

Senate Engrossed

TPT; use tax; exemption; aviation

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SENATE BILL 1085

AN ACT

AMENDING SECTIONS 28-8322, 42-5061 AND 42-5159, ARIZONA REVISED STATUTES;
RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-8322, Arizona Revised Statutes, is amended to
3 read:

4 28-8322. Registration; exceptions; definitions

5 A. Aircraft based in this state shall be registered with the
6 department.

7 B. A person or governmental entity shall register an aircraft by
8 applying to the department on a form provided by the department within
9 sixty days after the aircraft is brought into this state. A person who
10 registers an aircraft shall renew the registration annually as prescribed
11 by section 28-8322.01.

12 C. The department shall not issue a registration certificate for an
13 aircraft to a person who is subject to the use tax paid pursuant to title
14 42, chapter 5, article 4 unless the applicable tax has been paid as shown
15 by a receipt from the collecting officer.

16 D. Subsections A and B of this section do not apply to aircraft
17 that is any of the following:

18 1. Operated by an airline company and regularly scheduled for the
19 primary purpose of carrying persons or property for hire in interstate,
20 intrastate or international transportation.

21 2. Owned by a nonresident who bases the aircraft in this state for
22 a period of not more than ninety consecutive days or ninety days in any
23 one calendar year, ~~if~~ if the aircraft is not engaged in intrastate
24 commercial activity.

25 3. A balloon.

26 4. AN ALWAYS HANGARED AIRCRAFT.

27 E. Aircraft, except aircraft included in subsection D, paragraph 1
28 or 3 of this section, entering ~~the~~ THIS state to engage in intrastate
29 commercial operations shall be registered before commencing these
30 operations.

31 F. For the purposes of this section: ~~;~~

32 1. "ALWAYS HANGARED AIRCRAFT" MEANS AN AIRCRAFT THAT IS ALWAYS
33 STORED IN A HANGAR AND THAT IS NOT FLOWN.

34 2. "Balloon" means either:

35 ~~1-~~ (a) An aircraft that is a flexible, nonporous bag inflated with
36 a gas that is lighter than air.

37 ~~2-~~ (b) A hot air balloon.

38 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to
39 read:

40 42-5061. Retail classification; definitions

41 A. The retail classification is comprised of the business of
42 selling tangible personal property at retail. The tax base for the retail
43 classification is the gross proceeds of sales or gross income derived from
44 the business. The tax imposed on the retail classification does not apply
45 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, if prescribed by a member of the medical, dental or
21 veterinarian profession who is licensed by law to administer such
22 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 either of the following applies:

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

40 (b) The vehicle, trailer or semitrailer has a gross vehicle weight
41 rating of more than ten thousand pounds, is used or maintained to
42 transport property in the furtherance of interstate commerce and otherwise
43 meets the definition of commercial motor vehicle as defined in section
44 28-5201.

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

3 16. Items purchased with United States department of agriculture
4 coupons issued under the supplemental nutrition assistance program
5 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
6 7 United States Code sections 2011 through 2036b) by the United States
7 department of agriculture food and nutrition service or food instruments
8 issued under section 17 of the child nutrition act (P.L. 95-627;
9 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States
10 Code section 1786).

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

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

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

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

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

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

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

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

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

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

8 22. Motor vehicle fuel and use fuel that are subject to a tax
9 imposed under title 28, chapter 16, article 1, sales of use fuel to a
10 holder of a valid single trip use fuel tax permit issued under section
11 28-5739, sales of aviation fuel that are subject to the tax imposed under
12 section 28-8344 and sales of jet fuel that are subject to the tax imposed
13 under article 8 of this chapter.

14 23. Tangible personal property sold to a person engaged in the
15 business of leasing or renting such property under the personal property
16 rental classification if such property is to be leased or rented by such
17 person.

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

21 25. Tangible personal property sold to:

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

23 (b) A qualifying health care organization as defined in section
24 42-5001 if the tangible personal property is used by the organization
25 solely to provide health and medical related educational and charitable
26 services.

27 (c) A qualifying health care organization as defined in section
28 42-5001 if the organization is dedicated to providing educational,
29 therapeutic, rehabilitative and family medical education training for
30 blind and visually impaired children and children with multiple
31 disabilities from the time of birth to age twenty-one.

32 (d) A qualifying community health center as defined in section
33 42-5001.

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

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

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

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

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

9 27. Tangible personal property sold to:

10 (a) A person that is subject to tax under this article by reason of
11 being engaged in business classified under section 42-5075 or to a
12 subcontractor working under the control of a person engaged in business
13 classified under section 42-5075, if the property so sold is any of the
14 following:

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

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

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

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

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

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

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

1 officers, employees or agents, or by a major league baseball association
2 or professional golfing association, or its owners, officers, employees or
3 agents, unless the organization conducted or operated exhibition events in
4 this state before January 1, 2018 that were exempt from taxation under
5 section 42-5073.

