

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 266
HOUSE BILL 2649

AN ACT

AMENDING SECTIONS 41-1519 AND 41-1520, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 7 AND CHAPTER 288, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 8 AND CHAPTER 288, SECTION 2; AMENDING SECTIONS 42-5075, 42-5159, 42-6017 AND 43-1164.05, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1519, Arizona Revised Statutes, is amended to
3 read:

4 41-1519. Computer data center tax relief; definitions

5 A. From and after August 31, 2013, tax relief is allowed for the
6 owner or operator of a computer data center certified pursuant to this
7 section. The same tax relief is allowed for qualified colocation tenants
8 of the computer data center. All tax relief applies during the
9 qualification period.

10 B. To qualify for the tax relief, the owner or operator shall
11 submit to the authority an application on a form prescribed by the
12 authority that includes all of the following:

13 1. The owner's or operator's name, address and telephone number.

14 2. The address of the site where the facility is or will be
15 located, including, if applicable, information sufficient to identify the
16 specific portion or portions of the facility composing the computer data
17 center.

18 3. If the computer data center is to qualify under subsection E,
19 paragraph 1 of this section, both of the following:

20 (a) The anticipated investment associated with the computer data
21 center for which the tax relief is being sought and whether the computer
22 data center is anticipated to qualify as a sustainable redevelopment
23 project.

24 (b) An affirmation, signed by an authorized executive representing
25 the owner or operator, that the computer data center is expected to
26 satisfy one of the certification requirements prescribed in subsection E,
27 paragraph 1 of this section and that the computer data center will not
28 violate subsection M of this section.

29 4. If the computer data center is to qualify under subsection E,
30 paragraph 2 of this section, an affirmation, signed by an authorized
31 executive representing the owner or operator, that the computer data
32 center has satisfied the certification requirements prescribed in
33 subsection E, paragraph 2 of this section, whether the computer data
34 center qualifies as a sustainable redevelopment project and that the
35 computer data center will not violate subsection M of this section.

36 C. Within sixty days after receiving a complete and correct
37 application, the authority shall review the application and either issue a
38 written certification that the computer data center qualifies for the tax
39 relief or provide written reasons for its denial. Failure to approve or
40 deny the application within sixty days after the date the owner or
41 operator submits the application to the authority constitutes approval of
42 the computer data center, and the authority shall issue written
43 certification to the owner or operator within fourteen days. The
44 effective date of the certification is EITHER the date on which the
45 application was submitted to the authority OR A PROSPECTIVE DATE STATED IN

1 THE APPLICATION THAT DOES NOT EXCEED FIVE YEARS AFTER THE DATE ON WHICH
2 THE APPLICATION WAS SUBMITTED. The authority shall send a copy of the
3 certification, including its effective date, to the department of
4 revenue. The authority shall not certify any new computer data center
5 THAT SUBMITS AN APPLICATION TO THE AUTHORITY after December 31, ~~2023~~ 2033.

6 D. An owner or operator may separate a facility into one or more
7 computer data centers, which may each receive a separate certification if
8 each computer data center individually meets the requirements prescribed
9 in subsection E of this section. A portion of a facility or an article of
10 computer data center equipment shall not be deemed to be a part of more
11 than one computer data center. The owner or operator may aggregate one or
12 more of the parcels, buildings, condominiums or modular data centers in a
13 facility into a single computer data center if, in the aggregate, the
14 parcels, buildings, condominiums and modular data centers meet the
15 requirements of subsection E of this section.

16 E. A computer data center must meet one of the following
17 requirements after taking into account the combined investments made by
18 the owner, operator or qualified colocation tenants of a computer data
19 center:

20 1. On or before the fifth anniversary of certification, the
21 computer data center creates a minimum investment of at least:

22 (a) ~~Twenty-five million dollars~~ \$25,000,000 of new investment,
23 including costs of land, buildings, improvements, modular data centers and
24 computer data center equipment, whether owned or leased or paid for
25 pursuant to a right to use agreement, if the computer data center is
26 located in a county with a population of eight hundred thousand or less
27 persons.

28 (b) ~~Fifty million dollars~~ \$50,000,000 of new investment, including
29 costs of land, buildings, improvements, modular data centers and computer
30 data center equipment, whether owned or leased or paid for pursuant to a
31 right to use agreement, if the computer data center is located in a county
32 with a population of more than eight hundred thousand persons.

33 2. During the seventy-two months immediately before September 1,
34 2013, the computer data center created an investment of at least ~~two~~
35 ~~hundred fifty million dollars~~ \$250,000,000, including costs of land,
36 buildings, improvements, modular data centers and computer data center
37 equipment, whether owned or leased or paid for pursuant to a right to use
38 agreement.

39 F. On or before the fifth anniversary of the certification of a new
40 computer data center, the owner or operator shall notify the authority in
41 writing that the computer data center for which the certification is
42 requested has or has not satisfied the requirements prescribed in
43 subsection E, paragraph 1 of this section. Until a new computer data
44 center satisfies the requirements prescribed in subsection E, paragraph 1
45 of this section, the owner or operator shall keep detailed records of all

1 investment created by the new computer data center, including costs of
2 land, buildings, improvements, modular data centers and computer data
3 center equipment, and all tax relief directly received by the owner or
4 operator. This subsection does not apply to an existing computer data
5 center.

6 G. If the authority determines that:

7 1. A new computer data center that is certified under subsection E,
8 paragraph 1 of this section has not complied with the requirements and
9 time periods prescribed by subsection E, paragraph 1 of this section, the
10 authority shall revoke the computer data center's certification. If the
11 certification is revoked, the qualification period of any owner, operator
12 or qualified colocation tenant of the computer data center automatically
13 terminates, and the department of revenue may recapture all or part of the
14 tax relief provided directly to the owners and operators. A qualified
15 colocation tenant is not subject to recapture of any part of tax relief
16 received pursuant to this section, except that a contributing qualified
17 colocation tenant may be subject to recapture if ~~they are~~ IT IS located in
18 a computer data center that is certified from and after August 31, 2016.
19 An owner or operator may appeal any revocation under this paragraph
20 pursuant to chapter 6, article 10 of this title.

21 2. There has been a violation of subsection M of this section with
22 respect to a computer data center:

23 (a) The authority shall revoke the computer data center's
24 certification and, if revoked, the qualification period of any owner,
25 operator or qualified colocation tenant of the computer data center
26 automatically terminates.

27 (b) The department of revenue may not recapture any tax relief
28 provided directly to the owner, operator or qualified colocation tenant
29 before the date of revocation.

30 (c) An owner or operator may appeal any revocation under this
31 paragraph pursuant to chapter 6, article 10 of this title.

32 H. The authority and the department of revenue shall adopt rules
33 and prescribe forms and procedures as necessary for the purposes of this
34 section. The authority and the department shall collaborate in adopting
35 rules as necessary to avoid duplication and inconsistencies while
36 accomplishing the purposes of this section. The authority has exclusive
37 authority over issues related to certification, including determinations
38 as to whether a computer data center has satisfied the requirements of
39 subsection E of this section, constitutes a qualified sustainable
40 redevelopment project or has committed a violation of this section. The
41 department of revenue has exclusive authority over the administration of
42 tax relief.

43 I. Proprietary business information contained in the application
44 described in subsection B of this section, the written notice described in
45 subsection F of this section and the list described in subsection J of

1 this section are confidential and shall not be disclosed to the public
2 except that the information shall be transmitted to the department of
3 revenue. The authority or the department may disclose the name of a
4 computer data center that has been certified pursuant to this section.

5 J. The owner or operator shall provide the authority and the
6 department of revenue with a list of qualified colocation tenants,
7 including the commencement and expiration dates of each qualified
8 colocation tenant's agreement to use or occupy all or part of the computer
9 data center, and shall notify the authority and the department of any
10 changes within thirty days. The failure of an owner or operator to
11 provide the list or notify the authority and department of revenue of
12 changes within the required time ~~are~~ IS not grounds for termination of the
13 computer data center's certification, but may preclude unlisted colocation
14 tenants from receiving tax relief until the list is provided or updated.

15 K. Except as provided in subsection G of this section, if a
16 computer data center has been certified, the certification remains in
17 effect, even in the event of a future transfer, sale or disposition,
18 directly or indirectly, of the computer data center.

19 L. For the purposes of qualifying and continuing as a sustainable
20 redevelopment project:

21 1. After receiving certification, an owner may substantially
22 demolish all or part of an existing building to the extent reasonably
23 necessary to accommodate future computer data center use, and the
24 demolition is not cause for loss of certification as a sustainable
25 redevelopment project. An existing building that has been substantially
26 demolished before certification is not eligible to qualify as a
27 sustainable redevelopment project.

28 2. An owner or operator may expand the boundaries of a certified
29 computer data center by increasing the size of an existing building within
30 a sustainable redevelopment project or by building additional improvements
31 in an unlimited manner to the extent the expansion is constructed on the
32 same parcel of land on which the original sustainable redevelopment
33 project is located or on a contiguous parcel, regardless of whether the
34 contiguous parcel was within the original description of the boundaries of
35 the certified computer data center. Expansion activities do not prevent a
36 facility from maintaining its classification as a sustainable
37 redevelopment project.

38 3. All construction activities and investments related to
39 demolition and expansion activities described in this subsection are
40 considered to be a part of the sustainable redevelopment project.

41 M. This section does not allow a computer data center to do either
42 of the following:

- 43 1. Generate electricity for resale purposes.
- 44 2. Generate, provide or sell electricity outside of the computer
45 data center.

1 N. The owner or operator may be a single individual or entity or
2 multiple affiliated entities.

3 O. For the purposes of this section:

4 1. "Computer data center" means all or part of a facility that may
5 be composed of multiple businesses or owners, that is or will be
6 predominantly used to house working servers and that may have
7 uninterruptible energy supply or generator backup power, or both, cooling
8 systems, towers and other temperature control infrastructure.

9 2. "Computer data center equipment" means equipment that is used to
10 outfit, operate or benefit a computer data center and component parts,
11 installations, refreshments, replacements and upgrades to this equipment,
12 regardless of whether affixed to or incorporated into real property, and
13 whether owned, leased or used by the owner or operator pursuant to a
14 contract for the right to use the equipment, including:

15 (a) All equipment necessary for the transformation, generation,
16 distribution or management of electricity that is required to operate
17 computer server equipment, including generators, uninterruptible energy,
18 supplies, conduit, gaseous fuel piping, cabling, duct banks, switches,
19 switchboards, batteries and testing equipment.

20 (b) All equipment necessary to cool and maintain a controlled
21 environment for the operation of the computer server and other components
22 of the computer data center, including mechanical equipment, refrigerant
23 piping, gaseous fuel piping, adiabatic and free cooling systems, cooling
24 towers, water softeners, air handling units, indoor direct exchange units,
25 fans, ducting and filters.

26 (c) All water conservation systems, including facilities or
27 mechanisms that are designed to collect, conserve and reuse water.

28 (d) All enabling software, computer server equipment, chassis,
29 networking equipment, switches, racks, cabling, trays and conduit.

30 (e) All monitoring equipment and security systems.

31 (f) Modular data centers and preassembled components of any item
32 described in this paragraph, including components used in the
33 manufacturing of modular data centers.

34 (g) Other tangible personal property that is essential to the
35 operations of a computer data center.

36 3. "Contributing qualified colocation tenant" means a qualified
37 colocation tenant that is an operator or that had its anticipated
38 investment included in an application for certification for the purposes
39 of satisfying subsection E, paragraph 1 of this section.

40 4. "Existing building" means any existing vertical building
41 improvement located at a facility used for commercial purposes at the time
42 of its acquisition by an owner, but not including single family
43 residential structures, barns or other agricultural structures.

44 5. "Existing computer data center" means a computer data center
45 that is certified under subsection E, paragraph 2 of this section.

1 6. "Facility" means one or more parcels of land in this state and
2 any structures and personal property contained on the land.

3 7. "Investment" means all monies spent to acquire a facility
4 regardless of prior use and all monies spent to construct or expand a
5 computer data center, including costs of land, buildings, improvements,
6 modular data centers and computer data center equipment. For new data
7 centers, investment includes all costs incurred on or after a date that is
8 thirty days before the date the application is submitted to the authority.

9 8. "Modular data center" means a portable system of information
10 technology, climate control, energy supply and energy distribution
11 machinery, equipment and related tangible personal property contained in
12 an intermodal freight container or similar structure.

13 9. "New computer data center" means a computer data center that is
14 certified under subsection E, paragraph 1 of this section.

15 10. "Operator" means any individual or entity that operates a
16 computer data center as an operator or lessor or pursuant to a contract
17 with an owner or lessor. Operator includes a licensed property management
18 company, a property lessor or any other individual or entity responsible
19 for the control, oversight or maintenance of a facility.

20 11. "Qualification period" means:

21 (a) With respect to the owner or operator of a computer data
22 center, a period of time beginning on the effective date of the computer
23 data center's certification and expiring at the end of the tenth full
24 calendar year following the calendar year containing the effective date,
25 except, if a computer data center is a sustainable redevelopment project,
26 qualification period means a period of time beginning on the effective
27 date of the computer data center's certification and expiring at the end
28 of the twentieth full calendar year following the calendar year containing
29 the effective date.

