CHAPTER 43

SENATE BILL 1372

AN ACT

AMENDING SECTION 42-5009, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 266, SECTION 3, CHAPTER 412, SECTION 7, CHAPTER 417, SECTION 4 AND CHAPTER 443, SECTION 2; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 266, SECTION 4, CHAPTER 412, SECTION 8, CHAPTER 417, SECTION 5 AND CHAPTER 443, SECTION 3; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 417, SECTION 10; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 417, SECTION 11; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-5009, Arizona Revised Statutes, is amended to read:

42-5009. Certificates establishing deductions; liability for making false certificate; tax exclusion; definitions

A. A person who conducts any business classified under article 2 of this chapter may establish entitlement to the allowable deductions from the tax base of that business by both:

1. Marking the invoice for the transaction to indicate that the gross proceeds of sales or gross income derived from the transaction was deducted from the tax base.

2. Obtaining a certificate executed by the purchaser indicating the name and address of the purchaser, the precise nature of the business of the purchaser, the purpose for which the purchase was made, the necessary facts to establish the appropriate deduction and the tax license number of the purchaser to the extent the deduction depends on the purchaser conducting business classified under article 2 of this chapter and a certification that the person executing the certificate is authorized to do so on behalf of the purchaser. The certificate may be disregarded if the seller has reason to believe that the information contained in the certificate is not accurate or complete.

B. A person who does not comply with subsection A of this section may establish entitlement to the deduction by presenting facts necessary to support the entitlement, but the burden of proof is on that person.

C. The department may prescribe a form for the certificate described in subsection A of this section. Under such rules as it may prescribe, the department may also describe transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided for in subsection A of this section but must instead obtain such additional information as required by the rules in order to be entitled to the deduction.

D. If a seller is entitled to a deduction by complying with subsection A of this section, the department may require the purchaser that caused the execution of the certificate to establish the accuracy and completeness of the information required to be contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the
seller in order to designate the distribution base for purposes of section 42-5029.

E. If a seller is entitled to a deduction by complying with subsection B of this section, the department may require the purchaser to establish the accuracy and completeness of the information provided to the seller that entitled the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection B of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

F. The department may prescribe a form for a certificate used to establish entitlement to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3. Under rules the department may prescribe, the department may also require additional information for the seller to be entitled to the deduction. If a seller is entitled to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

G. If a seller claims a deduction under section 42-5061, subsection A, paragraph 25 and establishes entitlement to the deduction with an exemption letter that the purchaser received from the department and the exemption letter was based on a contingent event, the department may require the purchaser that received the exemption letter to establish the satisfaction of the contingent event within a reasonable time. If the purchaser cannot establish the satisfaction of the event, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not been furnished the exemption letter. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for
purposes of section 42-5029. For the purposes of this subsection, "reasonable time" means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

H. The department shall prescribe forms for certificates used to establish the satisfaction of the criteria necessary to qualify the sale of a motor vehicle for the deductions described in section 42-5061, subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and subsection U. Except as provided in subsection J of this section, to establish entitlement to these deductions, a motor vehicle dealer shall retain:

1. A valid certificate as prescribed by this subsection completed by the purchaser and obtained before the issuance of the nonresident registration permit authorized by section 28-2154.

2. A copy of the nonresident registration permit authorized by section 28-2154.

3. A legible copy of a current valid driver license issued to the purchaser by another state or foreign country that indicates an address outside of this state. For the sale of a motor vehicle to a nonresident entity, the entity's representative must have a current valid driver license issued by the same jurisdiction as that in which the entity is located.

4. For the purposes of the deduction provided by section 42-5061, subsection A, paragraph 14, SUBDIVISION (a), a certificate documenting the delivery of the motor vehicle to an out-of-state location.

I. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection H of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

J. To establish entitlement to the deduction described in section 42-5061, subsection A, paragraph 44, a public consignment auction dealer as defined in section 28-4301 shall submit the valid certificate prescribed by subsection H of this section to the department and retain a copy for its records.
K. Notwithstanding any other law, compliance with subsection H of this section by a motor vehicle dealer entitles the motor vehicle dealer to the exemption provided in section 42-6004, subsection A, paragraph 4.

