

REFERENCE TITLE: computer data centers; tax incentives

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

HB 2649

Introduced by
Representatives Toma: Cook, Dunn, Osborne

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

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

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

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

1 certification, including its effective date, to the department of
2 revenue. The authority shall not certify any new computer data center
3 after December 31, ~~2023~~ 2033.

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

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

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

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

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

31 2. During the seventy-two months immediately before September 1,
32 2013, the computer data center created an investment of at least ~~two~~
33 ~~hundred fifty million dollars~~ \$250,000,000, including costs of land,
34 buildings, improvements, modular data centers and computer data center
35 equipment, whether owned or leased or paid for pursuant to a right to use
36 agreement.

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

1 center equipment, and all tax relief directly received by the owner or
2 operator. This subsection does not apply to an existing computer data
3 center.

4 G. If the authority determines that:

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

19 2. There has been a violation of subsection ~~M~~ N of this section
20 with respect to a computer data center:

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

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

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

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

41 I. Proprietary business information contained in the application
42 described in subsection B of this section, the written notice described in
43 subsection F of this section and the list described in subsection J of
44 this section are confidential and shall not be disclosed to the public
45 except that the information shall be transmitted to the department of

1 revenue. The authority or the department may disclose the name of a
2 computer data center that has been certified pursuant to this section.

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

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

17 L. For the purposes of qualifying and continuing as a sustainable
18 redevelopment project:

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

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

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

39 M. AT ANY TIME WITHIN A QUALIFICATION PERIOD, AN OWNER OR OPERATOR
40 MAY DO EITHER OF THE FOLLOWING:

41 1. ADD ADDITIONAL CONTIGUOUS LAND TO A CERTIFIED COMPUTER DATA
42 CENTER BY PROVIDING THE AUTHORITY WITH INFORMATION SUFFICIENT TO IDENTIFY
43 THE SPECIFIC LAND TO BE ADDED TO THE COMPUTER DATA CENTER. THE
44 QUALIFICATION PERIOD FOR THE CERTIFIED COMPUTER DATA CENTER MAY NOT BE
45 INCREASED AS A RESULT OF THE EXPANSION, AND THE QUALIFICATION PERIOD FOR

1 THE EXPANDED SPACE IS EQUAL TO THE REMAINING DURATION OF THE QUALIFICATION
2 PERIOD OF THE ORIGINAL CERTIFICATION, UP TO TEN FULL CALENDAR YEARS
3 FOLLOWING THE YEAR OF ISSUANCE OR, FOR A SUSTAINABLE REDEVELOPMENT
4 PROJECT, UP TO TWENTY FULL CALENDAR YEARS FOLLOWING THE YEAR OF ISSUANCE.

5 2. REMOVE ANY PORTION OF UNDEVELOPED LAND FROM A CERTIFIED COMPUTER
6 DATA CENTER WITHOUT PENALTY. ANY REMOVED LAND MAY BE INCLUDED AS PART OF
7 A NEW COMPUTER DATA CENTER IF THE APPLICATION REQUIREMENTS OF SUBSECTION E
8 OF THIS SECTION FOR A NEW COMPUTER DATA CENTER ARE MET AND, TO THE EXTENT
9 THE ACQUISITION COST OF THE REMOVED LAND WAS USED TO MEET THE MINIMUM
10 INVESTMENT REQUIREMENTS OF THE CERTIFIED COMPUTER DATA CENTER FROM WHICH
11 IT WAS REMOVED, NO PART OF THE ACQUISITION COST OF THE REMOVED LAND IS
12 USED TO SATISFY THE MINIMUM INVESTMENT REQUIREMENTS OF THE NEW COMPUTER
13 DATA CENTER.

14 ~~M.~~ N. This section does not allow a computer data center to do
15 either of the following:

- 16 1. Generate electricity for resale purposes.
- 17 2. Generate, provide or sell electricity outside of the computer
18 data center.

19 ~~N.~~ O. The owner or operator may be a single individual or entity
20 or multiple affiliated entities.

21 ~~O.~~ P. For the purposes of this section:

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

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

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

38 (b) All equipment necessary to cool and maintain a controlled
39 environment for the operation of the computer server and other components
40 of the computer data center, including mechanical equipment, refrigerant
41 piping, gaseous fuel piping, adiabatic and free cooling systems, cooling
42 towers, water softeners, air handling units, indoor direct exchange units,
43 fans, ducting and filters.

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

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

3 (e) All monitoring equipment and security systems.

4 (f) Modular data centers and preassembled components of any item
5 described in this paragraph, including components used in the
6 manufacturing of modular data centers.

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

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

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

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

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

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

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

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

33 10. "Operator" means any individual or entity that operates a
34 computer data center as an operator or lessor or pursuant to a contract
35 with an owner or lessor. Operator includes a licensed property management
36 company, a property lessor or any other individual or entity responsible
37 for the control, oversight or maintenance of a facility.

38 11. "Qualification period" means:

39 (a) With respect to the owner or operator of a computer data
40 center, a period of time beginning on the effective date of the computer
41 data center's certification and expiring at the end of the tenth full
42 calendar year following the calendar year containing the effective date,
43 except, if a computer data center is a sustainable redevelopment project,
44 qualification period means a period of time beginning on the effective
45 date of the computer data center's certification and expiring at the end

1 of the twentieth full calendar year following the calendar year containing
2 the effective date.

3 (b) With respect to the qualified colocation tenant of the owner or
4 operator of a computer data center certified under this section, a period
5 of time beginning on the date that the qualified colocation tenant enters
6 into an agreement concerning the use or occupancy of the computer data
7 center and expiring at the earlier of the expiration of the term of the
8 agreement or the tenth full calendar year following the calendar year in
9 which the qualified colocation tenant entered into the agreement, except,
10 if a computer data center is a sustainable redevelopment project,
11 qualification period means a period of time beginning on the date that the
12 qualified colocation tenant enters into an agreement concerning the use or
13 occupancy of the computer data center and expiring at the earlier of the
14 expiration of the term of the agreement or the twentieth full calendar
15 year following the calendar year in which the tenant entered into the
16 agreement. The qualification period for a qualified colocation tenant may
17 not extend beyond the qualification period for the owner or operator of
18 the computer data center.

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

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

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

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

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

37 (ii) Attains certification under the energy star or green globes
38 standard, the leadership in energy and environmental design green building
39 rating standard developed by the United States green building council or
40 an equivalent green building standard and was not previously certified
41 under these standards.

42 14. "Tax relief" means the ~~deduction~~ DEDUCTIONS of the gross
43 proceeds of sale or gross income from the sale, USE, INSTALLATION,
44 ASSEMBLY, REPAIR OR MAINTENANCE of ~~qualified~~ COMPUTER DATA CENTER

1 equipment as prescribed by ~~section~~ SECTIONS 42-5061, 42-5075, 42-5159 ~~or~~
2 AND 42-6004 ~~that is installed in~~ FOR USE AT a computer data center.

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

6 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

29 7. The sale of stocks and bonds.

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

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

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

38 11. Prescription eyeglasses or contact lenses.

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

40 13. Durable medical equipment that has a centers for medicare and
41 medicaid services common procedure code, is designated reimbursable by
42 medicare, is prescribed by a person who is licensed under title 32,
43 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
44 primarily and customarily used to serve a medical purpose, is generally

1 not useful to a person in the absence of illness or injury and is
2 appropriate for use in the home.

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

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

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

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

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

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

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

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

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

1 future, whether from the seller of the cash equivalent or from another
2 person. Cash equivalents do not include either of the following:

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

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

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

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

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

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

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

27 25. Tangible personal property sold to:

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

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

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

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

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

43 (f) For taxable periods beginning from and after June 30, 2001, a
44 nonprofit charitable organization that has qualified under section
45 501(c)(3) of the internal revenue code and that provides residential

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

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

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

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

15 27. Tangible personal property sold to:

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

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

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

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

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

33 28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 ~~61.~~ 60. Sales of tangible personal property by a marketplace
38 seller that are facilitated by a marketplace facilitator in which the
39 marketplace facilitator has remitted or will remit the applicable tax to
40 the department pursuant to section 42-5014.

