

REFERENCE TITLE: renewable energy storage equipment; valuation

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

## HB 2153

Introduced by  
Representatives Dunn: Cobb, Cook

### AN ACT

AMENDING SECTIONS 9-499.14, 11-254.07 AND 42-5009, 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 42-5064, 42-5071, 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 163, SECTION 23 AND CHAPTER 189, SECTION 3; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 163, SECTION 24 AND CHAPTER 189, SECTION 4; AMENDING SECTIONS 42-14151 AND 42-14155, ARIZONA REVISED STATUTES; RELATING TO RENEWABLE ENERGY EQUIPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-499.14, Arizona Revised Statutes, is amended  
3 to read:

4 9-499.14. Renewable energy incentive districts; definition

5 A. The governing body of a city or town may designate a renewable  
6 energy incentive district in an area in the city or town if all of the  
7 following apply:

8 1. The proposed district consists of A vacant or underused parcel  
9 or parcels of property, or ANY other parcel or parcels of property the  
10 governing body deems suitable for renewable energy AND STORAGE equipment,  
11 that are appropriate sizes for the construction and operation of renewable  
12 energy AND STORAGE equipment. The governing body may designate portions  
13 of land or noncontiguous portions of land as a renewable energy INCENTIVE  
14 district or districts.

15 2. The proposed district is located within an area of the city or  
16 town so that the construction and operation of renewable energy AND  
17 STORAGE equipment would not be incompatible with other uses of property in  
18 the area considering factors relating to the construction and operation of  
19 renewable energy AND STORAGE equipment, including:

20 (a) The ability to adequately buffer the district from surrounding  
21 incompatible uses.

22 (b) The noise level emanating from the district alone and in  
23 relation to ambient noise levels at the perimeter of the property falling  
24 within the proposed district and relative to other adjacent lands.

25 (c) The extent to which the district would be located in proximity  
26 to existing transportation and electrical transmission corridors.

27 (d) Compatibility with commercial and military air space  
28 requirements.

29 3. The governing body has evaluated the extent to which the  
30 proposed district is consistent with the existing general plan and has  
31 determined that the proposed district does not conflict with the plan.  
32 The governing body may determine that the district is not a major  
33 amendment to the general plan pursuant to section 9-461.06.

34 B. If the governing body establishes a renewable energy incentive  
35 district, it shall adopt a renewable energy incentive plan to encourage  
36 the construction and operation of renewable energy AND STORAGE equipment  
37 in the district. The plan may include:

38 1. Expedited zoning or rezoning procedures.

39 2. Expedited processing of plans, proposals and permits.

40 3. Waivers or abatement of zoning fees, processing fees, and  
41 improvement district fees and assessments for development activities.

42 4. Waiver or abatement of development standards and procedural  
43 requirements.

44 C. For the purposes of this section, "renewable energy AND STORAGE  
45 equipment" has the same meaning as prescribed in section 42-14155.

1           Sec. 2. Section 11-254.07, Arizona Revised Statutes, is amended to  
2 read:

3           11-254.07. Renewable energy incentive districts; definition

4           A. The board of supervisors may designate a renewable energy  
5 incentive district in any unincorporated area of the county if all of the  
6 following apply:

7           1. The proposed district consists of a vacant or underused parcel  
8 or parcels of property, or any other parcel or parcels of property the  
9 board of supervisors deems suitable for renewable energy **AND STORAGE**  
10 equipment, that are appropriate sizes for the construction and operation  
11 of renewable energy **AND STORAGE** equipment. The board of supervisors may  
12 designate large portions of unincorporated county land or noncontiguous  
13 portions of land as a renewable energy incentive district or districts.

14           2. The proposed district is located within an area of the county so  
15 that the construction and operation of renewable energy **AND STORAGE**  
16 equipment would not be incompatible with other uses of property in the  
17 area considering factors relating to the construction and operation of  
18 renewable energy **AND STORAGE** equipment, including:

19           (a) The ability to adequately buffer the district from surrounding  
20 incompatible uses.

21           (b) The noise level emanating from the district alone and in  
22 relation to ambient noise levels at the perimeter of the property falling  
23 within the proposed district and relative to other adjacent lands.

24           (c) The extent to which the district would be located in proximity  
25 to existing transportation and electrical transmission corridors.

26           (d) Compatibility with commercial and military air space  
27 requirements.

28           3. The board of supervisors has evaluated the extent to which the  
29 proposed district is consistent with the existing county comprehensive  
30 plan and has determined that the proposed district does not conflict with  
31 the plan. The board of supervisors may determine that the district is not  
32 a major amendment to the county comprehensive plan pursuant to section  
33 11-805.

34           B. Before establishing a renewable energy incentive district, the  
35 board of supervisors shall:

36           1. Identify the boundaries of the proposed district.

37           2. Notify the owners of private property in the proposed district,  
38 property managers of federal and state land in the proposed district and  
39 adjacent property owners by first class mail sent to the addresses on the  
40 most recent tax roll. The notice shall be mailed at least fifteen days  
41 before the hearing held to adopt the energy incentive plan.

42           C. If the board of supervisors establishes a renewable energy  
43 incentive district, it shall adopt a renewable energy incentive plan to  
44 encourage the construction and operation of renewable energy **AND STORAGE**  
45 equipment in the district. The plan may include:

- 1           1. Expedited zoning or rezoning procedures.
- 2           2. Expedited processing of plans, proposals and permits.
- 3           3. Waivers or abatement of county zoning fees, processing fees, and
- 4 county improvement district fees and assessments for development
- 5 activities.
- 6           4. Waiver or abatement of development standards and procedural
- 7 requirements.

8           D. For the purposes of this section, "renewable energy AND STORAGE

9 equipment" has the same meaning prescribed in section 42-14155.

10          Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to

11 read:

12           42-5009. Certificates establishing deductions; liability for

13   making false certificate

14           A. A person who conducts any business classified under article 2 of

15 this chapter may establish entitlement to the allowable deductions from

16 the tax base of that business by both:

17           1. Marking the invoice for the transaction to indicate that the

18 gross proceeds of sales or gross income derived from the transaction was

19 deducted from the tax base.

20           2. Obtaining a certificate executed by the purchaser indicating the

21 name and address of the purchaser, the precise nature of the business of

22 the purchaser, the purpose for which the purchase was made, the necessary

23 facts to establish the appropriate deduction and the tax license number of

24 the purchaser to the extent the deduction depends on the purchaser

25 conducting business classified under article 2 of this chapter and a

26 certification that the person executing the certificate is authorized to

27 do so on behalf of the purchaser. The certificate may be disregarded if

28 the seller has reason to believe that the information contained in the

29 certificate is not accurate or complete.

30           B. A person who does not comply with subsection A of this section

31 may establish entitlement to the deduction by presenting facts necessary

32 to support the entitlement, but the burden of proof is on that person.

33           C. The department may prescribe a form for the certificate

34 described in subsection A of this section. Under such rules as it may

35 prescribe, the department may also describe transactions with respect to

36 which a person is not entitled to rely solely on the information contained

37 in the certificate provided for in subsection A of this section but must

38 instead obtain such additional information as required by the rules in

39 order to be entitled to the deduction.

40           D. If a seller is entitled to a deduction by complying with

41 subsection A of this section, the department may require the purchaser

42 that caused the execution of the certificate to establish the accuracy and

43 completeness of the information required to be contained in the

44 certificate that would entitle the seller to the deduction. If the

45 purchaser cannot establish the accuracy and completeness of the

1 information, the purchaser is liable in an amount equal to any tax,  
2 penalty and interest that the seller would have been required to pay under  
3 this article if the seller had not complied with subsection A of this  
4 section. Payment of the amount under this subsection exempts the  
5 purchaser from liability for any tax imposed under article 4 of this  
6 chapter. The amount shall be treated as tax revenues collected from the  
7 seller in order to designate the distribution base for purposes of section  
8 42-5029.

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

21 F. The department may prescribe a form for a certificate used to  
22 establish entitlement to the deductions described in section 42-5061,  
23 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.  
24 Under rules the department may prescribe, the department may also require  
25 additional information for the seller to be entitled to the deduction. If  
26 a seller is entitled to the deductions described in section 42-5061,  
27 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3,  
28 the department may require the purchaser who executed the certificate to  
29 establish the accuracy and completeness of the information contained in  
30 the certificate that would entitle the seller to the deduction. If the  
31 purchaser cannot establish the accuracy and completeness of the  
32 information, the purchaser is liable in an amount equal to any tax,  
33 penalty and interest that the seller would have been required to pay under  
34 this article. Payment of the amount under this subsection exempts the  
35 purchaser from liability for any tax imposed under article 4 of this  
36 chapter. The amount shall be treated as tax revenues collected from the  
37 seller in order to designate the distribution base for purposes of section  
38 42-5029.

39 G. If a seller claims a deduction under section 42-5061,  
40 subsection A, paragraph 25 and establishes entitlement to the deduction  
41 with an exemption letter that the purchaser received from the department  
42 and the exemption letter was based on a contingent event, the department  
43 may require the purchaser that received the exemption letter to establish  
44 the satisfaction of the contingent event within a reasonable time. If the  
45 purchaser cannot establish the satisfaction of the event, the purchaser is

1 liable in an amount equal to any tax, penalty and interest that the seller  
2 would have been required to pay under this article if the seller had not  
3 been furnished the exemption letter. Payment of the amount under this  
4 subsection exempts the purchaser from liability for any tax imposed under  
5 article 4 of this chapter. The amount shall be treated as tax revenues  
6 collected from the seller in order to designate the distribution base for  
7 purposes of section 42-5029. For the purposes of this subsection,  
8 "reasonable time" means a time limitation that the department determines  
9 and that does not exceed the time limitations pursuant to section 42-1104.

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

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

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

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

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

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

1 collected from the motor vehicle dealer in order to designate the  
2 distribution base for purposes of section 42-5029.

3 J. To establish entitlement to the deduction described in section  
4 42-5061, subsection A, paragraph 44, a public consignment auction dealer  
5 as defined in section 28-4301 shall submit the valid certificate  
6 prescribed by subsection H of this section to the department and retain a  
7 copy for its records.

8 K. Notwithstanding any other law, compliance with subsection H of  
9 this section by a motor vehicle dealer entitles the motor vehicle dealer  
10 to the exemption provided in section 42-6004, subsection A, paragraph 4.

11 L. The department shall prescribe a form for a certificate to be  
12 used by a person that is not subject to tax under section 42-5075 when the  
13 person is engaged by a contractor that is subject to tax under section  
14 42-5075 for a project that is taxable under section 42-5075. The  
15 certificate permits the person purchasing tangible personal property to be  
16 incorporated or fabricated by the person into any real property,  
17 structure, project, development or improvement to provide documentation to  
18 a retailer that the sale of tangible personal property qualifies for the  
19 deduction under section 42-5061, subsection A, paragraph 27,  
20 subdivision (b). A prime contractor shall obtain the certificate from the  
21 department and shall provide a copy to any such person working on the  
22 project. The prime contractor shall obtain a new certificate for each  
23 project to which this subsection applies. For the purposes of this  
24 subsection, the following apply:

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

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

32 3. If any person uses the certificate provided under this  
33 subsection to purchase tangible personal property to be used in a project  
34 that is not subject to tax under section 42-5075, the person is liable in  
35 an amount equal to any tax, penalty and interest that the seller would  
36 have been required to pay under this article if the seller had not  
37 complied with subsection A of this section. Payment of the amount under  
38 this section exempts the person from liability for any tax imposed under  
39 article 4 of this chapter. The amount shall be sourced under section  
40 42-5040, subsection A, paragraph 2.

41 M. Notwithstanding any other law, compliance with subsection L of  
42 this section by a person that is not subject to tax under section 42-5075  
43 entitles the person to the exemption allowed by section 465,  
44 subsection (k) of the model city tax code when purchasing tangible

1 personal property to be incorporated or fabricated by the person into any  
2 real property, structure, project, development or improvement.

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

7 1. Persons who feed their own livestock or poultry.

8 2. Persons who are engaged in the business of producing livestock  
9 or poultry commercially.