30 (b) With respect to the qualified colocation tenant of the owner or
31 operator of a computer data center certified under this section, a period
32 of time beginning on the date that the qualified colocation tenant enters
33 into an agreement concerning the use or occupancy of the computer data
34 center and expiring at the earlier of the expiration of the term of the
35 agreement or the tenth full calendar year following the calendar year in
36 which the qualified colocation tenant entered into the agreement, except,
37 if a computer data center is a sustainable redevelopment project,
38 qualification period means a period of time beginning on the date that the
39 qualified colocation tenant enters into an agreement concerning the use or
40 occupancy of the computer data center and expiring at the earlier of the
41 expiration of the term of the agreement or the twentieth full calendar
42 year following the calendar year in which the tenant entered into the
43 agreement. The qualification period for a qualified colocation tenant may
44 not extend beyond the qualification period for the owner or operator of
45 the computer data center.

1 12. "Qualified colocation tenant" means an entity that contracts
2 with the owner, THE operator or another qualified colocation tenant of a
3 computer data center that is certified pursuant to this section to use or
4 occupy all or part of the computer data center for at least five hundred
5 kilowatts per month for a period of two or more years.

6 13. "Sustainable redevelopment project" means a computer data
7 center that satisfies the requirements in subsection E of this section and
8 is either:

9 (a) A newly constructed data center, with at least a ~~two hundred~~
10 ~~million dollar~~ \$200,000,000 investment, that attains certification under
11 the energy star or green globes standard, the leadership in energy and
12 environmental design green building rating standard developed by the
13 United States green building council or an equivalent green building
14 standard and was not previously certified under these standards.

15 (b) A data center that occupies an existing facility that either:

16 (i) Was at least fifty percent vacant for six of the twelve
17 consecutive months before the acquisition by purchase or lease of or with
18 respect to the facility.

19 (ii) Attains certification under the energy star or green globes
20 standard, the leadership in energy and environmental design green building
21 rating standard developed by the United States green building council or
22 an equivalent green building standard and was not previously certified
23 under these standards.

24 14. "Tax relief" means the ~~deduction~~ DEDUCTIONS of the gross
25 proceeds of sale or gross income from the sale, USE, INSTALLATION,
26 ASSEMBLY, REPAIR OR MAINTENANCE of ~~qualified~~ COMPUTER DATA CENTER
27 equipment as prescribed by ~~section~~ SECTIONS 42-5061, 42-5075, 42-5159 ~~or~~
28 AND 42-6004 ~~that is installed in~~ FOR USE AT a computer data center.

29 Sec. 2. Section 41-1520, Arizona Revised Statutes, is amended to
30 read:

31 41-1520. International operations centers; utility relief;
32 certification; revocation; definitions

33 A. Utility relief is allowed for the owner or operator of an
34 international operations center that is certified pursuant to this
35 section.

36 B. To qualify for the utility relief, the owner or operator must
37 submit to the authority an application in a form prescribed by the
38 authority that includes all of the following:

39 1. The owner's or operator's name, address and telephone number.

40 2. The address of the site where the facility is or will be
41 located, including, if applicable, information sufficient to identify the
42 specific portion or portions of the facility comprising the international
43 operations center.

1 3. AN ESTIMATE OF THE TOTAL INVESTMENT THE OWNER OR OPERATOR OR AN
2 AFFILIATED ENTITY, INCLUDING INVESTMENTS MADE BY A THIRD-PARTY ENTITY ON
3 BEHALF OF AND FOR THE BENEFIT OF THE OWNER, OPERATOR OR AFFILIATED ENTITY,
4 WILL MAKE, OVER A THREE-YEAR PERIOD BEGINNING ON THE DATE THE APPLICATION
5 IS RECEIVED, IN NEW RENEWABLE ENERGY FACILITIES IN THIS STATE THAT PRODUCE
6 ENERGY FOR SELF-CONSUMPTION BY THE INTERNATIONAL OPERATIONS CENTER USING
7 RENEWABLE ENERGY RESOURCES.

8 4. THE EXPECTED LOCATION OF EACH OF THE RENEWABLE ENERGY FACILITIES
9 THAT COMPRISE THE TOTAL INVESTMENT ESTIMATED IN PARAGRAPH 3 OF THIS
10 SUBSECTION AND THE EARLIEST DATE THAT EACH FACILITY IS EXPECTED TO BE
11 OPERATIONAL.

12 5. A STATEMENT THAT A PORTION OF THE POWER GENERATED BY EACH
13 RENEWABLE ENERGY FACILITY, AS REQUIRED BY SUBSECTION D, PARAGRAPH 4 OF
14 THIS SECTION, IS FOR SELF-CONSUMPTION AND WILL BE USED FOR INTERNATIONAL
15 OPERATIONS CENTER USE.

16 C. Within sixty days after receiving a complete and correct
17 application, the authority shall review the application and either issue a
18 written certification that the international operations center qualifies
19 for the utility relief or provide written reasons for its denial. A
20 failure to approve or deny the application within sixty days after the
21 date of submittal constitutes certification of the international
22 operations center, and the authority shall issue written certification to
23 the owner or operator within fourteen days. The authority shall send a
24 copy of the certification to the department of revenue.

25 D. The owner or operator of the international operations center
26 must achieve ~~both~~ ALL of the following ~~investment~~ requirements after
27 taking into account the combined investments made by the owner or
28 operator:

29 1. A minimum annual investment of \$100,000,000 in new capital
30 assets, including costs of land, buildings and international operations
31 center equipment in each of ten consecutive taxable years of the owner or
32 operator. Investments greater than \$100,000,000 in any taxable year may
33 be carried forward as a credit toward the investment requirement in future
34 years.

35 2. On or before the tenth anniversary of certification, a minimum
36 investment of at least \$1,250,000,000 in new capital assets, including
37 costs of land, buildings and international operations center equipment.

38 3. AN INVESTMENT BY THE OWNER OR OPERATOR OR AN AFFILIATED ENTITY,
39 OR A THIRD-PARTY ENTITY ON BEHALF OF OR FOR THE DIRECT BENEFIT OF THE
40 OWNER, OPERATOR OR AFFILIATED ENTITY, OF AT LEAST \$100,000,000 IN ONE OR
41 MORE NEW RENEWABLE ENERGY FACILITIES IN THIS STATE THAT PRODUCE ENERGY FOR
42 SELF-CONSUMPTION USING RENEWABLE ENERGY RESOURCES. THE MINIMUM INVESTMENT
43 MUST BE COMPLETED WITHIN A THREE-YEAR PERIOD BEGINNING ON THE DATE THE
44 INITIAL APPLICATION IS RECEIVED OR BY DECEMBER 31, 2030, WHICHEVER IS

1 EARLIER. CONSTRUCTION OF THE RENEWABLE ENERGY FACILITIES SHALL BEGIN NOT
2 LATER THAN SIX MONTHS AFTER THE RECEIPT OF THE APPLICATION.

3 4. THE USE OF A PORTION OF THE ENERGY PRODUCED AT EACH RENEWABLE
4 ENERGY FACILITY FOR SELF-CONSUMPTION IN THIS STATE. BY THE FIFTH YEAR A
5 RENEWABLE ENERGY FACILITY IS IN OPERATION, AT LEAST FIFTY-ONE PERCENT OF
6 THE ENERGY PRODUCED MUST BE USED FOR SELF-CONSUMPTION IN THIS STATE.
7 SELF-CONSUMPTION INCLUDES THE POWER USED BY RELATED ENTITIES IF THE
8 RELATED ENTITIES ARE DIRECTLY OR INDIRECTLY UNDER THE SAME OWNERSHIP
9 INTERESTS THAT COLLECTIVELY OWN MORE THAN EIGHTY PERCENT. POWER THAT A
10 RENEWABLE ENERGY FACILITY TRANSFERS TO A UTILITY QUALIFIES AS
11 SELF-CONSUMPTION IF THE UTILITY IS THE SAME UTILITY THAT PROVIDES POWER TO
12 THE OWNER'S OR OPERATOR'S INTERNATIONAL OPERATIONS CENTER IN THIS STATE,
13 REGARDLESS OF WHETHER THE OWNER OR OPERATOR OR AN AFFILIATED ENTITY OWNS
14 OR LEASES THE RENEWABLE ENERGY FACILITY OR THE LAND ON WHICH IT IS LOCATED
15 AT THE TIME OF TRANSFER.

16 5. THE USE OF POWER FOR SELF-CONSUMPTION UNDER PARAGRAPH 4 OF THIS
17 SUBSECTION IS FOR AN INTERNATIONAL OPERATIONS CENTER IN THIS STATE. A
18 LESSOR OF AN INTERNATIONAL OPERATIONS CENTER FACILITY THAT USES POWER FOR
19 SELF-CONSUMPTION UNDER PARAGRAPH 4 OF THIS SUBSECTION SATISFIES THE
20 REQUIREMENTS OF THIS PARAGRAPH IF THE LESSEE IS AN INTERNATIONAL
21 OPERATIONS CENTER AND THE POWER IS TRANSFERRED AS PART OF THE LEASE TO THE
22 LESSEE.

23 E. Within thirty days after the end of each taxable year following
24 certification, and within thirty days after the tenth anniversary of
25 certification, the owner or operator shall furnish the authority written
26 information demonstrating whether the certified international operations
27 center has or has not satisfied the ~~investment~~ requirements prescribed in
28 subsection D of this section. Until the ~~investment~~ requirements
29 prescribed in subsection D of this section are met, the owner or operator
30 shall keep detailed records of all capital investment in the international
31 operations center, including costs of land, buildings and international
32 operations center equipment, and all utility relief directly received by
33 the owner or operator.

34 F. If the authority determines that the requirements of this
35 section have not been satisfied, the authority may revoke the
36 certification of the international operations center and notify the
37 department of revenue in writing. The owner or operator may appeal the
38 revocation. The authority may give special consideration or allow a
39 temporary exception if there is extraordinary hardship due to factors
40 beyond the owner's or operator's control. If certification is revoked,
41 the department of revenue shall order the owner or operator to forfeit
42 further entitlement to utility relief. If the owner or operator fails to
43 make a minimum capital investment of \$100,000,000 in a taxable year,
44 taking into account any excess investment amounts carried forward from
45 previous years, the owner or operator may avoid revocation of its

1 certification by paying to the department of revenue within sixty days
2 after the end of the taxable year the amount of the utility relief
3 provided pursuant to this section in that year.

4 G. EACH YEAR AFTER INITIAL CERTIFICATION, ON OR BEFORE THE
5 ANNIVERSARY DATE OF THE APPLICATION SPECIFIED IN SUBSECTION B OF THIS
6 SECTION, THE OWNER, OPERATOR OR AFFILIATED ENTITY MUST SUBMIT TO THE
7 AUTHORITY:

8 1. DOCUMENTATION OF THE OWNER'S, OPERATOR'S OR AFFILIATED ENTITY'S
9 PROGRESS TOWARD THE INVESTMENT REQUIRED BY SUBSECTION D, PARAGRAPH 3 OF
10 THIS SECTION. THIS DOCUMENTATION IS NOT REQUIRED AFTER THE AUTHORITY
11 RECEIVES A REPORT STATING THAT THE REQUIRED INVESTMENT THRESHOLD HAS BEEN
12 REACHED.

13 2. DOCUMENTATION FOR EACH RENEWABLE ENERGY FACILITY THAT
14 DEMONSTRATES THAT THE REQUIRED PORTION OF THE POWER GENERATED BY EACH
15 FACILITY IS FOR SELF-CONSUMPTION AS REQUIRED BY SUBSECTION D, PARAGRAPH 4
16 OF THIS SECTION.

17 ~~G.~~ H. The authority and the department of revenue shall prescribe
18 forms and procedures as necessary for the purposes of this section.

19 ~~H.~~ I. Proprietary business information contained in the
20 application form described in subsection B of this section and the written
21 notice described in subsection F of this section are confidential and may
22 not be disclosed to the public, except that the information shall be
23 transmitted to the department of revenue. The authority or the department
24 of revenue may disclose the name of an international operations center
25 that has been certified pursuant to this section.

26 ~~I.~~ J. Except as provided in subsection F of this section, on
27 certification, the international operations center remains certified
28 unless ownership of the international operations center is sold, conveyed,
29 transferred or otherwise directly or indirectly disposed of to another
30 entity in which the original owner holds less than a controlling interest.
31 For the purposes of this subsection, "controlling interest" means at least
32 eighty percent of the voting shares of a corporation or of the interests
33 in a noncorporate entity.

34 ~~J.~~ K. An owner or operator may be composed of a single entity or
35 affiliated entities.

36 L. IF THE INFORMATION REQUIRED BY SUBSECTION B, PARAGRAPHS 3, 4 AND
37 5 OF THIS SECTION AND THE DOCUMENTATION REQUIRED BY SUBSECTION G OF THIS
38 SECTION WERE ALREADY PROVIDED TO THE DEPARTMENT OF REVENUE FOR THE
39 PURPOSES OF THE CREDIT PROVIDED BY SECTION 43-1164.05, THE OWNER OR
40 OPERATOR IS NOT REQUIRED TO PROVIDE THE INFORMATION OR DOCUMENTATION A
41 SECOND TIME UNDER THIS SECTION.

42 ~~K.~~ M. For the purposes of this section:

43 1. "AFFILIATED ENTITY" MEANS ANY OF THE FOLLOWING:

44 (a) AN ENTITY THAT IS INCLUDED IN THE SAME ARIZONA INCOME TAX
45 RETURN AS THE OWNER OR OPERATOR OF THE INTERNATIONAL OPERATIONS CENTER.

1 (b) ANY ENTITY IN WHICH THE OWNER OR OPERATOR OF THE INTERNATIONAL
2 OPERATIONS CENTER IS ENTITLED TO A DISTRIBUTIVE SHARE OF THE ENTITY'S
3 INCOME OR LOSS.