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

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

17 33. Sales of propagative materials to persons who use those items
18 to commercially produce agricultural, horticultural, viticultural or
19 floricultural crops in this state. For the purposes of this paragraph,
20 "propagative materials":
21

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

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

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

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

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

41 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
42 electricity sold to a qualified environmental technology manufacturer,
43 producer or processor as defined in section 41-1514.02 and directly used
44 or consumed in generating or providing on-site power or energy solely for
45 environmental technology manufacturing, producing or processing or
46 environmental protection. This paragraph applies for twenty full

1 consecutive calendar or fiscal years from the date the first paper
2 manufacturing machine is placed in service. In the case of an
3 environmental technology manufacturer, producer or processor that does not
4 manufacture paper, the time period begins with the date the first
5 manufacturing, processing or production equipment is placed in service.

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

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

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

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

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

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

42 42. Sales of:

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

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

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

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

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

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

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

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

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

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

41 49. Sales of alternative fuel vehicles if the vehicle was
42 manufactured as a diesel fuel vehicle and converted to operate on
43 alternative fuel and equipment that is installed in a conventional diesel
44 fuel motor vehicle to convert the vehicle to operate on an alternative
45 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. Orthodontic devices dispensed by a dental professional who is
38 licensed under title 32, chapter 11 to a patient as part of the practice
39 of dentistry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (a) A person:

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

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

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

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

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

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

12 (b) Any foreign government.

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

20 (d) PERSONS THAT WILL USE THE PROPERTY FOR MAINTAINING, REPAIRING
21 OR OVERHAULING GENERAL AVIATION AIRCRAFT.

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

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

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

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

39 13. Groundwater measuring devices required under section 45-604.

40 14. Machinery and equipment consisting of agricultural aircraft,
41 tractors, off-highway vehicles, tractor-drawn implements, self-powered
42 implements, machinery and equipment necessary for extracting milk, and
43 machinery and equipment necessary for cooling milk and livestock, and drip
44 irrigation lines not already exempt under paragraph 7 of this subsection
45 and that are used for commercial production of agricultural,

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

3 (a) "Off-highway vehicles" means off-highway vehicles as defined in
4 section 28-1171 that are modified at the time of sale to function as a
5 tractor or to tow tractor-drawn implements and that are not equipped with
6 a modified exhaust system to increase horsepower or speed or an engine
7 that is more than one thousand cubic centimeters or that have a maximum
8 speed of fifty miles per hour or less.

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

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

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

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

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

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

36 (ii) Over two-thirds of the transmissions, measured in megabytes,
37 transmitted by or on behalf of those direct broadcast television or data
38 transmission services during the test period were transmitted by the
39 facility to or on behalf of those services. For the purposes of
40 subdivision (b) of this paragraph, "test period" means the three hundred
41 sixty-five day period beginning on the later of the date on which the
42 tangible personal property is purchased or the date on which the direct
43 broadcast satellite television or data transmission service first
44 transmits information to its customers.

1 17. Clean rooms that are used for manufacturing, processing,
2 fabrication or research and development, as defined in paragraph 15 of
3 this subsection, of semiconductor products. For the purposes of this
4 paragraph, "clean room" means all property that comprises or creates an
5 environment where humidity, temperature, particulate matter and
6 contamination are precisely controlled within specified parameters,
7 without regard to whether the property is actually contained within that
8 environment or whether any of the property is affixed to or incorporated
9 into real property. Clean room:

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

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

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

22 19. Machinery or equipment, including related structural components
23 and containment structures, that is employed in connection with
24 manufacturing, processing, fabricating, job printing, refining, mining,
25 natural gas pipelines, metallurgical operations, telecommunications,
26 producing or transmitting electricity or research and development and that
27 is used directly to meet or exceed rules or regulations adopted by the
28 federal energy regulatory commission, the United States environmental
29 protection agency, the United States nuclear regulatory commission, the
30 Arizona department of environmental quality or a political subdivision of
31 this state to prevent, monitor, control or reduce land, water or air
32 pollution. For the purposes of this paragraph, "containment structure"
33 means a structure that prevents, monitors, controls or reduces noxious or
34 harmful discharge into the environment.

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

42 21. Machinery or equipment that enables a television station to
43 originate and broadcast or to receive and broadcast digital television
44 signals and that was purchased to facilitate compliance with the
45 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United

1 States Code section 336) and the federal communications commission order
2 issued April 21, 1997 (47 Code of Federal Regulations part 73). This
3 paragraph does not exempt any of the following:

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

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

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

12 22. Qualifying equipment that is purchased from and after June 30,
13 2004 through December 31, 2026 by a qualified business under section
14 41-1516 for harvesting or processing qualifying forest products removed
15 from qualifying projects as defined in section 41-1516. To qualify for
16 this deduction, the qualified business at the time of purchase must
17 present its certification approved by the department.