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

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

22 P. Notwithstanding any other law, an online lodging operator, as  
23 defined in section 42-5076, shall be entitled to an exclusion from any  
24 applicable taxes for any online lodging transaction, as defined in section  
25 42-5076, facilitated by an online lodging marketplace, as defined in  
26 section 42-5076, for which the online lodging operator has obtained from  
27 the online lodging marketplace written notice that the online lodging  
28 marketplace is registered with the department to collect applicable taxes  
29 for all online lodging transactions facilitated by the online lodging  
30 marketplace, and transaction history documenting tax collected by the  
31 online lodging marketplace, pursuant to section 42-5005, subsection L.

32 Q. The department shall prescribe the form of a certificate to be  
33 used by a person purchasing an aircraft to document eligibility for a  
34 deduction pursuant to section 42-5061, subsection B, paragraph ~~7~~ 8,  
35 subdivision (a), item (v) or an exemption pursuant to section 42-5159,  
36 subsection B, paragraph ~~7~~ 8, subdivision (a), item (v), relating to  
37 aircraft. The person must provide this certificate and documentation  
38 confirming that the operational control of the aircraft has been  
39 transferred or will be transferred immediately after the purchase to one  
40 or more persons described in section 42-5061, subsection B, paragraph  
41 ~~7~~ 8, subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,  
42 subsection B, paragraph ~~7~~ 8, subdivision (a), item (i), (ii), (iii)  
43 or (iv). Operational control of the aircraft must be transferred for at  
44 least fifty percent of the aircraft's flight hours. If such operational  
45 control is not transferred for at least fifty percent of the aircraft's



1 flight hours during the recapture period, the owner of the aircraft is  
2 liable for an amount equal to any tax that the seller or purchaser would  
3 have been required to pay under this chapter at the time of the sale, plus  
4 penalty and interest. The recapture period begins on the date that  
5 operational control of the aircraft is first transferred and ends on the  
6 later of the date the aircraft is fully depreciated for federal income tax  
7 purposes or five years after operational control was first transferred.  
8 For the purposes of this subsection, operational control of the aircraft  
9 must be within the meaning of federal aviation administration operations  
10 specification A008, or its successor, except that:

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

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

21 Sec. 4. Section 42-5061, Arizona Revised Statutes, as amended by  
22 Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended  
23 to read:

24 42-5061. Retail classification; definitions

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

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

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

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

38 4. Sales of tangible personal property by any nonprofit  
39 organization organized and operated exclusively for charitable purposes  
40 and recognized by the United States internal revenue service under section  
41 501(c)(3) of the internal revenue code.

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

- 1           6. Business activity that is properly included in any other  
2 business classification that is taxable under this article.
- 3           7. The sale of stocks and bonds.
- 4           8. Drugs and medical oxygen, including delivery hose, mask or tent,  
5 regulator and tank, ~~on the prescription of~~ IF PRESCRIBED BY a member of  
6 the medical, dental or veterinarian profession who is licensed by law to  
7 administer such substances.
- 8           9. Prosthetic appliances as defined in section 23-501 and as  
9 prescribed or recommended by a health professional who is licensed  
10 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 11          10. Insulin, insulin syringes and glucose test strips.
- 12          11. Prescription eyeglasses or contact lenses.
- 13          12. Hearing aids as defined in section 36-1901.
- 14          13. Durable medical equipment that has a centers for medicare and  
15 medicaid services common procedure code, is designated reimbursable by  
16 medicare, is prescribed by a person who is licensed under title 32,  
17 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is  
18 primarily and customarily used to serve a medical purpose, is generally  
19 not useful to a person in the absence of illness or injury and is  
20 appropriate for use in the home.
- 21          14. Sales of motor vehicles to nonresidents of this state for use  
22 outside this state if the motor vehicle dealer ships or delivers the motor  
23 vehicle to a destination out of this state.
- 24          15. Food, as provided in and subject to the conditions of article 3  
25 of this chapter and sections 42-5074 and 42-6017.
- 26          16. Items purchased with United States department of agriculture  
27 coupons issued under the supplemental nutrition assistance program  
28 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
29 7 United States Code sections 2011 through 2036b) by the United States  
30 department of agriculture food and nutrition service or food instruments  
31 issued under section 17 of the child nutrition act (P.L. 95-627; 92  
32 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
33 section 1786).
- 34          17. Textbooks by any bookstore that are required by any state  
35 university or community college.
- 36          18. Food and drink to a person that is engaged in a business that  
37 is classified under the restaurant classification and that provides such  
38 food and drink without monetary charge to its employees for their own  
39 consumption on the premises during the employees' hours of employment.
- 40          19. Articles of food, drink or condiment and accessory tangible  
41 personal property to a school district or charter school if such articles  
42 and accessory tangible personal property are to be prepared and served to  
43 persons for consumption on the premises of a public school within the  
44 district or on the premises of the charter school during school hours.

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

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

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

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

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

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

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

32           22. Motor vehicle fuel and use fuel that are subject to a tax  
33 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
34 holder of a valid single trip use fuel tax permit issued under section  
35 28-5739, sales of aviation fuel that are subject to the tax imposed under  
36 section 28-8344 and sales of jet fuel that are subject to the tax imposed  
37 under article 8 of this chapter.

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

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

45           25. Tangible personal property sold to:

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

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

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

11 (d) A qualifying community health center as defined in section  
12 42-5001.

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

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

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

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

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

33 27. Tangible personal property sold to:

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

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

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

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

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

6 28. The sale of a motor vehicle to:

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

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

14 29. Tangible personal property purchased in this state by a  
15 nonprofit charitable organization that has qualified under section  
16 501(c)(3) of the United States internal revenue code and that engages in  
17 and uses such property exclusively in programs for persons with mental or  
18 physical disabilities if the programs are exclusively for training, job  
19 placement, rehabilitation or testing.

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

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

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

44 33. Sales of propagative materials to persons who use those items  
45 to commercially produce agricultural, horticultural, viticultural or

1 floricultural crops in this state. For the purposes of this paragraph,  
2 "propagative materials":

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

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

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

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

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

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

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

1 operation and includes job printing, engraving, embossing, copying and  
2 bookbinding.

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

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

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

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

21 41. A motor vehicle and any repair and replacement parts and  
22 tangible personal property becoming a part of such motor vehicle sold to a  
23 motor carrier ~~who~~ THAT is subject to a fee prescribed in title 28, chapter  
24 16, article 4 and ~~who~~ THAT is engaged in the business of leasing or  
25 renting such property.

26 42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

44 (c) "Indian tribe" means any organized nation, tribe, band or  
45 community that is recognized as an Indian tribe by the United States

1 department of the interior and includes any entity formed under the laws  
2 of the Indian tribe.

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

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

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

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

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

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

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

41 5. MACHINERY AND EQUIPMENT USED DIRECTLY FOR ENERGY STORAGE FOR  
42 LATER ELECTRICAL USE. FOR THE PURPOSES OF THIS PARAGRAPH:

43 (a) "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A  
44 BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR THE  
45 PERSON'S EQUIPMENT SUPPLIERS.

1 (b) "ENERGY STORAGE" MEANS COMMERCIALY AVAILABLE TECHNOLOGY FOR  
2 ELECTRIC UTILITY SCALE THAT IS CAPABLE OF ABSORBING ENERGY, STORING ENERGY  
3 FOR A PERIOD OF TIME AND THEREAFTER DISPATCHING THE ENERGY AND THAT USES  
4 MECHANICAL, CHEMICAL OR THERMAL PROCESSES TO STORE ENERGY.

5 (c) "MACHINERY AND EQUIPMENT USED DIRECTLY" MEANS ALL MACHINERY AND  
6 EQUIPMENT THAT ARE USED FOR ELECTRIC ENERGY STORAGE FROM THE POINT OF  
7 RECEIPT FROM THE GRID IN ORDER TO FACILITATE STORAGE OF THE ELECTRIC  
8 ENERGY TO THE POINT WHERE ELECTRIC ENERGY IS RELEASED TO THE GRID.

9 ~~5.~~ 6. Neat animals, horses, asses, sheep, ratites, swine or goats  
10 used or to be used as breeding or production stock, including sales of  
11 breedings or ownership shares in such animals used for breeding or  
12 production.

13 ~~6.~~ 7. Pipes or valves four inches in diameter or larger used to  
14 transport oil, natural gas, artificial gas, water or coal slurry,  
15 including compressor units, regulators, machinery and equipment, fittings,  
16 seals and any other part that is used in operating the pipes or valves.

17 ~~7.~~ 8. Aircraft, navigational and communication instruments and  
18 other accessories and related equipment sold to:

19 (a) A person:

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

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

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

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

42 (v) That will lease or otherwise transfer operational control,  
43 within the meaning of federal aviation administration operations  
44 specification A008, or its successor, of the aircraft, instruments or

1 accessories to one or more persons described in item (i), (ii), (iii) or  
2 (iv) of this subdivision, subject to section 42-5009, subsection Q.

3 (b) Any foreign government.

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

11 ~~8-~~ 9. Machinery, tools, equipment and related supplies used or  
12 consumed directly in repairing, remodeling or maintaining aircraft,  
13 aircraft engines or aircraft component parts by or on behalf of a  
14 certificated or licensed carrier of persons or property.

15 ~~9-~~ 10. Railroad rolling stock, rails, ties and signal control  
16 equipment used directly to transport persons or property.

17 ~~10-~~ 11. Machinery or equipment used directly to drill for oil or  
18 gas or used directly in the process of extracting oil or gas from the  
19 earth for commercial purposes.

20 ~~11-~~ 12. Buses or other urban mass transit vehicles that are used  
21 directly to transport persons or property for hire or pursuant to a  
22 governmentally adopted and controlled urban mass transportation program  
23 and that are sold to bus companies holding a federal certificate of  
24 convenience and necessity or operated by any city, town or other  
25 governmental entity or by any person contracting with such governmental  
26 entity as part of a governmentally adopted and controlled program to  
27 provide urban mass transportation.

28 ~~12-~~ 13. Groundwater measuring devices required under section  
29 45-604.

30 ~~13-~~ 14. New machinery and equipment consisting of agricultural  
31 aircraft, tractors, tractor-drawn implements, self-powered implements,  
32 machinery and equipment necessary for extracting milk, and machinery and  
33 equipment necessary for cooling milk and livestock, and drip irrigation  
34 lines not already exempt under paragraph ~~6-~~ 7 of this subsection and that  
35 are used for commercial production of agricultural, horticultural,  
36 viticultural and floricultural crops and products in this state. For the  
37 purposes of this paragraph:

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

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

43 ~~14-~~ 15. Machinery or equipment used in research and  
44 development. For the purposes of this paragraph, "research and  
45 development" means basic and applied research in the sciences and

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

11 ~~15.~~ 16. Tangible personal property that is used by either of the  
12 following to receive, store, convert, produce, generate, decode, encode,  
13 control or transmit telecommunications information:

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

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

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

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

32 ~~16.~~ 17. Clean rooms that are used for manufacturing, processing,  
33 fabrication or research and development, as defined in paragraph ~~14~~ 15 of  
34 this subsection, of semiconductor products. For the purposes of this  
35 paragraph, "clean room" means all property that comprises or creates an  
36 environment where humidity, temperature, particulate matter and  
37 contamination are precisely controlled within specified parameters,  
38 without regard to whether the property is actually contained within that  
39 environment or whether any of the property is affixed to or incorporated  
40 into real property. Clean room:

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

1 tolerances, as well as the production machinery and equipment operating in  
2 conjunction with the clean room environment.

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

5 ~~17.~~ 18. Machinery and equipment used directly in ~~the feeding of~~  
6 poultry, ~~the environmental control of~~ ENVIRONMENTALLY CONTROLLING housing  
7 for poultry, ~~the movement of~~ MOVING eggs within a production and packaging  
8 facility or ~~the~~ sorting or cooling of eggs. This exemption does not apply  
9 to vehicles used for transporting eggs.

10 ~~18.~~ 19. Machinery or equipment, including related structural  
11 components, that is employed in connection with manufacturing, processing,  
12 fabricating, job printing, refining, mining, natural gas pipelines,  
13 metallurgical operations, telecommunications, producing or transmitting  
14 electricity or research and development and that is used directly to meet  
15 or exceed rules or regulations adopted by the federal energy regulatory  
16 commission, the United States environmental protection agency, the United  
17 States nuclear regulatory commission, the Arizona department of  
18 environmental quality or a political subdivision of this state to prevent,  
19 monitor, control or reduce land, water or air pollution.