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

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

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

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

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

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

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

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

37 (a) A person:

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

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

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

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

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

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

21 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (ii) Over two-thirds of the transmissions, measured in megabytes,
41 transmitted by or on behalf of those direct broadcast television or data
42 transmission services during the test period were transmitted by the
43 facility to or on behalf of those services. For the purposes of
44 subdivision (b) of this paragraph, "test period" means the three hundred
45 sixty-five day period beginning on the later of the date on which the

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

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

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

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

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

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

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

44 20. Machinery or equipment that enables a television station to
45 originate and broadcast or to receive and broadcast digital television

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

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

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

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

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

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

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

34 2. Janitorial equipment and hand tools.

35 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

39 2. Businesses classified under the:

40 (a) Transporting classification.

41 (b) Utilities classification.

42 (c) Telecommunications classification.

43 (d) Pipeline classification.

44 (e) Private car line classification.

45 (f) Publication classification.

1 (g) Job printing classification.

2 (h) Prime contracting classification.

3 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 chapter if the seller had not made a deduction pursuant to subsection B,
2 paragraph 15, subdivision (b) of this section. Payment of the amount
3 under this subsection exempts the purchaser from liability for any tax
4 imposed under article 4 of this chapter and related to the tangible
5 personal property purchased. The amount shall be treated as transaction
6 privilege tax to the purchaser and as tax revenues collected from the
7 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

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

30 V. For the purposes 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 4. "Selling at retail" means a sale for any purpose other than for
45 resale in the regular course of business in the form of tangible personal

1 property, but transfer of possession, lease and rental as used in the
2 definition of sale mean only such transactions as are found on
3 investigation to be in lieu of sales as defined without the words lease or
4 rental.

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

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

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

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

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

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

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

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

38 42-5061. Retail classification; definitions

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

- 1 1. Professional or personal service occupations or businesses that
2 involve sales or transfers of tangible personal property only as
3 inconsequential elements.
- 4 2. Services rendered in addition to selling tangible personal
5 property at retail.
- 6 3. Sales of warranty or service contracts. The storage, use or
7 consumption of tangible personal property provided under the conditions of
8 such contracts is subject to tax under section 42-5156.
- 9 4. Sales of tangible personal property by any nonprofit
10 organization organized and operated exclusively for charitable purposes
11 and recognized by the United States internal revenue service under section
12 501(c)(3) of the internal revenue code.
- 13 5. Sales to persons engaged in business classified under the
14 restaurant classification of articles used by human beings for food, drink
15 or condiment, whether simple, mixed or compounded.
- 16 6. Business activity that is properly included in any other
17 business classification that is taxable under this article.
- 18 7. The sale of stocks and bonds.
- 19 8. Drugs and medical oxygen, including delivery hose, mask or tent,
20 regulator and tank, ~~on the prescription of~~ IF PRESCRIBED BY a member of
21 the medical, dental or veterinarian profession who is licensed by law to
22 administer such substances.
- 23 9. Prosthetic appliances as defined in section 23-501 and as
24 prescribed or recommended by a health professional who is licensed
25 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 26 10. Insulin, insulin syringes and glucose test strips.
- 27 11. Prescription eyeglasses or contact lenses.
- 28 12. Hearing aids as defined in section 36-1901.
- 29 13. Durable medical equipment that has a centers for medicare and
30 medicaid services common procedure code, is designated reimbursable by
31 medicare, is prescribed by a person who is licensed under title 32,
32 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
33 primarily and customarily used to serve a medical purpose, is generally
34 not useful to a person in the absence of illness or injury and is
35 appropriate for use in the home.
- 36 14. Sales of motor vehicles to nonresidents of this state for use
37 outside this state if the motor vehicle dealer ships or delivers the motor
38 vehicle to a destination out of this state.
- 39 15. Food, as provided in and subject to the conditions of article 3
40 of this chapter and sections 42-5074 and 42-6017.
- 41 16. Items purchased with United States department of agriculture
42 coupons issued under the supplemental nutrition assistance program
43 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
44 7 United States Code sections 2011 through 2036b) by the United States
45 department of agriculture food and nutrition service or food instruments

1 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
2 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
3 section 1786).

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

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

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

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

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

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

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

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

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

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

1 22. Motor vehicle fuel and use fuel that are subject to a tax
2 imposed under title 28, chapter 16, article 1, sales of use fuel to a
3 holder of a valid single trip use fuel tax permit issued under section
4 28-5739, sales of aviation fuel that are subject to the tax imposed under
5 section 28-8344 and sales of jet fuel that are subject to the tax imposed
6 under article 8 of this chapter.

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

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

14 25. Tangible personal property sold to:

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

16 (b) A qualifying health care organization as defined in section
17 42-5001 if the tangible personal property is used by the organization
18 solely to provide health and medical related educational and charitable
19 services.

20 (c) A qualifying health care organization as defined in section
21 42-5001 if the organization is dedicated to providing educational,
22 therapeutic, rehabilitative and family medical education training for
23 blind and visually impaired children and children with multiple
24 disabilities from the time of birth to age twenty-one.

25 (d) A qualifying community health center as defined in section
26 42-5001.

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

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

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

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

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

3 27. Tangible personal property sold to:

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

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

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

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

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

21 28. The sale of a motor vehicle to:

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

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

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

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

1 this state before January 1, 2018 that were exempt from taxation under
2 section 42-5073.

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

8 32. Sales of tangible personal property by a nonprofit organization
9 that is exempt from taxation under section 501(c)(3), 501(c)(4),
10 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
11 organization sponsors or operates a rodeo featuring primarily farm and
12 ranch animals and no part of the organization's net earnings inures to the
13 benefit of any private shareholder or individual.

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

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

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

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

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

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

37 37. Petroleum, coke, natural gas, virgin fuel oil and electricity
38 sold to a qualified environmental technology manufacturer, producer or
39 processor as defined in section 41-1514.02 and directly used or consumed
40 in ~~the generation~~ GENERATING or ~~provision of~~ PROVIDING on-site power or
41 energy solely for environmental technology manufacturing, producing or
42 processing or environmental protection. This paragraph ~~shall apply~~
43 APPLIES for twenty full consecutive calendar or fiscal years from the date
44 the first paper manufacturing machine is placed in service. In the case
45 of an environmental technology manufacturer, producer or processor who

1 THAT does not manufacture paper, the time period ~~shall begin~~ BEGINS with
2 the date the first manufacturing, processing or production equipment is
3 placed in service.

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

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

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

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

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

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

41 42. Sales of:

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

44 (b) Livestock and poultry feed, salts, vitamins and other additives
45 for livestock or poultry consumption that are sold to persons for use or

1 consumption by their own livestock or poultry, for use or consumption in
2 the businesses of farming, ranching and producing or feeding livestock,
3 poultry, or livestock or poultry products or for use or consumption in
4 noncommercial boarding of livestock. For the purposes of this paragraph,
5 "poultry" includes ratites.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ~~58.~~ 57. Orthodontic devices dispensed by a dental professional who
2 is licensed under title 32, chapter 11 to a patient as part of the
3 practice of dentistry.

4 ~~59.~~ 58. Sales of tangible personal property incorporated or
5 fabricated into a project described in section 42-5075, subsection 0, that
6 is located within the exterior boundaries of an Indian reservation for
7 which the owner, as defined in section 42-5075, of the project is an
8 Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

21 ~~60.~~ 59. Sales of works of fine art, as defined in section 44-1771,
22 at an art auction or gallery in this state to nonresidents of this state
23 for use outside this state if the vendor ships or delivers the work of
24 fine art to a destination outside this state.

25 ~~61.~~ 60. Sales of coal.

26 ~~62.~~ 61. Sales of tangible personal property by a marketplace
27 seller that are facilitated by a marketplace facilitator in which the
28 marketplace facilitator has remitted or will remit the applicable tax to
29 the department pursuant to section 42-5014.

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

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

41 2. Mining machinery, or equipment, used directly in the process of
42 extracting ores or minerals from the earth for commercial purposes,
43 including equipment required to prepare the materials for extraction and
44 handling, loading or transporting such extracted material to the surface.

1 "Mining" includes underground, surface and open pit operations for
2 extracting ores and minerals.

3 3. Tangible personal property sold to persons engaged in business
4 classified under the telecommunications classification, including a person
5 representing or working on behalf of such a person in a manner described
6 in section 42-5075, subsection 0, and consisting of central office
7 switching equipment, switchboards, private branch exchange equipment,
8 microwave radio equipment and carrier equipment including optical fiber,
9 coaxial cable and other transmission media that are components of carrier
10 systems.