L. The department shall prescribe a form for a certificate to be used by a person that is not subject to tax under section 42-5075 when the person is engaged by a contractor that is subject to tax under section 42-5075 for a project that is taxable under section 42-5075. The certificate permits the person purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement to provide documentation to a retailer that the sale of tangible personal property qualifies for the deduction under section 42-5061, subsection A, paragraph 27, subdivision (b). A prime contractor shall obtain the certificate from the department and shall provide a copy to any such person working on the project. The prime contractor shall obtain a new certificate for each project to which this subsection applies. For the purposes of this subsection, the following apply:

1. The person that is not subject to tax under section 42-5075 may use the certificate issued pursuant to this subsection only with respect to tangible personal property that will be incorporated into a project for which the gross receipts are subject to tax under section 42-5075.

2. The department shall issue the certificate to the prime contractor on receiving sufficient documentation to establish that the prime contractor meets the requirements of this subsection.

3. If any person uses the certificate provided under this subsection to purchase tangible personal property to be used in a project that is not subject to tax under section 42-5075, the person is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not complied with subsection A of this section. Payment of the amount under this section exempts the person from liability for any tax imposed under article 4 of this chapter. The amount shall be sourced under section 42-5040, subsection A, paragraph 2.

M. Notwithstanding any other law, compliance with subsection L of this section by a person that is not subject to tax under section 42-5075 entitles the person to the exemption allowed by section 465, subsection (k) of the model city tax code when purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement.

N. The requirements of subsections A and B of this section do not apply to owners, proprietors or tenants of agricultural lands or farms who sell livestock or poultry feed that is grown or raised on their lands to any of the following:

1. Persons who feed their own livestock or poultry.
2. Persons who are engaged in the business of producing livestock or poultry commercially.

3. Persons who are engaged in the business of feeding livestock or poultry commercially or who board livestock noncommercially.

O. A vendor who has reason to believe that a certificate prescribed by this section is not accurate or complete will not be relieved of the burden of proving entitlement to the exemption. A vendor that accepts a certificate in good faith will be relieved of the burden of proof and the purchaser may be required to establish the accuracy of the claimed exemption. If the purchaser cannot establish the accuracy and completeness of the information provided in the certificate, the purchaser is liable for an amount equal to the transaction privilege tax, penalty and interest that the vendor would have been required to pay if the vendor had not accepted the certificate.

P. Notwithstanding any other law, an online lodging operator, as defined in section 42-5076, shall be entitled to an exclusion from any applicable taxes for any online lodging transaction, as defined in section 42-5076, facilitated by an online lodging marketplace, as defined in section 42-5076, for which the online lodging operator has obtained from the online lodging marketplace written notice that the online lodging marketplace is registered with the department to collect applicable taxes for all online lodging transactions facilitated by the online lodging marketplace, and transaction history documenting tax collected by the online lodging marketplace, pursuant to section 42-5005, subsection L.

Q. The department shall prescribe the form of a certificate to be used by a person purchasing an aircraft to document eligibility for a deduction pursuant to section 42-5061, subsection B, paragraph 8, subdivision (a), item (v) or an exemption pursuant to section 42-5159, subsection B, paragraph 8, subdivision (a), item (v), relating to aircraft. The person must provide this certificate and documentation confirming that the operational control of the aircraft has been transferred or will be transferred immediately after the purchase to one or more persons described in section 42-5061, subsection B, paragraph 8, subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159, subsection B, paragraph 8, subdivision (a), item (i), (ii), (iii) or (iv).

Operational control of the aircraft must be transferred for at least fifty percent of the aircraft's flight hours. If such operational control is not transferred for at least fifty percent of the aircraft's flight hours during the recapture period, the owner of the aircraft is liable for an amount equal to any tax that the seller or purchaser would have been required to pay under this chapter at the time of the sale, plus penalty and interest. The recapture period begins on the date that operational control of the aircraft is first transferred and ends on the later of the date the aircraft is fully depreciated for federal income tax purposes or five years after operational control was first transferred. For the
purposes of this subsection, operational control of the aircraft must be within the meaning of federal aviation administration operations specification A008, or its successor, except that:

1. If it is determined that operational control has been transferred for less than fifty percent but more than forty percent of the aircraft's flight hours, the owner of the aircraft is liable for an amount equal to any tax that the seller or purchaser would have been required to pay under this chapter at the time of the sale, plus interest.

2. If the aircraft is sold during the recapture period, the seller is not liable for the amount determined pursuant to this subsection unless the operational control of the aircraft had not been transferred for at least fifty percent of the aircraft's flight hours at the time of the sale.

R. Notwithstanding any other law, a shared vehicle owner is entitled to an exclusion from any applicable taxes for a shared vehicle transaction that is facilitated by a peer-to-peer car sharing program and for which the peer-to-peer car sharing program has collected and remitted applicable taxes.