20 ~~19.~~ 20. Machinery and equipment that are sold to a person engaged  
21 in the ~~commercial production of~~ COMMERCIALLY PRODUCING livestock,  
22 livestock products or agricultural, horticultural, viticultural or  
23 floricultural crops or products in this state, including a person  
24 representing or working on behalf of such a person in a manner described  
25 in section 42-5075, subsection 0, if the machinery and equipment are used  
26 directly and primarily to prevent, monitor, control or reduce air, water  
27 or land pollution.

28 ~~20.~~ 21. Machinery or equipment that enables a television station  
29 to originate and broadcast or to receive and broadcast digital television  
30 signals and that was purchased to facilitate compliance with the  
31 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United  
32 States Code section 336) and the federal communications commission order  
33 issued April 21, 1997 (47 Code of Federal Regulations part 73). This  
34 paragraph does not exempt any of the following:

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

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

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

43 ~~21.~~ 22. Qualifying equipment that is purchased from and after June  
44 30, 2004 through June 30, 2024 by a qualified business under section  
45 41-1516 for harvesting or processing qualifying forest products removed

1 from qualifying projects as defined in section 41-1516. To qualify for  
2 this deduction, the qualified business at the time of purchase must  
3 present its certification approved by the department.

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

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

10 2. Janitorial equipment and hand tools.

11 3. Office equipment, furniture and supplies.

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

15 5. Motor vehicles required to be licensed by this state, except  
16 buses or other urban mass transit vehicles specifically exempted pursuant  
17 to subsection B, paragraph ~~11~~ 12 of this section, without regard to the  
18 use of such motor vehicles.

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

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

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

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

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

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

42 G. If a person is engaged in the business of selling tangible  
43 personal property at both wholesale and retail, the tax under this section  
44 applies only to the gross proceeds of the sales made other than at  
45 wholesale if the person's books are kept so as to show separately the

1 gross proceeds of sales of each class, and if the books are not so kept,  
2 the tax under this section applies to the gross proceeds of every sale so  
3 made.

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

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

15 2. Businesses classified under the:

16 (a) Transporting classification.

17 (b) Utilities classification.

18 (c) Telecommunications classification.

19 (d) Pipeline classification.

20 (e) Private car line classification.

21 (f) Publication classification.

22 (g) Job printing classification.

23 (h) Prime contracting classification.

24 (i) Restaurant classification.

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

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

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

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

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



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

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

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

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

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

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

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

28 O. For the purposes of this section, a sale of wireless  
29 telecommunications equipment to a person who holds the equipment for sale  
30 or transfer to a customer as an inducement to enter into or continue a  
31 contract for telecommunications services that are taxable under section  
32 42-5064 is considered to be a sale for resale in the regular course of  
33 business.

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

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

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

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

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

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

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

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

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

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

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

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

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

5 V. For the purposes of this section:

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

9 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

11           Sec. 5. Section 42-5061, Arizona Revised Statutes, as amended by  
12 Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended  
13 to read:

14           42-5061. Retail classification; definitions

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

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

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

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

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

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

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

37           7. The sale of stocks and bonds.

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

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

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

1 11. Prescription eyeglasses or contact lenses.

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

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

10 14. Sales of motor vehicles to nonresidents of this state for use  
11 outside this state if the motor vehicle dealer ships or delivers the motor  
12 vehicle to a destination out of this state.

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

15 16. Items purchased with United States department of agriculture  
16 coupons issued under the supplemental nutrition assistance program  
17 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
18 7 United States Code sections 2011 through 2036b) by the United States  
19 department of agriculture food and nutrition service or food instruments  
20 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.  
21 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
22 section 1786).

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

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

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

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

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

43 (a) "Cash equivalents" means items or intangibles, whether or not  
44 negotiable, that are sold to one or more persons, through which a value  
45 denominated in money is purchased in advance and may be redeemed in full

1 or in part for tangible personal property, intangibles or services. Cash  
2 equivalents include gift cards, stored value cards, gift certificates,  
3 vouchers, traveler's checks, money orders or other instruments, orders or  
4 electronic mechanisms, such as an electronic code, personal identification  
5 number or digital payment mechanism, or any other prepaid intangible right  
6 to acquire tangible personal property, intangibles or services in the  
7 future, whether from the seller of the cash equivalent or from another  
8 person. Cash equivalents do not include either of the following:

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

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

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

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

20 22. Motor vehicle fuel and use fuel that are subject to a tax  
21 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
22 holder of a valid single trip use fuel tax permit issued under section  
23 28-5739, sales of aviation fuel that are subject to the tax imposed under  
24 section 28-8344 and sales of jet fuel that are subject to the tax imposed  
25 under article 8 of this chapter.

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

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

33 25. Tangible personal property sold to:

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

35 (b) A qualifying health care organization as defined in section  
36 42-5001 if the tangible personal property is used by the organization  
37 solely to provide health and medical related educational and charitable  
38 services.

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

44 (d) A qualifying community health center as defined in section  
45 42-5001.

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

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

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

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

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

21 27. Tangible personal property sold to:

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

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

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

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

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

39 28. The sale of a motor vehicle to:

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

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

3 29. Tangible personal property purchased in this state by a  
4 nonprofit charitable organization that has qualified under section  
5 501(c)(3) of the United States internal revenue code and that engages in  
6 and uses such property exclusively in programs for persons with mental or  
7 physical disabilities if the programs are exclusively for training, job  
8 placement, rehabilitation or testing.

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

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

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

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

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

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



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

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

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

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

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

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

43           (a) "Personal property liquidation transaction" means a sale of  
44 personal property made by a personal property liquidator acting solely on  
45 behalf of the owner of the personal property sold at the dwelling of the

1 owner or on the death of any owner, on behalf of the surviving spouse, if  
2 any, any devisee or heir or the personal representative of the estate of  
3 the deceased, if one has been appointed.

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

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

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

15 42. Sales of:

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

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

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

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

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

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

44 47. Sales of materials that are purchased by or for publicly funded  
45 libraries, including school district libraries, charter school libraries,

1 community college libraries, state university libraries or federal, state,  
2 county or municipal libraries, for use by the public as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41           61. Sales of coal.

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

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

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

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

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

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

31 5. MACHINERY AND EQUIPMENT USED DIRECTLY FOR ENERGY STORAGE FOR  
32 LATER ELECTRICAL USE. FOR THE PURPOSES OF THIS PARAGRAPH:

33 (a) "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A  
34 BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR THE  
35 PERSON'S EQUIPMENT SUPPLIERS.

36 (b) "ENERGY STORAGE" MEANS COMMERCIALY AVAILABLE TECHNOLOGY FOR  
37 ELECTRIC UTILITY SCALE THAT IS CAPABLE OF ABSORBING ENERGY, STORING ENERGY  
38 FOR A PERIOD OF TIME AND THEREAFTER DISPATCHING THE ENERGY AND THAT USES  
39 MECHANICAL, CHEMICAL OR THERMAL PROCESSES TO STORE ENERGY.

40 (c) "MACHINERY AND EQUIPMENT USED DIRECTLY" MEANS ALL MACHINERY AND  
41 EQUIPMENT THAT ARE USED FOR ELECTRIC ENERGY STORAGE FROM THE POINT OF  
42 RECEIPT FROM THE GRID IN ORDER TO FACILITATE STORAGE OF THE ELECTRIC  
43 ENERGY TO THE POINT WHERE ELECTRIC ENERGY IS RELEASED TO THE GRID.

44 ~~5.~~ 6. Neat animals, horses, asses, sheep, ratites, swine or goats  
45 used or to be used as breeding or production stock, including sales of

1 breedings or ownership shares in such animals used for breeding or  
2 production.

3 ~~6.~~ 7. Pipes or valves four inches in diameter or larger used to  
4 transport oil, natural gas, artificial gas, water or coal slurry,  
5 including compressor units, regulators, machinery and equipment, fittings,  
6 seals and any other part that is used in operating the pipes or valves.

7 ~~7.~~ 8. Aircraft, navigational and communication instruments and  
8 other accessories and related equipment sold to:

9 (a) A person:

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

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

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

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

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

37 (b) Any foreign government.

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

1           ~~8-~~ 9. Machinery, tools, equipment and related supplies used or  
2 consumed directly in repairing, remodeling or maintaining aircraft,  
3 aircraft engines or aircraft component parts by or on behalf of a  
4 certificated or licensed carrier of persons or property.  
5           ~~9-~~ 10. Railroad rolling stock, rails, ties and signal control  
6 equipment used directly to transport persons or property.  
7           ~~10-~~ 11. Machinery or equipment used directly to drill for oil or  
8 gas or used directly in the process of extracting oil or gas from the  
9 earth for commercial purposes.  
10          ~~11-~~ 12. Buses or other urban mass transit vehicles that are used  
11 directly to transport persons or property for hire or pursuant to a  
12 governmentally adopted and controlled urban mass transportation program  
13 and that are sold to bus companies holding a federal certificate of  
14 convenience and necessity or operated by any city, town or other  
15 governmental entity or by any person contracting with such governmental  
16 entity as part of a governmentally adopted and controlled program to  
17 provide urban mass transportation.  
18          ~~12-~~ 13. Groundwater measuring devices required under section  
19 45-604.  
20          ~~13-~~ 14. New machinery and equipment consisting of agricultural  
21 aircraft, tractors, tractor-drawn implements, self-powered implements,  
22 machinery and equipment necessary for extracting milk, and machinery and  
23 equipment necessary for cooling milk and livestock, and drip irrigation  
24 lines not already exempt under paragraph ~~6-~~ 7 of this subsection and that  
25 are used for commercial production of agricultural, horticultural,  
26 viticultural and floricultural crops and products in this state. For the  
27 purposes of this paragraph:  
28           (a) "New machinery and equipment" means machinery and equipment  
29 that have never been sold at retail except pursuant to leases or rentals  
30 that do not total two years or more.  
31           (b) "Self-powered implements" includes machinery and equipment that  
32 are electric-powered.  
33          ~~14-~~ 15. Machinery or equipment used in research and  
34 development. For the purposes of this paragraph, "research and  
35 development" means basic and applied research in the sciences and  
36 engineering, and designing, developing or testing prototypes, processes or  
37 new products, including research and development of computer software that  
38 is embedded in or an integral part of the prototype or new product or that  
39 is required for machinery or equipment otherwise exempt under this section  
40 to function effectively. Research and development do not include  
41 manufacturing quality control, routine consumer product testing, market  
42 research, sales promotion, sales service, research in social sciences or  
43 psychology, computer software research that is not included in the  
44 definition of research and development, or other nontechnological  
45 activities or technical services.

1           ~~15.~~ 16. Tangible personal property that is used by either of the  
2 following to receive, store, convert, produce, generate, decode, encode,  
3 control or transmit telecommunications information:

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

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

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

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

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

22           ~~16.~~ 17. Clean rooms that are used for manufacturing, processing,  
23 fabrication or research and development, as defined in paragraph ~~14~~ 15 of  
24 this subsection, of semiconductor products. For the purposes of this  
25 paragraph, "clean room" means all property that comprises or creates an  
26 environment where humidity, temperature, particulate matter and  
27 contamination are precisely controlled within specified parameters,  
28 without regard to whether the property is actually contained within that  
29 environment or whether any of the property is affixed to or incorporated  
30 into real property. Clean room:

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

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

39           ~~17.~~ 18. Machinery and equipment used directly in ~~the feeding of~~  
40 poultry, ~~the environmental control of~~ ENVIRONMENTALLY CONTROLLING housing  
41 for poultry, ~~the movement of~~ MOVING eggs within a production and packaging  
42 facility or ~~the~~ sorting or cooling of eggs. This exemption does not apply  
43 to vehicles used for transporting eggs.

44           ~~18.~~ 19. Machinery or equipment, including related structural  
45 components, that is employed in connection with manufacturing, processing,



1 fabricating, job printing, refining, mining, natural gas pipelines,  
2 metallurgical operations, telecommunications, producing or transmitting  
3 electricity or research and development and that is used directly to meet  
4 or exceed rules or regulations adopted by the federal energy regulatory  
5 commission, the United States environmental protection agency, the United  
6 States nuclear regulatory commission, the Arizona department of  
7 environmental quality or a political subdivision of this state to prevent,  
8 monitor, control or reduce land, water or air pollution.