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

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

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

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

26 (a) A person:

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

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

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

40 (iv) Operating an aircraft to transport persons in any manner for
41 compensation or hire, or for use in a fractional ownership program that
42 meets the requirements of federal aviation administration regulations
43 (14 Code of Federal Regulations part 91, subpart K), including as an air
44 carrier, a foreign air carrier or a commercial operator or under a
45 restricted category, within the meaning of 14 Code of Federal Regulations,

1 regardless of whether the operation or aircraft is regulated or certified
2 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
3 of Federal Regulations.

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

9 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (c) Any machinery or equipment purchased after the television
2 station has ceased analog broadcasting, or purchased after November 1,
3 2009, whichever occurs first.

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

10 22. COMPUTER DATA CENTER EQUIPMENT SOLD TO THE OWNER, OPERATOR OR
11 QUALIFIED COLOCATION TENANT OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY
12 THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 OR AN AUTHORIZED
13 AGENT OF THE OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT DURING THE
14 QUALIFICATION PERIOD FOR USE IN THE QUALIFIED COMPUTER DATA CENTER. FOR
15 THE PURPOSES OF THIS PARAGRAPH, "COMPUTER DATA CENTER", "COMPUTER DATA
16 CENTER EQUIPMENT", "QUALIFICATION PERIOD" AND "QUALIFIED COLOCATION
17 TENANT" HAVE THE SAME MEANINGS PRESCRIBED IN SECTION 41-1519.

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

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

24 2. Janitorial equipment and hand tools.

25 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

29 2. Businesses classified under the:

30 (a) Transporting classification.

31 (b) Utilities classification.

32 (c) Telecommunications classification.

33 (d) Pipeline classification.

34 (e) Private car line classification.

35 (f) Publication classification.

36 (g) Job printing classification.

37 (h) Prime contracting classification.

38 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

43 O. For the purposes of this section, a sale of wireless
44 telecommunications equipment to a person who holds the equipment for sale
45 or transfer to a customer as an inducement to enter into or continue a

1 contract for telecommunications services that are taxable under section
2 42-5064 is considered to be a sale for resale in the regular course of
3 business.

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

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

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

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

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

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

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

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

40 T. In computing the tax base for the sale of a motor vehicle to a
41 nonresident of this state, if the purchaser's state of residence allows a
42 corresponding use tax exemption to the tax imposed by article 1 of this
43 chapter and the rate of the tax in the purchaser's state of residence is
44 lower than the rate prescribed in article 1 of this chapter or if the
45 purchaser's state of residence does not impose an excise tax, and the

1 nonresident has secured a special ninety day nonresident registration
2 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
3 there shall be deducted from the tax base a portion of the gross proceeds
4 or gross income from the sale so that the amount of transaction privilege
5 tax that is paid in this state is equal to the excise tax that is imposed
6 by the purchaser's state of residence on the nonexempt sale or use of the
7 motor vehicle.

8 U. For the purposes of this section:

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

12 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

13 Sec. 4. Section 42-5075, Arizona Revised Statutes, is amended to
14 read:

15 42-5075. Prime contracting classification; exemptions;
16 definitions

17 A. The prime contracting classification is comprised of the
18 business of prime contracting and the business of manufactured building
19 dealer. Sales for resale to another manufactured building dealer are not
20 subject to tax. Sales for resale do not include sales to a lessor of
21 manufactured buildings. The sale of a used manufactured building is not
22 taxable under this chapter. The prime contracting classification does not
23 include any work or operation performed by a person that is not required
24 to be licensed by the registrar of contractors pursuant to section
25 32-1121.

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

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

32 2. Sales and installation of groundwater measuring devices required
33 under section 45-604 and groundwater monitoring wells required by law,
34 including monitoring wells installed for acquiring information for a
35 permit required by law.

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

41 4. The gross proceeds of sales or gross income received from a
42 contract entered into for the modification of any building, highway, road,
43 railroad, excavation, manufactured building or other structure, project,
44 development or improvement located in a military reuse zone for providing
45 aviation or aerospace services or for a manufacturer, assembler or

1 fabricator of aviation or aerospace products within an active military
2 reuse zone after the zone is initially established or renewed under
3 section 41-1531. To be eligible to qualify for this deduction, before
4 beginning work under the contract, the prime contractor must have applied
5 for a letter of qualification from the department of revenue.

6 5. The gross proceeds of sales or gross income derived from a
7 contract to construct a qualified environmental technology manufacturing,
8 producing or processing facility, as described in section 41-1514.02, and
9 from subsequent construction and installation contracts that begin within
10 ten years after the start of initial construction. To qualify for this
11 deduction, before beginning work under the contract, the prime contractor
12 must obtain a letter of qualification from the department of revenue.
13 This paragraph shall apply for ten full consecutive calendar or fiscal
14 years after the start of initial construction.

15 6. The gross proceeds of sales or gross income from a contract to
16 provide for one or more of the following actions, or a contract for site
17 preparation, constructing, furnishing or installing machinery, equipment
18 or other tangible personal property, including structures necessary to
19 protect exempt incorporated materials or installed machinery or equipment,
20 and tangible personal property incorporated into the project, to perform
21 one or more of the following actions in response to a release or suspected
22 release of a hazardous substance, pollutant or contaminant from a facility
23 to the environment, unless the release was authorized by a permit issued
24 by a governmental authority:

25 (a) Actions to monitor, assess and evaluate such a release or a
26 suspected release.

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

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

32 (d) Pumping and treatment or in situ treatment of contaminated
33 groundwater or surface water to reduce the concentration or toxicity of a
34 contaminant.

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

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

44 7. The gross proceeds of sales or gross income that is derived from
45 a contract for the installation, assembly, repair or maintenance of

1 machinery, equipment or other tangible personal property that is either
2 deducted from the tax base of the retail classification under section
3 42-5061, subsection B or that is exempt from use tax under section
4 42-5159, subsection B and that has independent functional utility,
5 pursuant to the following provisions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 10. The gross proceeds of sales or gross income that is derived
14 from a contract entered into with a person who is engaged in the
15 commercial production of livestock, livestock products or agricultural,
16 horticultural, viticultural or floricultural crops or products in this
17 state for the modification of any building, highway, road, excavation,
18 manufactured building or other structure, project, development or
19 improvement used directly and primarily to prevent, monitor, control or
20 reduce air, water or land pollution.

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

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

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

39 14. The gross proceeds of sales or gross income derived from a
40 contract entered into for the construction of a launch site, as defined in
41 14 Code of Federal Regulations section 401.5.

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

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

4 17. The gross proceeds of sales or gross income received from
5 contracts entered into before July 1, 2006 for constructing a state
6 university research infrastructure project if the project has been
7 reviewed by the joint committee on capital review before the university
8 enters into the construction contract for the project. For the purposes
9 of this paragraph, "research infrastructure" has the same meaning
10 prescribed in section 15-1670.

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

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

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

26 (b) The attributable amount is equal to the total amount of
27 development fees paid by the prime contractor or subcontractor, and the
28 total development fees credited in exchange for the construction of,
29 contribution to or dedication of real property for providing public
30 infrastructure, public safety or other public services necessary to the
31 development. The real property must be the subject of the development
32 fees.

33 (c) "Development fees" means fees imposed to offset capital costs
34 of providing public infrastructure, public safety or other public services
35 to a development and authorized pursuant to section 9-463.05, section
36 11-1102 or title 48 regardless of the jurisdiction to which the fees are
37 paid.

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

43 (a) "Mixed waste processing facility" means a solid waste facility
44 that is owned, operated or used for the treatment, processing or disposal
45 of solid waste, recyclable solid waste, conditionally exempt small

1 quantity generator waste or household hazardous waste. For the purposes
2 of this subdivision, "conditionally exempt small quantity generator
3 waste", "household hazardous waste" and "solid waste facility" have the
4 same meanings prescribed in section 49-701, except that solid waste
5 facility does include a site that stores, treats or processes paper,
6 glass, wood, cardboard, household textiles, scrap metal, plastic,
7 vegetative waste, aluminum, steel or other recyclable material.

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

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

13 (d) "Renewable energy" has the same meaning prescribed in section
14 41-1511.

15 C. Entitlement to the deduction pursuant to subsection B, paragraph
16 7 of this section is subject to the following provisions:

17 1. A prime contractor may establish entitlement to the deduction by
18 both:

19 (a) Marking the invoice for the transaction to indicate that the
20 gross proceeds of sales or gross income derived from the transaction was
21 deducted from the base.