4 (c) ANY ENTITY, INCLUDING A SINGLE-MEMBER LIMITED LIABILITY
5 COMPANY, THAT IS DISREGARDED FOR FEDERAL INCOME TAX PURPOSES AND IS
6 DIRECTLY OR INDIRECTLY OWNED WHOLLY OR IN PART BY THE OWNER OR OPERATOR OF
7 THE INTERNATIONAL OPERATIONS CENTER.

8 2. "BIOMASS" MEANS ORGANIC MATERIAL THAT IS AVAILABLE ON A
9 RENEWABLE OR RECURRING BASIS, INCLUDING:

10 (a) FOREST-RELATED MATERIALS, INCLUDING MILL RESIDUES, LOGGING
11 RESIDUES, FOREST THINNINGS, SLASH, BRUSH, LOW-COMMERCIAL VALUE MATERIALS
12 OR UNDESIRABLE SPECIES, SALT CEDAR AND OTHER PHREATOPHYTE OR WOODY
13 VEGETATION REMOVED FROM RIVER BASINS OR WATERSHEDS AND WOODY MATERIAL
14 HARVESTED FOR THE PURPOSE OF FOREST FIRE FUEL REDUCTION OR FOREST HEALTH
15 AND WATERSHED IMPROVEMENT.

16 (b) AGRICULTURAL-RELATED MATERIALS, INCLUDING ORCHARD TREES,
17 VINEYARD, GRAIN OR CROP RESIDUES, INCLUDING STRAWS AND STOVER, AQUATIC
18 PLANTS AND AGRICULTURAL PROCESSED COPRODUCTS AND WASTE PRODUCTS, INCLUDING
19 FATS, OILS, GREASES, WHEY AND LACTOSE.

20 (c) ANIMAL WASTE, INCLUDING MANURE AND SLAUGHTERHOUSE AND OTHER
21 PROCESSING WASTE.

22 (d) SOLID WOODY WASTE MATERIALS, INCLUDING LANDSCAPE OR
23 RIGHT-OF-WAY TREE TRIMMINGS, RANGELAND MAINTENANCE RESIDUES, WASTE
24 PALLETS, CRATES AND MANUFACTURING, CONSTRUCTION AND DEMOLITION WOOD
25 WASTES, BUT EXCLUDING PRESSURE-TREATED, CHEMICALLY TREATED OR PAINTED WOOD
26 WASTES AND WOOD CONTAMINATED WITH PLASTIC.

27 (e) CROPS AND TREES PLANTED FOR THE PURPOSE OF BEING USED TO
28 PRODUCE ENERGY.

29 (f) LANDFILL GAS, WASTEWATER TREATMENT GAS AND BIOSOLIDS, INCLUDING
30 ORGANIC WASTE BY-PRODUCTS GENERATED DURING THE WASTEWATER TREATMENT
31 PROCESS.

32 ~~3.~~ 3. "International operations center" means a facility or
33 connected facilities under the same ownership that are subject to the
34 investment thresholds under subsection D of this section and that
35 self-consume renewable energy from a qualified facility pursuant to
36 SUBSECTION D OF THIS section. ~~43-1164.05, subsection B.~~

37 4. "RENEWABLE ENERGY FACILITY" MEANS A FACILITY IN WHICH THE OWNER,
38 OPERATOR OR AFFILIATED ENTITY, OR A THIRD-PARTY ENTITY ON BEHALF OF AND
39 FOR THE BENEFIT OF THE TAXPAYER, INVESTED AT LEAST \$30,000,000, THAT HAS
40 AT LEAST TWENTY MEGAWATTS OF GENERATING CAPACITY OR A MINIMUM TYPICAL
41 ANNUAL GENERATION OF FORTY THOUSAND MEGAWATT HOURS, THAT IS LOCATED ON
42 LAND IN THIS STATE AND THAT PRODUCES ELECTRICITY USING A RENEWABLE ENERGY
43 RESOURCE.

1 5. "RENEWABLE ENERGY RESOURCE" MEANS A RESOURCE THAT GENERATES
2 ELECTRICITY BY USING ONLY THE FOLLOWING ENERGY SOURCES:

- 3 (a) SOLAR LIGHT.
- 4 (b) SOLAR HEAT.
- 5 (c) WIND.
- 6 (d) BIOMASS, INCLUDING FUEL CELLS SUPPLIED DIRECTLY OR INDIRECTLY
7 WITH BIOMASS GENERATED FUELS.
- 8 (e) BATTERY STORAGE THAT IS INDEPENDENT FROM OR COUPLED WITH OTHER
9 SOURCES.

10 ~~2.~~ 6. "Utility relief" means the mitigation of the tax burden on
11 the retail purchaser of electricity or natural gas through the application
12 of section 42-5063, subsection C, paragraph 7, section 42-5159, subsection
13 G, paragraph 2 and section 42-6012, paragraph 2.

14 Sec. 3. Section 42-5061, Arizona Revised Statutes, as amended by
15 Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended
16 to read:

17 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

40 7. The sale of stocks and bonds.

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

- 1 9. Prosthetic appliances as defined in section 23-501 and as
2 prescribed or recommended by a health professional who is licensed
3 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 4 10. Insulin, insulin syringes and glucose test strips.
- 5 11. Prescription eyeglasses or contact lenses.
- 6 12. Hearing aids as defined in section 36-1901.
- 7 13. Durable medical equipment that has a centers for medicare and
8 medicaid services common procedure code, is designated reimbursable by
9 medicare, is prescribed by a person who is licensed under title 32,
10 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
11 primarily and customarily used to serve a medical purpose, is generally
12 not useful to a person in the absence of illness or injury and is
13 appropriate for use in the home.
- 14 14. Sales of motor vehicles to nonresidents of this state for use
15 outside this state if the motor vehicle dealer ships or delivers the motor
16 vehicle to a destination out of this state.
- 17 15. Food, as provided in and subject to the conditions of article 3
18 of this chapter and sections 42-5074 and 42-6017.
- 19 16. Items purchased with United States department of agriculture
20 coupons issued under the supplemental nutrition assistance program
21 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
22 7 United States Code sections 2011 through 2036b) by the United States
23 department of agriculture food and nutrition service or food instruments
24 issued under section 17 of the child nutrition act (P.L. 95-627; 92
25 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
26 section 1786).
- 27 17. Textbooks by any bookstore that are required by any state
28 university or community college.
- 29 18. Food and drink to a person that is engaged in a business that
30 is classified under the restaurant classification and that provides such
31 food and drink without monetary charge to its employees for their own
32 consumption on the premises during the employees' hours of employment.
- 33 19. Articles of food, drink or condiment and accessory tangible
34 personal property to a school district or charter school if such articles
35 and accessory tangible personal property are to be prepared and served to
36 persons for consumption on the premises of a public school within the
37 district or on the premises of the charter school during school hours.
- 38 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
39 article 1.
- 40 21. The sale of cash equivalents and the sale of precious metal
41 bullion and monetized bullion to the ultimate consumer, but the sale of
42 coins or other forms of money for manufacture into jewelry or works of art
43 is subject to the tax and the gross proceeds of sales or gross income
44 derived from the redemption of any cash equivalent by the holder as a

1 means of payment for goods or services that are taxable under this article
2 is subject to the tax. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

38 25. Tangible personal property sold to:

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

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

1 (c) A qualifying health care organization as defined in section
2 42-5001 if the organization is dedicated to providing educational,
3 therapeutic, rehabilitative and family medical education training for
4 blind and visually impaired children and children with multiple
5 disabilities from the time of birth to age twenty-one.

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

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

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

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

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

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

28 27. Tangible personal property sold to:

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

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

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

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

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

1 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ~~58.~~ 57. Orthodontic devices dispensed by a dental professional who
26 is licensed under title 32, chapter 11 to a patient as part of the
27 practice of dentistry.

28 ~~59.~~ 58. Sales of tangible personal property incorporated or
29 fabricated into a project described in section 42-5075, subsection 0, that
30 is located within the exterior boundaries of an Indian reservation for
31 which the owner, as defined in section 42-5075, of the project is an
32 Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

1 ~~60.~~ 59. Sales of works of fine art, as defined in section 44-1771,
2 at an art auction or gallery in this state to nonresidents of this state
3 for use outside this state if the vendor ships or delivers the work of
4 fine art to a destination outside this state.

5 ~~61.~~ 60. Sales of tangible personal property by a marketplace
6 seller that are facilitated by a marketplace facilitator in which the
7 marketplace facilitator has remitted or will remit the applicable tax to
8 the department pursuant to section 42-5014.

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

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

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

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

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

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

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

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

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

5 (a) A person:

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

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

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

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

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

33 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (ii) Over two-thirds of the transmissions, measured in megabytes,
9 transmitted by or on behalf of those direct broadcast television or data
10 transmission services during the test period were transmitted by the
11 facility to or on behalf of those services. For the purposes of
12 subdivision (b) of this paragraph, "test period" means the three hundred
13 sixty-five day period beginning on the later of the date on which the
14 tangible personal property is purchased or the date on which the direct
15 broadcast satellite television or data transmission service first
16 transmits information to its customers.

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

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

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

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

39 18. Machinery or equipment, including related structural
40 components, that is employed in connection with manufacturing, processing,
41 fabricating, job printing, refining, mining, natural gas pipelines,
42 metallurgical operations, telecommunications, producing or transmitting
43 electricity or research and development and that is used directly to meet
44 or exceed rules or regulations adopted by the federal energy regulatory
45 commission, the United States environmental protection agency, the United

1 States nuclear regulatory commission, the Arizona department of
2 environmental quality or a political subdivision of this state to prevent,
3 monitor, control or reduce land, water or air pollution.

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

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

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

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

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

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

33 22. **COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR OR**
34 **QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY**
35 **THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 OR AN AUTHORIZED**
36 **AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE**
37 **QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR**
38 **THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER", "COMPUTER DATA**
39 **CENTER EQUIPMENT", "QUALIFICATION PERIOD" AND "QUALIFIED COLOCATION**
40 **TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-1519.**

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

43 1. Expendable materials. For the purposes of this paragraph,
44 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of
2 the cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

42 H. A person who engages in manufacturing, baling, crating, boxing,
43 barreling, canning, bottling, sacking, preserving, processing or otherwise
44 preparing for sale or commercial use any livestock, agricultural or
45 horticultural product or any other product, article, substance or

1 commodity and who sells the product of such business at retail in this
2 state is deemed, as to such sales, to be engaged in business classified
3 under the retail classification. This subsection does not apply to:

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

8 2. Businesses classified under the:

9 (a) Transporting classification.

10 (b) Utilities classification.

11 (c) Telecommunications classification.

12 (d) Pipeline classification.

13 (e) Private car line classification.

14 (f) Publication classification.

15 (g) Job printing classification.

16 (h) Prime contracting classification.

17 (i) Restaurant classification.

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

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

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

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

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

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

43 K. The department shall require every person claiming a deduction
44 provided by subsection I or J of this section to file on forms prescribed
45 by the department at such times as the department directs a sworn

1 statement disclosing the name of the purchaser and the exact amount of
2 sales on which the exclusion or deduction is claimed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 V. For the purposes of this section:

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

5 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

41 6. "Subcontract" means an agreement between a contractor and any
42 person who is not an employee of the contractor for furnishing ~~of~~ supplies
43 or services that, in whole or in part, are necessary to ~~the performance of~~
44 PERFORM one or more government contracts, or under which any portion of
45 the contractor's obligation under one or more government contracts is

1 performed, undertaken or assumed and that includes provisions causing
2 title to overhead materials or other tangible personal property used in
3 ~~the performance of~~ PERFORMING the subcontract to pass to the government or
4 that includes provisions incorporating such title passing clauses in a
5 government contract into the subcontract.

6 Sec. 4. Section 42-5061, Arizona Revised Statutes, as amended by
7 Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended
8 to read:

9 42-5061. Retail classification; definitions

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

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

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

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

23 4. Sales of tangible personal property by any nonprofit
24 organization organized and operated exclusively for charitable purposes
25 and recognized by the United States internal revenue service under section
26 501(c)(3) of the internal revenue code.

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

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

32 7. The sale of stocks and bonds.

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

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

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

41 11. Prescription eyeglasses or contact lenses.

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

43 13. Durable medical equipment that has a centers for medicare and
44 medicaid services common procedure code, is designated reimbursable by
45 medicare, is prescribed by a person who is licensed under title 32,

1 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
2 primarily and customarily used to serve a medical purpose, is generally
3 not useful to a person in the absence of illness or injury and is
4 appropriate for use in the home.

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

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

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

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

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

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

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

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

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

1 to acquire tangible personal property, intangibles or services in the
2 future, whether from the seller of the cash equivalent or from another
3 person. Cash equivalents do not include either of the following:

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

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

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

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

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

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

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

28 25. Tangible personal property sold to:

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

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

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

39 (d) A qualifying community health center as defined in section
40 42-5001.

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

44 (f) For taxable periods beginning from and after June 30, 2001, a
45 nonprofit charitable organization that has qualified under section

1 501(c)(3) of the internal revenue code and that provides residential
2 apartment housing for ~~low-income~~ LOW-INCOME persons over sixty-two years
3 of age in a facility that qualifies for a federal housing subsidy, if the
4 tangible personal property is used by the organization solely to provide
5 residential apartment housing for ~~low-income~~ LOW-INCOME persons over
6 sixty-two years of age in a facility that qualifies for a federal housing
7 subsidy.