9 ~~19.~~ 20. Machinery and equipment that are sold to a person engaged  
10 in ~~the commercial production of~~ **COMMERCIALY PRODUCING** livestock,  
11 livestock products or agricultural, horticultural, viticultural or  
12 floricultural crops or products in this state, including a person  
13 representing or working on behalf of such a person in a manner described  
14 in section 42-5075, subsection 0, if the machinery and equipment are used  
15 directly and primarily to prevent, monitor, control or reduce air, water  
16 or land pollution.

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

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

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

29 (c) Any machinery or equipment purchased after the television  
30 station has ceased analog broadcasting, or purchased after November 1,  
31 2009, whichever occurs first.

32 ~~21.~~ 22. Qualifying equipment that is purchased from and after June  
33 30, 2004 through June 30, 2024 by a qualified business under section  
34 41-1516 for harvesting or processing qualifying forest products removed  
35 from qualifying projects as defined in section 41-1516. To qualify for  
36 this deduction, the qualified business at the time of purchase must  
37 present its certification approved by the department.

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

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

44 2. Janitorial equipment and hand tools.

45 3. Office equipment, furniture and supplies.

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

4           5. Motor vehicles required to be licensed by this state, except  
5 buses or other urban mass transit vehicles specifically exempted pursuant  
6 to subsection B, paragraph ~~11~~ 12 of this section, without regard to the  
7 use of such motor vehicles.

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

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

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

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

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

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

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

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

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

5           2. Businesses classified under the:

6           (a) Transporting classification.

7           (b) Utilities classification.

8           (c) Telecommunications classification.

9           (d) Pipeline classification.

10          (e) Private car line classification.

11          (f) Publication classification.

12          (g) Job printing classification.

13          (h) Prime contracting classification.

14          (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 R. If a seller is entitled to a deduction pursuant to subsection B,  
38 paragraph ~~15~~ 16, subdivision (b) of this section, the department may  
39 require the purchaser to establish that the requirements of subsection B,  
40 paragraph ~~15~~ 16, subdivision (b) of this section have been satisfied. If  
41 the purchaser cannot establish that the requirements of subsection B,  
42 paragraph ~~15~~ 16, subdivision (b) of this section have been satisfied, the  
43 purchaser is liable in an amount equal to any tax, penalty and interest  
44 that the seller would have been required to pay under article 1 of this  
45 chapter if the seller had not made a deduction pursuant to subsection B,

1 paragraph ~~15~~ 16, subdivision (b) of this section. Payment of the amount  
2 under this subsection exempts the purchaser from liability for any tax  
3 imposed under article 4 of this chapter and related to the tangible  
4 personal property purchased. The amount shall be treated as transaction  
5 privilege tax to the purchaser and as tax revenues collected from the  
6 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

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

29 U. For the purposes of this section:

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

33 2. "Aircraft" includes:

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

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

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

43 4. "Selling at retail" means a sale for any purpose other than for  
44 resale in the regular course of business in the form of tangible personal  
45 property, but transfer of possession, lease and rental as used in the

1 definition of sale mean only such transactions as are found on  
2 investigation to be in lieu of sales as defined without the words lease or  
3 rental.

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

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

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

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

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

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

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

34 Sec. 6. Section 42-5064, Arizona Revised Statutes, is amended to  
35 read:

36 42-5064. Telecommunications classification; definitions

37 A. The telecommunications classification is comprised of the  
38 business of providing intrastate telecommunications services. The  
39 telecommunications classification does not include:

40 1. Sales of intrastate telecommunications services by a cable  
41 operator or by a microwave television transmission system that transmits  
42 television programming to multiple subscribers and that is operated  
43 pursuant to 47 Code of Federal Regulations parts 21 and 74.

44 2. Sales of internet access or application services to the person's  
45 subscribers and customers. For the purposes of this paragraph:

1 (a) "Application services" means software applications provided  
2 remotely using hypertext transfer protocol or another network protocol and  
3 purchased by or for any school district, charter school, community college  
4 or state university to assess or test student learning or to promote  
5 curriculum design or enhancement.

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

9 3. ~~The~~ Leasing or renting ~~of~~ space to make attachments to utility  
10 poles as follows:

11 (a) By a person that is engaged in business under this section.

12 (b) To a person that is engaged in business under section 42-5063  
13 or this section or that is a cable operator.

14 4. Over-the-top services. For the purposes of this paragraph,  
15 "over-the-top services" means audio or video programming services that are  
16 received by the purchaser by means of an internet connection, regardless  
17 of the technology used, that include linear or live programming and that  
18 are generally considered comparable to programming provided by a radio or  
19 television broadcast station and includes related on-demand programming  
20 that is provided at no additional charge, regardless of whether the  
21 services are provided independently or packaged with other audio or video  
22 programming.

23 B. The tax base for the telecommunications classification is the  
24 gross proceeds of sales or gross income derived from the business,  
25 including the gross income derived from tolls, subscriptions and services  
26 on behalf of subscribers or from the publication of a directory of the  
27 names of subscribers. However, the gross proceeds of sales or gross  
28 income derived from the following shall be deducted from the tax base:

29 1. Sales of intrastate telecommunications services to:

30 (a) Other persons engaged in businesses classified under the  
31 telecommunications classification for use in such business.

32 (b) A direct broadcast satellite television or data transmission  
33 service that operates pursuant to 47 Code of Federal Regulations part 25  
34 for use in its direct broadcast satellite television or data transmission  
35 operation by a facility described in section 42-5061, subsection B,  
36 paragraph ~~15~~ 16, subdivision (b).

37 2. End user common line charges established by federal  
38 communications commission regulations (47 Code of Federal Regulations  
39 section 69.104(a)).

40 3. Carrier access charges established by federal communications  
41 commission regulations (47 Code of Federal Regulations sections 69.105(a)  
42 through 69.118).

43 4. Sales of direct broadcast satellite television services pursuant  
44 to 47 Code of Federal Regulations part 25 by a direct broadcast satellite

1 television service that operates pursuant to 47 Code of Federal  
2 Regulations part 25.

3 5. Telecommunications services purchased with a prepaid calling  
4 card, or a prepaid authorization number for telecommunications services,  
5 that is taxable under section 42-5061.

6 C. A person that is engaged in a transient lodging business subject  
7 to taxation under section 42-5070 and that provides telephone, fax or  
8 internet access services to its customers at an additional charge, which  
9 is separately stated on the customer invoice, is considered to be engaged  
10 in business subject to taxation under this section for the purposes of  
11 taxing the gross proceeds of sales or gross income derived from providing  
12 those services.

13 D. The gross proceeds of sales or gross income derived from a  
14 bundled transaction of services that are taxable pursuant to section  
15 42-5023 are subject to the following:

16 1. A telecommunications service provider who can reasonably  
17 identify the portion of the sales price of the bundled transaction derived  
18 from charges for nontaxable services is subject to tax only on the gross  
19 proceeds of sales or gross income derived from the taxable services. For  
20 the purposes of this section, the telecommunications service provider may  
21 elect to reasonably identify the portion of the sales price of the bundled  
22 transaction derived from charges for nontaxable services by using  
23 allocation percentages derived from the telecommunications service  
24 provider's entire service area, including territories outside of this  
25 state. On request, the department may require the telecommunications  
26 service provider to provide this allocation information. The  
27 reasonableness of the allocation is subject to audit by the department.

28 2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the  
29 telecommunications service provider shall waive the right to file a claim  
30 for a refund of taxes paid on the bundled transaction if the taxes paid  
31 are based on the allocation percentage the telecommunications service  
32 provider had determined to be reasonable at the beginning of the tax  
33 period at issue.

34 3. The burden of proof is on the telecommunications service  
35 provider to establish that the gross proceeds of sales or gross income is  
36 derived from charges for nontaxable services.

37 E. For the purposes of this section:

38 1. "Bundled transaction" means a sale of multiple services in which  
39 both of the following apply:

40 (a) The sale consists of both taxable and nontaxable services.

41 (b) The telecommunications service provider charges a customer one  
42 sales price for all services that are sold instead of separately charging  
43 for each individual service.

44 2. "Cable operator" has the same meaning prescribed in section  
45 9-505 and includes a video service provider.



1           3. "Internet" means the computer and telecommunications facilities  
2 that comprise the interconnected worldwide network of networks that employ  
3 the transmission control protocol or internet protocol, or any predecessor  
4 or successor protocol, to communicate information of all kinds by wire or  
5 radio.

6           4. "Internet access" means a service that enables users to access  
7 content, information, email or other services over the internet. Internet  
8 access does not include telecommunications services provided by a common  
9 carrier.

10          5. "Intrastate telecommunications services" means transmitting  
11 signs, signals, writings, images, sounds, messages, data or other  
12 information of any nature by wire, radio waves, light waves or other  
13 electromagnetic means if the information transmitted originates and  
14 terminates in this state.

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

18          Sec. 7. Section 42-5071, Arizona Revised Statutes, is amended to  
19 read:

20           42-5071. Personal property rental classification; definitions

21          A. The personal property rental classification is comprised of the  
22 business of leasing or renting tangible personal property for a  
23 consideration. The tax does not apply to:

24           1. Leasing or renting films, tapes or slides used by theaters or  
25 movies, which are engaged in business under the amusement classification,  
26 or used by television stations or radio stations.

27           2. Activities engaged in by the Arizona exposition and state fair  
28 board or county fair commissions in connection with events sponsored by  
29 such entities.

30           3. Leasing or renting tangible personal property by a parent  
31 business entity to a subsidiary business entity or by a subsidiary  
32 business entity to another subsidiary of the same parent business entity  
33 if taxes were paid under this chapter on the gross proceeds or gross  
34 income accruing from the initial sale of the tangible personal  
35 property. For the purposes of this paragraph, "subsidiary" means a  
36 business entity of which at least eighty percent of the voting shares are  
37 owned by the parent business entity.

38           4. Operating coin-operated washing, drying and dry cleaning  
39 machines or coin-operated car washing machines at establishments for the  
40 use of such machines.

41           5. Leasing or renting tangible personal property for incorporation  
42 into or comprising any part of a qualified environmental technology  
43 facility as described in section 41-1514.02. This paragraph shall apply  
44 for ten full consecutive calendar or fiscal years following the initial

1 lease or rental by each qualified environmental technology manufacturer,  
2 producer or processor.

3 6. Leasing or renting aircraft, flight simulators or similar  
4 training equipment to students or staff by nonprofit, accredited  
5 educational institutions that offer associate or baccalaureate degrees in  
6 aviation or aerospace related fields.

7 7. Leasing or renting photographs, transparencies or other creative  
8 works used by this state on internet websites, in magazines or in other  
9 publications that encourage tourism.

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

14 9. The leasing or renting of space to make attachments to utility  
15 poles, as follows:

16 (a) By a person that is engaged in business under section 42-5063  
17 or 42-5064 or that is a cable operator.

18 (b) To a person that is engaged in business under section 42-5063  
19 or 42-5064 or that is a cable operator.

20 10. Leasing or renting billboards that are designed, intended or  
21 used to advertise or inform and that are visible from any street, road or  
22 other highway.

23 B. The tax base for the personal property rental classification is  
24 the gross proceeds of sales or gross income derived from the business, but  
25 the gross proceeds of sales or gross income derived from the following  
26 shall be deducted from the tax base:

27 1. Reimbursements by the lessee to the lessor of a motor vehicle  
28 for payments by the lessor of the applicable fees and taxes imposed by  
29 sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter  
30 15, article 2 and article IX, section 11, Constitution of Arizona, to the  
31 extent such amounts are separately identified as such fees and taxes and  
32 are billed to the lessee.

33 2. Leases or rentals of tangible personal property that, if it had  
34 been purchased instead of leased or rented by the lessee, would have been  
35 exempt under:

36 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29,  
37 49 or 53.

38 (b) Section 42-5061, subsection B, except that a lease or rental of  
39 new machinery or equipment is not exempt pursuant to section 42-5061,  
40 subsection B, paragraph ~~13~~ 14 if the lease is for less than two years.

41 (c) Section 42-5061, subsection I, paragraph 1.

42 (d) Section 42-5061, subsection M.

43 3. Motor vehicle fuel and use fuel that are subject to a tax  
44 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
45 holder of a valid single trip use fuel tax permit issued under section

1 28-5739 and sales of aviation fuel that are subject to the tax imposed  
2 under section 28-8344.

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

5 5. Amounts received by a motor vehicle dealer for the first month  
6 of a lease payment if the lease and the lease payment for the first month  
7 of the lease are transferred to a third-party leasing company.