22 (b) Obtaining a certificate executed by the purchaser indicating
23 the name and address of the purchaser, the precise nature of the business
24 of the purchaser, the purpose for which the purchase was made, the
25 necessary facts to establish the deductibility of the property under
26 section 42-5061, subsection B, and a certification that the person
27 executing the certificate is authorized to do so on behalf of the
28 purchaser. The certificate may be disregarded if the prime contractor has
29 reason to believe that the information contained in the certificate is not
30 accurate or complete.

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

34 3. The department may prescribe a form for the certificate
35 described in paragraph 1, subdivision (b) of this subsection. The
36 department may also adopt rules that describe the transactions with
37 respect to which a person is not entitled to rely solely on the
38 information contained in the certificate provided in paragraph 1,
39 subdivision (b) of this subsection but must instead obtain such additional
40 information as required in order to be entitled to the deduction.

41 4. If a prime contractor is entitled to a deduction by complying
42 with paragraph 1 of this subsection, the department may require the
43 purchaser who caused the execution of the certificate to establish the
44 accuracy and completeness of the information required to be contained in
45 the certificate that would entitle the prime contractor to the deduction.

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

11 D. Subcontractors or others who perform modification activities are
12 not subject to tax if they can demonstrate that the job was within the
13 control of a prime contractor or contractors or a dealership of
14 manufactured buildings and that the prime contractor or dealership is
15 liable for the tax on the gross income, gross proceeds of sales or gross
16 receipts attributable to the job and from which the subcontractors or
17 others were paid.

18 E. Amounts received by a contractor for a project are excluded from
19 the contractor's gross proceeds of sales or gross income derived from the
20 business if the person who hired the contractor executes and provides a
21 certificate to the contractor stating that the person providing the
22 certificate is a prime contractor and is liable for the tax under article
23 1 of this chapter. The department shall prescribe the form of the
24 certificate. If the contractor has reason to believe that the information
25 contained on the certificate is erroneous or incomplete, the department
26 may disregard the certificate. If the person who provides the certificate
27 is not liable for the tax as a prime contractor, that person is
28 nevertheless deemed to be the prime contractor in lieu of the contractor
29 and is subject to the tax under this section on the gross receipts or
30 gross proceeds received by the contractor.

31 F. Every person engaging or continuing in this state in the
32 business of prime contracting or dealership of manufactured buildings
33 shall present to the purchaser of such prime contracting or manufactured
34 building a written receipt of the gross income or gross proceeds of sales
35 from such activity and shall separately state the taxes to be paid
36 pursuant to this section.

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

43 H. For the purposes of section 42-5032.02, from and after
44 September 30, 2013, the department shall separately account for revenues
45 reported and collected under the prime contracting classification from any

1 prime contractor engaged in the construction of any buildings and
2 associated improvements that are for the benefit of a manufacturing
3 facility. For the purposes of this subsection, "associated improvements"
4 and "manufacturing facility" have the same meanings prescribed in section
5 42-5032.02.

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

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

23 K. The portion of gross proceeds of sales or gross income
24 attributable to the actual direct costs of providing architectural or
25 engineering services that are incorporated in a contract is not subject to
26 tax under this section. For the purposes of this subsection, "direct
27 costs" means the portion of the actual costs that are directly expended in
28 providing architectural or engineering services.

29 L. Operating a landfill or a solid waste disposal facility is not
30 subject to taxation under this section, including filling, compacting and
31 creating vehicle access to and from cell sites within the landfill.
32 Constructing roads to a landfill or solid waste disposal facility and
33 constructing cells within a landfill or solid waste disposal facility may
34 be deemed prime contracting under this section.

35 M. The following apply in determining the taxable situs of sales of
36 manufactured buildings:

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

40 2. For sales in this state where the manufactured building dealer
41 does not contract to deliver the building to a setup site or does not
42 perform the setup, the taxable situs is the location of the dealership
43 where the building is delivered to the buyer.

44 3. For sales in this state where the manufactured building dealer
45 contracts to deliver the building to a setup site that is outside this

1 state, the situs is outside this state and the transaction is excluded
2 from tax.

3 N. The gross proceeds of sales or gross income attributable to a
4 written contract for design phase services or professional services,
5 executed before modification begins and with terms, conditions and pricing
6 of all of these services separately stated in the contract from those for
7 construction phase services, is not subject to tax under this section,
8 regardless of whether the services are provided sequential to or
9 concurrent with prime contracting activities that are subject to tax under
10 this section. This subsection does not include the gross proceeds of
11 sales or gross income attributable to construction phase services. For
12 the purposes of this subsection:

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

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

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

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

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

29 (ii) The amount of an adjustment, if any, to the guaranteed maximum
30 price as set in the contract for modification work. For the purposes of
31 this item, "guaranteed maximum price" means the amount guaranteed to be
32 the maximum amount due to a prime contractor for the performance of all
33 modification work for the project.

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

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

41 (e) Inspection to determine the dates of substantial completion or
42 final completion.

43 (f) Preparation of any manuals, warranties, as-built drawings,
44 spares or other items the prime contractor must furnish pursuant to the
45 contract for modification work. For the purposes of this subdivision,

1 "as-built drawing" means a drawing that indicates field changes made to
2 adapt to field conditions, field changes resulting from change orders or
3 buried and concealed installation of piping, conduit and utility services.

4 (g) Preparation of status reports after modification work has begun
5 detailing the progress of work performed, including preparation of any of
6 the following:

7 (i) Master schedule updates.

8 (ii) Modification work cash flow projection updates.

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

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

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

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

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

18 (j) Administration or supervision of any other activities for which
19 a prime contractor receives a certificate for payment or certificate for
20 final payment based on the progress of modification work performed on the
21 project.

22 2. "Design phase services" means services for developing and
23 completing a design for a project that are not construction phase
24 services, including the following:

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

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

31 (c) Preparing drawings and specifications for architectural program
32 documents, schematic design documents, design development documents,
33 modification work documents or documents that identify the scope of or
34 materials for the project.

35 (d) Preparing an initial schedule for the project, excluding the
36 preparation of updates to the master schedule after modification work has
37 begun.

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

41 (i) Labor, materials, machinery and equipment, tools, water, heat,
42 utilities, transportation and other facilities and services used in the
43 execution and completion of modification work, regardless of whether they
44 are temporary or permanent or whether they are incorporated in the
45 modifications.

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

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

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

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

11 (vi) Any bond and insurance premiums.

12 (vii) Any applicable taxes.

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

15 (f) Reviewing and evaluating cost estimates and project documents
16 to prepare recommendations on site use, site improvements, selection of
17 materials, building systems and equipment, modification feasibility,
18 availability of materials and labor, local modification activity as
19 related to schedules and time requirements for modification work.

20 (g) Preparing the plan and procedures for selection of
21 subcontractors, including any prequalification of subcontractor
22 candidates.

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

28 0. The gross proceeds of sales or gross income derived from a
29 contract with the owner of real property or improvements to real property
30 for the maintenance, repair, replacement or alteration of existing
31 property is not subject to tax under this section if the contract does not
32 include modification activities, except as specified in this subsection.
33 The gross proceeds of sales or gross income derived from a de minimis
34 amount of modification activity does not subject the contract or any part
35 of the contract to tax under this section. For the purposes of this
36 subsection:

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

40 2. Each contract is independent of any other contract, except that
41 any change order that directly relates to the scope of work of the
42 original contract shall be treated the same as the original contract under
43 this chapter, regardless of the amount of modification activities included
44 in the change order. If a change order does not directly relate to the
45 scope of work of the original contract, the change order shall be treated

1 as a new contract, with the tax treatment of any subsequent change order
2 to follow the tax treatment of the contract to which the scope of work of
3 the subsequent change order directly relates.

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

12 1. Community facilities districts, fire districts, county
13 television improvement districts, community park maintenance districts,
14 cotton pest control districts, hospital districts, pest abatement
15 districts, health service districts, agricultural improvement districts,
16 county free library districts, county jail districts, county stadium
17 districts, special health care districts, public health services
18 districts, theme park districts or revitalization districts.

19 2. Any special taxing district not specified in paragraph 1 of this
20 subsection if the district does not substantially engage in the
21 modification, maintenance, repair, replacement or alteration of surface or
22 subsurface improvements to land.