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

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

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

32 2. Janitorial equipment and hand tools.

33 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

37 2. Businesses classified under the:

- 38 (a) Transporting classification.
39 (b) Utilities classification.
40 (c) Telecommunications classification.
41 (d) Pipeline classification.
42 (e) Private car line classification.
43 (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 16, subdivision (b) of this section, the department may require
40 the purchaser to establish that the requirements of subsection B,
41 paragraph 16, subdivision (b) of this section have been satisfied. If the
42 purchaser cannot establish that the requirements of subsection B,
43 paragraph 16, 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 16, 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.

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

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

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

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

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

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

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

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

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

38 42-5159. Exemptions

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

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

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

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

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

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

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

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

34 8. Purchases of:

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

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

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

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

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

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

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

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

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

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

23 13. Tangible personal property purchased by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 15. Tangible personal property sold by:

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

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

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

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

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

42 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

38 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
39 electricity purchased by a qualified environmental technology
40 manufacturer, producer or processor as defined in section 41-1514.02 and
41 directly used or consumed in generating or providing on-site power or
42 energy solely for environmental technology manufacturing, producing or
43 processing or environmental protection. This paragraph applies for twenty
44 full consecutive calendar or fiscal years from the date the first paper
45 manufacturing machine is placed in service. In the case of an

1 environmental technology manufacturer, producer or processor that does not
2 manufacture paper, the time period begins with the date the first
3 manufacturing, processing or production equipment is placed in service.

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

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

8 (b) Public educational institutions.

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

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

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

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

32 36. Food, drink and condiment purchased 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 37. 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 that is subject to a fee prescribed in title 28, chapter 16,
39 article 4 and that is engaged in the business of leasing or renting such a
40 property.

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

44 39. Overhead materials or other tangible personal property that is
45 used in performing a contract between the United States government and a

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

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

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

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

30 41. Wireless telecommunications equipment that is held for sale or
31 transfer to a customer as an inducement to enter into or continue a
32 contract for telecommunications services that are taxable under section
33 42-5064.

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

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

1 44. Alternative fuel vehicles if the vehicle was manufactured as a
2 diesel fuel vehicle and converted to operate on alternative fuel and
3 equipment that is installed in a conventional diesel fuel motor vehicle to
4 convert the vehicle to operate on an alternative fuel, as defined in
5 section 1-215.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 54. Coal acquired from an owner or operator of a power plant by a
9 person that is responsible for refining coal if both of the following
10 apply:

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

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

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

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

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

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

36 56. Cash equivalents, precious metal bullion and monetized bullion
37 purchased by the ultimate consumer, but coins or other forms of money for
38 manufacture into jewelry or works of art are subject to tax, and tangible
39 personal property that is purchased through the redemption of any cash
40 equivalent by the holder as a means of payment for goods that are subject
41 to tax under this article is subject to tax. For the purposes of this
42 paragraph:

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

1 for tangible personal property, intangibles or services. Cash equivalents
2 include gift cards, stored value cards, gift certificates, vouchers,
3 traveler's checks, money orders or other tangible instruments or orders.
4 Cash equivalents do not include either of the following:

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

7 (ii) Prepaid calling cards for telecommunications services.

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

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

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

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

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

31 3. Tangible personal property sold to persons engaged in business
32 classified under the telecommunications classification under section
33 42-5064, including a person representing or working on behalf of such a
34 person in a manner described in section 42-5075, subsection 0, and
35 consisting of central office switching equipment, switchboards, private
36 branch exchange equipment, microwave radio equipment and carrier equipment
37 including optical fiber, coaxial cable and other transmission media that
38 are components of carrier systems.

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

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

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

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

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

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

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

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

22 (a) A person:

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

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

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

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

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

6 (b) Any foreign government.

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

14 (d) PERSONS THAT WILL USE THE PROPERTY FOR MAINTAINING, REPAIRING
15 OR OVERHAULING GENERAL AVIATION AIRCRAFT.

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

20 10. Rolling stock, rails, ties and signal control equipment used
21 directly to transport persons or property.

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

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

33 13. Groundwater measuring devices required under section 45-604.

