

REFERENCE TITLE: TPT reform; contractors

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

## **SB 1446**

Introduced by  
Senators Lesko, Farley, Worsley; Representative Fann; Senator Burges

### AN ACT

AMENDING SECTIONS 9-467, 11-321, 32-1122, 32-1169 AND 42-5005, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5008.01; AMENDING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 263, SECTION 8; REPEALING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 245, SECTION 3; AMENDING SECTIONS 42-5010, 42-5061, 42-5075, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO PRIME CONTRACTING TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-467, Arizona Revised Statutes, is amended to  
3 read:

4 9-467. Building permits; issuance; distribution of copies;  
5 subsequent owner

6 A. Any city or town requiring the issuance of a building permit shall  
7 transmit one copy of the permit to the county assessor and one copy to the  
8 director of the department of revenue. Permit copies shall provide the  
9 permit number, issue date and parcel number. On the issuance of the  
10 certificate of occupancy or the certificate of completion or on the  
11 expiration or cancellation of the permit, the assessor and the department of  
12 revenue shall be notified in writing or in electronic format of the permit  
13 number, parcel number, issue date and completion date.

14 ~~B. If a contractor is employed for any construction exceeding the cost~~  
15 ~~of ten thousand dollars, a building permit may not be issued unless the~~  
16 ~~contractor holds a valid privilege tax license issued pursuant to section~~  
17 ~~42-5005 for engaging or continuing in the business of contracting.~~

18 B. A CITY OR TOWN MAY NOT REQUIRE AN APPLICANT FOR A BUILDING PERMIT  
19 TO HOLD A TRANSACTION PRIVILEGE TAX LICENSE OR BUSINESS LICENSE AS A  
20 CONDITION FOR ISSUING THE BUILDING PERMIT. A CITY OR TOWN MAY REQUIRE A  
21 PERSON THAT HAS BEEN ISSUED A BUILDING PERMIT AND THAT DOES NOT OTHERWISE  
22 HOLD A BUSINESS LICENSE FROM THE CITY OR TOWN TO APPLY FOR A BUSINESS LICENSE  
23 WITHIN THIRTY DAYS AFTER ISSUING THE BUILDING PERMIT.

24 C. If a person has constructed a building or an addition to a building  
25 without obtaining a building permit, a city or town shall not require a  
26 subsequent owner to obtain a permit for the construction or addition done by  
27 the prior owner before issuing a permit for a building addition except that  
28 nothing in this section shall be construed as prohibiting the enforcement of  
29 an applicable ordinance or code provision which affects the public health or  
30 safety.

31 Sec. 2. Section 11-321, Arizona Revised Statutes, is amended to read:

32 11-321. Building permits; issuance; distribution of copies;  
33 subsequent owner

34 A. Except in those cities and towns which have an ordinance relating  
35 to the issuance of building permits, the board of supervisors shall require a  
36 building permit for any construction of a building or an addition thereto  
37 exceeding a cost of one thousand dollars within its jurisdiction. The  
38 building permit shall be filed with the board of supervisors or its  
39 designated agent.

40 ~~B. If a contractor is employed for any construction exceeding the cost~~  
41 ~~of ten thousand dollars, a building permit may not be issued unless the~~  
42 ~~contractor holds a valid privilege tax license issued pursuant to section~~  
43 ~~42-5005 for engaging or continuing in the business of contracting.~~

1           B. THE BOARD OF SUPERVISORS MAY NOT REQUIRE AN APPLICANT FOR A  
2 BUILDING PERMIT TO HOLD A TRANSACTION PRIVILEGE TAX LICENSE OR BUSINESS  
3 LICENSE AS A CONDITION FOR ISSUING THE BUILDING PERMIT.

4           C. Where deemed of public convenience, the supervisors shall permit  
5 the application for and the issuance of building permits by mail.

6           D. One copy of the building permit required by the terms of subsection  
7 A of this section shall be transmitted to the county assessor and one copy to  
8 the director of the department of revenue. The permit copy provided to the  
9 assessor and the department of revenue shall have the permit number, the  
10 issue date and the parcel number for which the permit is issued. On the  
11 issuance of the certificate of occupancy or the certificate of completion or  
12 on the expiration or cancellation of the permit, the assessor and the  
13 department of revenue shall be notified in writing or in electronic format of  
14 the permit number, parcel number, issue date and completion date.

15           E. If a person has constructed a building or an addition to a building  
16 without obtaining a building permit, a county shall not require a subsequent  
17 owner to obtain a permit for the construction or addition done by the prior  
18 owner before issuing a permit for a building addition except that nothing in  
19 this section shall be construed as prohibiting the enforcement of an  
20 applicable ordinance or code provision which affects the public health or  
21 safety.