S. For the purposes of this section, "peer-to-peer car sharing program", "shared vehicle owner" and "shared vehicle transaction" have the same meanings prescribed in section 28-9601.

Sec. 2. Section 42-5061, Arizona Revised Statutes, as amended by Laws 2021, chapter 266, section 3, chapter 412, section 7, chapter 417, section 4 and chapter 443, section 2, is amended to read:

42-5061. Retail classification; definitions

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

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

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

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

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.
5. Sales to persons engaged in business classified under the restaurant classification of articles used by human beings for food, drink or condiment, whether simple, mixed or compounded.

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

7. The sale of stocks and bonds.

8. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, if prescribed by a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

14. Sales of motor vehicles to nonresidents of this state for use outside this state IF EITHER OF THE FOLLOWING APPLY:

(a) If The motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

(b) THE VEHICLE, TRAILER OR SEMITRAILER HAS A GROSS VEHICLE WEIGHT RATING OF MORE THAN TEN THOUSAND POUNDS, IS USED OR MAINTAINED TO TRANSPORT PROPERTY IN THE FURTHERANCE OF INTERSTATE COMMERCE AND OTHERWISE MEETS THE DEFINITION OF COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 28-5201.

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

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

17. Textbooks by any bookstore that are required by any state university or community college.
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18. Food and drink to a person that is engaged in a business that is classified under the restaurant classification and that provides such food and drink without monetary charge to its employees for their own consumption on the premises during the employees' hours of employment.

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

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

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

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

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

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

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

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

22. Motor vehicle fuel and use fuel that are subject to a tax imposed under title 28, chapter 16, article 1, sales of use fuel to a holder of a valid single trip use fuel tax permit issued under section 28-5739, sales of aviation fuel that are subject to the tax imposed under
section 28-8344 and sales of jet fuel that are subject to the tax imposed
under article 8 of this chapter.
23. Tangible personal property sold to a person engaged in the
business of leasing or renting such property under the personal property
rental classification if such property is to be leased or rented by such
person.
24. Tangible personal property sold in interstate or foreign
commerce if prohibited from being so taxed by the constitution of the
United States or the constitution of this state.
25. Tangible personal property sold to:
   (a) A qualifying hospital as defined in section 42-5001.
   (b) A qualifying health care organization as defined in section
       42-5001 if the tangible personal property is used by the organization
       solely to provide health and medical related educational and charitable
       services.
   (c) A qualifying health care organization as defined in section
       42-5001 if the organization is dedicated to providing educational,
       therapeutic, rehabilitative and family medical education training for
       blind and visually impaired children and children with multiple
       disabilities from the time of birth to age twenty-one.
   (d) A qualifying community health center as defined in section
       42-5001.
   (e) A nonprofit charitable organization that has qualified under
       section 501(c)(3) of the internal revenue code and that regularly serves
       meals to the needy and indigent on a continuing basis at no cost.
   (f) For taxable periods beginning from and after June 30, 2001, a
       nonprofit charitable organization that has qualified under section
       501(c)(3) of the internal revenue code and that provides residential
       apartment housing for low-income persons over sixty-two years of age in a
       facility that qualifies for a federal housing subsidy, if the tangible
       personal property is used by the organization solely to provide
       residential apartment housing for low-income persons over sixty-two years
       of age in a facility that qualifies for a federal housing subsidy.
   (g) A qualifying health sciences educational institution as defined
       in section 42-5001.
   (h) Any person representing or working on behalf of another person
       described in subdivisions (a) through (g) of this paragraph if the
       tangible personal property is incorporated or fabricated into a project
       described in section 42-5075, subsection O.
26. Magazines or other periodicals or other publications by this
state to encourage tourist travel.
27. Tangible personal property sold to:
   (a) A person that is subject to tax under this article by reason of
       being engaged in business classified under section 42-5075 or to a
       subcontractor working under the control of a person engaged in business
classified under section 42-5075, if the property so sold is any of the following:

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

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

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

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

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

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

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

31. Sales of commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.
32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization’s net earnings inures to the benefit of any private shareholder or individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(6) of the internal revenue code if the organization produces, organizes or promotes cultural or civic related festivals or events and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
53. Application services that are designed to assess or test student learning or to promote curriculum design or enhancement purchased by or for any school district, charter school, community college or state university. For the purposes of this paragraph:
   (a) "Application services" means software applications provided remotely using hypertext transfer protocol or another network protocol.
   (b) "Curriculum design or enhancement" means planning, implementing or reporting on courses of study, lessons, assignments or other learning activities.