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

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

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

16 27. Tangible personal property sold to:

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

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

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

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

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

34 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 41. A motor vehicle and any repair and replacement parts and
6 tangible personal property becoming a part of such motor vehicle sold to a
7 motor carrier ~~who~~ THAT is subject to a fee prescribed in title 28, chapter
8 16, article 4 and ~~who~~ THAT is engaged in the business of leasing or
9 renting such property.

10 42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 56. Sales or other transfers of renewable energy credits or any
43 other unit created to track energy derived from renewable energy
44 resources. For the purposes of this paragraph, "renewable energy credit"
45 means a unit created administratively by the corporation commission or

1 governing body of a public power utility to track kilowatt hours of
2 electricity derived from a renewable energy resource or the kilowatt hour
3 equivalent of conventional energy resources displaced by distributed
4 renewable energy resources.

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

13 ~~58.~~ 57. Orthodontic devices dispensed by a dental professional who
14 is licensed under title 32, chapter 11 to a patient as part of the
15 practice of dentistry.

16 ~~59.~~ 58. Sales of tangible personal property incorporated or
17 fabricated into a project described in section 42-5075, subsection 0, that
18 is located within the exterior boundaries of an Indian reservation for
19 which the owner, as defined in section 42-5075, of the project is an
20 Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

33 ~~60.~~ 59. Sales of works of fine art, as defined in section 44-1771,
34 at an art auction or gallery in this state to nonresidents of this state
35 for use outside this state if the vendor ships or delivers the work of
36 fine art to a destination outside this state.

37 ~~61.~~ 60. Sales of coal.

38 ~~62.~~ 61. Sales of tangible personal property by a marketplace
39 seller that are facilitated by a marketplace facilitator in which the
40 marketplace facilitator has remitted or will remit the applicable tax to
41 the department pursuant to section 42-5014.

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

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

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

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

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

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

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

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

37 (a) A person:

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

42 (ii) That is certificated or licensed under federal aviation
43 administration regulations (14 Code of Federal Regulations part 121 or
44 135) as a scheduled or unscheduled carrier of persons for hire for use as

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

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

7 (iv) Operating an aircraft to transport persons in any manner for
8 compensation or hire, or for use in a fractional ownership program that
9 meets the requirements of federal aviation administration regulations
10 (14 Code of Federal Regulations part 91, subpart K), including as an air
11 carrier, a foreign air carrier or a commercial operator or under a
12 restricted category, within the meaning of 14 Code of Federal Regulations,
13 regardless of whether the operation or aircraft is regulated or certified
14 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
15 of Federal Regulations.

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

21 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 For the purposes of subdivision (b) of this paragraph, "test period" means
45 the three hundred sixty-five day period beginning on the later of the date

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

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

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

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

21 17. Machinery and equipment used directly in ~~the feeding of~~
22 poultry, ~~the environmental control of~~ ENVIRONMENTALLY CONTROLLING housing
23 for poultry, ~~the movement of~~ MOVING eggs within a production and packaging
24 facility or ~~the sorting or cooling of~~ eggs. This exemption does not apply
25 to vehicles used for transporting eggs.

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

36 19. Machinery and equipment that are sold to a person engaged in
37 ~~the commercial production of~~ COMMERCIALLY PRODUCING livestock, livestock
38 products or agricultural, horticultural, viticultural or floricultural
39 crops or products in this state, including a person representing or
40 working on behalf of such a person in a manner described in section
41 42-5075, subsection 0, if the machinery and equipment are used directly
42 and primarily to prevent, monitor, control or reduce air, water or land
43 pollution.

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

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

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

13 (c) Any machinery or equipment purchased after the television
14 station has ceased analog broadcasting, or purchased after November 1,
15 2009, whichever occurs first.

16 21. Qualifying equipment that is purchased from and after June 30,
17 2004 through June 30, 2024 by a qualified business under section 41-1516
18 for harvesting or processing qualifying forest products removed from
19 qualifying projects as defined in section 41-1516. To qualify for this
20 deduction, the qualified business at the time of purchase must present its
21 certification approved by the department.

22 22. COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR OR
23 QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY
24 THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 OR AN AUTHORIZED
25 AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE
26 QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR
27 THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER", "COMPUTER DATA
28 CENTER EQUIPMENT", "QUALIFICATION PERIOD" AND "QUALIFIED COLOCATION
29 TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-1519.

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

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

36 2. Janitorial equipment and hand tools.

37 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

42 2. Businesses classified under the:

43 (a) Transporting classification.

44 (b) Utilities classification.

45 (c) Telecommunications classification.

- 1 (d) Pipeline classification.
- 2 (e) Private car line classification.
- 3 (f) Publication classification.
- 4 (g) Job printing classification.
- 5 (h) Prime contracting classification.
- 6 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

43 M. There shall be deducted from the tax base the amount received
44 from sales of solar energy devices. The retailer shall register with the
45 department as a solar energy retailer. By registering, the retailer

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

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

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

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

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

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

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

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

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

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

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

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

23 U. For the purposes of this section:

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

27 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

31 Sec. 5. Section 42-5075, Arizona Revised Statutes, is amended to
32 read:

33 42-5075. Prime contracting classification; exemptions;
34 definitions

35 A. The prime contracting classification is comprised of the
36 business of prime contracting and the business of manufactured building
37 dealer. Sales for resale to another manufactured building dealer are not
38 subject to tax. Sales for resale do not include sales to a lessor of
39 manufactured buildings. The sale of a used manufactured building is not
40 taxable under this chapter. The prime contracting classification does not
41 include any work or operation performed by a person that is not required
42 to be licensed by the registrar of contractors pursuant to section
43 32-1121.

1 B. The tax base for the prime contracting classification is
2 sixty-five percent of the gross proceeds of sales or gross income derived
3 from the business. The following amounts shall be deducted from the gross
4 proceeds of sales or gross income before computing the tax base:

5 1. The sales price of land, which shall not exceed the fair market
6 value.

7 2. Sales and installation of groundwater measuring devices required
8 under section 45-604 and groundwater monitoring wells required by law,
9 including monitoring wells installed for acquiring information for a
10 permit required by law.

11 3. The sales price of furniture, furnishings, fixtures, appliances
12 and attachments that are not incorporated as component parts of or
13 attached to a manufactured building or the setup site. The sale of such
14 items may be subject to the taxes imposed by article 1 of this chapter
15 separately and distinctly from the sale of the manufactured building.

16 4. The gross proceeds of sales or gross income received from a
17 contract entered into for the modification of any building, highway, road,
18 railroad, excavation, manufactured building or other structure, project,
19 development or improvement located in a military reuse zone for providing
20 aviation or aerospace services or for a manufacturer, assembler or
21 fabricator of aviation or aerospace products within an active military
22 reuse zone after the zone is initially established or renewed under
23 section 41-1531. To be eligible to qualify for this deduction, before
24 beginning work under the contract, the prime contractor must have applied
25 for a letter of qualification from the department of revenue.

26 5. The gross proceeds of sales or gross income derived from a
27 contract to construct a qualified environmental technology manufacturing,
28 producing or processing facility, as described in section 41-1514.02, and
29 from subsequent construction and installation contracts that begin within
30 ten years after the start of initial construction. To qualify for this
31 deduction, before beginning work under the contract, the prime contractor
32 must obtain a letter of qualification from the department of revenue.
33 This paragraph shall apply for ten full consecutive calendar or fiscal
34 years after the start of initial construction.

35 6. The gross proceeds of sales or gross income from a contract to
36 provide for one or more of the following actions, or a contract for site
37 preparation, constructing, furnishing or installing machinery, equipment
38 or other tangible personal property, including structures necessary to
39 protect exempt incorporated materials or installed machinery or equipment,
40 and tangible personal property incorporated into the project, to perform
41 one or more of the following actions in response to a release or suspected
42 release of a hazardous substance, pollutant or contaminant from a facility
43 to the environment, unless the release was authorized by a permit issued
44 by a governmental authority:

1 (a) Actions to monitor, assess and evaluate such a release or a
2 suspected release.

3 (b) Excavation, removal and transportation of contaminated soil and
4 its treatment or disposal.

5 (c) Treatment of contaminated soil by vapor extraction, chemical or
6 physical stabilization, soil washing or biological treatment to reduce the
7 concentration, toxicity or mobility of a contaminant.

8 (d) Pumping and treatment or in situ treatment of contaminated
9 groundwater or surface water to reduce the concentration or toxicity of a
10 contaminant.

11 (e) The installation of structures, such as cutoff walls or caps,
12 to contain contaminants present in groundwater or soil and prevent them
13 from reaching a location where they could threaten human health or welfare
14 or the environment.

15 This paragraph does not include asbestos removal or the construction or
16 use of ancillary structures such as maintenance sheds, offices or storage
17 facilities for unattached equipment, pollution control equipment,
18 facilities or other control items required or to be used by a person to
19 prevent or control contamination before it reaches the environment.

20 7. The gross proceeds of sales or gross income that is derived from
21 a contract for the installation, assembly, repair or maintenance of
22 machinery, equipment or other tangible personal property that is either
23 deducted from the tax base of the retail classification under section
24 42-5061, subsection B or that is exempt from use tax under section
25 42-5159, subsection B and that has independent functional utility,
26 pursuant to the following provisions:

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

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

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

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

39 (b) The deduction provided in this paragraph does not include gross
40 proceeds of sales or gross income from the portion of any contracting
41 activity that consists of the development of, or modification to, real
42 property in order to facilitate the installation, assembly, repair,
43 maintenance or removal of machinery, equipment or other tangible personal
44 property that is either deducted from the tax base of the retail

1 classification under section 42-5061, subsection B or exempt from use tax
2 under section 42-5159, subsection B.

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

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

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

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

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

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

21 8. The gross proceeds of sales or gross income attributable to the
22 purchase of machinery, equipment or other tangible personal property that
23 is exempt from or deductible from transaction privilege and use tax under:

24 (a) Section 42-5061, subsection A, paragraph 25, ~~29, 57~~ or ~~59~~ 58.

25 (b) Section 42-5061, subsection B.

26 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),
27 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph ~~54 or 56~~ 55.

28 (d) Section 42-5159, subsection B.

29 9. The gross proceeds of sales or gross income received from a
30 contract for the construction of an environmentally controlled facility
31 for the raising of poultry for the production of eggs and the sorting,
32 cooling and packaging of eggs.

33 10. The gross proceeds of sales or gross income that is derived
34 from a contract entered into with a person who is engaged in the
35 commercial production of livestock, livestock products or agricultural,
36 horticultural, viticultural or floricultural crops or products in this
37 state for the modification of any building, highway, road, excavation,
38 manufactured building or other structure, project, development or
39 improvement used directly and primarily to prevent, monitor, control or
40 reduce air, water or land pollution.

41 11. The gross proceeds of sales or gross income that is derived
42 from the installation, assembly, repair or maintenance of clean rooms that
43 are deducted from the tax base of the retail classification pursuant to
44 section 42-5061, subsection B, paragraph 16.

1 12. For taxable periods beginning from and after June 30, 2001, the
2 gross proceeds of sales or gross income derived from a contract entered
3 into for the construction of a residential apartment housing facility that
4 qualifies for a federal housing subsidy for low income persons over
5 sixty-two years of age and that is owned by a nonprofit charitable
6 organization that has qualified under section 501(c)(3) of the internal
7 revenue code.

8 13. For taxable periods beginning from and after December 31, 1996
9 and ending before January 1, 2017, the gross proceeds of sales or gross
10 income derived from a contract to provide and install a solar energy
11 device. The contractor shall register with the department as a solar
12 energy contractor. By registering, the contractor acknowledges that it
13 will make its books and records relating to sales of solar energy devices
14 available to the department for examination.

15 14. The gross proceeds of sales or gross income derived from a
16 contract entered into for the construction of a launch site, as defined in
17 14 Code of Federal Regulations section 401.5.

18 15. The gross proceeds of sales or gross income derived from a
19 contract entered into for the construction of a domestic violence shelter
20 that is owned and operated by a nonprofit charitable organization that has
21 qualified under section 501(c)(3) of the internal revenue code.

22 16. The gross proceeds of sales or gross income derived from
23 contracts to perform postconstruction treatment of real property for
24 termite and general pest control, including wood-destroying organisms.

25 17. The gross proceeds of sales or gross income received from
26 contracts entered into before July 1, 2006 for constructing a state
27 university research infrastructure project if the project has been
28 reviewed by the joint committee on capital review before the university
29 enters into the construction contract for the project. For the purposes
30 of this paragraph, "research infrastructure" has the same meaning
31 prescribed in section 15-1670.

32 18. The gross proceeds of sales or gross income received from a
33 contract for the construction of any building, or other structure,
34 project, development or improvement owned by a qualified business under
35 section 41-1516 for harvesting or processing qualifying forest products
36 removed from qualifying projects as defined in section 41-1516 if actual
37 construction begins before January 1, 2024. To qualify for this
38 deduction, the prime contractor must obtain a letter of qualification from
39 the Arizona commerce authority before beginning work under the contract.

40 19. Any amount of the gross proceeds of sales or gross income
41 attributable to development fees that are incurred in relation to a
42 contract for construction, development or improvement of real property and
43 that are paid by a prime contractor or subcontractor. For the purposes of
44 this paragraph:

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

3 (b) The attributable amount is equal to the total amount of
4 development fees paid by the prime contractor or subcontractor, and the
5 total development fees credited in exchange for the construction of,
6 contribution to or dedication of real property for providing public
7 infrastructure, public safety or other public services necessary to the
8 development. The real property must be the subject of the development
9 fees.