23 Q. Notwithstanding subsection R, paragraph 10 of this section, a
24 person owning real property who enters into a contract for sale of the
25 real property, who is responsible to the new owner of the property for
26 modifications made to the property in the period subsequent to the
27 transfer of title and who receives a consideration for the modifications
28 is considered a prime contractor solely for purposes of taxing the gross
29 proceeds of sale or gross income received for the modifications made
30 subsequent to the transfer of title. The original owner's gross proceeds
31 of sale or gross income received for the modifications shall be determined
32 according to the following methodology:

33 1. If any part of the contract for sale of the property specifies
34 amounts to be paid to the original owner for the modifications to be made
35 in the period subsequent to the transfer of title, the amounts are
36 included in the original owner's gross proceeds of sale or gross income
37 under this section. Proceeds from the sale of the property that are
38 received after transfer of title and that are unrelated to the
39 modifications made subsequent to the transfer of title are not considered
40 gross proceeds of sale or gross income from the modifications.

41 2. If the original owner enters into an agreement separate from the
42 contract for sale of the real property providing for amounts to be paid to
43 the original owner for the modifications to be made in the period
44 subsequent to the transfer of title to the property, the amounts are

1 included in the original owner's gross proceeds of sale or gross income
2 received for the modifications made subsequent to the transfer of title.

3 3. If the original owner is responsible to the new owner for
4 modifications made to the property in the period subsequent to the
5 transfer of title and derives any gross proceeds of sale or gross income
6 from the project subsequent to the transfer of title other than a delayed
7 disbursement from escrow unrelated to the modifications, it is presumed
8 that the amounts are received for the modifications made subsequent to the
9 transfer of title unless the contrary is established by the owner through
10 its books, records and papers kept in the regular course of business.

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

13 R. For the purposes of this section:

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

16 (a) For existing property that is properly classified as class two
17 property under section 42-12002, paragraph 1, subdivision (c) or paragraph
18 2, subdivision (c) and that is used for residential purposes, class three
19 property under section 42-12003 or class four property under section
20 42-12004, this paragraph does not apply if the contract amount is more
21 than twenty-five percent of the most recent full cash value established
22 under chapter 13, article 2 of this title as of the date of any bid for
23 the work or the date of the contract, whichever value is higher.

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

28 (c) Project elements may not be artificially separated from a
29 contract to cause a project to qualify as an alteration. The department
30 has the burden of proof that project elements have been artificially
31 separated from a contract.

32 (d) If a project for which the owner and the person performing the
33 work reasonably believed, at the inception of the contract, would be
34 treated as an alteration under this paragraph and, on completion of the
35 project, the project exceeded the applicable threshold described in either
36 subdivision (a) or (b) of this paragraph by no more than twenty-five
37 percent of the applicable threshold for any reason, the work performed
38 under the contract qualifies as an alteration.

39 (e) A change order that directly relates to the scope of work of
40 the original contract shall be treated as part of the original contract,
41 and the contract amount shall include any amount attributable to a change
42 order that directly relates to the scope of work of the original contract.

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

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

1 3. "Contractor" is synonymous with the term "builder" and means any
2 person or organization that undertakes to or offers to undertake to, or
3 purports to have the capacity to undertake to, or submits a bid to, or
4 does personally or by or through others, modify any building, highway,
5 road, railroad, excavation, manufactured building or other structure,
6 project, development or improvement, or to do any part of such a project,
7 including the erection of scaffolding or other structure or works in
8 connection with such a project, and includes subcontractors and specialty
9 contractors. For all purposes of taxation or deduction, this definition
10 shall govern without regard to whether or not such a contractor is acting
11 in fulfillment of a contract.

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

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

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

17 (b) Supervises, performs or coordinates the excavation and
18 completion of site improvements or the setup of a manufactured building,
19 including the contracting, if any, with any subcontractor or specialty
20 contractor for the completion of the contract.

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

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

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

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

31 7. "Modify" means to make a modification or cause a modification to
32 be made.

33 8. "Owner" means the person that holds title to the real property
34 or improvements to real property that is the subject of the work, as well
35 as an agent of the title holder and any person with the authority to
36 perform or authorize work on the real property or improvements, including
37 a tenant and a property manager. For the purposes of subsection 0 of this
38 section, a person who is hired by a general contractor that is hired by an
39 owner, or a subcontractor of a general contractor that is hired by an
40 owner, is considered to be hired by the owner.

41 9. "Prime contracting" means engaging in business as a prime
42 contractor.

43 10. "Prime contractor" means a contractor who supervises, performs
44 or coordinates the modification of any building, highway, road, railroad,
45 excavation, manufactured building or other structure, project, development

1 or improvement, including the contracting, if any, with any subcontractors
2 or specialty contractors and who is responsible for the completion of the
3 contract. Except as provided in subsections E and Q of this section, a
4 person who owns real property, who engages one or more contractors to
5 modify that real property and who does not itself modify that real
6 property is not a prime contractor within the meaning of this paragraph
7 regardless of the existence of a contract for sale or the subsequent sale
8 of that real property.

9 11. "Replacement" means the removal from service of one component
10 or system of existing property or tangible personal property installed in
11 existing property, including machinery or equipment, and the installation
12 of a new component or system or new tangible personal property, including
13 machinery or equipment, that provides the same, a similar or an upgraded
14 design or functionality, regardless of the contract amount and regardless
15 of whether the existing component or system or existing tangible personal
16 property is physically removed from the existing property.

17 12. "Sale of a used manufactured building" does not include a lease
18 of a used manufactured building.

19 Sec. 5. Section 42-5159, Arizona Revised Statutes, is amended to
20 read:

21 42-5159. Exemptions

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

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

28 2. Tangible personal property, the sale or use of which has already
29 been subjected to an excise tax at a rate equal to or exceeding the tax
30 imposed by this article under the laws of another state of the United
31 States. If the excise tax imposed by the other state is at a rate less
32 than the tax imposed by this article, the tax imposed by this article is
33 reduced by the amount of the tax already imposed by the other state.

34 3. Tangible personal property, the storage, use or consumption of
35 which the constitution or laws of the United States prohibit this state
36 from taxing or to the extent that the rate or imposition of tax is
37 unconstitutional under the laws of the United States.

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

42 5. Motor vehicle fuel and use fuel, the sales, distribution or use
43 of which in this state is subject to the tax imposed under title 28,
44 chapter 16, article 1, use fuel that is sold to or used by a person
45 holding a valid single trip use fuel tax permit issued under

1 section 28-5739, aviation fuel, the sales, distribution or use of which in
2 this state is subject to the tax imposed under section 28-8344, and jet
3 fuel, the sales, distribution or use of which in this state is subject to
4 the tax imposed under article 8 of this chapter.

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

10 7. Purchases of implants used as growth promotants and injectable
11 medicines, not already exempt under paragraph 16 of this subsection, for
12 livestock and poultry owned by, or in possession of, persons who are
13 engaged in producing livestock, poultry, or livestock or poultry products,
14 or who are engaged in feeding livestock or poultry commercially. For the
15 purposes of this paragraph, "poultry" includes ratites.

16 8. Purchases of:

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

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

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

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

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

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

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

43 12. Materials that are purchased by or for publicly funded
44 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 13. Tangible personal property purchased by:

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

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

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

16 (d) A qualifying health care organization, as defined in section
17 42-5001, if the tangible personal property is used by the organization
18 solely to provide health and medical related educational and charitable
19 services.

20 (e) A qualifying health care organization as defined in section
21 42-5001 if the organization is dedicated to providing educational,
22 therapeutic, rehabilitative and family medical education training for
23 blind and visually impaired children and children with multiple
24 disabilities from the time of birth to age twenty-one.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 15. Tangible personal property sold by:

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

40 (b) A nonprofit organization that is exempt from taxation under
41 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
42 the organization is associated with a major league baseball team or a
43 national touring professional golfing association and no part of the
44 organization's net earnings inures to the benefit of any private
45 shareholder or individual. This subdivision does not apply to an

1 organization that is owned, managed or controlled, in whole or in part, by
2 a major league baseball team, or its owners, officers, employees or
3 agents, or by a major league baseball association or professional golfing
4 association, or its owners, officers, employees or agents, unless the
5 organization conducted or operated exhibition events in this state before
6 January 1, 2018 that were exempt from transaction privilege tax under
7 section 42-5073.

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

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

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

22 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (b) Public educational institutions.

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

38 33. Natural gas or liquefied petroleum gas used to propel a motor
39 vehicle.