22           Sec. 3. Section 32-1122, Arizona Revised Statutes, is amended to read:  
23 32-1122. Qualifications for license

24           A. A contractor's license shall be issued only by act of the registrar  
25 of contractors. The registrar shall:

26           1. Classify and qualify applicants for a license.

27           2. If necessary, change the license classification of a licensee in  
28 the case of a title reclassification, with or without a bond rider for the  
29 purpose of continuing liability on the bond.

30           3. Conduct investigations the registrar deems necessary.

31           4. Establish written examinations if deemed necessary to protect the  
32 health and safety of the public.

33           B. To obtain or renew a license under this chapter, the applicant  
34 shall:

35           1. Submit to the registrar of contractors a verified application on  
36 forms that are prescribed by the registrar of contractors and that contain  
37 the following information and shall advise the registrar of any change in the  
38 information within thirty days:

39           (a) A designation of the classification of license that is sought by  
40 the applicant.

41           (b) If the applicant is an individual, the applicant's name and  
42 address.

43           (c) If the applicant is a partnership, the names and addresses of all  
44 partners with a designation of any limited partners.

1 (d) If the applicant is a corporation, an association or any other  
2 organization, the names and addresses of the president, vice-president, if  
3 any, secretary and treasurer or the names and addresses of the functional  
4 equivalent of these officers, the directors and the owners of twenty-five ~~per~~  
5 ~~cent~~ PERCENT or more of the stock or beneficial interest.

6 (e) The name and address of the qualifying party.

7 (f) If the applicant is a corporation, evidence that the corporation  
8 is in good standing with the corporation commission.

9 (g) The address or location of the applicant's place of business and  
10 the mailing address if it is different from the applicant's place of  
11 business.

12 ~~(h) The applicant's current privilege license number issued pursuant~~  
13 ~~to section 42-5005.~~

14 ~~(i)~~ (h) Proof that the applicant has complied with the statutes or  
15 rules governing workers' compensation insurance.

16 2. Submit the appropriate bond and fee required under this chapter.

17 C. To obtain a contractor's license under this chapter other than a  
18 residential contractor's license, the applicant shall submit a detailed  
19 statement of current financial condition containing information required by  
20 the registrar of contractors on a form furnished by or acceptable to the  
21 registrar of contractors. Notwithstanding any other law, a swimming pool  
22 contractor shall also submit a detailed statement of current financial  
23 condition as required by this subsection.

24 D. To obtain or renew a license under this chapter, each person shall  
25 be of good character and reputation. Lack of good character and reputation  
26 may be established by showing that a person has engaged in contracting  
27 without a license or committed any act that, if committed or done by any  
28 licensed contractor, would be grounds for suspension or revocation of a  
29 contractor's license or by showing that the person was named on a  
30 contractor's license that was suspended or revoked in another state.

31 E. To obtain a license under this chapter, a person shall not have had  
32 a license refused or revoked, within one year before the person's  
33 application, or shall not have engaged in the contracting business, nor shall  
34 the person have submitted a bid without first having been licensed within one  
35 year before the person's application, nor shall a person act as a contractor  
36 between the filing of the application and actual issuance of the license.  
37 The registrar may find any of those actions or circumstances to be excusable  
38 if there was reasonable doubt as to the need for licensure or the actions of  
39 the applicant did not result in an unremedied hardship or danger or loss to  
40 the public. A person who has been convicted of contracting without a license  
41 is not eligible to obtain a license under this chapter for one year after the  
42 date of the last conviction.

43 F. Before a license is issued, the qualifying party shall:

44 1. Have had a minimum of four years' practical or management trade  
45 experience, at least two of which must have been within the last ten years,

1 dealing specifically with the type of construction, or its equivalent, for  
2 which the applicant is applying for a license. Technical training in an  
3 accredited college or university or in a manufacturer's accredited training  
4 program may be substituted for a portion of such experience, but in no case  
5 may credited technical training exceed two years of the required four years'  
6 experience. The registrar of contractors may reduce the four years'  
7 practical or management experience requirement if in the registrar's opinion  
8 it has been conclusively shown by custom and usage in the particular industry  
9 or craft involved that the four-year requirement is excessive. The registrar  
10 may waive the work experience documentation and verification or the  
11 examination requirement if the records reflect that the qualifying party is  
12 currently or has previously been a qualifying party for a licensee in this  
13 state in the same classification within the preceding five years.