10 (c) "Development fees" means fees imposed to offset capital costs
11 of providing public infrastructure, public safety or other public services
12 to a development and authorized pursuant to section 9-463.05, section
13 11-1102 or title 48 regardless of the jurisdiction to which the fees are
14 paid.

15 20. The gross proceeds of sales or gross income derived from a
16 contract entered into for the construction of a mixed waste processing
17 facility that is located on a municipal solid waste landfill and that is
18 constructed for the purpose of recycling solid waste or producing
19 renewable energy from landfill waste. For the purposes of this paragraph:

20 (a) "Mixed waste processing facility" means a solid waste facility
21 that is owned, operated or used for the treatment, processing or disposal
22 of solid waste, recyclable solid waste, conditionally exempt small
23 quantity generator waste or household hazardous waste. For the purposes
24 of this subdivision, "conditionally exempt small quantity generator
25 waste", "household hazardous waste" and "solid waste facility" have the
26 same meanings prescribed in section 49-701, except that solid waste
27 facility does include a site that stores, treats or processes paper,
28 glass, wood, cardboard, household textiles, scrap metal, plastic,
29 vegetative waste, aluminum, steel or other recyclable material.

30 (b) "Municipal solid waste landfill" has the same meaning
31 prescribed in section 49-701.

32 (c) "Recycling" means collecting, separating, cleansing, treating
33 and reconstituting recyclable solid waste that would otherwise become
34 solid waste, but does not include incineration or other similar processes.

35 (d) "Renewable energy" has the same meaning prescribed in section
36 41-1511.

37 C. Entitlement to the deduction pursuant to subsection B, paragraph
38 7 of this section is subject to the following provisions:

39 1. A prime contractor may establish entitlement to the deduction by
40 both:

41 (a) Marking the invoice for the transaction to indicate that the
42 gross proceeds of sales or gross income derived from the transaction was
43 deducted from the base.

1 (b) Obtaining a certificate executed by the purchaser indicating
2 the name and address of the purchaser, the precise nature of the business
3 of the purchaser, the purpose for which the purchase was made, the
4 necessary facts to establish the deductibility of the property under
5 section 42-5061, subsection B, and a certification that the person
6 executing the certificate is authorized to do so on behalf of the
7 purchaser. The certificate may be disregarded if the prime contractor has
8 reason to believe that the information contained in the certificate is not
9 accurate or complete.

10 2. A person who does not comply with paragraph 1 of this subsection
11 may establish entitlement to the deduction by presenting facts necessary
12 to support the entitlement, but the burden of proof is on that person.

13 3. The department may prescribe a form for the certificate
14 described in paragraph 1, subdivision (b) of this subsection. The
15 department may also adopt rules that describe the transactions with
16 respect to which a person is not entitled to rely solely on the
17 information contained in the certificate provided in paragraph 1,
18 subdivision (b) of this subsection but must instead obtain such additional
19 information as required in order to be entitled to the deduction.

20 4. If a prime contractor is entitled to a deduction by complying
21 with paragraph 1 of this subsection, the department may require the
22 purchaser who caused the execution of the certificate to establish the
23 accuracy and completeness of the information required to be contained in
24 the certificate that would entitle the prime contractor to the deduction.
25 If the purchaser cannot establish the accuracy and completeness of the
26 information, the purchaser is liable in an amount equal to any tax,
27 penalty and interest that the prime contractor would have been required to
28 pay under article 1 of this chapter if the prime contractor had not
29 complied with paragraph 1 of this subsection. Payment of the amount under
30 this paragraph exempts the purchaser from liability for any tax imposed
31 under article 4 of this chapter. The amount shall be treated as a
32 transaction privilege tax to the purchaser and as tax revenues collected
33 from the prime contractor in order to designate the distribution base for
34 purposes of section 42-5029.

35 D. Subcontractors or others who perform modification activities are
36 not subject to tax if they can demonstrate that the job was within the
37 control of a prime contractor or contractors or a dealership of
38 manufactured buildings and that the prime contractor or dealership is
39 liable for the tax on the gross income, gross proceeds of sales or gross
40 receipts attributable to the job and from which the subcontractors or
41 others were paid.

42 E. Amounts received by a contractor for a project are excluded from
43 the contractor's gross proceeds of sales or gross income derived from the
44 business if the person who hired the contractor executes and provides a
45 certificate to the contractor stating that the person providing the

1 certificate is a prime contractor and is liable for the tax under article
2 1 of this chapter. The department shall prescribe the form of the
3 certificate. If the contractor has reason to believe that the information
4 contained on the certificate is erroneous or incomplete, the department
5 may disregard the certificate. If the person who provides the certificate
6 is not liable for the tax as a prime contractor, that person is
7 nevertheless deemed to be the prime contractor in lieu of the contractor
8 and is subject to the tax under this section on the gross receipts or
9 gross proceeds received by the contractor.

10 F. Every person engaging or continuing in this state in the
11 business of prime contracting or dealership of manufactured buildings
12 shall present to the purchaser of such prime contracting or manufactured
13 building a written receipt of the gross income or gross proceeds of sales
14 from such activity and shall separately state the taxes to be paid
15 pursuant to this section.

16 G. For the purposes of section 42-5032.01, the department shall
17 separately account for revenues collected under the prime contracting
18 classification from any prime contractor engaged in the preparation or
19 construction of a multipurpose facility, and related infrastructure, that
20 is owned, operated or leased by the tourism and sports authority pursuant
21 to title 5, chapter 8.

22 H. For the purposes of section 42-5032.02, from and after
23 September 30, 2013, the department shall separately account for revenues
24 reported and collected under the prime contracting classification from any
25 prime contractor engaged in the construction of any buildings and
26 associated improvements that are for the benefit of a manufacturing
27 facility. For the purposes of this subsection, "associated improvements"
28 and "manufacturing facility" have the same meanings prescribed in section
29 42-5032.02.

30 I. The gross proceeds of sales or gross income derived from a
31 contract for lawn maintenance services is not subject to tax under this
32 section if the contract does not include landscaping activities. Lawn
33 maintenance service is a service pursuant to section 42-5061, subsection
34 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing
35 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
36 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris
37 collection and removal, tree or shrub pruning or clipping, garden and
38 gravel raking and applying pesticides, as defined in section 3-361, and
39 fertilizer materials, as defined in section 3-262.

40 J. Except as provided in subsection 0 of this section, the gross
41 proceeds of sales or gross income derived from landscaping activities is
42 subject to tax under this section. Landscaping includes installing lawns,
43 grading or leveling ground, installing gravel or boulders, planting trees
44 and other plants, felling trees, removing or mulching tree stumps,

1 removing other imbedded plants, building irrigation berms, installing
2 railroad ties and installing underground sprinkler or watering systems.

3 K. The portion of gross proceeds of sales or gross income
4 attributable to the actual direct costs of providing architectural or
5 engineering services that are incorporated in a contract is not subject to
6 tax under this section. For the purposes of this subsection, "direct
7 costs" means the portion of the actual costs that are directly expended in
8 providing architectural or engineering services.

9 L. Operating a landfill or a solid waste disposal facility is not
10 subject to taxation under this section, including filling, compacting and
11 creating vehicle access to and from cell sites within the landfill.
12 Constructing roads to a landfill or solid waste disposal facility and
13 constructing cells within a landfill or solid waste disposal facility may
14 be deemed prime contracting under this section.

15 M. The following apply in determining the taxable situs of sales of
16 manufactured buildings:

17 1. For sales in this state where the manufactured building dealer
18 contracts to deliver the building to a setup site or to perform the setup
19 in this state, the taxable situs is the setup site.

20 2. For sales in this state where the manufactured building dealer
21 does not contract to deliver the building to a setup site or does not
22 perform the setup, the taxable situs is the location of the dealership
23 where the building is delivered to the buyer.

24 3. For sales in this state where the manufactured building dealer
25 contracts to deliver the building to a setup site that is outside this
26 state, the situs is outside this state and the transaction is excluded
27 from tax.

28 N. The gross proceeds of sales or gross income attributable to a
29 written contract for design phase services or professional services,
30 executed before modification begins and with terms, conditions and pricing
31 of all of these services separately stated in the contract from those for
32 construction phase services, is not subject to tax under this section,
33 regardless of whether the services are provided sequential to or
34 concurrent with prime contracting activities that are subject to tax under
35 this section. This subsection does not include the gross proceeds of
36 sales or gross income attributable to construction phase services. For
37 the purposes of this subsection:

38 1. "Construction phase services" means services for the execution
39 and completion of any modification, including the following:

40 (a) Administration or supervision of any modification performed on
41 the project, including team management and coordination, scheduling, cost
42 controls, submittal process management, field management, safety program,
43 close-out process and warranty period services.

1 (b) Administration or supervision of any modification performed
2 pursuant to a punch list. For the purposes of this subdivision, "punch
3 list" means minor items of modification work performed after substantial
4 completion and before final completion of the project.

5 (c) Administration or supervision of any modification performed
6 pursuant to change orders. For the purposes of this subdivision, "change
7 order" means a written instrument issued after execution of a contract for
8 modification work, providing for all of the following:

9 (i) The scope of a change in the modification work, contract for
10 modification work or other contract documents.

11 (ii) The amount of an adjustment, if any, to the guaranteed maximum
12 price as set in the contract for modification work. For the purposes of
13 this item, "guaranteed maximum price" means the amount guaranteed to be
14 the maximum amount due to a prime contractor for the performance of all
15 modification work for the project.

16 (iii) The extent of an adjustment, if any, to the contract time of
17 performance set forth in the contract.

18 (d) Administration or supervision of any modification performed
19 pursuant to change directives. For the purposes of this subdivision,
20 "change directive" means a written order directing a change in
21 modification work before agreement on an adjustment of the guaranteed
22 maximum price or contract time.

23 (e) Inspection to determine the dates of substantial completion or
24 final completion.

25 (f) Preparation of any manuals, warranties, as-built drawings,
26 spares or other items the prime contractor must furnish pursuant to the
27 contract for modification work. For the purposes of this subdivision,
28 "as-built drawing" means a drawing that indicates field changes made to
29 adapt to field conditions, field changes resulting from change orders or
30 buried and concealed installation of piping, conduit and utility services.

31 (g) Preparation of status reports after modification work has begun
32 detailing the progress of work performed, including preparation of any of
33 the following:

34 (i) Master schedule updates.

35 (ii) Modification work cash flow projection updates.

36 (iii) Site reports made on a periodic basis.

37 (iv) Identification of discrepancies, conflicts or ambiguities in
38 modification work documents that require resolution.

39 (v) Identification of any health and safety issues that have arisen
40 in connection with the modification work.

41 (h) Preparation of daily logs of modification work, including
42 documentation of personnel, weather conditions and on-site occurrences.

43 (i) Preparation of any submittals or shop drawings used by the
44 prime contractor to illustrate details of the modification work performed.

1 (j) Administration or supervision of any other activities for which
2 a prime contractor receives a certificate for payment or certificate for
3 final payment based on the progress of modification work performed on the
4 project.

5 2. "Design phase services" means services for developing and
6 completing a design for a project that are not construction phase
7 services, including the following:

8 (a) Evaluating surveys, reports, test results or any other
9 information on-site conditions for the project, including physical
10 characteristics, legal limitations and utility locations for the site.

11 (b) Evaluating any criteria or programming objectives for the
12 project to ascertain requirements for the project, such as physical
13 requirements affecting cost or projected utilization of the project.

14 (c) Preparing drawings and specifications for architectural program
15 documents, schematic design documents, design development documents,
16 modification work documents or documents that identify the scope of or
17 materials for the project.

18 (d) Preparing an initial schedule for the project, excluding the
19 preparation of updates to the master schedule after modification work has
20 begun.

21 (e) Preparing preliminary estimates of costs of modification work
22 before completion of the final design of the project, including an
23 estimate or schedule of values for any of the following:

24 (i) Labor, materials, machinery and equipment, tools, water, heat,
25 utilities, transportation and other facilities and services used in the
26 execution and completion of modification work, regardless of whether they
27 are temporary or permanent or whether they are incorporated in the
28 modifications.

29 (ii) The cost of labor and materials to be furnished by the owner
30 of the real property.

31 (iii) The cost of any equipment of the owner of the real property
32 to be assigned by the owner to the prime contractor.

33 (iv) The cost of any labor for installation of equipment separately
34 provided by the owner of the real property that has been designed,
35 specified, selected or specifically provided for in any design document
36 for the project.

37 (v) Any fee paid by the owner of the real property to the prime
38 contractor pursuant to the contract for modification work.

39 (vi) Any bond and insurance premiums.

40 (vii) Any applicable taxes.

41 (viii) Any contingency fees for the prime contractor that may be
42 used before final completion of the project.

43 (f) Reviewing and evaluating cost estimates and project documents
44 to prepare recommendations on site use, site improvements, selection of
45 materials, building systems and equipment, modification feasibility,

1 availability of materials and labor, local modification activity as
2 related to schedules and time requirements for modification work.

3 (g) Preparing the plan and procedures for selection of
4 subcontractors, including any prequalification of subcontractor
5 candidates.

6 3. "Professional services" means architect services, engineer
7 services, geologist services, land surveying services or landscape
8 architect services that are within the scope of those services as provided
9 in title 32, chapter 1 and for which gross proceeds of sales or gross
10 income has not otherwise been deducted under subsection K of this section.