8 C. Sales of tangible personal property to be leased or rented to a  
9 person engaged in a business classified under the personal property rental  
10 classification are deemed to be resale sales.

11 D. In computing the tax base, the gross proceeds of sales or gross  
12 income from the lease or rental of a motor vehicle does not include any  
13 amount attributable to the car rental surcharge under section 5-839,  
14 28-5810 or 48-4234.

15 E. Until December 31, 1988, leasing or renting animals for  
16 recreational purposes is exempt from the tax imposed by this section.  
17 Beginning January 1, 1989, the gross proceeds or gross income from leasing  
18 or renting animals for recreational purposes is subject to taxation under  
19 this section. Tax liabilities, penalties and interest paid for taxable  
20 periods before January 1, 1989 shall not be refunded unless the taxpayer  
21 requesting the refund provides proof satisfactory to the department that  
22 the monies paid as taxes will be returned to the customer.

23 F. For the purposes of this section:

24 1. "Cable operator" has the same meaning prescribed in section  
25 9-505 and includes a video service provider.

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

29 Sec. 8. Section 42-5075, Arizona Revised Statutes, is amended to  
30 read:

31 42-5075. Prime contracting classification; exemptions;  
32 definitions

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

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

- 1           1. The sales price of land, which shall not exceed the fair market  
2 value.
- 3           2. Sales and installation of groundwater measuring devices required  
4 under section 45-604 and groundwater monitoring wells required by law,  
5 including monitoring wells installed for acquiring information for a  
6 permit required by law.
- 7           3. The sales price of furniture, furnishings, fixtures, appliances  
8 and attachments that are not incorporated as component parts of or  
9 attached to a manufactured building or the setup site. The sale of such  
10 items may be subject to the taxes imposed by article 1 of this chapter  
11 separately and distinctly from the sale of the manufactured building.
- 12           4. The gross proceeds of sales or gross income received from a  
13 contract entered into for the modification of any building, highway, road,  
14 railroad, excavation, manufactured building or other structure, project,  
15 development or improvement located in a military reuse zone for providing  
16 aviation or aerospace services or for a manufacturer, assembler or  
17 fabricator of aviation or aerospace products within an active military  
18 reuse zone after the zone is initially established or renewed under  
19 section 41-1531. To be eligible to qualify for this deduction, before  
20 beginning work under the contract, the prime contractor must have applied  
21 for a letter of qualification from the department of revenue.
- 22           5. The gross proceeds of sales or gross income derived from a  
23 contract to construct a qualified environmental technology manufacturing,  
24 producing or processing facility, as described in section 41-1514.02, and  
25 from subsequent construction and installation contracts that begin within  
26 ten years after the start of initial construction. To qualify for this  
27 deduction, before beginning work under the contract, the prime contractor  
28 must obtain a letter of qualification from the department of revenue.  
29 This paragraph shall apply for ten full consecutive calendar or fiscal  
30 years after the start of initial construction.
- 31           6. The gross proceeds of sales or gross income from a contract to  
32 provide for one or more of the following actions, or a contract for site  
33 preparation, constructing, furnishing or installing machinery, equipment  
34 or other tangible personal property, including structures necessary to  
35 protect exempt incorporated materials or installed machinery or equipment,  
36 and tangible personal property incorporated into the project, to perform  
37 one or more of the following actions in response to a release or suspected  
38 release of a hazardous substance, pollutant or contaminant from a facility  
39 to the environment, unless the release was authorized by a permit issued  
40 by a governmental authority:
- 41           (a) Actions to monitor, assess and evaluate such a release or a  
42 suspected release.
- 43           (b) Excavation, removal and transportation of contaminated soil and  
44 its treatment or disposal.

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

4 (d) Pumping and treatment or in situ treatment of contaminated  
5 groundwater or surface water to reduce the concentration or toxicity of a  
6 contaminant.

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

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

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

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

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

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

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

35 (b) The deduction provided in this paragraph does not include gross  
36 proceeds of sales or gross income from the portion of any contracting  
37 activity that consists of the development of, or modification to, real  
38 property in order to facilitate the installation, assembly, repair,  
39 maintenance or removal of machinery, equipment or other tangible personal  
40 property that is either deducted from the tax base of the retail  
41 classification under section 42-5061, subsection B or exempt from use tax  
42 under section 42-5159, subsection B.

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

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

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

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

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

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

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

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

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

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

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

24 9. The gross proceeds of sales or gross income received from a  
25 contract for the construction of an environmentally controlled facility  
26 for the raising of poultry for the production of eggs and the sorting,  
27 cooling and packaging of eggs.

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

36 11. The gross proceeds of sales or gross income that is derived  
37 from the installation, assembly, repair or maintenance of clean rooms that  
38 are deducted from the tax base of the retail classification pursuant to  
39 section 42-5061, subsection B, paragraph ~~16~~ 17.

40 12. For taxable periods beginning from and after June 30, 2001, the  
41 gross proceeds of sales or gross income derived from a contract entered  
42 into for the construction of a residential apartment housing facility that  
43 qualifies for a federal housing subsidy for low income persons over  
44 sixty-two years of age and that is owned by a nonprofit charitable

1 organization that has qualified under section 501(c)(3) of the internal  
2 revenue code.

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

10 14. The gross proceeds of sales or gross income derived from a  
11 contract entered into for the construction of a launch site, as defined in  
12 14 Code of Federal Regulations section 401.5.

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

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

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

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

35 19. Any amount of the gross proceeds of sales or gross income  
36 attributable to development fees that are incurred in relation to a  
37 contract for construction, development or improvement of real property and  
38 that are paid by a prime contractor or subcontractor. For the purposes of  
39 this paragraph:

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

42 (b) The attributable amount is equal to the total amount of  
43 development fees paid by the prime contractor or subcontractor, and the  
44 total development fees credited in exchange for the construction of,  
45 contribution to or dedication of real property for providing public

1 infrastructure, public safety or other public services necessary to the  
2 development. The real property must be the subject of the development  
3 fees.

4 (c) "Development fees" means fees imposed to offset capital costs  
5 of providing public infrastructure, public safety or other public services  
6 to a development and authorized pursuant to section 9-463.05, section  
7 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
8 paid.

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

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

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

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

29 (d) "Renewable energy" has the same meaning prescribed in section  
30 41-1511.

31 C. Entitlement to the deduction pursuant to subsection B, paragraph  
32 7 of this section is subject to the following provisions:

33 1. A prime contractor may establish entitlement to the deduction by  
34 both:

35 (a) Marking the invoice for the transaction to indicate that the  
36 gross proceeds of sales or gross income derived from the transaction was  
37 deducted from the base.

38 (b) Obtaining a certificate executed by the purchaser indicating  
39 the name and address of the purchaser, the precise nature of the business  
40 of the purchaser, the purpose for which the purchase was made, the  
41 necessary facts to establish the deductibility of the property under  
42 section 42-5061, subsection B, and a certification that the person  
43 executing the certificate is authorized to do so on behalf of the  
44 purchaser. The certificate may be disregarded if the prime contractor has



1 reason to believe that the information contained in the certificate is not  
 2 accurate or complete.

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

6 3. The department may prescribe a form for the certificate  
 7 described in paragraph 1, subdivision (b) of this subsection. The  
 8 department may also adopt rules that describe the transactions with  
 9 respect to which a person is not entitled to rely solely on the  
 10 information contained in the certificate provided in paragraph 1,  
 11 subdivision (b) of this subsection but must instead obtain such additional  
 12 information as required in order to be entitled to the deduction.

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

28 D. Subcontractors or others who perform modification activities are  
 29 not subject to tax if they can demonstrate that the job was within the  
 30 control of a prime contractor or contractors or a dealership of  
 31 manufactured buildings and that the prime contractor or dealership is  
 32 liable for the tax on the gross income, gross proceeds of sales or gross  
 33 receipts attributable to the job and from which the subcontractors or  
 34 others were paid.

35 E. Amounts received by a contractor for a project are excluded from  
 36 the contractor's gross proceeds of sales or gross income derived from the  
 37 business if the person who hired the contractor executes and provides a  
 38 certificate to the contractor stating that the person providing the  
 39 certificate is a prime contractor and is liable for the tax under article  
 40 1 of this chapter. The department shall prescribe the form of the  
 41 certificate. If the contractor has reason to believe that the information  
 42 contained on the certificate is erroneous or incomplete, the department  
 43 may disregard the certificate. If the person who provides the certificate  
 44 is not liable for the tax as a prime contractor, that person is  
 45 nevertheless deemed to be the prime contractor in lieu of the contractor

1 and is subject to the tax under this section on the gross receipts or  
2 gross proceeds received by the contractor.

3 F. Every person engaging or continuing in this state in the  
4 business of prime contracting or dealership of manufactured buildings  
5 shall present to the purchaser of such prime contracting or manufactured  
6 building a written receipt of the gross income or gross proceeds of sales  
7 from such activity and shall separately state the taxes to be paid  
8 pursuant to this section.

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

15 H. For the purposes of section 42-5032.02, from and after  
16 September 30, 2013, the department shall separately account for revenues  
17 reported and collected under the prime contracting classification from any  
18 prime contractor engaged in the construction of any buildings and  
19 associated improvements that are for the benefit of a manufacturing  
20 facility. For the purposes of this subsection, "associated improvements"  
21 and "manufacturing facility" have the same meanings prescribed in section  
22 42-5032.02.

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

33 J. Except as provided in subsection 0 of this section, the gross  
34 proceeds of sales or gross income derived from landscaping activities is  
35 subject to tax under this section. Landscaping includes installing lawns,  
36 grading or leveling ground, installing gravel or boulders, planting trees  
37 and other plants, felling trees, removing or mulching tree stumps,  
38 removing other imbedded plants, building irrigation berms, installing  
39 railroad ties and installing underground sprinkler or watering systems.

40 K. The portion of gross proceeds of sales or gross income  
41 attributable to the actual direct costs of providing architectural or  
42 engineering services that are incorporated in a contract is not subject to  
43 tax under this section. For the purposes of this subsection, "direct  
44 costs" means the portion of the actual costs that are directly expended in  
45 providing architectural or engineering services.

1 L. Operating a landfill or a solid waste disposal facility is not  
2 subject to taxation under this section, including filling, compacting and  
3 creating vehicle access to and from cell sites within the landfill.  
4 Constructing roads to a landfill or solid waste disposal facility and  
5 constructing cells within a landfill or solid waste disposal facility may  
6 be deemed prime contracting under this section.

7 M. The following apply in determining the taxable situs of sales of  
8 manufactured buildings:

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

12 2. For sales in this state where the manufactured building dealer  
13 does not contract to deliver the building to a setup site or does not  
14 perform the setup, the taxable situs is the location of the dealership  
15 where the building is delivered to the buyer.

16 3. For sales in this state where the manufactured building dealer  
17 contracts to deliver the building to a setup site that is outside this  
18 state, the situs is outside this state and the transaction is excluded  
19 from tax.

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

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

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

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

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

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

1 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
2 price as set in the contract for modification work. For the purposes of  
3 this item, "guaranteed maximum price" means the amount guaranteed to be  
4 the maximum amount due to a prime contractor for the performance of all  
5 modification work for the project.

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

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

13 (e) Inspection to determine the dates of substantial completion or  
14 final completion.

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

21 (g) Preparation of status reports after modification work has begun  
22 detailing the progress of work performed, including preparation of any of  
23 the following:

24 (i) Master schedule updates.

25 (ii) Modification work cash flow projection updates.

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

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

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

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

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

35 (j) Administration or supervision of any other activities for which  
36 a prime contractor receives a certificate for payment or certificate for  
37 final payment based on the progress of modification work performed on the  
38 project.

39 2. "Design phase services" means services for developing and  
40 completing a design for a project that are not construction phase  
41 services, including the following:

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

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

4 (c) Preparing drawings and specifications for architectural program  
5 documents, schematic design documents, design development documents,  
6 modification work documents or documents that identify the scope of or  
7 materials for the project.

8 (d) Preparing an initial schedule for the project, excluding the  
9 preparation of updates to the master schedule after modification work has  
10 begun.

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

14 (i) Labor, materials, machinery and equipment, tools, water, heat,  
15 utilities, transportation and other facilities and services used in the  
16 execution and completion of modification work, regardless of whether they  
17 are temporary or permanent or whether they are incorporated in the  
18 modifications.

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

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

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

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

29 (vi) Any bond and insurance premiums.