34 14. Machinery and equipment consisting of agricultural aircraft,
35 tractors, off-highway vehicles, tractor-drawn implements, self-powered
36 implements, machinery and equipment necessary for extracting milk, and
37 machinery and equipment necessary for cooling milk and livestock, and drip
38 irrigation lines not already exempt under paragraph 7 of this subsection
39 and that are used for commercially producing agricultural, horticultural,
40 viticultural and floricultural crops and products in this state. For the
41 purposes of this paragraph:

42 (a) "Off-highway vehicles" means off-highway vehicles as defined in
43 section 28-1171 that are modified at the time of sale to function as a
44 tractor or to tow tractor-drawn implements and that are not equipped with
45 a modified exhaust system to increase horsepower or speed or an engine

1 that is more than one thousand cubic centimeters or that have a maximum
2 speed of fifty miles per hour or less.

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

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

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

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

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

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

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

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

39 17. Clean rooms that are used for manufacturing, processing,
40 fabrication or research and development, as defined in paragraph 15 of
41 this subsection, of semiconductor products. For the purposes of this
42 paragraph, "clean room" means all property that comprises or creates an
43 environment where humidity, temperature, particulate matter and
44 contamination are precisely controlled within specified parameters,
45 without regard to whether the property is actually contained within that

1 environment or whether any of the property is affixed to or incorporated
2 into real property. Clean room:

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

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

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

15 19. Machinery or equipment, including related structural components
16 and containment structures, that is employed in connection with
17 manufacturing, processing, fabricating, job printing, refining, mining,
18 natural gas pipelines, metallurgical operations, telecommunications,
19 producing or transmitting electricity or research and development and that
20 is used directly to meet or exceed rules or regulations adopted by the
21 federal energy regulatory commission, the United States environmental
22 protection agency, the United States nuclear regulatory commission, the
23 Arizona department of environmental quality or a political subdivision of
24 this state to prevent, monitor, control or reduce land, water or air
25 pollution. For the purposes of this paragraph, "containment structure"
26 means a structure that prevents, monitors, controls or reduces noxious or
27 harmful discharge into the environment.

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

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

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

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

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

7 22. Qualifying equipment that is purchased from and after June 30,
8 2004 through December 31, 2026 by a qualified business under section
9 41-1516 for harvesting or processing qualifying forest products removed
10 from qualifying projects as defined in section 41-1516. To qualify for
11 this exemption, the qualified business must obtain and present its
12 certification from the Arizona commerce authority at the time of purchase.

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

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

27 C. The exemptions provided by subsection B of this section do not
28 include:

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

33 2. Janitorial equipment and hand tools.

34 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

5 1. Revenues received from sales of ancillary services, electric
6 distribution services, electric generation services, electric transmission
7 services and other services related to providing electricity to a retail
8 electric customer who is located outside this state for use outside this
9 state if the electricity is delivered to a point of sale outside this
10 state.

11 2. Revenues received from providing electricity, including
12 ancillary services, electric distribution services, electric generation
13 services, electric transmission services and other services related to
14 providing electricity with respect to which the transaction privilege tax
15 imposed under section 42-5063 has been paid.

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

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

21 1. Fees charged by a municipally owned utility to persons
22 constructing residential, commercial or industrial developments or
23 connecting residential, commercial or industrial developments to a
24 municipal utility system or systems if the fees are segregated and used
25 only for capital expansion, system enlargement or debt service of the
26 utility system or systems.

27 2. Reimbursement or contribution compensation to any person or
28 persons owning a utility system for property and equipment installed to
29 provide utility access to, on or across the land of an actual utility
30 consumer if the property and equipment become the property of the utility.
31 This deduction shall not exceed the value of such property and equipment.

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

34 1. A qualified manufacturing or smelting business. A utility that
35 claims this deduction shall report each month, on a form prescribed by the
36 department, the name and address of each qualified manufacturing or
37 smelting business for which this deduction is taken. This paragraph
38 applies to gas transportation services. For the purposes of this
39 paragraph:

40 (a) "Gas transportation services" means the services of
41 transporting natural gas to a natural gas customer or to a natural gas
42 distribution facility if the natural gas was purchased from a supplier
43 other than the utility.

44 (b) "Manufacturing" means the performance as a business of an
45 integrated series of operations that places tangible personal property in

1 a form, composition or character different from that in which it was
2 acquired and transforms it into a different product with a distinctive
3 name, character or use. Manufacturing does not include job printing,
4 publishing, packaging, mining, generating electricity or operating a
5 restaurant.

6 (c) "Qualified manufacturing or smelting business" means one of the
7 following:

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

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

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

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

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

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

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

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

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

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

41 2. "Aircraft" includes:

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

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

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

7 J. For the purposes of subsection D of this section, "ancillary
8 services", "electric distribution service", "electric generation service",
9 "electric transmission service" and "other services" have the same
10 meanings prescribed in section 42-5063.

11 Sec. 4. Applicability

12 Sections 42-5061 and 42-5159, Arizona Revised Statutes, as amended
13 by this act, apply to taxable periods beginning on or after the first day
14 of the month following the general effective date.