11 0. The gross proceeds of sales or gross income derived from a
12 contract with the owner of real property or improvements to real property
13 for the maintenance, repair, replacement or alteration of existing
14 property is not subject to tax under this section if the contract does not
15 include modification activities, except as specified in this subsection.
16 The gross proceeds of sales or gross income derived from a de minimis
17 amount of modification activity does not subject the contract or any part
18 of the contract to tax under this section. For the purposes of this
19 subsection:

20 1. Tangible personal property that is incorporated or fabricated
21 into a project described in this subsection may be subject to the amount
22 prescribed in section 42-5008.01.

23 2. Each contract is independent of any other contract, except that
24 any change order that directly relates to the scope of work of the
25 original contract shall be treated the same as the original contract under
26 this chapter, regardless of the amount of modification activities included
27 in the change order. If a change order does not directly relate to the
28 scope of work of the original contract, the change order shall be treated
29 as a new contract, with the tax treatment of any subsequent change order
30 to follow the tax treatment of the contract to which the scope of work of
31 the subsequent change order directly relates.

32 P. Notwithstanding subsection 0 of this section, a contract that
33 primarily involves surface or subsurface improvements to land and that is
34 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
35 taxable under this section, even if the contract also includes vertical
36 improvements. Agencies that are subject to procurement processes under
37 those provisions shall include in the request for proposals a notice to
38 bidders when those projects are subject to this section. This subsection
39 does not apply to contracts with:

40 1. Community facilities districts, fire districts, county
41 television improvement districts, community park maintenance districts,
42 cotton pest control districts, hospital districts, pest abatement
43 districts, health service districts, agricultural improvement districts,
44 county free library districts, county jail districts, county stadium

1 districts, special health care districts, public health services
2 districts, theme park districts or revitalization districts.

3 2. Any special taxing district not specified in paragraph 1 of this
4 subsection if the district does not substantially engage in the
5 modification, maintenance, repair, replacement or alteration of surface or
6 subsurface improvements to land.

7 Q. Notwithstanding subsection R, paragraph 10 of this section, a
8 person owning real property who enters into a contract for sale of the
9 real property, who is responsible to the new owner of the property for
10 modifications made to the property in the period subsequent to the
11 transfer of title and who receives a consideration for the modifications
12 is considered a prime contractor solely for purposes of taxing the gross
13 proceeds of sale or gross income received for the modifications made
14 subsequent to the transfer of title. The original owner's gross proceeds
15 of sale or gross income received for the modifications shall be determined
16 according to the following methodology:

17 1. If any part of the contract for sale of the property specifies
18 amounts to be paid to the original owner for the modifications to be made
19 in the period subsequent to the transfer of title, the amounts are
20 included in the original owner's gross proceeds of sale or gross income
21 under this section. Proceeds from the sale of the property that are
22 received after transfer of title and that are unrelated to the
23 modifications made subsequent to the transfer of title are not considered
24 gross proceeds of sale or gross income from the modifications.

25 2. If the original owner enters into an agreement separate from the
26 contract for sale of the real property providing for amounts to be paid to
27 the original owner for the modifications to be made in the period
28 subsequent to the transfer of title to the property, the amounts are
29 included in the original owner's gross proceeds of sale or gross income
30 received for the modifications made subsequent to the transfer of title.

31 3. If the original owner is responsible to the new owner for
32 modifications made to the property in the period subsequent to the
33 transfer of title and derives any gross proceeds of sale or gross income
34 from the project subsequent to the transfer of title other than a delayed
35 disbursement from escrow unrelated to the modifications, it is presumed
36 that the amounts are received for the modifications made subsequent to the
37 transfer of title unless the contrary is established by the owner through
38 its books, records and papers kept in the regular course of business.

39 4. The tax base of the original owner is computed in the same
40 manner as a prime contractor under this section.

41 R. For the purposes of this section:

42 1. "Alteration" means an activity or action that causes a direct
43 physical change to existing property. For the purposes of this paragraph:

44 (a) For existing property that is properly classified as class two
45 property under section 42-12002, paragraph 1, subdivision (c) or paragraph

1 2, subdivision (c) and that is used for residential purposes, class three
2 property under section 42-12003 or class four property under section
3 42-12004, this paragraph does not apply if the contract amount is more
4 than twenty-five percent of the most recent full cash value established
5 under chapter 13, article 2 of this title as of the date of any bid for
6 the work or the date of the contract, whichever value is higher.

7 (b) For all existing property other than existing property
8 described in subdivision (a) of this paragraph, this paragraph does not
9 apply if the contract amount is more than ~~seven hundred fifty thousand~~
10 ~~dollars~~ \$750,000.

11 (c) Project elements may not be artificially separated from a
12 contract to cause a project to qualify as an alteration. The department
13 has the burden of proof that project elements have been artificially
14 separated from a contract.

15 (d) If a project for which the owner and the person performing the
16 work reasonably believed, at the inception of the contract, would be
17 treated as an alteration under this paragraph and, on completion of the
18 project, the project exceeded the applicable threshold described in either
19 subdivision (a) or (b) of this paragraph by no more than twenty-five
20 percent of the applicable threshold for any reason, the work performed
21 under the contract qualifies as an alteration.

22 (e) A change order that directly relates to the scope of work of
23 the original contract shall be treated as part of the original contract,
24 and the contract amount shall include any amount attributable to a change
25 order that directly relates to the scope of work of the original contract.

26 (f) Alteration does not include maintenance, repair or replacement.

27 2. "Contracting" means engaging in business as a contractor.

28 3. "Contractor" is synonymous with the term "builder" and means any
29 person or organization that undertakes to or offers to undertake to, or
30 purports to have the capacity to undertake to, or submits a bid to, or
31 does personally or by or through others, modify any building, highway,
32 road, railroad, excavation, manufactured building or other structure,
33 project, development or improvement, or to do any part of such a project,
34 including the erection of scaffolding or other structure or works in
35 connection with such a project, and includes subcontractors and specialty
36 contractors. For all purposes of taxation or deduction, this definition
37 shall govern without regard to whether or not such a contractor is acting
38 in fulfillment of a contract.

39 4. "Manufactured building" means a manufactured home, mobile home
40 or factory-built building, as defined in section 41-4001.

41 5. "Manufactured building dealer" means a dealer who either:

42 (a) Is licensed pursuant to title 41, chapter 37, article 4 and who
43 sells manufactured buildings to the final consumer.

1 (b) Supervises, performs or coordinates the excavation and
2 completion of site improvements or the setup of a manufactured building,
3 including the contracting, if any, with any subcontractor or specialty
4 contractor for the completion of the contract.

5 6. "Modification" means construction, grading and leveling ground,
6 wreckage or demolition. Modification does not include:

7 (a) Any project described in subsection 0 of this section.

8 (b) Any wreckage or demolition of existing property, or any other
9 activity that is a necessary component of a project described in
10 subsection 0 of this section.

11 (c) Any mobilization or demobilization related to a project
12 described in subsection 0 of this section, such as the erection or removal
13 of temporary facilities to be used by those persons working on the
14 project.

15 7. "Modify" means to make a modification or cause a modification to
16 be made.

17 8. "Owner" means the person that holds title to the real property
18 or improvements to real property that is the subject of the work, as well
19 as an agent of the title holder and any person with the authority to
20 perform or authorize work on the real property or improvements, including
21 a tenant and a property manager. For the purposes of subsection 0 of this
22 section, a person who is hired by a general contractor that is hired by an
23 owner, or a subcontractor of a general contractor that is hired by an
24 owner, is considered to be hired by the owner.

25 9. "Prime contracting" means engaging in business as a prime
26 contractor.

27 10. "Prime contractor" means a contractor who supervises, performs
28 or coordinates the modification of any building, highway, road, railroad,
29 excavation, manufactured building or other structure, project, development
30 or improvement, including the contracting, if any, with any subcontractors
31 or specialty contractors and who is responsible for the completion of the
32 contract. Except as provided in subsections E and Q of this section, a
33 person who owns real property, who engages one or more contractors to
34 modify that real property and who does not itself modify that real
35 property is not a prime contractor within the meaning of this paragraph
36 regardless of the existence of a contract for sale or the subsequent sale
37 of that real property.

38 11. "Replacement" means the removal from service of one component
39 or system of existing property or tangible personal property installed in
40 existing property, including machinery or equipment, and the installation
41 of a new component or system or new tangible personal property, including
42 machinery or equipment, that provides the same, a similar or an upgraded
43 design or functionality, regardless of the contract amount and regardless
44 of whether the existing component or system or existing tangible personal
45 property is physically removed from the existing property.

1 12. "Sale of a used manufactured building" does not include a lease
2 of a used manufactured building.

3 Sec. 6. Section 42-5159, Arizona Revised Statutes, is amended to
4 read:

5 42-5159. Exemptions

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

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

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

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

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

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

34 6. Tangible personal property brought into this state by an
35 individual who was a nonresident at the time the property was purchased
36 for storage, use or consumption by the individual if the first actual use
37 or consumption of the property was outside this state, unless the property
38 is used in conducting a business in this state.

39 7. Purchases of implants used as growth promotants and injectable
40 medicines, not already exempt under paragraph 16 of this subsection, for
41 livestock and poultry owned by, or in possession of, persons who are
42 engaged in producing livestock, poultry, or livestock or poultry products,
43 or who are engaged in feeding livestock or poultry commercially. For the
44 purposes of this paragraph, "poultry" includes ratites.

1 8. Purchases of:

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

4 (b) Livestock and poultry feed, salts, vitamins and other additives
5 sold to persons for use or consumption in the businesses of farming,
6 ranching and producing or feeding livestock or poultry or for use or
7 consumption in noncommercial boarding of livestock. For the purposes of
8 this paragraph, "poultry" includes ratites.

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

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

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

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

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

28 12. Materials that are purchased by or for publicly funded
29 libraries, including school district libraries, charter school libraries,
30 community college libraries, state university libraries or federal, state,
31 county or municipal libraries, for use by the public as follows:

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

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

34 13. Tangible personal property purchased by:

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

38 (b) A hospital operated by this state or a political subdivision of
39 this state.

40 (c) A licensed nursing care institution or a licensed residential
41 care institution or a residential care facility operated in conjunction
42 with a licensed nursing care institution or a licensed kidney dialysis
43 center, which provides medical services, nursing services or health
44 related services and is not used or held for profit.

1 (d) A qualifying health care organization, as defined in section
2 42-5001, if the tangible personal property is used by the organization
3 solely to provide health and medical related educational and charitable
4 services.

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

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

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

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

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

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

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

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

35 (j) A qualifying community health center as defined in section
36 42-5001.

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

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

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

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

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

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

22 15. Tangible personal property sold by:

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

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

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

- 1 16. Drugs and medical oxygen, including delivery hose, mask or
2 tent, regulator and tank, ~~on the prescription of~~ IF PRESCRIBED BY a member
3 of the medical, dental or veterinarian profession who is licensed by law
4 to administer such substances.
- 5 17. Prosthetic appliances, as defined in section 23-501, prescribed
6 or recommended by a person who is licensed, registered or otherwise
7 professionally credentialed as a physician, dentist, podiatrist,
8 chiropractor, naturopath, homeopath, nurse or optometrist.
- 9 18. Prescription eyeglasses and contact lenses.
- 10 19. Insulin, insulin syringes and glucose test strips.
- 11 20. Hearing aids as defined in section 36-1901.
- 12 21. Durable medical equipment that has a centers for medicare and
13 medicaid services common procedure code, is designated reimbursable by
14 medicare, is prescribed by a person who is licensed under title 32,
15 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and
16 customarily used to serve a medical purpose, is generally not useful to a
17 person in the absence of illness or injury and is appropriate for use in
18 the home.
- 19 22. Food, as provided in and subject to the conditions of article 3
20 of this chapter and sections 42-5074 and 42-6017.
- 21 23. Items purchased with United States department of agriculture
22 coupons issued under the supplemental nutrition assistance program
23 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
24 7 United States Code sections 2011 through 2036b) by the United States
25 department of agriculture food and nutrition service or food instruments
26 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
27 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
28 section 1786).
- 29 24. Food and drink provided without monetary charge by a taxpayer
30 that is subject to section 42-5074 to its employees for their own
31 consumption on the premises during the employees' hours of employment.
- 32 25. Tangible personal property that is used or consumed in a
33 business subject to section 42-5074 for human food, drink or condiment,
34 whether simple, mixed or compounded.
- 35 26. Food, drink or condiment and accessory tangible personal
36 property that are acquired for use by or provided to a school district or
37 charter school if they are to be either served or prepared and served to
38 persons for consumption on the premises of a public school in the school
39 district or on the premises of the charter school during school hours.
- 40 27. Lottery tickets or shares purchased pursuant to title 5,
41 chapter 5.1, article 1.
- 42 28. Textbooks, sold by a bookstore, that are required by any state
43 university or community college.
- 44 29. Magazines, other periodicals or other publications produced by
45 this state to encourage tourist travel.

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

4 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
5 electricity purchased by a qualified environmental technology
6 manufacturer, producer or processor as defined in section 41-1514.02 and
7 directly used or consumed in ~~the generation~~ GENERATING or ~~provision of~~
8 PROVIDING on-site power or energy solely for environmental technology
9 manufacturing, producing or processing or environmental protection. This
10 paragraph ~~shall apply~~ APPLIES for twenty full consecutive calendar or
11 fiscal years from the date the first paper manufacturing machine is placed
12 in service. In the case of an environmental technology manufacturer,
13 producer or processor ~~who~~ THAT does not manufacture paper, the time period
14 ~~shall begin~~ BEGINS with the date the first manufacturing, processing or
15 production equipment is placed in service.

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

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

20 (b) Public educational institutions.

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

24 33. Natural gas or liquefied petroleum gas used to propel a motor
25 vehicle.