30 (vii) Any applicable taxes.

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

33 (f) Reviewing and evaluating cost estimates and project documents  
34 to prepare recommendations on site use, site improvements, selection of  
35 materials, building systems and equipment, modification feasibility,  
36 availability of materials and labor, local modification activity as  
37 related to schedules and time requirements for modification work.

38 (g) Preparing the plan and procedures for selection of  
39 subcontractors, including any prequalification of subcontractor  
40 candidates.

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

1           0. The gross proceeds of sales or gross income derived from a  
2 contract with the owner of real property or improvements to real property  
3 for the maintenance, repair, replacement or alteration of existing  
4 property is not subject to tax under this section if the contract does not  
5 include modification activities, except as specified in this subsection.  
6 The gross proceeds of sales or gross income derived from a de minimis  
7 amount of modification activity does not subject the contract or any part  
8 of the contract to tax under this section. For the purposes of this  
9 subsection:

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

13           2. Each contract is independent of any other contract, except that  
14 any change order that directly relates to the scope of work of the  
15 original contract shall be treated the same as the original contract under  
16 this chapter, regardless of the amount of modification activities included  
17 in the change order. If a change order does not directly relate to the  
18 scope of work of the original contract, the change order shall be treated  
19 as a new contract, with the tax treatment of any subsequent change order  
20 to follow the tax treatment of the contract to which the scope of work of  
21 the subsequent change order directly relates.

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

30           1. Community facilities districts, fire districts, county  
31 television improvement districts, community park maintenance districts,  
32 cotton pest control districts, hospital districts, pest abatement  
33 districts, health service districts, agricultural improvement districts,  
34 county free library districts, county jail districts, county stadium  
35 districts, special health care districts, public health services  
36 districts, theme park districts or revitalization districts.

37           2. Any special taxing district not specified in paragraph 1 of this  
38 subsection if the district does not substantially engage in the  
39 modification, maintenance, repair, replacement or alteration of surface or  
40 subsurface improvements to land.

41           Q. Notwithstanding subsection R, paragraph 10 of this section, a  
42 person owning real property who enters into a contract for sale of the  
43 real property, who is responsible to the new owner of the property for  
44 modifications made to the property in the period subsequent to the  
45 transfer of title and who receives a consideration for the modifications

1 is considered a prime contractor solely for purposes of taxing the gross  
2 proceeds of sale or gross income received for the modifications made  
3 subsequent to the transfer of title. The original owner's gross proceeds  
4 of sale or gross income received for the modifications shall be determined  
5 according to the following methodology:

6 1. If any part of the contract for sale of the property specifies  
7 amounts to be paid to the original owner for the modifications to be made  
8 in the period subsequent to the transfer of title, the amounts are  
9 included in the original owner's gross proceeds of sale or gross income  
10 under this section. Proceeds from the sale of the property that are  
11 received after transfer of title and that are unrelated to the  
12 modifications made subsequent to the transfer of title are not considered  
13 gross proceeds of sale or gross income from the modifications.

14 2. If the original owner enters into an agreement separate from the  
15 contract for sale of the real property providing for amounts to be paid to  
16 the original owner for the modifications to be made in the period  
17 subsequent to the transfer of title to the property, the amounts are  
18 included in the original owner's gross proceeds of sale or gross income  
19 received for the modifications made subsequent to the transfer of title.

20 3. If the original owner is responsible to the new owner for  
21 modifications made to the property in the period subsequent to the  
22 transfer of title and derives any gross proceeds of sale or gross income  
23 from the project subsequent to the transfer of title other than a delayed  
24 disbursement from escrow unrelated to the modifications, it is presumed  
25 that the amounts are received for the modifications made subsequent to the  
26 transfer of title unless the contrary is established by the owner through  
27 its books, records and papers kept in the regular course of business.

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

30 R. For the purposes of this section:

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

33 (a) For existing property that is properly classified as class two  
34 property under section 42-12002, paragraph 1, subdivision (c) or paragraph  
35 2, subdivision (c) and that is used for residential purposes, class three  
36 property under section 42-12003 or class four property under section  
37 42-12004, this paragraph does not apply if the contract amount is more  
38 than twenty-five percent of the most recent full cash value established  
39 under chapter 13, article 2 of this title as of the date of any bid for  
40 the work or the date of the contract, whichever value is higher.

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

1 (c) Project elements may not be artificially separated from a  
2 contract to cause a project to qualify as an alteration. The department  
3 has the burden of proof that project elements have been artificially  
4 separated from a contract.

5 (d) If a project for which the owner and the person performing the  
6 work reasonably believed, at the inception of the contract, would be  
7 treated as an alteration under this paragraph and, on completion of the  
8 project, the project exceeded the applicable threshold described in either  
9 subdivision (a) or (b) of this paragraph by no more than twenty-five  
10 percent of the applicable threshold for any reason, the work performed  
11 under the contract qualifies as an alteration.

12 (e) A change order that directly relates to the scope of work of  
13 the original contract shall be treated as part of the original contract,  
14 and the contract amount shall include any amount attributable to a change  
15 order that directly relates to the scope of work of the original contract.

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

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

18 3. "Contractor" is synonymous with the term "builder" and means any  
19 person or organization that undertakes to or offers to undertake to, or  
20 purports to have the capacity to undertake to, or submits a bid to, or  
21 does personally or by or through others, modify any building, highway,  
22 road, railroad, excavation, manufactured building or other structure,  
23 project, development or improvement, or to do any part of such a project,  
24 including the erection of scaffolding or other structure or works in  
25 connection with such a project, and includes subcontractors and specialty  
26 contractors. For all purposes of taxation or deduction, this definition  
27 shall govern without regard to whether or not such a contractor is acting  
28 in fulfillment of a contract.

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

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

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

34 (b) Supervises, performs or coordinates the excavation and  
35 completion of site improvements or the setup of a manufactured building,  
36 including the contracting, if any, with any subcontractor or specialty  
37 contractor for the completion of the contract.

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

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

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

44 (c) Any mobilization or demobilization related to a project  
45 described in subsection 0 of this section, such as the erection or removal



1 of temporary facilities to be used by those persons working on the  
2 project.

3 7. "Modify" means to make a modification or cause a modification to  
4 be made.

5 8. "Owner" means the person that holds title to the real property  
6 or improvements to real property that is the subject of the work, as well  
7 as an agent of the title holder and any person with the authority to  
8 perform or authorize work on the real property or improvements, including  
9 a tenant and a property manager. For the purposes of subsection 0 of this  
10 section, a person who is hired by a general contractor that is hired by an  
11 owner, or a subcontractor of a general contractor that is hired by an  
12 owner, is considered to be hired by the owner.

13 9. "Prime contracting" means engaging in business as a prime  
14 contractor.

15 10. "Prime contractor" means a contractor who supervises, performs  
16 or coordinates the modification of any building, highway, road, railroad,  
17 excavation, manufactured building or other structure, project, development  
18 or improvement, including the contracting, if any, with any subcontractors  
19 or specialty contractors and who is responsible for the completion of the  
20 contract. Except as provided in subsections E and Q of this section, a  
21 person who owns real property, who engages one or more contractors to  
22 modify that real property and who does not itself modify that real  
23 property is not a prime contractor within the meaning of this paragraph  
24 regardless of the existence of a contract for sale or the subsequent sale  
25 of that real property.

26 11. "Replacement" means the removal from service of one component  
27 or system of existing property or tangible personal property installed in  
28 existing property, including machinery or equipment, and the installation  
29 of a new component or system or new tangible personal property, including  
30 machinery or equipment, that provides the same, a similar or an upgraded  
31 design or functionality, regardless of the contract amount and regardless  
32 of whether the existing component or system or existing tangible personal  
33 property is physically removed from the existing property.

34 12. "Sale of a used manufactured building" does not include a lease  
35 of a used manufactured building.

36 Sec. 9. Section 42-5159, Arizona Revised Statutes, is amended to  
37 read:

38 42-5159. Exemptions

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

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

1           2. Tangible personal property, the sale or use of which has already  
2 been subjected to an excise tax at a rate equal to or exceeding the tax  
3 imposed by this article under the laws of another state of the United  
4 States. If the excise tax imposed by the other state is at a rate less  
5 than the tax imposed by this article, the tax imposed by this article is  
6 reduced by the amount of the tax already imposed by the other state.

7           3. Tangible personal property, the storage, use or consumption of  
8 which the constitution or laws of the United States prohibit this state  
9 from taxing or to the extent that the rate or imposition of tax is  
10 unconstitutional under the laws of the United States.

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

15           5. Motor vehicle fuel and use fuel, the sales, distribution or use  
16 of which in this state is subject to the tax imposed under title 28,  
17 chapter 16, article 1, use fuel that is sold to or used by a person  
18 holding a valid single trip use fuel tax permit issued under  
19 section 28-5739, aviation fuel, the sales, distribution or use of which in  
20 this state is subject to the tax imposed under section 28-8344, and jet  
21 fuel, the sales, distribution or use of which in this state is subject to  
22 the tax imposed under article 8 of this chapter.

23           6. Tangible personal property brought into this state by an  
24 individual who was a nonresident at the time the property was purchased  
25 for storage, use or consumption by the individual if the first actual use  
26 or consumption of the property was outside this state, unless the property  
27 is used in conducting a business in this state.

28           7. Purchases of implants used as growth promotants and injectable  
29 medicines, not already exempt under paragraph 16 of this subsection, for  
30 livestock and poultry owned by, or in possession of, persons who are  
31 engaged in producing livestock, poultry, or livestock or poultry products,  
32 or who are engaged in feeding livestock or poultry commercially. For the  
33 purposes of this paragraph, "poultry" includes ratites.

34           8. Purchases of:

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

37           (b) Livestock and poultry feed, salts, vitamins and other additives  
38 sold to persons for use or consumption in the businesses of farming,  
39 ranching and producing or feeding livestock or poultry or for use or  
40 consumption in noncommercial boarding of livestock. For the purposes of  
41 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

23 13. Tangible personal property purchased by:

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

27 (b) A hospital operated by this state or a political subdivision of  
28 this state.

29 (c) A licensed nursing care institution or a licensed residential  
30 care institution or a residential care facility operated in conjunction  
31 with a licensed nursing care institution or a licensed kidney dialysis  
32 center, which provides medical services, nursing services or health  
33 related services and is not used or held for profit.

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

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

43 (f) A nonprofit charitable organization that has qualified under  
44 section 501(c)(3) of the United States internal revenue code and that  
45 engages in and uses such property exclusively in programs for persons with

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

3 (g) A person that is subject to tax under this chapter by reason of  
4 being engaged in business classified under section 42-5075, or a  
5 subcontractor working under the control of a person that is engaged in  
6 business classified under section 42-5075, if the tangible personal  
7 property is any of the following:

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

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

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

14 (h) A person that is not subject to tax under section 42-5075 and  
15 that has been provided a copy of a certificate described in section  
16 42-5009, subsection L, if the property purchased is incorporated or  
17 fabricated by the person into the real property, structure, project,  
18 development or improvement described in the certificate.

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

23 (j) A qualifying community health center as defined in section  
24 42-5001.

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

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

33 (m) For taxable periods beginning from and after June 30, 2001, a  
34 nonprofit charitable organization that has qualified under section  
35 501(c)(3) of the internal revenue code and that provides residential  
36 apartment housing for ~~low-income~~ LOW-INCOME persons over sixty-two years  
37 of age in a facility that qualifies for a federal housing subsidy, if the  
38 tangible personal property is used by the organization solely to provide  
39 residential apartment housing for ~~low-income~~ LOW-INCOME persons over  
40 sixty-two years of age in a facility that qualifies for a federal housing  
41 subsidy.

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

44 (o) A person representing or working on behalf of any person  
45 described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)

1 or (n) of this paragraph, if the tangible personal property is  
2 incorporated or fabricated into a project described in section 42-5075,  
3 subsection 0.

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

9 15. Tangible personal property sold by:

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

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

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

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

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

40 18. Prescription eyeglasses and contact lenses.

41 19. Insulin, insulin syringes and glucose test strips.

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

43 21. 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, 13, 17 or 29, can withstand repeated use, is primarily and  
2 customarily used to serve a medical purpose, is generally not useful to a  
3 person in the absence of illness or injury and is appropriate for use in  
4 the home.

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

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

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

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

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

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

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

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

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

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

1 ~~shall begin~~ **BEGINS** with the date the first manufacturing, processing or  
2 production equipment is placed in service.