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

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

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

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

58. Sales of tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection O, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:
   (a) "Affiliated Indian" means an individual Native American Indian who is duly registered on the tribal rolls of the Indian tribe for whose benefit the Indian reservation was established.
   (b) "Indian reservation" means all lands that are within the limits of areas set aside by the United States for the exclusive use and occupancy of an Indian tribe by treaty, law or executive order and that are recognized as Indian reservations by the United States department of the interior.
   (c) "Indian tribe" means any organized nation, tribe, band or community that is recognized as an Indian tribe by the United States department of the interior and includes any entity formed under the laws of the Indian tribe.
59. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

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

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

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

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

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

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

5. Machinery and equipment used directly for energy storage for later electrical use. For the purposes of this paragraph:
   (a) "Electric utility scale" means a person that is engaged in a business activity described in section 42-5063, subsection A or such person's equipment or wholesale electricity suppliers.
(b) "Energy storage" means commercially available technology for electric utility scale that is capable of absorbing energy, storing energy for a period of time and thereafter dispatching the energy and that uses mechanical, chemical or thermal processes to store energy.

(c) "Machinery and equipment used directly" means all machinery and equipment that are used for electric energy storage from the point of receipt of such energy in order to facilitate storage of the electric energy to the point where the electric energy is released.

6. 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.

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

8. Aircraft, navigational and communication instruments and other accessories and related equipment sold to:
   (a) A person:
       (i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.
       (ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.
       (iii) Holding a foreign air carrier permit for air transportation for use as or in conjunction with or becoming a part of aircraft to be used to transport persons, property or United States mail in intrastate, interstate or foreign commerce.
       (iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.
       (v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or
accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(b) Any foreign government.

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

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

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

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

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


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

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

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

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

16. Tangible personal property that is used by either of the following to receive, store, convert, produce, generate, decode, encode, control or transmit telecommunications information:
   (a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations part 25.
   (b) Any satellite television or data transmission facility, if both of the following conditions are met:
       (i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations part 25.
       (ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data transmission services during the test period were transmitted by the facility to or on behalf of those services. For the purposes of subdivision (b) of this paragraph, "test period" means the three hundred sixty-five day period beginning on the later of the date on which the tangible personal property is purchased or the date on which the direct broadcast satellite television or data transmission service first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing, fabrication or research and development, as defined in paragraph 15 of this subsection, of semiconductor products. For the purposes of this paragraph, "clean room" means all property that comprises or creates an environment where humidity, temperature, particulate matter and contamination are precisely controlled within specified parameters, without regard to whether the property is actually contained within that environment or whether any of the property is affixed to or incorporated into real property. Clean room:
   (a) Includes the integrated systems, fixtures, piping, movable partitions, lighting and all property that is necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity or other environmental conditions or manufacturing tolerances, as well as the production machinery and equipment operating in conjunction with the clean room environment.
(b) Does not include the building or other permanent, nonremovable component of the building that houses the clean room environment.

18. Machinery and equipment used directly in feeding poultry, environmentally controlling housing for poultry, moving eggs within a production and packaging facility or sorting or cooling eggs. This exemption does not apply to vehicles used for transporting eggs.

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

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

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

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.
23. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 12 of this section, without regard to the use of such motor vehicles.

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

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or other tangible personal property used by a contractor in performing a contract.

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

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

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

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

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

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

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

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

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

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

3. Overhead materials or other tangible personal property that is used in performing a contract between the United States government and a manufacturer, modifier, assembler or repairer, including property used in performing a subcontract with a government contractor who is a
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1. Sales of overhead materials or other tangible personal property
to a manufacturer, modifier, assembler or repairer if the gross proceeds
of sales or gross income derived from the property by the manufacturer,
modifier, assembler or repairer will be exempt under paragraph 3 of this
subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. If a seller is entitled to a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied, the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax, penalty and interest imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

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

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

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

V. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. Section 42-5061, Arizona Revised Statutes, as amended by Laws 2021, chapter 266, section 4, chapter 412, section 8, chapter 417, section 5 and chapter 443, section 3, is amended to read:

42-5061. Retail classification; definitions

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

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

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

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

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

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

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

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

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

14. Sales of motor vehicles to nonresidents of this state for use outside this state IF EITHER OF THE FOLLOWING APPLY:
   (a) The motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.
   (b) THE VEHICLE, TRAILER OR SEMITRAILER HAS A GROSS VEHICLE WEIGHT RATING OF MORE THAN TEN THOUSAND POUNDS, IS USED OR MAINTAINED TO TRANSPORT PROPERTY IN THE FURTHERANCE OF INTERSTATE COMMERCE AND OTHERWISE MEETS THE DEFINITION OF COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 28-5201.

