaction privilege tax pursuant to this subdivision as follows:

(i) For a city or town with a population of fifty thousand persons or less, from and after June 30, 2021.

(ii) For a city or town with a population of more than fifty thousand persons, from and after December 31, 2019.

4. Levy a transaction privilege tax on the gross proceeds of sales or gross income derived from the sale of nonmetalliferous mined materials at retail.

5. Notwithstanding section 42-5061, subsection A, paragraph 60, levy a transaction privilege tax on the gross proceeds of sales or gross income derived from the sale 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.

6. Notwithstanding section 42-5061, subsection A, paragraph 28 OR SECTION 42-5122, levy a transaction privilege tax on the gross proceeds of sales or gross income derived from 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 chapter 5, article 1 of this title and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01. This subdivision does not apply if the purchaser takes possession of the vehicle outside of this state.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe, except if possession of the vehicle is received on the enrolled member's Indian reservation.

7. Exempt from transaction privilege, sales, use or other similar tax the sale of paintings, sculptures or similar works of fine art, if such works of fine art are sold by the original artist. For the purposes of this paragraph, fine art does not include an art creation such as jewelry, macramé, glasswork, pottery, woodwork, metalwork, furniture or clothing if the art creation has a dual purpose, both aesthetic and utilitarian, whether sold by the artist or by another person.

1       D. For the purposes of this section:

2       1. "Food" has the same meaning prescribed by rule adopted by the  
3 department pursuant to section 42-5106.

4       2. "Marketplace facilitator" has the same meaning prescribed in  
5 section 42-5001.

6       3. "Poultry" includes ratites.

7       4. "Propagative materials":

8       (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,  
9 cuttings, soil and plant additives, agricultural minerals, auxiliary soil  
10 and plant substances, micronutrients, fertilizers, insecticides,  
11 herbicides, fungicides, soil fumigants, desiccants, rodenticides,  
12 adjuvants, plant nutrients and plant growth regulators.

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

17       5. "Remote seller" has the same meaning prescribed in section  
18 42-5001.

19       Sec. 6. Conditional enactment

20       Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,  
21 chapter 273, section 8 and chapter 288, section 2 and this act, becomes  
22 effective on the date prescribed by Laws 2018, chapter 263, section 5 but  
23 only on the occurrence of the condition prescribed by Laws 2018, chapter  
24 263, section 5.

APPROVED BY THE GOVERNOR JULY 10, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2021.