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

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

1 36. Food, drink and condiment purchased for consumption within the
2 premises of any prison, jail or other institution under the jurisdiction
3 of the state department of corrections, the department of public safety,
4 the department of juvenile corrections or a county sheriff.

5 37. A motor vehicle and any repair and replacement parts and
6 tangible personal property becoming a part of such motor vehicle sold to a
7 motor carrier ~~who~~ THAT is subject to a fee prescribed in title 28, chapter
8 16, article 4 and ~~who~~ THAT is engaged in the business of leasing or
9 renting such property.

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

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

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

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

37 40. Through December 31, 1994, tangible personal property sold
38 pursuant to a personal property liquidation transaction, as defined in
39 section 42-5061. From and after December 31, 1994, tangible personal
40 property sold pursuant to a personal property liquidation transaction, as
41 defined in section 42-5061, if the gross proceeds of the sales were
42 included in the measure of the tax imposed by article 1 of this chapter or
43 if the personal property liquidation was a casual activity or transaction.

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

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

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

16 44. Alternative fuel vehicles if the vehicle was manufactured as a
17 diesel fuel vehicle and converted to operate on alternative fuel and
18 equipment that is installed in a conventional diesel fuel motor vehicle to
19 convert the vehicle to operate on an alternative fuel, as defined in
20 section 1-215.

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

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

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

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

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

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

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

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

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

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

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

14 52. Repair parts installed in equipment used directly by a
15 qualified business under section 41-1516 in harvesting, processing or
16 transporting qualifying forest products removed from qualifying projects
17 as defined in section 41-1516.

18 53. Renewable energy credits or any other unit created to track
19 energy derived from renewable energy resources. For the purposes of this
20 paragraph, "renewable energy credit" means a unit created administratively
21 by the corporation commission or governing body of a public power entity
22 to track kilowatt hours of electricity derived from a renewable energy
23 resource or the kilowatt hour equivalent of conventional energy resources
24 displaced by distributed renewable energy resources.

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

33 ~~55.~~ 54. Coal acquired from an owner or operator of a power plant
34 by a person ~~who~~ THAT is responsible for refining coal if both of the
35 following apply:

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

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

1 ~~56.~~ 55. Tangible personal property incorporated or fabricated into
2 a project described in section 42-5075, subsection 0, that is located
3 within the exterior boundaries of an Indian reservation for which the
4 owner, as defined in section 42-5075, of the project is an Indian tribe or
5 an affiliated Indian. For the purposes of this paragraph:

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

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

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

18 ~~57.~~ 56. Cash equivalents, precious metal bullion and monetized
19 bullion purchased by the ultimate consumer, but coins or other forms of
20 money for manufacture into jewelry or works of art are subject to tax, and
21 tangible personal property that is purchased through the redemption of any
22 cash equivalent by the holder as a means of payment for goods that are
23 subject to tax under this article is subject to tax. For the purposes of
24 this paragraph:

25 (a) "Cash equivalents" means items, whether or not negotiable, that
26 are sold to one or more persons, through which a value denominated in
27 money is purchased in advance and that may be redeemed in full or in part
28 for tangible personal property, intangibles or services. Cash equivalents
29 include gift cards, stored value cards, gift certificates, vouchers,
30 traveler's checks, money orders or other tangible instruments or orders.
31 Cash equivalents do not include either of the following:

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

34 (ii) Prepaid calling cards for telecommunications services.

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

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

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

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

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

14 3. Tangible personal property sold to persons engaged in business
15 classified under the telecommunications classification under section
16 42-5064, including a person representing or working on behalf of such a
17 person in a manner described in section 42-5075, subsection 0, and
18 consisting of central office switching equipment, switchboards, private
19 branch exchange equipment, microwave radio equipment and carrier equipment
20 including optical fiber, coaxial cable and other transmission media that
21 are components of carrier systems.

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

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

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

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

37 (a) A person:

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

42 (ii) That is certificated or licensed under federal aviation
43 administration regulations (14 Code of Federal Regulations part 121 or
44 135) as a scheduled or unscheduled carrier of persons for hire for use as

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

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

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

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

21 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 For the purposes of subdivision (b) of this paragraph, "test period" means
45 the three hundred sixty-five day period beginning on the later of the date

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

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

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

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

21 17. Machinery and equipment that are used directly in ~~the~~ feeding
22 ~~of~~ poultry, ~~the environmental control of~~ ENVIRONMENTALLY CONTROLLING
23 housing for poultry, ~~the movement of~~ MOVING eggs within a production and
24 packaging facility or ~~the~~ sorting or cooling ~~of~~ eggs. This exemption does
25 not apply to vehicles used for transporting eggs.

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

36 19. Machinery and equipment that are used in the commercial
37 production of livestock, livestock products or agricultural,
38 horticultural, viticultural or floricultural crops or products in this
39 state, including production by a person representing or working on behalf
40 of such a person in a manner described in section 42-5075, subsection 0,
41 if the machinery and equipment are used directly and primarily to prevent,
42 monitor, control or reduce air, water or land pollution.

43 20. Machinery or equipment that enables a television station to
44 originate and broadcast or to receive and broadcast digital television
45 signals and that was purchased to facilitate compliance with the

1 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United
2 States Code section 336) and the federal communications commission order
3 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
4 paragraph does not exempt any of the following:

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

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

10 (c) Any machinery or equipment purchased after the television
11 station has ceased analog broadcasting, or purchased after November 1,
12 2009, whichever occurs first.

13 21. Qualifying equipment that is purchased from and after June 30,
14 2004 through June 30, 2024 by a qualified business under section 41-1516
15 for harvesting or processing qualifying forest products removed from
16 qualifying projects as defined in section 41-1516. To qualify for this
17 exemption, the qualified business must obtain and present its
18 certification from the Arizona commerce authority at the time of purchase.

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

25 23. COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR OR
26 QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY
27 THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 OR AN AUTHORIZED
28 AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE
29 QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR
30 THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER", "COMPUTER DATA
31 CENTER EQUIPMENT", "QUALIFICATION PERIOD" AND "QUALIFIED COLOCATION
32 TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-1519.

33 C. The exemptions provided by subsection B of this section do not
34 include:

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

39 2. Janitorial equipment and hand tools.

40 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

28 1. Fees charged by a municipally owned utility to persons
29 constructing residential, commercial or industrial developments or
30 connecting residential, commercial or industrial developments to a
31 municipal utility system or systems if the fees are segregated and used
32 only for capital expansion, system enlargement or debt service of the
33 utility system or systems.

34 2. Reimbursement or contribution compensation to any person or
35 persons owning a utility system for property and equipment installed to
36 provide utility access to, on or across the land of an actual utility
37 consumer if the property and equipment become the property of the utility.
38 This deduction shall not exceed the value of such property and equipment.

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

41 1. A qualified manufacturing or smelting business. A utility that
42 claims this deduction shall report each month, on a form prescribed by the
43 department, the name and address of each qualified manufacturing or
44 smelting business for which this deduction is taken. This paragraph

1 applies to gas transportation services. For the purposes of this
2 paragraph:

3 (a) "Gas transportation services" means the services of
4 transporting natural gas to a natural gas customer or to a natural gas
5 distribution facility if the natural gas was purchased from a supplier
6 other than the utility.

7 (b) "Manufacturing" means the performance as a business of an
8 integrated series of operations that places tangible personal property in
9 a form, composition or character different from that in which it was
10 acquired and transforms it into a different product with a distinctive
11 name, character or use. Manufacturing does not include job printing,
12 publishing, packaging, mining, generating electricity or operating a
13 restaurant.

14 (c) "Qualified manufacturing or smelting business" means one of the
15 following:

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

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

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

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

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

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

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

38 H. A city or town may exempt proceeds from sales of paintings,
39 sculptures or similar works of fine art if such works of fine art are sold
40 by the original artist. For the purposes of this subsection, fine art
41 does not include an art creation such as jewelry, macrame, glasswork,
42 pottery, woodwork, metalwork, furniture or clothing if the art creation
43 has a dual purpose, both aesthetic and utilitarian, whether sold by the
44 artist or by another person.

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

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

5 2. "Aircraft" includes:

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

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

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

15 J. For the purposes of subsection D of this section, "ancillary
16 services", "electric distribution service", "electric generation service",
17 "electric transmission service" and "other services" have the same
18 meanings prescribed in section 42-5063.

19 Sec. 7. Section 42-6017, Arizona Revised Statutes, is amended to
20 read:

21 42-6017. Municipal taxation of businesses selling tangible
22 personal property at retail; state preemption;
23 exceptions; definitions

24 A. Except as provided in this section, section 42-5061 supersedes
25 all city or town ordinances or other local laws insofar as the ordinances
26 or local laws now or hereafter relate to the taxation of business
27 activities classified under section 42-5061.

28 B. The municipal tax rate for businesses selling tangible personal
29 property at retail for marketplace facilitators is the municipal tax rate
30 that is in effect in the city or town for businesses selling tangible
31 personal property at retail on September 30, 2019, until the city or town
32 changes the tax rate.

33 C. A city or town may:

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

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

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

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

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

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

15 (b) Livestock and poultry feed, salts, vitamins and other additives
16 for livestock or poultry consumption that are sold to persons for use or
17 consumption by their own livestock or poultry, for use or consumption in
18 the businesses of farming, ranching and producing or feeding livestock,
19 poultry, or livestock or poultry products or for use or consumption in
20 noncommercial boarding of livestock.

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

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

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

32 (d) Neat animals, horses, asses, sheep, ratites, swine or goats
33 used or to be used as breeding or production stock, including sales of
34 breedings or ownership shares in such animals used for breeding or
35 production. This subdivision does not apply and a city or town may not
36 continue to levy a transaction privilege tax pursuant to this subdivision
37 as follows:

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

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

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

1 5. Notwithstanding section 42-5061, subsection A, paragraph ~~60~~ 59,
2 levy a transaction privilege tax on the gross proceeds of sales or gross
3 income derived from the sale of works of fine art, as defined in section
4 44-1771, at an art auction or gallery in this state to nonresidents of
5 this state for use outside this state if the vendor ships or delivers the
6 work of fine art to a destination outside this state.

7 6. Notwithstanding section 42-5061, subsection A, paragraph 28,
8 levy a transaction privilege tax on the gross proceeds of sales or gross
9 income derived from the sale of a motor vehicle to:

10 (a) A nonresident of this state if the purchaser's state of
11 residence does not allow a corresponding use tax exemption to the tax
12 imposed by chapter 5, article 1 of this title and if the nonresident has
13 secured a special ninety day nonresident registration permit for the
14 vehicle as prescribed by sections 28-2154 and 28-2154.01. This
15 subdivision does not apply if the purchaser takes possession of the
16 vehicle outside of this state.

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

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

27 D. For the purposes of this section:

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

30 2. "Marketplace facilitator" has the same meaning prescribed in
31 section 42-5001.

32 3. "Poultry" includes ratites.

33 4. "Propagative materials":

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

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

43 5. "Remote seller" has the same meaning prescribed in section
44 42-5001.

1 Sec. 8. Section 43-1164.05, Arizona Revised Statutes, is amended to
2 read:

3 43-1164.05. Credit for renewable energy investment and
4 production for self-consumption by
5 international operations centers; definitions

6 A. A credit is allowed against the taxes imposed by this title for
7 investment in new renewable energy facilities that produce energy for
8 self-consumption using renewable energy resources if the power will be
9 used primarily for an international operations center.

10 B. The taxpayer is eligible for the credit if all of the following
11 apply:

12 1. The taxpayer, OR A THIRD-PARTY ENTITY ON BEHALF OF OR FOR THE
13 DIRECT BENEFIT OF THE TAXPAYER, invests at least \$100,000,000 in one or
14 more new renewable energy facilities in this state that produce energy for
15 self-consumption using renewable energy resources. The minimum investment
16 must be completed within a three-year period beginning on the date the
17 initial application is received or by December 31, ~~2030~~ 2018, whichever is
18 earlier.

19 2. A portion of the energy produced at each renewable energy
20 facility is used for self-consumption in this state. By the fifth year a
21 renewable energy facility is in operation, at least fifty-one percent of
22 the energy produced must be used for self-consumption in this state.
23 Self-consumption includes the power used by related entities if the
24 related entities are directly or indirectly under the same ownership
25 interests that collectively own more than eighty percent. Power that a
26 renewable energy facility transfers to a utility OR POWER GENERATED BY A
27 UTILITY-OWNED RENEWABLE ENERGY FACILITY DEVELOPED ON BEHALF OF OR FOR THE
28 DIRECT BENEFIT OF THE TAXPAYER qualifies as self-consumption if the
29 utility is the same utility that provides power to the owner's
30 international operations center in this state.

31 3. The power that is used for self-consumption under paragraph 2 of
32 this subsection is used for an international operations center in this
33 state. A lessor of an international operations center facility that uses
34 power for self-consumption under paragraph 2 of this subsection satisfies
35 the requirements of this paragraph if the lessee is an international
36 operations center and the power is transferred as part of the lease to the
37 lessee.

38 C. Subject to subsection F of this section, the credit authorized
39 by this section is \$5,000,000 per year for five years for each renewable
40 energy facility. The maximum credit allowed per taxpayer per year
41 is \$5,000,000. The taxpayer, including all affiliates of the taxpayer,
42 may not cumulate tax credits under this section over different taxable
43 years exceeding, in the aggregate, \$25,000,000. The initial credit for
44 each facility is claimed in the year that the facility becomes
45 operational. A credit, other than carryovers allowed under subsection M

1 of this section, may not be claimed for any taxable year beginning after
2 December 31, 2025. An international operations center that is initially
3 certified pursuant to section 41-1520, subsection C after December 31,
4 2018 may not claim the tax credit authorized by this section.