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

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

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

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

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

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

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

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

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

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

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

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

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

23. Tangible personal property sold to a person engaged in the
business of leasing or renting such property under the personal property
rental classification if such property is to be leased or rented by such
person.
24. Tangible personal property sold in interstate or foreign commerce if prohibited from being so taxed by the constitution of the United States or the constitution of this state.

25. Tangible personal property sold to:
   (a) A qualifying hospital as defined in section 42-5001.
   (b) A qualifying health care organization as defined in section 42-5001 if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.
   (c) A qualifying health care organization as defined in section 42-5001 if the organization is dedicated to providing educational, therapeutic, rehabilitative and family medical education training for blind and visually impaired children and children with multiple disabilities from the time of birth to age twenty-one.
   (d) A qualifying community health center as defined in section 42-5001.
   (e) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.
   (f) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low-income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low-income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.
   (g) A qualifying health sciences educational institution as defined in section 42-5001.
   (h) Any person representing or working on behalf of another person described in subdivisions (a) through (g) of this paragraph if the tangible personal property is incorporated or fabricated into a project described in section 42-5075, subsection O.

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

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

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

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

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

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

32. Sales of tangible personal property by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.
33. Sales of propagative materials to persons who use those items
to commercially produce agricultural, horticultural, viticultural or
floricultural crops in this state. For the purposes of this paragraph,
"propagative materials":
(a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
cuttings, soil and plant additives, agricultural minerals, auxiliary soil
and plant substances, micronutrients, fertilizers, insecticides,
herbicides, fungicides, soil fumigants, desiccants, rodenticides,
adjuvants, plant nutrients and plant growth regulators.
(b) Except for use in commercially producing industrial hemp as
defined in section 3-311, does not include any propagative materials used
in producing any part, including seeds, of any plant of the genus
cannabis.
34. Machinery, equipment, technology or related supplies that are
only useful to assist a person with a physical disability as defined in
section 46-191 or a person who has a developmental disability as defined
in section 36-551 or has a head injury as defined in section 41-3201 to be
more independent and functional.
35. Sales of natural gas or liquefied petroleum gas used to propel
a motor vehicle.
36. Paper machine clothing, such as forming fabrics and dryer
felts, sold to a paper manufacturer and directly used or consumed in paper
manufacturing.
37. Petroleum, coke, natural gas, virgin fuel oil and electricity
sold to a qualified environmental technology manufacturer, producer or
processor as defined in section 41-1514.02 and directly used or consumed
in generating or providing on-site power or energy solely for
environmental technology manufacturing, producing or processing or
environmental protection. This paragraph applies for twenty full
consecutive calendar or fiscal years from the date the first paper
manufacturing machine is placed in service. In the case of an
environmental technology manufacturer, producer or processor that does not
manufacture paper, the time period begins with the date the first
manufacturing, processing or production equipment is placed in service.
38. Sales of liquid, solid or gaseous chemicals used in
manufacturing, processing, fabricating, mining, refining, metallurgical
operations, research and development and, beginning on January 1, 1999,
printing, if using or consuming the chemicals, alone or as part of an
integrated system of chemicals, involves direct contact with the materials
from which the product is produced for the purpose of causing or allowing
a chemical or physical change to occur in the materials as part of the
production process. This paragraph does not include chemicals that are
used or consumed in activities such as packaging, storage or
transportation but does not affect any deduction for such chemicals that
is otherwise provided by this section. For the purposes of this
paragraph. "printing" means a commercial printing operation and includes job printing, engraving, embossing, copying and bookbinding.

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

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

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

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

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

42. Sales of:

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

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

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

44. Sales of motor vehicles at auction to nonresidents of this state for use outside this state if the vehicles are shipped or delivered out of this state, regardless of where title to the motor vehicles passes or its free on board point.
45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, that are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Machinery and equipment used directly for energy storage for later electrical use. For the purposes of this paragraph:

   (a) "Electric utility scale" means a person that is engaged in a business activity described in section 42-5063, subsection A or such person's equipment or wholesale electricity suppliers.

   (b) "Energy storage" means commercially available technology for electric utility scale that is capable of absorbing energy, storing energy for a period of time and thereafter dispatching the energy and that uses mechanical, chemical or thermal processes to store energy.