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

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

14 36. Food, drink and condiment purchased for consumption within the
 15 premises of any prison, jail or other institution under the jurisdiction
 16 of the state department of corrections, the department of public safety,
 17 the department of juvenile corrections or a county sheriff.

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

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

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

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

40 (b) "Subcontract" means an agreement between a contractor and any
 41 person who is not an employee of the contractor for furnishing of supplies
 42 or services that, in whole or in part, are necessary to ~~the performance of~~
 43 **PERFORM** one or more government contracts, or under which any portion of
 44 the contractor's obligation under one or more government contracts is
 45 performed, undertaken or assumed, and that includes provisions causing

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

5 40. Through December 31, 1994, tangible personal property sold
6 pursuant to a personal property liquidation transaction, as defined in
7 section 42-5061. From and after December 31, 1994, tangible personal
8 property sold pursuant to a personal property liquidation transaction, as
9 defined in section 42-5061, if the gross proceeds of the sales were
10 included in the measure of the tax imposed by article 1 of this chapter or
11 if the personal property liquidation was a casual activity or transaction.

12 41. Wireless telecommunications equipment that is held for sale or
13 transfer to a customer as an inducement to enter into or continue a
14 contract for telecommunications services that are taxable under section
15 42-5064.

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

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

27 44. Alternative fuel vehicles if the vehicle was manufactured as a
28 diesel fuel vehicle and converted to operate on alternative fuel and
29 equipment that is installed in a conventional diesel fuel motor vehicle to
30 convert the vehicle to operate on an alternative fuel, as defined in
31 section 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 ~~55.~~ 54. Coal acquired from an owner or operator of a power plant
44 by a person ~~who~~ THAT is responsible for refining coal if both of the
45 following apply:

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

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

9 ~~56.~~ 55. Tangible personal property incorporated or fabricated into
10 a project described in section 42-5075, subsection 0, that is located
11 within the exterior boundaries of an Indian reservation for which the
12 owner, as defined in section 42-5075, of the project is an Indian tribe or
13 an affiliated Indian. For the purposes of this paragraph:

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

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

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

26 ~~57.~~ 56. Cash equivalents, precious metal bullion and monetized
27 bullion purchased by the ultimate consumer, but coins or other forms of
28 money for manufacture into jewelry or works of art are subject to tax, and
29 tangible personal property that is purchased through the redemption of any
30 cash equivalent by the holder as a means of payment for goods that are
31 subject to tax under this article is subject to tax. For the purposes of
32 this paragraph:

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

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

42 (ii) Prepaid calling cards for telecommunications services.

43 (b) "Monetized bullion" means coins and other forms of money that
44 are manufactured from gold, silver or other metals and that have been or

1 are used as a medium of exchange in this or another state, the United
2 States or a foreign nation.

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

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

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

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

22 3. Tangible personal property sold to persons engaged in business
23 classified under the telecommunications classification under section
24 42-5064, including a person representing or working on behalf of such a
25 person in a manner described in section 42-5075, subsection 0, and
26 consisting of central office switching equipment, switchboards, private
27 branch exchange equipment, microwave radio equipment and carrier equipment
28 including optical fiber, coaxial cable and other transmission media that
29 are components of carrier systems.

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

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

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

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

- 1 (a) A person:
- 2 (i) Holding, or exempted by federal law from obtaining, a federal
3 certificate of public convenience and necessity for use as, in conjunction
4 with or becoming part of an aircraft to be used to transport persons for
5 hire in intrastate, interstate or foreign commerce.
- 6 (ii) That is certificated or licensed under federal aviation
7 administration regulations (14 Code of Federal Regulations part 121 or
8 135) as a scheduled or unscheduled carrier of persons for hire for use as
9 or in conjunction with or becoming part of an aircraft to be used to
10 transport persons for hire in intrastate, interstate or foreign commerce.
- 11 (iii) Holding a foreign air carrier permit for air transportation
12 for use as or in conjunction with or becoming a part of aircraft to be
13 used to transport persons, property or United States mail in intrastate,
14 interstate or foreign commerce.
- 15 (iv) Operating an aircraft to transport persons in any manner for
16 compensation or hire, or for use in a fractional ownership program that
17 meets the requirements of federal aviation administration regulations (14
18 Code of Federal Regulations part 91, subpart K), including as an air
19 carrier, a foreign air carrier or a commercial operator or under a
20 restricted category, within the meaning of 14 Code of Federal Regulations,
21 regardless of whether the operation or aircraft is regulated or certified
22 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
23 of Federal Regulations.
- 24 (v) That will lease or otherwise transfer operational control,
25 within the meaning of federal aviation administration operations
26 specification A008, or its successor, of the aircraft, instruments or
27 accessories to one or more persons described in item (i), (ii), (iii) or
28 (iv) of this subdivision, subject to section 42-5009, subsection Q.
- 29 (b) Any foreign government.
- 30 (c) Persons who are not residents of this state and who will not
31 use such property in this state other than in removing such property from
32 this state. This subdivision also applies to corporations that are not
33 incorporated in this state, regardless of maintaining a place of business
34 in this state, if the principal corporate office is located outside this
35 state and the property will not be used in this state other than in
36 removing the property from this state.
- 37 8. Machinery, tools, equipment and related supplies used or
38 consumed directly in repairing, remodeling or maintaining aircraft,
39 aircraft engines or aircraft component parts by or on behalf of a
40 certificated or licensed carrier of persons or property.
- 41 9. Rolling stock, rails, ties and signal control equipment used
42 directly to transport persons or property.
- 43 10. Machinery or equipment used directly to drill for oil or gas or
44 used directly in the process of extracting oil or gas from the earth for
45 commercial purposes.

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

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

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

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

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

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

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

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

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

43 (i) Over two-thirds of the transmissions, measured in megabytes,
44 transmitted by the facility during the test period were transmitted to or
45 on behalf of one or more direct broadcast satellite television or data

1 transmission services that operate pursuant to 47 Code of Federal
2 Regulations part 25.

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

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

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

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

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

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

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

44 19. Machinery and equipment that are used in the commercial
45 production of livestock, livestock products or agricultural,

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

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

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

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

18 (c) Any machinery or equipment purchased after the television
19 station has ceased analog broadcasting, or purchased after November 1,
20 2009, whichever occurs first.

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

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

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

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

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

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

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

35 1. Fees charged by a municipally owned utility to persons
36 constructing residential, commercial or industrial developments or
37 connecting residential, commercial or industrial developments to a
38 municipal utility system or systems if the fees are segregated and used
39 only for capital expansion, system enlargement or debt service of the
40 utility system or systems.

41 2. Reimbursement or contribution compensation to any person or
42 persons owning a utility system for property and equipment installed to
43 provide utility access to, on or across the land of an actual utility
44 consumer if the property and equipment become the property of the utility.
45 This deduction shall not exceed the value of such property and equipment.

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

3 1. A qualified manufacturing or smelting business. A utility that
4 claims this deduction shall report each month, on a form prescribed by the
5 department, the name and address of each qualified manufacturing or
6 smelting business for which this deduction is taken. This paragraph
7 applies to gas transportation services. For the purposes of this
8 paragraph:

9 (a) "Gas transportation services" means the services of
10 transporting natural gas to a natural gas customer or to a natural gas
11 distribution facility if the natural gas was purchased from a supplier
12 other than the utility.

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

20 (c) "Qualified manufacturing or smelting business" means one of the
21 following:

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

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

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

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

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

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

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

44 H. A city or town may exempt proceeds from sales of paintings,
45 sculptures or similar works of fine art if such works of fine art are sold

1 by the original artist. For the purposes of this subsection, fine art
2 does not include an art creation such as jewelry, macrame, glasswork,
3 pottery, woodwork, metalwork, furniture or clothing if the art creation
4 has a dual purpose, both aesthetic and utilitarian, whether sold by the
5 artist or by another person.

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

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

10 2. "Aircraft" includes:

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

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

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

20 J. For the purposes of subsection D of this section, "ancillary
21 services", "electric distribution service", "electric generation service",
22 "electric transmission service" and "other services" have the same
23 meanings prescribed in section 42-5063.