5 D. To qualify as a separate renewable energy facility for the
6 purposes of this section, a facility must be located at least one mile
7 from any other renewable energy facility for which the taxpayer is
8 claiming a credit under this section.

9 E. To be eligible for the credit under this section, the taxpayer
10 must apply to the department for certification of the credit on a form
11 prescribed by the department. The application shall include:

12 1. The name, address and social security number or federal employer
13 identification number of the applicant.

14 2. An estimate of the total investment the taxpayer will make,
15 INCLUDING INVESTMENTS MADE BY A THIRD-PARTY ENTITY ON BEHALF OF OR FOR THE
16 DIRECT BENEFIT OF THE TAXPAYER, over a three-year period beginning on the
17 date the application is received, in new renewable energy facilities in
18 this state that produce energy for self-consumption using renewable energy
19 resources. FOR INVESTMENTS MADE BY A THIRD PARTY, A STATEMENT FROM THE
20 UTILITY THAT PROVIDES POWER TO THE INTERNATIONAL OPERATIONS CENTER
21 AFFIRMING THAT THE INVESTMENT IN NEW RENEWABLE ENERGY FACILITIES IS MADE
22 ON BEHALF OF OR FOR THE DIRECT BENEFIT OF THE TAXPAYER SATISFIES THE
23 REQUIREMENT OF THIS PARAGRAPH.

24 3. The expected location of each of the taxpayer's facilities that
25 comprise the total investment in paragraph 2 of this subsection and the
26 earliest date that each facility is expected to be operational.

27 4. A statement that the portion of the power generated by each
28 facility, as required by subsection B, paragraph 2 of this section, shall
29 be for self-consumption and shall be used for international operations
30 center use.

31 5. Any additional information that the department requires.

32 F. The department shall review each application under subsection E
33 of this section and preapprove the taxpayer for a specified amount of
34 credit that is authorized. Credits are allowed under this section on a
35 first-come, first-served basis. The department may not authorize tax
36 credits under this section that exceed in the aggregate a total of
37 \$10,000,000 for any calendar year. The portion of each year's limit that
38 is reserved for each taxpayer must be based on the year that each credit
39 is expected to be claimed using the dates provided in subsection E,
40 paragraph 3 of this section. If the year a facility is completed is
41 different from the estimated completion date provided in subsection E,
42 paragraph 3 of this section, the taxpayer must amend the application with
43 the new dates. If an application is received that, if authorized, would
44 require the department to exceed the \$10,000,000 limit, the department
45 shall grant the applicant only the remaining credit amount that would not

1 exceed the \$10,000,000 limit. After the department authorizes \$10,000,000
2 in tax credits, the department shall deny any subsequent applications that
3 are received for that calendar year. The department may not authorize any
4 additional tax credits that exceed the \$10,000,000 limit even if the
5 amounts that have been certified to any taxpayer are not claimed or a
6 taxpayer otherwise fails to meet the requirements to claim the additional
7 credit.

8 G. If a taxpayer fails to start construction within six months
9 after submitting the application under subsection E of this section, the
10 preapproval issued under subsection F of this section is void and all
11 monies reserved from the limits specified in subsection F of this section
12 revert back to the limit for the year for which they were reserved.

13 H. Each year after initial preapproval, on or before the
14 anniversary date of the application specified in subsection E of this
15 section, the taxpayer must submit to the department:

16 1. Documentation of the taxpayer's progress toward the investment
17 required by subsection B, paragraph 1 of this section. This documentation
18 is not required after the department receives a report stating that the
19 required investment threshold has been reached.

20 2. Documentation for each facility that demonstrates that the
21 required portion of the power generated by each renewable energy facility
22 is for self-consumption as required by subsection B, paragraph 2 of this
23 section.

24 3. If applicable, certification from the Arizona commerce authority
25 pursuant to section 41-1520.

26 I. The taxpayer must submit a request for final certification to
27 the department within thirty days after each of the renewable energy
28 facilities for which an authorization was given under subsection F of this
29 section becomes operational. Within thirty days after receiving a
30 completed request under this subsection, the department shall review the
31 request and either issue a final certification of the credit to the
32 taxpayer or issue a denial of the credit if it is determined that the
33 requirements of this section have not been met. Every final certification
34 issued under this subsection must include a facility code issued by the
35 department that is unique to each facility. To show that the facility has
36 been certified, the taxpayer shall include with the tax return the
37 facility code for each facility for which a credit is claimed. If the
38 taxpayer is the owner or operator of an international operations center,
39 the taxpayer must submit the request for final certification for each of
40 the renewable energy facilities for which capital investment will be
41 claimed towards the required investment threshold and must submit
42 additional evidence to the department within sixty days after the end of
43 the fifth year of operation of each facility that the requirements of
44 subsection B, paragraph 2 of this section have been met.

1 J. If the taxpayer fails to make the required investment in
2 renewable energy facilities within the time period required by subsection
3 B, paragraph 1 of this section or if the certification of an international
4 operations center has been revoked under section 41-1520 due to a failure
5 to make a \$1,250,000,000 investment in the center within ten years after
6 certification or if the taxpayer fails to receive final certification of
7 the credit under subsection I of this section, the taxpayer is not
8 eligible and must cease claiming any further credits under this section
9 and shall reimburse the amount of all credits previously received under
10 this section. The reimbursement must be made on the taxpayer's income tax
11 return for the taxable year in which it is first known that the required
12 investment would not be made within the required time or the taxable year
13 in which the certification was revoked. The department may give special
14 consideration or allow a temporary exemption from reimbursement if there
15 is extraordinary hardship due to factors beyond the taxpayer's control.
16 If the reimbursement is due to revocation of the certification of an
17 international operations center due to a failure to invest \$1,250,000,000
18 in the center within ten years after certification, the credits shall be
19 reimbursed in inverse proportion to the total capital investment made in
20 the international operations center divided by \$1,250,000,000. The
21 department may require reimbursement before the tenth anniversary of
22 certification of an international operations center if the facility has
23 been closed or relocated or the taxpayer has otherwise demonstrated that
24 the \$1,250,000,000 investment will not be timely made. FOR TAXPAYERS
25 USING INVESTMENTS MADE BY THIRD-PARTY ENTITIES ON BEHALF OF OR FOR THE
26 DIRECT BENEFIT OF THE TAXPAYER, THE INVESTMENT THRESHOLD IS
27 \$1,500,000,000. A THIRD-PARTY ENTITY MAY NOT INCLUDE THE OWNER OR
28 OPERATOR OF THE INTERNATIONAL OPERATIONS CENTER OR, SOLELY FOR THE
29 PURPOSES OF THIS SUBSECTION, THE OWNER'S OR OPERATOR'S AFFILIATED
30 ENTITIES.

31 K. If a particular facility ceases to meet the requirements of this
32 section or if the facility is sold, the taxpayer may not claim any future
33 credits related to that facility.

34 L. Co-owners of a business, including corporate partners in a
35 partnership and corporate members of a limited liability company treated
36 as a partnership, may each claim the pro rata share of the credit allowed
37 under this section based on ownership interest. Only co-owners that are
38 corporations may claim a share of the credit allowed under this section.
39 The total of the credits allowed all the owners of the business may not
40 exceed the amount that would have been allowed for a sole owner of the
41 business.

42 M. If the allowable tax credit for a taxpayer exceeds the taxes
43 otherwise due under this title on the claimant's income, or if there are
44 no taxes due under this title, the amount of the claim not used to offset
45 taxes under this title may be carried forward for not more than five

1 consecutive taxable years as a credit against subsequent years' income tax
2 liability.

3 N. A taxpayer may not claim a credit under this section and section
4 43-1164.03 regarding the same facilities.

5 O. The department shall adopt rules and publish and prescribe forms
6 and procedures as necessary to effectuate the purposes of this section.

7 P. For the purposes of this section:

8 1. "Biomass" means organic material that is available on a
9 renewable or recurring basis, including:

10 (a) Forest-related materials, including mill residues, logging
11 residues, forest thinnings, slash, brush, low-commercial value materials
12 or undesirable species, salt cedar and other phreatophyte or woody
13 vegetation removed from river basins or watersheds and woody material
14 harvested for the purpose of forest fire fuel reduction or forest health
15 and watershed improvement.

16 (b) Agricultural-related materials, including orchard trees,
17 vineyard, grain or crop residues, including straws and stover, aquatic
18 plants and agricultural processed coproducts and waste products, including
19 fats, oils, greases, whey and lactose.

20 (c) Animal waste, including manure and slaughterhouse and other
21 processing waste.

22 (d) Solid woody waste materials, including landscape or
23 right-of-way tree trimmings, rangeland maintenance residues, waste
24 pallets, crates and manufacturing, construction and demolition wood wastes
25 but excluding pressure-treated, chemically treated or painted wood wastes
26 and wood contaminated with plastic.

27 (e) Crops and trees planted for the purpose of being used to
28 produce energy.

29 (f) Landfill gas, wastewater treatment gas and biosolids, including
30 organic waste by-products generated during the wastewater treatment
31 process.

32 2. "International operations center" means a facility that is
33 certified by the Arizona commerce authority pursuant to section 41-1520.

34 3. "Renewable energy facility" means a facility in which the
35 taxpayer, OR A THIRD-PARTY ENTITY ON BEHALF OF AND FOR THE BENEFIT OF THE
36 TAXPAYER, invested at least \$30,000,000, that has at least twenty
37 megawatts generating capacity or a minimum typical annual generation of
38 forty thousand megawatt hours, that is located on land in this state owned
39 or leased by the taxpayer OR A THIRD-PARTY ENTITY ON BEHALF OF AND FOR THE
40 BENEFIT OF THE TAXPAYER and that produces electricity using a renewable
41 energy resource.

42 4. "Renewable energy resource" means a resource that generates
43 electricity through the use of only the following energy sources:

44 (a) Solar light.

45 (b) Solar heat.

1 (c) Wind.

2 (d) Biomass, including fuel cells supplied directly or indirectly
3 with biomass generated fuels.

4 (e) BATTERY STORAGE THAT IS INDEPENDENT FROM OR COUPLED WITH OTHER
5 SOURCES.

6 Sec. 9. Refunds

7 Any claim for refund of transaction privilege or use tax based on
8 the retroactive application of section 41-1519, subsection 0, paragraph
9 14, Arizona Revised Statutes, as amended by this act, section 42-5061,
10 subsection B, paragraph 22, Arizona Revised Statutes, as added by this act
11 and section 42-5159, subsection B, paragraph 23, Arizona Revised Statutes,
12 as added by this act, shall be submitted to the department of revenue on
13 or before December 31, 2021, pursuant to section 42-1118, Arizona Revised
14 Statutes, and is subject to the following:

15 1. A failure to file such a claim on or before December 31, 2021
16 constitutes a waiver of the claim for refund.

17 2. The aggregate refund amount may not exceed \$10,000 for such
18 claims filed from and after December 31, 2020 through December 31, 2021.

19 3. If the aggregate refund amount of such claims ultimately
20 determined to be correct is more than \$10,000, the department of revenue
21 shall reduce each claim proportionately so that the total aggregate refund
22 amount equals \$10,000.

23 4. Interest is not allowed and may not be compounded on any
24 refundable amount of such claims if paid before July 1, 2022, but if the
25 amount cannot be determined or paid until after June 30, 2022, interest
26 accrues after that date pursuant to section 42-1123, Arizona Revised
27 Statutes.

28 5. Any refund claim that is filed before January 1, 2021 or that is
29 not related to the changes under this act is not subject to the \$10,000
30 aggregate refund amount.

31 Sec. 10. Legislative intent

32 The Legislature intends with this act to move the transaction
33 privilege tax deduction for computer data center equipment in section
34 42-5061, Arizona Revised Statutes, from section 42-5061, subsection A,
35 Arizona Revised Statutes, to section 42-5061, subsection B, Arizona
36 Revised Statutes, and from section 42-5159, subsection A, Arizona Revised
37 Statutes, to section 42-5159, subsection B, Arizona Revised Statutes, in
38 order to clarify and allow taxpayers to take advantage of the independent
39 functional utility deduction in section 42-5075, Arizona Revised Statutes,
40 in addition to the deductions allowed in sections 42-5061 and 42-5159,
41 Arizona Revised Statutes.

1 Sec. 11. Retroactivity

2 A. Sections 41-1519, 42-5075, 42-5159 and 42-6017, Arizona Revised
3 Statutes, as amended by this act, and section 42-5061, as amended by Laws
4 2019, chapter 273, section 7 and chapter 288, section 1 and this act,
5 apply retroactively to taxable periods beginning from and after September
6 12, 2013.

7 B. Sections 41-1520 and 43-1164.05, Arizona Revised Statutes, as
8 amended by this act, apply retroactively to from and after August 24,
9 2020.

10 Sec. 12. Nonseverability

11 If any portion of this act is finally adjudicated invalid, the
12 entire act is void. The provisions of this act are intended to be
13 nonseverable.

14 Sec. 13. Conditional enactment; retroactivity

15 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,
16 chapter 273, section 8 and chapter 288, section 2 and this act, becomes
17 effective on the date prescribed by Laws 2018, chapter 263, section 5 and
18 applies retroactively to taxable periods beginning from and after
19 September 12, 2013, but only on the occurrence of the condition prescribed
20 by Laws 2018, chapter 263, section 5.

APPROVED BY THE GOVERNOR APRIL 20, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2021.