14 2. Successfully show, by written examination taken not more than two  
15 years before application, if required, qualification in the kind of work for  
16 which the applicant proposes to contract, the applicant's general knowledge  
17 of the building, safety, health and lien laws of the state, administrative  
18 principles of the contracting business and the rules adopted by the registrar  
19 of contractors pursuant to this chapter, demonstrate knowledge and  
20 understanding of construction plans and specifications applicable to the  
21 particular industry or craft and of the standards of construction work and  
22 techniques and practices in the particular industry or craft and demonstrate  
23 a general understanding of other related construction trades, in addition to  
24 any other matters as may be deemed appropriate by the registrar to determine  
25 that the qualifying party meets the requirements of this chapter. The  
26 registrar shall maintain multiple versions of examinations for each type of  
27 license that requires an examination.

28 G. No license shall be issued to a minor, to any partnership in which  
29 one of the partners is a minor or to any corporation in which a corporate  
30 officer is a minor.

31 H. Before receiving, renewing and holding a license pursuant to this  
32 chapter, the registrar may require a license applicant or licensee to submit  
33 to the registrar a full set of fingerprints and the fees required in section  
34 41-1750. The registrar shall submit the fingerprints and fees to the  
35 department of public safety for the purpose of obtaining a state and federal  
36 criminal records check pursuant to section 41-1750 and Public Law 92-544.  
37 The department of public safety may exchange this fingerprint data with the  
38 federal bureau of investigation.

39 Sec. 4. Section 32-1169, Arizona Revised Statutes, is amended to read:

40 32-1169. Local proof of valid license; violation

41 A. Each county, city or other political subdivision or authority of  
42 this state or any agency, department, board or commission of this state which  
43 requires the issuance of a building permit as a condition precedent to the  
44 construction, alteration, improvement, demolition or repair of a building,  
45 structure or other improvement to real property for which a license is

1 required under this chapter, as part of the application procedures which it  
2 utilizes, shall require that each applicant for a building permit file a  
3 signed statement that the applicant is currently licensed under ~~the~~  
4 ~~provisions of~~ this chapter with the applicant's license number ~~and the~~  
5 ~~applicant's privilege license number required pursuant to section 42-5005~~.  
6 If the applicant purports to be exempt from the licensing requirements of  
7 this chapter, the statement shall contain the basis of the asserted exemption  
8 and the name and license number of any general, mechanical, electrical or  
9 plumbing contractor who will be employed on the work. The local issuing  
10 authority may require from the applicant a statement signed by the registrar  
11 to verify any purported exemption.

12 B. The filing of an application containing false or incorrect  
13 information concerning an applicant's contractor's license ~~or transaction~~  
14 ~~privilege license~~ with the intent to avoid the licensing requirements of this  
15 chapter is unsworn falsification pursuant to section 13-2704.

16 Sec. 5. Section 42-5005, Arizona Revised Statutes, is amended to read:  
17 42-5005. Transaction privilege tax and municipal privilege tax  
18 licenses; fees; renewal; revocation; violation;  
19 classification

20 A. Every person who receives gross proceeds of sales or gross income  
21 on which a transaction privilege tax is imposed by this article and who  
22 desires to engage or continue in business shall apply to the department for  
23 an annual transaction privilege tax license accompanied by a fee of twelve  
24 dollars. A person shall not engage or continue in business until the person  
25 has obtained a transaction privilege tax license.

26 B. A person desiring to engage or continue in business within a city  
27 or town that imposes a municipal privilege tax shall apply to the department  
28 of revenue for an annual municipal privilege tax license accompanied by a fee  
29 of up to fifty dollars, as established by ordinance of the city or town. The  
30 person shall submit the fee with each new license application. The person  
31 may not engage or continue in business until the person has obtained a  
32 municipal privilege tax license. The department must collect, hold, pay and  
33 manage the fees in trust for the city or town and may not use the monies for  
34 any other purposes.

35 C. A transaction privilege tax license is valid only for the calendar  
36 year in which it is issued, but it may be renewed for the following calendar  
37 year. There is no fee for the renewal of the transaction privilege tax  
38 license. The transaction privilege tax license must be renewed at the same  
39 time and in the manner as the municipal privilege tax license renewal.

40 D. A municipal privilege tax license is valid only for the calendar  
41 year in which it is issued, but it may be renewed for the following calendar  
42 year by the payment of a license renewal fee of up to fifty dollars. The  
43 renewal fee is due and payable on January 1 and is considered delinquent if  
44 not received on or before the last business day of January. The department

1 must collect, hold, pay and manage the fees in trust for the city or town and  
2 may not use the monies for any other purposes.