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

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

7 (b) Public educational institutions.

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

11 33. Natural gas or liquefied petroleum gas used to propel a motor  
12 vehicle.

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

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

31 36. Food, drink and condiment purchased for consumption within the  
32 premises of any prison, jail or other institution under the jurisdiction  
33 of the state department of corrections, the department of public safety,  
34 the department of juvenile corrections or a county sheriff.

35 37. A motor vehicle and any repair and replacement parts and  
36 tangible personal property becoming a part of such motor vehicle sold to a  
37 motor carrier ~~who~~ **THAT** is subject to a fee prescribed in title 28, chapter  
38 16, article 4 and ~~who~~ **THAT** is engaged in the business of leasing or  
39 renting such **A** property.

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

43 39. Overhead materials or other tangible personal property that is  
44 used in performing a contract between the United States government and a  
45 manufacturer, modifier, assembler or repairer, including property used in

1 performing a subcontract with a government contractor who is a  
 2 manufacturer, modifier, assembler or repairer, to which title passes to  
 3 the government under the terms of the contract or subcontract. For the  
 4 purposes of this paragraph:

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

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

22 40. Through December 31, 1994, tangible personal property sold  
 23 pursuant to a personal property liquidation transaction, as defined in  
 24 section 42-5061. From and after December 31, 1994, tangible personal  
 25 property sold pursuant to a personal property liquidation transaction, as  
 26 defined in section 42-5061, if the gross proceeds of the sales were  
 27 included in the measure of the tax imposed by article 1 of this chapter or  
 28 if the personal property liquidation was a casual activity or transaction.

29 41. Wireless telecommunications equipment that is held for sale or  
 30 transfer to a customer as an inducement to enter into or continue a  
 31 contract for telecommunications services that are taxable under section  
 32 42-5064.

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

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

44 44. Alternative fuel vehicles if the vehicle was manufactured as a  
 45 diesel fuel vehicle and converted to operate on alternative fuel and



1 equipment that is installed in a conventional diesel fuel motor vehicle to  
2 convert the vehicle to operate on an alternative fuel, as defined in  
3 section 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

44 53. Renewable energy credits or any other unit created to track  
45 energy derived from renewable energy resources. For the purposes of this

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

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

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

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

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

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

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

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

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

42 57. Cash equivalents, precious metal bullion and monetized bullion  
43 purchased by the ultimate consumer, but coins or other forms of money for  
44 manufacture into jewelry or works of art are subject to tax, and tangible  
45 personal property that is purchased through the redemption of any cash

1 equivalent by the holder as a means of payment for goods that are subject  
2 to tax under this article is subject to tax. For the purposes of this  
3 paragraph:

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

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

13 (ii) Prepaid calling cards for telecommunications services.

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

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

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

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

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

37 3. Tangible personal property sold to persons engaged in business  
38 classified under the telecommunications classification under section  
39 42-5064, including a person representing or working on behalf of such a  
40 person in a manner described in section 42-5075, subsection 0, and  
41 consisting of central office switching equipment, switchboards, private  
42 branch exchange equipment, microwave radio equipment and carrier equipment  
43 including optical fiber, coaxial cable and other transmission media that  
44 are components of carrier systems.

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

6           5. MACHINERY AND EQUIPMENT USED DIRECTLY FOR ENERGY STORAGE FOR  
7 LATER ELECTRICAL USE. FOR THE PURPOSES OF THIS PARAGRAPH:

8           (a) "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A  
9 BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR THE  
10 PERSON'S EQUIPMENT SUPPLIERS.

11           (b) "ENERGY STORAGE" MEANS COMMERCIALY AVAILABLE TECHNOLOGY FOR  
12 ELECTRIC UTILITY SCALE THAT IS CAPABLE OF ABSORBING ENERGY, STORING ENERGY  
13 FOR A PERIOD OF TIME AND THEREAFTER DISPATCHING THE ENERGY AND THAT USES  
14 MECHANICAL, CHEMICAL OR THERMAL PROCESSES TO STORE ENERGY.

15           (c) "MACHINERY AND EQUIPMENT USED DIRECTLY" MEANS ALL MACHINERY AND  
16 EQUIPMENT THAT ARE USED FOR ELECTRIC ENERGY STORAGE FROM THE POINT OF  
17 RECEIPT FROM THE GRID IN ORDER TO FACILITATE STORAGE OF THE ELECTRIC  
18 ENERGY TO THE POINT WHERE ELECTRIC ENERGY IS RELEASED TO THE GRID.

19           ~~5.~~ 6. Neat animals, horses, asses, sheep, ratites, swine or goats  
20 used or to be used as breeding or production stock, including sales of  
21 breedings or ownership shares in such animals used for breeding or  
22 production.

23           ~~6.~~ 7. Pipes or valves four inches in diameter or larger used to  
24 transport oil, natural gas, artificial gas, water or coal slurry,  
25 including compressor units, regulators, machinery and equipment, fittings,  
26 seals and any other part that is used in operating the pipes or valves.

27           ~~7.~~ 8. Aircraft, navigational and communication instruments and  
28 other accessories and related equipment sold to:

29           (a) A person:

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

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

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

43           (iv) Operating an aircraft to transport persons in any manner for  
44 compensation or hire, or for use in a fractional ownership program that  
45 meets the requirements of federal aviation administration regulations (14

1 Code of Federal Regulations part 91, subpart K), including as an air  
2 carrier, a foreign air carrier or a commercial operator or under a  
3 restricted category, within the meaning of 14 Code of Federal Regulations,  
4 regardless of whether the operation or aircraft is regulated or certified  
5 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
6 of Federal Regulations.

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

12 (b) Any foreign government.

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

20 ~~8-~~ 9. Machinery, tools, equipment and related supplies used or  
21 consumed directly in repairing, remodeling or maintaining aircraft,  
22 aircraft engines or aircraft component parts by or on behalf of a  
23 certificated or licensed carrier of persons or property.

24 ~~9-~~ 10. Rolling stock, rails, ties and signal control equipment  
25 used directly to transport persons or property.

26 ~~10-~~ 11. Machinery or equipment used directly to drill for oil or  
27 gas or used directly in the process of extracting oil or gas from the  
28 earth for commercial purposes.

29 ~~11-~~ 12. Buses or other urban mass transit vehicles that are used  
30 directly to transport persons or property for hire or pursuant to a  
31 governmentally adopted and controlled urban mass transportation program  
32 and that are sold to bus companies holding a federal certificate of  
33 convenience and necessity or operated by any city, town or other  
34 governmental entity or by any person contracting with such governmental  
35 entity as part of a governmentally adopted and controlled program to  
36 provide urban mass transportation.

37 ~~12-~~ 13. Groundwater measuring devices required under section  
38 45-604.

39 ~~13-~~ 14. New machinery and equipment consisting of agricultural  
40 aircraft, tractors, tractor-drawn implements, self-powered implements,  
41 machinery and equipment necessary for extracting milk, and machinery and  
42 equipment necessary for cooling milk and livestock, and drip irrigation  
43 lines not already exempt under paragraph ~~6-~~ 7 of this subsection and that  
44 are used for ~~commercial production of~~ **COMMERCIALY PRODUCING** agricultural,

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

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

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

8 ~~14.~~ 15. Machinery or equipment used in research and  
9 development. For the purposes of this paragraph, "research and  
10 development" means basic and applied research in the sciences and  
11 engineering, and designing, developing or testing prototypes, processes or  
12 new products, including research and development of computer software that  
13 is embedded in or an integral part of the prototype or new product or that  
14 is required for machinery or equipment otherwise exempt under this section  
15 to function effectively. Research and development do not include  
16 manufacturing quality control, routine consumer product testing, market  
17 research, sales promotion, sales service, research in social sciences or  
18 psychology, computer software research that is not included in the  
19 definition of research and development, or other nontechnological  
20 activities or technical services.

21 ~~15.~~ 16. Tangible personal property that is used by either of the  
22 following to receive, store, convert, produce, generate, decode, encode,  
23 control or transmit telecommunications information:

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

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

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

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

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

42 ~~16.~~ 17. Clean rooms that are used for manufacturing, processing,  
43 fabrication or research and development, as defined in paragraph ~~14~~ 15 of  
44 this subsection, of semiconductor products. For the purposes of this  
45 paragraph, "clean room" means all property that comprises or creates an

1 environment where humidity, temperature, particulate matter and  
2 contamination are precisely controlled within specified parameters,  
3 without regard to whether the property is actually contained within that  
4 environment or whether any of the property is affixed to or incorporated  
5 into real property. Clean room:

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

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

14 ~~17.~~ 18. Machinery and equipment that are used directly in ~~the~~  
15 feeding ~~of~~ poultry, ~~the environmental control of~~ ENVIRONMENTALLY  
16 CONTROLLING housing for poultry, ~~the movement of~~ MOVING eggs within a  
17 production and packaging facility or ~~the~~ sorting or cooling ~~of~~ eggs. This  
18 exemption does not apply to vehicles used for transporting eggs.

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

29 ~~19.~~ 20. Machinery and equipment that are used in ~~the commercial~~  
30 ~~production of~~ COMMERCIALLY PRODUCING livestock, livestock products or  
31 agricultural, horticultural, viticultural or floricultural crops or  
32 products in this state, including production by a person representing or  
33 working on behalf of such a person in a manner described in section  
34 42-5075, subsection 0, if the machinery and equipment are used directly  
35 and primarily to prevent, monitor, control or reduce air, water or land  
36 pollution.

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

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

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

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

7 ~~21.~~ 22. Qualifying equipment that is purchased from and after June  
8 30, 2004 through June 30, 2024 by a qualified business under section  
9 41-1516 for harvesting or processing qualifying forest products removed  
10 from qualifying projects as defined in section 41-1516. To qualify for  
11 this exemption, the qualified business must obtain and present its  
12 certification from the Arizona commerce authority at the time of purchase.

13 ~~22.~~ 23. Machinery, equipment, materials and other tangible  
14 personal property used directly and predominantly to construct a qualified  
15 environmental technology manufacturing, producing or processing facility  
16 as described in section 41-1514.02. This paragraph applies for ten full  
17 consecutive calendar or fiscal years after the start of initial  
18 construction.

19 C. The exemptions provided by subsection B of this section do not  
20 include:

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

25 2. Janitorial equipment and hand tools.

26 3. Office equipment, furniture and supplies.

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

30 5. Motor vehicles required to be licensed by this state, except  
31 buses or other urban mass transit vehicles specifically exempted pursuant  
32 to subsection B, paragraph ~~11~~ 12 of this section, without regard to the  
33 use of such motor vehicles.

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

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

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

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

41 1. Revenues received from sales of ancillary services, electric  
42 distribution services, electric generation services, electric transmission  
43 services and other services related to providing electricity to a retail  
44 electric customer who is located outside this state for use outside this



1 state if the electricity is delivered to a point of sale outside this  
2 state.

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

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

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

13 1. Fees charged by a municipally owned utility to persons  
14 constructing residential, commercial or industrial developments or  
15 connecting residential, commercial or industrial developments to a  
16 municipal utility system or systems if the fees are segregated and used  
17 only for capital expansion, system enlargement or debt service of the  
18 utility system or systems.

19 2. Reimbursement or contribution compensation to any person or  
20 persons owning a utility system for property and equipment installed to  
21 provide utility access to, on or across the land of an actual utility  
22 consumer if the property and equipment become the property of the utility.  
23 This deduction shall not exceed the value of such property and equipment.

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

26 1. A qualified manufacturing or smelting business. A utility that  
27 claims this deduction shall report each month, on a form prescribed by the  
28 department, the name and address of each qualified manufacturing or  
29 smelting business for which this deduction is taken. This paragraph  
30 applies to gas transportation services. For the purposes of this  
31 paragraph:

32 (a) "Gas transportation services" means the services of  
33 transporting natural gas to a natural gas customer or to a natural gas  
34 distribution facility if the natural gas was purchased from a supplier  
35 other than the utility.

36 (b) "Manufacturing" means the performance as a business of an  
37 integrated series of operations that places tangible personal property in  
38 a form, composition or character different from that in which it was  
39 acquired and transforms it into a different product with a distinctive  
40 name, character or use. Manufacturing does not include job printing,  
41 publishing, packaging, mining, generating electricity or operating a  
42 restaurant.