   (c) "Machinery and equipment used directly" means all machinery and equipment that are used for electric energy storage from the point of
receipt of such energy in order to facilitate storage of the electric energy to the point where the electric energy is released.

6. 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.

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

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

   (a) A person:

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

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

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

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

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

   (b) Any foreign government.

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

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

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

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

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


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

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

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

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

16. Tangible personal property that is used by either of the
following to receive, store, convert, produce, generate, decode, encode,
control or transmit telecommunications information:
(a) Any direct broadcast satellite television or data transmission
service that operates pursuant to 47 Code of Federal Regulations part 25.
(b) Any satellite television or data transmission facility, if both
of the following conditions are met:
(i) Over two-thirds of the transmissions, measured in megabytes,
transmitted by the facility during the test period were transmitted to or
on behalf of one or more direct broadcast satellite television or data
transmission services that operate pursuant to 47 Code of Federal
Regulations part 25.
(ii) Over two-thirds of the transmissions, measured in megabytes,
transmitted by or on behalf of those direct broadcast television or data
transmission services during the test period were transmitted by the
facility to or on behalf of those services.
For the purposes of subdivision (b) of this paragraph, "test period" means
the three hundred sixty-five day period beginning on the later of the date
on which the tangible personal property is purchased or the date on which
the direct broadcast satellite television or data transmission service
first transmits information to its customers.

17. Clean rooms that are used for manufacturing, processing,
fabrication or research and development, as defined in paragraph 15 of
this subsection, of semiconductor products. For the purposes of this
paragraph, "clean room" means all property that comprises or creates an
environment where humidity, temperature, particulate matter and
contamination are precisely controlled within specified parameters,
without regard to whether the property is actually contained within that
environment or whether any of the property is affixed to or incorporated
into real property. Clean room:
(a) Includes the integrated systems, fixtures, piping, movable
partitions, lighting and all property that is necessary or adapted to
reduce contamination or to control airflow, temperature, humidity,
chemical purity or other environmental conditions or manufacturing
tolerances, as well as the production machinery and equipment operating in
conjunction with the clean room environment.
(b) Does not include the building or other permanent, nonremovable
component of the building that houses the clean room environment.

18. Machinery and equipment used directly in feeding poultry,
environmentally controlling housing for poultry, moving eggs within a
production and packaging facility or sorting or cooling eggs. This
exemption does not apply to vehicles used for transporting eggs.
19. Machinery or equipment, including related structural components and containment structures, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

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

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

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

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

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

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

23. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. For the purposes of this paragraph, "computer data center", "computer data
center equipment", "qualification period" and "qualified colocation
tenant" have the same meanings prescribed in section 41-1519.
C. The deductions provided by subsection B of this section do not
include sales of:
   1. Expendable materials. For the purposes of this paragraph, exposable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.
   2. Janitorial equipment and hand tools.
   3. Office equipment, furniture and supplies.
   4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.
   5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 12 of this section, without regard to the use of such motor vehicles.
   6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.
   7. Motors and pumps used in drip irrigation systems.
   8. Machinery and equipment or other tangible personal property used by a contractor in performing a contract.
D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.
E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.
F. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property and the gross income from sales of services, and if not so kept the tax shall be imposed on the total of the person's gross proceeds of sales of tangible personal property and gross income from services.
G. If a person is engaged in the business of selling tangible personal property at both wholesale and retail, the tax under this section applies only to the gross proceeds of the sales made other than at wholesale if the person's books are kept so as to show separately the gross proceeds of sales of each class, and if the books are not so kept,
the tax under this section applies to the gross proceeds of every sale so made.

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

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

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

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

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

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

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

4. Sales of overhead materials or other tangible personal property to a manufacturer, modifier, assembler or repairer if the gross proceeds of sales or gross income derived from the property by the manufacturer, modifier, assembler or repairer will be exempt under paragraph 3 of this subsection.
J. There shall be deducted from the tax base fifty percent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies that is not deducted under subsection I of this section.

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

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

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

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

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

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

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

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

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

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

2. Converting natural gas into liquefied natural gas, for the sole purpose of fueling compressor equipment used in the conversion process, is not a sale of gas to the operator of the compressor equipment.
If a seller is entitled to a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section, the department may require the purchaser to establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied. If the purchaser cannot establish that the requirements of subsection B, paragraph 16, subdivision (b) of this section have been satisfied, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under article 1 of this chapter if the seller had not made a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this section. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and related to the tangible personal property purchased. The amount shall be treated as transaction privilege tax to the purchaser and as tax revenues collected from the seller to designate the distribution base pursuant to section 42-5029.

S. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the retail classification from businesses selling tangible personal property at retail:
1. On the premises of a multipurpose facility that is owned, leased or operated by the tourism and sports authority pursuant to title 5, chapter 8.
2. At professional football contests that are held in a stadium located on the campus of an institution under the jurisdiction of the Arizona board of regents.

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

U. For the purposes of this section:
1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.
2. "Aircraft" includes:
   (a) An airplane flight simulator that is approved by the federal aviation administration for use as a phase II or higher flight simulator under appendix H, 14 Code of Federal Regulations part 121.
(b) Tangible personal property that is permanently affixed or attached as a component part of an aircraft that is owned or operated by a certificated or licensed carrier of persons or property.

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

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

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

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

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

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

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

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

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing supplies or services that, in whole or in part, are necessary to perform one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in performing the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract.
Sec. 4. Section 42-6004, Arizona Revised Statutes, as amended by Laws 2021, chapter 417, section 10, is amended to read:

42-6004. Exemption from municipal tax; definitions

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

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

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

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state if either of the following apply:
   (a) The motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.
   (b) The vehicle, trailer or semitrailer has a gross vehicle weight rating of more than ten thousand pounds, is used or maintained to transport property in the furtherance of interstate commerce and otherwise meets the definition of commercial motor vehicle as defined in section 28-5201.

5. Interest on finance contracts.

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

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

8. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:
   (a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.
(b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

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

10. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:
   (a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.
   (b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.
   (c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.
   (d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.
   (e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

11. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:
   (a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:
      (i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.
      (ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.
      (iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.
   (b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair,
maintenance or removal of machinery, equipment or other tangible personal
property described in section 42-5061, subsection B.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. Tangible personal property incorporated or fabricated into a
project described in paragraph 14 of this subsection, that is located
within the exterior boundaries of an Indian reservation for which the
owner, as defined in section 42-5075, of the project is an Indian tribe or
an affiliated Indian. For the purposes of this paragraph:
(a) "Affiliated Indian" means an individual Native American Indian
who is duly registered on the tribal rolls of the Indian tribe for whose
benefit the Indian reservation was established.
(b) "Indian reservation" means all lands that are within the limits
of areas set aside by the United States for the exclusive use and
occupancy of an Indian tribe by treaty, law or executive order and that
are recognized as Indian reservations by the United States department of
the interior.
(c) "Indian tribe" means any organized nation, tribe, band or
community that is recognized as an Indian tribe by the United States
department of the interior and includes any entity formed under the laws
of that Indian tribe.
19. The charges for the leasing or renting of space to make
attachments to utility poles as follows:
(a) By a person that is engaged in the business of providing or
furnishing electrical services or telecommunication services or that is a
cable operator.
(b) To a person that is engaged in the business of providing or
furnishing electrical services or telecommunication services or that is a
cable operator.
20. Until March 1, 2017, the gross proceeds of sales or gross
income derived from entry fees paid by participants for events that
consist of a run, walk, swim or bicycle ride or a similar event, or any
combination of these events.
21. The gross proceeds of sales or gross income derived from entry
fees paid by participants for events that are operated or conducted by
nonprofit organizations that are exempt from taxation under section
501(c)(3) of the internal revenue code and of which no part of the
organization's net earnings inures to the benefit of any private
shareholder or individual, if the event consists of a run, walk, swim or
bicycle ride or a similar event, or any combination of these events.
22. The gross proceeds of sales or gross income derived from sales
of machinery and equipment used directly for energy storage for later
electrical use. For the purposes of this paragraph:
(a) "Electric utility scale" means a person that is engaged in a
business activity described in section 42-5063, subsection A or such
person's equipment or wholesale electricity suppliers.
(b) "Energy storage" means commercially available technology for
electric utility scale that is capable of absorbing energy, storing energy
for a period of time and thereafter dispatching the energy and that uses
mechanical, chemical or thermal processes to store energy.
(c) "Machinery and equipment used directly" means all machinery and equipment that are used for electric energy storage from the point of receipt of such energy in order to facilitate storage of the electric energy to the point where the electric energy is released.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

G. A city, town or taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from over-the-top services. For the purposes of this subsection, "over-the-top services" means audio or video programming services that are received by the purchaser by means of an internet connection, regardless of the technology used, that include linear or live programming and that are generally considered comparable to programming provided by a radio or television broadcast station and includes related on-demand programming that is provided at no additional charge, regardless of whether the services are provided independently or packaged with other audio or video programming.

H. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505 and includes a video service provider.
2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.