3 E. A licensee that remains in business after the municipal privilege  
4 tax license has expired is subject to the payment of the license renewal fee  
5 and the civil penalty prescribed in section 42-1125, subsection R.

6 F. If the applicant is not in arrears in payment of any tax imposed by  
7 this article, the department shall issue a license authorizing the applicant  
8 to engage and continue in business on the condition that the applicant  
9 complies with this article. The license number shall be continuous.

10 G. The transaction privilege tax license and the municipal privilege  
11 tax license are not transferable on a COMPLETE change of ownership or change  
12 of location of the business. For the purposes of this subsection:

13 1. "Location" means the business address appearing in the application  
14 for the license and on the transaction privilege tax or municipal privilege  
15 tax license.

16 2. "Ownership" means any right, title or interest in the business.

17 3. "Transferable" means the ability to convey or change the right or  
18 privilege to engage or continue in business by virtue of the issuance of the  
19 transaction privilege tax or municipal privilege tax license.

20 H. When the ownership or location of a business on which a transaction  
21 privilege tax or municipal privilege tax is imposed has been changed within  
22 the meaning of subsection G of this section, the licensee shall surrender the  
23 license to the department. The license shall be reissued to the new owners  
24 or for the new location on application by the taxpayer and payment of the  
25 twelve-dollar fee for a transaction privilege tax license and a fee of up to  
26 fifty dollars per jurisdiction for a municipal privilege tax license. The  
27 department must collect, hold, pay and manage the fees in trust for the city  
28 or town and may not use the monies for any other purposes.

29 I. A person who is engaged in or conducting a business in two or more  
30 locations or under two or more business names shall procure a transaction  
31 privilege tax license for each location or business name regardless of  
32 whether all locations or business names are reported on a consolidated return  
33 under a single transaction privilege tax license number. This requirement  
34 shall not be construed as conflicting with section 42-5020.

35 J. A person who is engaged in or conducting a business in two or more  
36 locations or under two or more business names shall procure a municipal  
37 privilege tax license for each location or business name regardless of  
38 whether all locations or business names are reported on a consolidated  
39 return.

40 K. A person who is engaged in or conducting business at two or more  
41 locations or under two or more business names and who files a consolidated  
42 return under a single transaction privilege tax license number as provided by  
43 section 42-5020 is required to pay only a single municipal privilege tax  
44 license renewal fee for each local jurisdiction pursuant to subsection D of  
45 this section. A person who is engaged in or conducting business at two or

1 more locations or under two or more business names and who does not file a  
2 consolidated return under a single license number is required to pay a  
3 license renewal fee for each location or license in a local jurisdiction.

4 L. If a person violates this article or any rule adopted under this  
5 article, the department upon hearing may revoke any transaction privilege tax  
6 or municipal privilege tax license issued to the person. The department  
7 shall provide ten days' written notice of the hearing, stating the time and  
8 place and requiring the person to appear and show cause why the license or  
9 licenses should not be revoked. The department shall provide written notice  
10 to the person of the revocation of the license. The notices may be served  
11 personally or by mail pursuant to section 42-5037. After revocation, the  
12 department shall not issue a new license to the person unless the person  
13 presents evidence satisfactory to the department that the person will comply  
14 with this article and with the rules adopted under this article. The  
15 department may prescribe the terms under which a revoked license may be  
16 reissued.

17 M. A person who violates any provision of this section is guilty of a  
18 class 3 misdemeanor.

19 Sec. 6. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
20 amended by adding section 42-5008.01, to read:

21 42-5008.01. Liability for amounts equal to retail transaction  
22 privilege tax due

23 A. A PERSON THAT IS EITHER A PRIME CONTRACTOR SUBJECT TO TAX UNDER  
24 SECTION 42-5075 OR A SUBCONTRACTOR WORKING UNDER THE CONTROL OF SUCH A PRIME  
25 CONTRACTOR, THAT PURCHASES TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF  
26 WHICH WAS EXCLUDED FROM THE TAX BASE UNDER THE RETAIL CLASSIFICATION UNDER  
27 SECTION 42-5061, SUBSECTION A, PARAGRAPH 27 OR WAS EXCLUDED FROM THE USE TAX  
28 UNDER SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (g) AT THE  
29 TIME OF PURCHASE, AND THAT INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL  
30 PROPERTY INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION 0 IS LIABLE  
31 FOR AN AMOUNT EQUAL TO ANY TAX THAT THE SELLER WOULD HAVE BEEN REQUIRED TO  
32 PAY UNDER SECTION 42-5061 AND THIS ARTICLE AS FOLLOWS:

33 1. THE AMOUNT SHALL BE CALCULATED AND REPORTED BASED ON THE LOCATION  
34 OF THE PROJECT AND THE TAXES IMPOSED UNDER THIS ARTICLE AND ARTICLE 6 OF THIS  
35 CHAPTER.