24 Sec. 6. Section 42-6017, Arizona Revised Statutes, is amended to
25 read:

26 42-6017. Municipal taxation of businesses selling tangible
27 personal property at retail; state preemption;
28 exceptions; definitions

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

33 B. The municipal tax rate for businesses selling tangible personal
34 property at retail for marketplace facilitators is the municipal tax rate
35 that is in effect in the city or town for businesses selling tangible
36 personal property at retail on September 30, 2019, until the city or town
37 changes the tax rate.

38 C. A city or town may:

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

44 2. Notwithstanding section 42-5061, subsection A, paragraph 17,
45 levy a transaction privilege tax on the gross proceeds of sales or gross

1 income derived from a bookstore selling textbooks that are required by any
2 state university or community college.

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

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

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

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

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

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

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

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

34 (d) Neat animals, horses, asses, sheep, ratites, swine or goats
35 used or to be used as breeding or production stock, including sales of
36 breedings or ownership shares in such animals used for breeding or
37 production. This subdivision does not apply and a city or town may not
38 continue to levy a transaction privilege tax pursuant to this subdivision
39 as follows:

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

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

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

4 5. Notwithstanding section 42-5061, subsection A, paragraph ~~60~~ 59,
5 levy a transaction privilege tax on the gross proceeds of sales or gross
6 income derived from the sale of works of fine art, as defined in section
7 44-1771, at an art auction or gallery in this state to nonresidents of
8 this state for use outside this state if the vendor ships or delivers the
9 work of fine art to a destination outside this state.

10 6. Notwithstanding section 42-5061, subsection A, paragraph 28,
11 levy a transaction privilege tax on the gross proceeds of sales or gross
12 income derived from the sale of a motor vehicle to:

13 (a) A nonresident of this state if the purchaser's state of
14 residence does not allow a corresponding use tax exemption to the tax
15 imposed by chapter 5, article 1 of this title and if the nonresident has
16 secured a special ninety day nonresident registration permit for the
17 vehicle as prescribed by sections 28-2154 and 28-2154.01. This
18 subdivision does not apply if the purchaser takes possession of the
19 vehicle outside of this state.

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

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

30 D. For the purposes of this section:

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

33 2. "Marketplace facilitator" has the same meaning prescribed in
34 section 42-5001.

35 3. "Poultry" includes ratites.

36 4. "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 5. "Remote seller" has the same meaning prescribed in section
2 42-5001.

3 Sec. 7. Section 43-1164.05, Arizona Revised Statutes, is amended to
4 read:

5 43-1164.05. Credit for renewable energy investment and
6 production for self-consumption by
7 international operations centers; definitions

8 A. A credit is allowed against the taxes imposed by this title for
9 investment in new renewable energy facilities that produce energy for
10 self-consumption using renewable energy resources if the power will be
11 used primarily for an international operations center.

12 B. The taxpayer is eligible for the credit if all of the following
13 apply:

14 1. The taxpayer invests at least \$100,000,000 in one or more new
15 renewable energy facilities in this state that produce energy for
16 self-consumption using renewable energy resources. **THE INVESTMENT MAY**
17 **INCLUDE INVESTMENTS MADE BY A THIRD-PARTY ENTITY ON BEHALF OF OR FOR THE**
18 **DIRECT BENEFIT OF THE TAXPAYER.** The minimum investment must be completed
19 within a three-year period beginning on the date the initial application
20 is received or by December 31, 2030, whichever is earlier.

21 2. A portion of the energy produced at each renewable energy
22 facility is used for self-consumption in this state. By the fifth year a
23 renewable energy facility is in operation, at least fifty-one percent of
24 the energy produced must be used for self-consumption in this state.
25 Self-consumption includes the power used by related entities if the
26 related entities are directly or indirectly under the same ownership
27 interests that collectively own more than eighty percent. Power that a
28 renewable energy facility transfers to a utility **OR POWER THAT IS**
29 **GENERATED BY A UTILITY-OWNED RENEWABLE ENERGY FACILITY DEVELOPED ON BEHALF**
30 **OF OR FOR THE DIRECT BENEFIT OF THE TAXPAYER** qualifies as self-consumption
31 if the utility is the same utility that provides power to the owner's
32 international operations center in this state.

33 3. The power that is used for self-consumption under paragraph 2 of
34 this subsection is used for an international operations center in this
35 state. A lessor of an international operations center facility that uses
36 power for self-consumption under paragraph 2 of this subsection satisfies
37 the requirements of this paragraph if the lessee is an international
38 operations center and the power is transferred as part of the lease to the
39 lessee.

40 C. Subject to subsection F of this section, the credit authorized
41 by this section is \$5,000,000 per year for five years for each renewable
42 energy facility. The maximum credit allowed per taxpayer per year
43 is \$5,000,000. The taxpayer, including all affiliates of the taxpayer,
44 may not cumulate tax credits under this section over different taxable
45 years exceeding, in the aggregate, \$25,000,000. The initial credit for

1 each facility is claimed in the year that the facility becomes
2 operational. A credit, other than carryovers allowed under subsection M
3 of this section, may not be claimed for any taxable year beginning after
4 December 31, 2025. An international operations center that is initially
5 certified pursuant to section 41-1520, subsection C after December 31,
6 2018 may not claim the tax credit authorized by this section.

7 D. To qualify as a separate renewable energy facility for the
8 purposes of this section, a facility must be located at least one mile
9 from any other renewable energy facility for which the taxpayer is
10 claiming a credit under this section.

11 E. To be eligible for the credit under this section, the taxpayer
12 must apply to the department for certification of the credit on a form
13 prescribed by the department. The application shall include:

14 1. The name, address and social security number or federal employer
15 identification number of the applicant.

16 2. An estimate of the total investment the taxpayer will make,
17 **INCLUDING INVESTMENTS MADE BY A THIRD-PARTY ENTITY ON BEHALF OF OR FOR THE**
18 **DIRECT BENEFIT OF THE TAXPAYER**, over a three-year period beginning on the
19 date the application is received, in new renewable energy facilities in
20 this state that produce energy for self-consumption using renewable energy
21 resources.

22 3. The expected location of each of the taxpayer's facilities that
23 comprise the total investment in paragraph 2 of this subsection and the
24 earliest date that each facility is expected to be operational.

25 4. A statement that the portion of the power generated by each
26 facility, as required by subsection B, paragraph 2 of this section, shall
27 be for self-consumption and shall be used for international operations
28 center use.

29 5. Any additional information that the department requires.

30 F. The department shall review each application under subsection E
31 of this section and preapprove the taxpayer for a specified amount of
32 credit that is authorized. Credits are allowed under this section on a
33 first-come, first-served basis. The department may not authorize tax
34 credits under this section that exceed in the aggregate a total of
35 \$10,000,000 for any calendar year. The portion of each year's limit that
36 is reserved for each taxpayer must be based on the year that each credit
37 is expected to be claimed using the dates provided in subsection E,
38 paragraph 3 of this section. If the year a facility is completed is
39 different from the estimated completion date provided in subsection E,
40 paragraph 3 of this section, the taxpayer must amend the application with
41 the new dates. If an application is received that, if authorized, would
42 require the department to exceed the \$10,000,000 limit, the department
43 shall grant the applicant only the remaining credit amount that would not
44 exceed the \$10,000,000 limit. After the department authorizes \$10,000,000
45 in tax credits, the department shall deny any subsequent applications that

1 are received for that calendar year. The department may not authorize any
2 additional tax credits that exceed the \$10,000,000 limit even if the
3 amounts that have been certified to any taxpayer are not claimed or a
4 taxpayer otherwise fails to meet the requirements to claim the additional
5 credit.

6 G. If a taxpayer fails to start construction within six months
7 after submitting the application under subsection E of this section, the
8 preapproval issued under subsection F of this section is void and all
9 monies reserved from the limits specified in subsection F of this section
10 revert back to the limit for the year for which they were reserved.

11 H. Each year after initial preapproval, on or before the
12 anniversary date of the application specified in subsection E of this
13 section, the taxpayer must submit to the department:

14 1. Documentation of the taxpayer's progress toward the investment
15 required by subsection B, paragraph 1 of this section. This documentation
16 is not required after the department receives a report stating that the
17 required investment threshold has been reached.

18 2. Documentation for each facility that demonstrates that the
19 required portion of the power generated by each renewable energy facility
20 is for self-consumption as required by subsection B, paragraph 2 of this
21 section.

22 3. If applicable, certification from the Arizona commerce authority
23 pursuant to section 41-1520.