3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or other electromagnetic means.

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

Sec. 5. Section 42-6004, Arizona Revised Statutes, as amended by Laws 2021, chapter 417, section 11, is amended to read:

42-6004. Exemption from municipal tax; definitions

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

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

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

3. Sales of warranty or service contracts.

4. Sales of motor vehicles to nonresidents of this state for use outside this state IF EITHER OF THE FOLLOWING APPLY:

   (a) The motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

   (b) THE VEHICLE, TRAILER OR SEMITRAILER HAS A GROSS VEHICLE WEIGHT RATING OF MORE THAN TEN THOUSAND POUNDS, IS USED OR MAINTAINED TO TRANSPORT PROPERTY IN THE FURTHERANCE OF INTERSTATE COMMERCE AND OTHERWISE MEETS THE DEFINITION OF COMMERCIAL MOTOR VEHICLE AS DEFINED IN SECTION 28-5201.

5. Interest on finance contracts.

6. Dealer documentation fees on the sales of motor vehicles.
7. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

8. Sales of internet access services to the person's subscribers and customers. For the purposes of this paragraph:
   (a) "Internet" means the computer and telecommunications facilities that comprise the interconnected worldwide network of networks that employ the transmission control protocol or internet protocol, or any predecessor or successor protocol, to communicate information of all kinds by wire or radio.
   (b) "Internet access" means a service that enables users to access content, information, electronic mail or other services over the internet. Internet access does not include telecommunication services provided by a common carrier.

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

10. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:
    (a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.
    (b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.
    (c) "Controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.
    (d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.
    (e) "Reciprocal insurer" has the same meaning prescribed in section 20-762.

11. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property that is described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:
    (a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:
        (i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.
        (ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with
independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. The sale of coal.

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

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

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

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

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

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

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

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

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

22. The gross proceeds of sales or gross income derived from sales
of machinery and equipment used directly for energy storage for later
electrical use. For the purposes of this paragraph:

(a) "Electric utility scale" means a person that is engaged in a
business activity described in section 42-5063, subsection A or such
person's equipment or wholesale electricity suppliers.

(b) "Energy storage" means commercially available technology for
electric utility scale that is capable of absorbing energy, storing energy
for a period of time and thereafter dispatching the energy and that uses
mechanical, chemical or thermal processes to store energy.

(c) "Machinery and equipment used directly" means all machinery and
equipment that are used for electric energy storage from the point of
receipt of such energy in order to facilitate storage of the electric energy to the point where the electric energy is released.

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

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

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

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

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

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

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

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

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

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

   (c) "Development fees" means fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development and authorized pursuant to section 9-463.05, section 11-1102 or title 48 regardless of the jurisdiction to which the fees are paid.
7. Any amount attributable to fees collected by transportation network companies issued a permit pursuant to section 28-9552.

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

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

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

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

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

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

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

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

G. A city, town or taxing jurisdiction shall not levy a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee, however denominated, on gross proceeds of sales or gross income derived from over-the-top services. For the purposes of this subsection, "over-the-top services" means audio or video programming services that are received by the purchaser by means of an internet connection, regardless of the technology used, that include linear or live programming and that are generally considered comparable to programming provided by a radio or television broadcast station and includes related on-demand programming that is provided at no additional charge, regardless of whether the services are provided independently or packaged with other audio or video programming.

H. For the purposes of this section:

1. "Cable operator" has the same meaning prescribed in section 9-505 and includes a video service provider.

2. "Electrical services" means transmitting or distributing electricity, electric lights, current or power over lines, wires or cables.
3. "Telecommunication services" means transmitting or relaying sound, visual image, data, information, images or material over lines, wires or cables by radio signal, light beam, telephone, telegraph or other electromagnetic means.

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

Sec. 6. **Applicability**

Except as provided in section 10 of this act, this act applies to taxable periods beginning on or after the first day of the month following the general effective date.

Sec. 7. **Conditional enactment**

Section 42-5061, Arizona Revised Statutes, as amended by Laws 2021, chapter 266, section 4, chapter 412, section 8, chapter 417, section 5, chapter 443, section 3 and this act and section 42-6004, Arizona Revised Statutes, as amended by Laws 2021, chapter 417, section 11 and this act become effective on the date prescribed by Laws 2018, chapter 263, section 5 and apply to taxable periods beginning on or after the first day of the month following the general effective date of this act but only on the occurrence of the condition prescribed by Laws 2018, chapter 263, section 5.

APPROVED BY THE GOVERNOR MARCH 23, 2022.