43 (c) "Qualified manufacturing or smelting business" means one of the  
44 following:

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

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

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

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

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

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

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

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

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

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

34 2. "Aircraft" includes:

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

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

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

44 J. For the purposes of subsection D of this section, "ancillary  
45 services", "electric distribution service", "electric generation service",

1 "electric transmission service" and "other services" have the same  
2 meanings prescribed in section 42-5063.

3 Sec. 10. Section 42-6004, Arizona Revised Statutes, as amended by  
4 Laws 2019, chapter 163, section 23 and chapter 189, section 3, is amended  
5 to read:

6 42-6004. Exemption from municipal tax; definitions

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

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

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

25 3. Sales of warranty or service contracts.

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

29 5. Interest on finance contracts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 22. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES  
33 OF MACHINERY AND EQUIPMENT USED DIRECTLY FOR ENERGY STORAGE FOR LATER  
34 ELECTRICAL USE. FOR THE PURPOSES OF THIS PARAGRAPH:

35 (a) "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A  
36 BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR THE  
37 PERSON'S EQUIPMENT SUPPLIERS.

38 (b) "ENERGY STORAGE" MEANS COMMERCIALY AVAILABLE TECHNOLOGY FOR  
39 ELECTRIC UTILITY SCALE THAT IS CAPABLE OF ABSORBING ENERGY, STORING ENERGY  
40 FOR A PERIOD OF TIME AND THEREAFTER DISPATCHING THE ENERGY AND THAT USES  
41 MECHANICAL, CHEMICAL OR THERMAL PROCESSES TO STORE ENERGY.

42 (c) "MACHINERY AND EQUIPMENT USED DIRECTLY" MEANS ALL MACHINERY AND  
43 EQUIPMENT THAT ARE USED FOR ELECTRIC ENERGY STORAGE FROM THE POINT OF  
44 RECEIPT FROM THE GRID IN ORDER TO FACILITATE STORAGE OF THE ELECTRIC  
45 ENERGY TO THE POINT WHERE ELECTRIC ENERGY IS RELEASED TO THE GRID.

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

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

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

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

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

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

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

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

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

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

39           (c) "Development fees" means fees imposed to offset capital costs  
40 of providing public infrastructure, public safety or other public services  
41 to a development and authorized pursuant to section 9-463.05, section  
42 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
43 paid.

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



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

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

6           10. Transporting for hire persons by vehicle for hire drivers on  
7 transactions involving vehicle for hire services as defined in section  
8 28-9501.

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

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

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

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

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

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

38           H. For the purposes of this section:

39           1. "Cable operator" has the same meaning prescribed in section  
40 9-505 and includes a video service provider.

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

44           3. "Telecommunication services" means transmitting or relaying  
45 sound, visual image, data, information, images or material over lines,

1 wires or cables by radio signal, light beam, telephone, telegraph or other  
2 electromagnetic means.

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

6 Sec. 11. Section 42-6004, Arizona Revised Statutes, as amended by  
7 Laws 2019, chapter 163, section 24 and chapter. 189, section 4. is amended  
8 to read:

9 42-6004. Exemption from municipal tax; definitions

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

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

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

28 3. Sales of warranty or service contracts.

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

32 5. Interest on finance contracts.

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

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

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

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

44 (b) "Internet access" means a service that enables users to access  
45 content, information, electronic mail or other services over the internet.

1 Internet access does not include telecommunication services provided by a  
2 common carrier.

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

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

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

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

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

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

21 (e) "Reciprocal insurer" has the same meaning prescribed in section  
22 20-762.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 17. The sale of coal.

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

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

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

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

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

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

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

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

17 21. The gross proceeds of sales or gross income derived from entry  
18 fees paid by participants for events that are operated or conducted by  
19 nonprofit organizations that are exempt from taxation under section  
20 501(c)(3) of the internal revenue code and of which no part of the  
21 organization's net earnings inures to the benefit of any private  
22 shareholder or individual, if the event consists of a run, walk, swim or  
23 bicycle ride or a similar event, or any combination of these events.

24 22. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM SALES  
25 OF MACHINERY AND EQUIPMENT USED DIRECTLY FOR ENERGY STORAGE FOR LATER  
26 ELECTRICAL USE. FOR THE PURPOSES OF THIS PARAGRAPH:

27 (a) "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A  
28 BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR THE  
29 PERSON'S EQUIPMENT SUPPLIERS.

30 (b) "ENERGY STORAGE" MEANS COMMERCIALY AVAILABLE TECHNOLOGY FOR  
31 ELECTRIC UTILITY SCALE THAT IS CAPABLE OF ABSORBING ENERGY, STORING ENERGY  
32 FOR A PERIOD OF TIME AND THEREAFTER DISPATCHING THE ENERGY AND THAT USES  
33 MECHANICAL, CHEMICAL OR THERMAL PROCESSES TO STORE ENERGY.

34 (c) "MACHINERY AND EQUIPMENT USED DIRECTLY" MEANS ALL MACHINERY AND  
35 EQUIPMENT THAT ARE USED FOR ELECTRIC ENERGY STORAGE FROM THE POINT OF  
36 RECEIPT FROM THE GRID IN ORDER TO FACILITATE STORAGE OF THE ELECTRIC  
37 ENERGY TO THE POINT WHERE ELECTRIC ENERGY IS RELEASED TO THE GRID.

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

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

- 1           1. A motor carrier's use on the public highways in this state if  
2 the motor carrier is subject to a fee prescribed in title 28, chapter 16,  
3 article 4.
- 4           2. Leasing, renting or licensing a motor vehicle subject to and on  
5 which the fee has been paid under title 28, chapter 16, article 4.
- 6           3. The sale of a motor vehicle and any repair and replacement parts  
7 and tangible personal property becoming a part of such motor vehicle to a  
8 motor carrier who is subject to a fee prescribed in title 28, chapter 16,  
9 article 4 and who is engaged in the business of leasing, renting or  
10 licensing such property.
- 11           4. Incarcerating or detaining in a privately operated prison, jail  
12 or detention facility prisoners who are under the jurisdiction of the  
13 United States, this state or any other state or a political subdivision of  
14 this state or of any other state.
- 15           5. Transporting for hire persons, freight or property by light  
16 motor vehicles subject to a fee under title 28, chapter 15, article 4.
- 17           6. Any amount attributable to development fees that are incurred in  
18 relation to the construction, development or improvement of real property  
19 and paid by the taxpayer as defined in the model city tax code or by a  
20 contractor providing services to the taxpayer. For the purposes of this  
21 paragraph:
  - 22           (a) The attributable amount shall not exceed the value of the  
23 development fees actually imposed.
  - 24           (b) The attributable amount is equal to the total amount of  
25 development fees paid by the taxpayer or by a contractor providing  
26 services to the taxpayer and the total development fees credited in  
27 exchange for the construction of, contribution to or dedication of real  
28 property for providing public infrastructure, public safety or other  
29 public services necessary to the development. The real property must be  
30 the subject of the development fees.
  - 31           (c) "Development fees" means fees imposed to offset capital costs  
32 of providing public infrastructure, public safety or other public services  
33 to a development and authorized pursuant to section 9-463.05, section  
34 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
35 paid.
- 36           7. Any amount attributable to fees collected by transportation  
37 network companies issued a permit pursuant to section 28-9552.
- 38           8. Transporting for hire persons by transportation network company  
39 drivers on transactions involving transportation network services as  
40 defined in section 28-9551.
- 41           9. Transporting for hire persons by vehicle for hire companies that  
42 are issued permits pursuant to section 28-9503.
- 43           10. Transporting for hire persons by vehicle for hire drivers on  
44 transactions involving vehicle for hire services as defined in section  
45 28-9501.

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

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

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

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

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

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

30 H. For the purposes of this section:

31 1. "Cable operator" has the same meaning prescribed in section  
32 9-505 and includes a video service provider.

33 2. "Electrical services" means transmitting or distributing  
34 electricity, electric lights, current or power over lines, wires or  
35 cables.

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

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



1           Sec. 12. Section 42-14151, Arizona Revised Statutes, is amended to  
2 read:

3           42-14151. Annual determination of valuation; definition

4           A. The department shall annually determine the valuation, in the  
5 manner prescribed by this article, of all property, owned or leased, and  
6 used by taxpayers in the following businesses:

- 7           1. Operation of a natural gas distribution system.
- 8           2. Operation of a water utility system.
- 9           3. Operation of a sewer system or wastewater treatment facility.
- 10          4. Operation of an electric generation facility.
- 11          5. Operation of an ~~electric~~ ENERGY STORAGE, transmission or  
12 distribution system.

13          B. For the purposes of this article, "generation of electricity"  
14 means the process of taking a source of energy, including coal, natural  
15 gas, oil, nuclear fuel or renewable sources and converting the energy into  
16 electricity to be delivered to customers through a transmission and  
17 distribution system.

18          Sec. 13. Section 42-14155, Arizona Revised Statutes, is amended to  
19 read:

20          42-14155. Valuation of renewable energy and storage  
21 equipment; definitions

22          A. Through December 31, 2040, the department shall determine the  
23 full cash value of taxable renewable energy AND STORAGE equipment in the  
24 manner prescribed by this section.

25          B. The full cash value of renewable energy AND STORAGE equipment is  
26 twenty ~~per cent~~ PERCENT of the depreciated cost of the equipment.  
27 Depreciated cost shall be determined by deducting depreciation from  
28 taxable original cost. Depreciation shall not exceed ninety ~~per cent~~  
29 PERCENT of the adjusted original cost.

30          C. FOR THE PURPOSES OF THIS SECTION, ALL ENERGY STORAGE EQUIPMENT,  
31 BOTH COLOCATED WITH RENEWABLE ENERGY AND STAND-ALONE ENERGY STORAGE  
32 EQUIPMENT, QUALIFIES FOR VALUATION PURSUANT TO THIS SECTION.

33          ~~C.~~ D. For the purposes of this section:

34           1. "Depreciation" means straight-line depreciation over the useful  
35 life, as adopted by the department, of the item of property.

36           2. "ELECTRIC UTILITY SCALE" MEANS A PERSON THAT IS ENGAGED IN A  
37 BUSINESS ACTIVITY DESCRIBED IN SECTION 42-5063, SUBSECTION A OR THE  
38 PERSON'S EQUIPMENT SUPPLIERS.

39           3. "ENERGY STORAGE" MEANS COMMERCIALY AVAILABLE TECHNOLOGY FOR  
40 ELECTRIC UTILITY SCALE THAT IS CAPABLE OF ABSORBING ENERGY, STORING ENERGY  
41 FOR A PERIOD OF TIME AND THEREAFTER DISPATCHING THE ENERGY AND THAT USES  
42 MECHANICAL, CHEMICAL OR THERMAL PROCESSES TO STORE ENERGY.

43           ~~2.~~ 4. "Original cost" means the actual cost, without trending, of  
44 acquiring or constructing property, including additions, retirements,  
45 adjustments and transfers.

1           ~~5.~~ 5. "Renewable energy AND STORAGE equipment" means electric  
2 generation facilities, electric transmission, electric distribution,  
3 ENERGY STORAGE, gas distribution or combination gas and electric  
4 transmission and distribution and transmission and distribution  
5 cooperative property that is located in this state, that is used or useful  
6 for ~~the generation, storage, transmission~~ GENERATING, STORING,  
7 TRANSMITTING or ~~distribution of~~ DISTRIBUTING electric power, energy or  
8 fuel derived from solar, wind or other nonpetroleum renewable sources not  
9 intended for self-consumption, including materials and supplies and  
10 construction work in progress, but excluding licensed vehicles and  
11 property valued under sections 42-14154 and 42-14156.

12           ~~4.~~ 6. "Taxable original cost" means THE original cost, ~~as defined~~  
13 ~~in this section,~~ reduced by the value of any investment tax credits,  
14 production tax credits or cash grants in lieu of investment tax credits  
15 applicable to the taxable renewable energy AND STORAGE equipment.

16           Sec. 14. Conditional enactment

17           Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,  
18 chapter 273, section 8 and chapter 288, section 2 and this act, and  
19 section 42-6004, Arizona Revised Statutes, as amended by Laws 2019,  
20 chapter 163, section 24 and chapter 189, section 4 and this act, become  
21 effective on the date prescribed by Laws 2018, chapter 263, section 5 but  
22 only on the occurrence of the conditions prescribed by Laws 2018, chapter  
23 263, section 5.