24 I. The taxpayer must submit a request for final certification to
25 the department within thirty days after each of the renewable energy
26 facilities for which an authorization was given under subsection F of this
27 section becomes operational. Within thirty days after receiving a
28 completed request under this subsection, the department shall review the
29 request and either issue a final certification of the credit to the
30 taxpayer or issue a denial of the credit if it is determined that the
31 requirements of this section have not been met. Every final certification
32 issued under this subsection must include a facility code issued by the
33 department that is unique to each facility. To show that the facility has
34 been certified, the taxpayer shall include with the tax return the
35 facility code for each facility for which a credit is claimed. If the
36 taxpayer is the owner or operator of an international operations center,
37 the taxpayer must submit the request for final certification for each of
38 the renewable energy facilities for which capital investment will be
39 claimed towards the required investment threshold and must submit
40 additional evidence to the department within sixty days after the end of
41 the fifth year of operation of each facility that the requirements of
42 subsection B, paragraph 2 of this section have been met.

43 J. If the taxpayer fails to make the required investment in
44 renewable energy facilities within the time period required by subsection
45 B, paragraph 1 of this section or if the certification of an international

1 operations center has been revoked under section 41-1520 due to a failure
 2 to make a \$1,250,000,000 investment in the center within ten years after
 3 certification or if the taxpayer fails to receive final certification of
 4 the credit under subsection I of this section, the taxpayer is not
 5 eligible and must cease claiming any further credits under this section
 6 and shall reimburse the amount of all credits previously received under
 7 this section. The reimbursement must be made on the taxpayer's income tax
 8 return for the taxable year in which it is first known that the required
 9 investment would not be made within the required time or the taxable year
 10 in which the certification was revoked. The department may give special
 11 consideration or allow a temporary exemption from reimbursement if there
 12 is extraordinary hardship due to factors beyond the taxpayer's control.
 13 If the reimbursement is due to revocation of the certification of an
 14 international operations center due to a failure to invest \$1,250,000,000
 15 in the center within ten years after certification, the credits shall be
 16 reimbursed in inverse proportion to the total capital investment made in
 17 the international operations center divided by \$1,250,000,000. The
 18 department may require reimbursement before the tenth anniversary of
 19 certification of an international operations center if the facility has
 20 been closed or relocated or the taxpayer has otherwise demonstrated that
 21 the \$1,250,000,000 investment will not be timely made.

22 K. If a particular facility ceases to meet the requirements of this
 23 section or if the facility is sold, the taxpayer may not claim any future
 24 credits related to that facility.

25 L. Co-owners of a business, including corporate partners in a
 26 partnership and corporate members of a limited liability company treated
 27 as a partnership, may each claim the pro rata share of the credit allowed
 28 under this section based on ownership interest. Only co-owners that are
 29 corporations may claim a share of the credit allowed under this section.
 30 The total of the credits allowed all the owners of the business may not
 31 exceed the amount that would have been allowed for a sole owner of the
 32 business.

33 M. If the allowable tax credit for a taxpayer exceeds the taxes
 34 otherwise due under this title on the claimant's income, or if there are
 35 no taxes due under this title, the amount of the claim not used to offset
 36 taxes under this title may be carried forward for not more than five
 37 consecutive taxable years as a credit against subsequent years' income tax
 38 liability.

39 N. A taxpayer may not claim a credit under this section and section
 40 43-1164.03 regarding the same facilities.

41 O. The department shall adopt rules and publish and prescribe forms
 42 and procedures as necessary to effectuate the purposes of this section.

43 P. For the purposes of this section:

44 1. "Biomass" means organic material that is available on a
 45 renewable or recurring basis, including:

1 (a) Forest-related materials, including mill residues, logging
2 residues, forest thinnings, slash, brush, low-commercial value materials
3 or undesirable species, salt cedar and other phreatophyte or woody
4 vegetation removed from river basins or watersheds and woody material
5 harvested for the purpose of forest fire fuel reduction or forest health
6 and watershed improvement.

7 (b) Agricultural-related materials, including orchard trees,
8 vineyard, grain or crop residues, including straws and stover, aquatic
9 plants and agricultural processed coproducts and waste products, including
10 fats, oils, greases, whey and lactose.

11 (c) Animal waste, including manure and slaughterhouse and other
12 processing waste.

13 (d) Solid woody waste materials, including landscape or
14 right-of-way tree trimmings, rangeland maintenance residues, waste
15 pallets, crates and manufacturing, construction and demolition wood wastes
16 but excluding pressure-treated, chemically treated or painted wood wastes
17 and wood contaminated with plastic.

18 (e) Crops and trees planted for the purpose of being used to
19 produce energy.

20 (f) Landfill gas, wastewater treatment gas and biosolids, including
21 organic waste by-products generated during the wastewater treatment
22 process.

23 2. "International operations center" means a facility that is
24 certified by the Arizona commerce authority pursuant to section 41-1520.

25 3. "Renewable energy facility" means a facility in which the
26 taxpayer, OR A THIRD-PARTY ENTITY ON BEHALF OF OR FOR THE DIRECT BENEFIT
27 OF THE TAXPAYER, invested at least \$30,000,000, that has at least twenty
28 megawatts generating capacity or a minimum typical annual generation of
29 forty thousand megawatt hours, that is located on land in this state owned
30 or leased by the taxpayer and that produces electricity using a renewable
31 energy resource.

32 4. "Renewable energy resource" means a resource that generates
33 electricity through the use of only the following energy sources:

34 (a) Solar light.

35 (b) Solar heat.

36 (c) Wind.

37 (d) Biomass, including fuel cells supplied directly or indirectly
38 with biomass generated fuels.

39 (e) BATTERY STORAGE THAT IS INDEPENDENT FROM OR COUPLED WITH OTHER
40 SOURCES.

41 Sec. 8. Refunds

42 Any claim for refund of transaction privilege or use tax based on
43 the retroactive application of section 41-1519, subsection 0, paragraph
44 14, Arizona Revised Statutes, as amended by this act, section 42-5061,
45 subsection B, paragraph 22, Arizona Revised Statutes, as added by this act

1 and section 42-5159, subsection B, paragraph 23, Arizona Revised Statutes,
2 as added by this act, shall be submitted to the department of revenue on
3 or before December 31, 2021, pursuant to section 42-1118, Arizona Revised
4 Statutes, and is subject to the following:

5 1. A failure to file such a claim on or before December 31, 2021
6 constitutes a waiver of the claim for refund.

7 2. The aggregate refund amount may not exceed \$10,000 for such
8 claims filed from and after December 31, 2020 through December 31, 2021.

9 3. If the aggregate refund amount of such claims ultimately
10 determined to be correct is more than \$10,000, the department of revenue
11 shall reduce each claim proportionately so that the total aggregate refund
12 amount equals \$10,000.

13 4. Interest is not allowed and may not be compounded on any
14 refundable amount of such claims if paid before July 1, 2022, but if the
15 amount cannot be determined or paid until after June 30, 2022, interest
16 accrues after that date pursuant to section 42-1123, Arizona Revised
17 Statutes.

18 5. Any refund claim that is filed before January 1, 2021 or that is
19 not related to the changes under this act is not subject to the \$10,000
20 aggregate refund amount.

21 Sec. 9. Legislative intent

22 The Legislature intends with this act to move the transaction
23 privilege tax deduction for computer data center equipment in section
24 42-5061, Arizona Revised Statutes, from section 42-5061, subsection A,
25 Arizona Revised Statutes, to section 42-5061, subsection B, Arizona
26 Revised Statutes, and from section 42-5159, subsection A, Arizona Revised
27 Statutes, to section 42-5159, subsection B, Arizona Revised Statutes, in
28 order to clarify and allow taxpayers to take advantage of the independent
29 functional utility deduction in section 42-5075, Arizona Revised Statutes,
30 in addition to the deductions allowed in sections 42-5061 and 42-5159,
31 Arizona Revised Statutes.

32 Sec. 10. Retroactivity

33 This act applies retroactively to taxable periods beginning from and
34 after September 12, 2013.

35 Sec. 11. Nonseverability

36 If any portion of this act is finally adjudicated invalid, the
37 entire act is void. The provisions of this act are intended to be
38 nonseverable.

39 Sec. 12. Conditional enactment

40 Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,
41 chapter 273, section 8 and chapter 288 section 2 and this act, becomes
42 effective on the date prescribed by Laws 2018, chapter 263, section 5, but
43 only on the occurrence of the condition prescribed by Laws 2018, chapter
44 263, section 5.