36 2. ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST OF TANGIBLE  
37 PERSONAL PROPERTY PROVIDED IN SECTION 42-5075 APPLY TO THE TANGIBLE PERSONAL  
38 PROPERTY INCORPORATED OR FABRICATED INTO THE PROJECT.

39 3. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT  
40 IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD  
41 OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5075, WITHOUT REGARD  
42 TO SECTION 42-5075, SUBSECTION 0.

43 4. THE AMOUNT OF LIABILITY SHALL BE REPORTED WITHIN THE REPORTING  
44 PERIOD THAT INCLUDES THE MONTH IN WHICH THE PERSON INCORPORATES OR FABRICATES  
45 THE TANGIBLE PERSONAL PROPERTY INTO THE PROJECT.



1           5. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED  
2 THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE  
3 CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS  
4 SUBSECTION. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF  
5 THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE  
6 CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DISREGARD THE  
7 CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE  
8 AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

9           B. A PERSON THAT PURCHASED TANGIBLE PERSONAL PROPERTY, THE PURCHASE  
10 PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5061,  
11 SUBSECTION A, PARAGRAPH 27 OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION  
12 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (g) AT THE TIME OF PURCHASE,  
13 WHOSE TRANSACTION PRIVILEGE TAX LICENSE HAS BEEN CANCELED AND THAT  
14 SUBSEQUENTLY USES, CONSUMES, SELLS OR DISCARDS THE TANGIBLE PERSONAL PROPERTY  
15 IS LIABLE FOR AN AMOUNT OF TAX DETERMINED UNDER THIS SUBSECTION. FOR THE  
16 PURPOSES OF THIS SUBSECTION:

17           1. IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED  
18 INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, OR OTHERWISE USED  
19 OR CONSUMED BY THE PERSON, THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND  
20 REPORTED BASED ON THE PERSON'S PURCHASE PRICE OF THE TANGIBLE PERSONAL  
21 PROPERTY, THE LOCATION OF THE PROJECT, USE OR CONSUMPTION AND THE TAXES  
22 IMPOSED UNDER THIS ARTICLE AND ARTICLE 6 OF THIS CHAPTER.

23           2. IF THE TANGIBLE PERSONAL PROPERTY IS SOLD IN A MANNER THAT IS NOT  
24 SUBJECT TO TAX UNDER THIS CHAPTER OR IS DISCARDED, THE AMOUNT SHALL BE  
25 CALCULATED AND REPORTED BASED ON THE PAYMENT RECEIVED BY THE PERSON, THE  
26 LOCATION OF THE PERSON'S PRINCIPAL PLACE OF BUSINESS IN THIS STATE AND THE  
27 TAXES IMPOSED UNDER THIS ARTICLE AND ARTICLE 6 OF THIS CHAPTER.

28           3. THE PERSON IS NOT LIABLE UNDER THIS SECTION FOR ANY AMOUNT IF THE  
29 PERSON DISCARDS THE TANGIBLE PERSONAL PROPERTY AND DOES NOT RECEIVE PAYMENT  
30 OF ANY KIND.

31           4. THE AMOUNT OF LIABILITY SHALL BE REPORTED ON OR BEFORE THE BUSINESS  
32 DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH  
33 THE PERSON USES THE TANGIBLE PERSONAL PROPERTY IN A MANNER DESCRIBED IN  
34 PARAGRAPH 1 OR 2 OF THIS SUBSECTION. NO AMOUNT IS DUE UNDER THIS SUBSECTION  
35 AT ANY TIME THAT THE PERSON STORES THE TANGIBLE PERSONAL PROPERTY WITHOUT  
36 USING IT IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

37           5. ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST OF TANGIBLE  
38 PERSONAL PROPERTY PROVIDED IN SECTION 42-5075 APPLY TO THE TANGIBLE PERSONAL  
39 PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION  
40 42-5075, SUBSECTION O.

41           6. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT  
42 IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD  
43 OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5075, WITHOUT REGARD  
44 TO SECTION 42-5075, SUBSECTION O.



1 department may also describe transactions with respect to which a person is  
2 not entitled to rely solely on the information contained in the certificate  
3 provided for in subsection A of this section but must instead obtain such  
4 additional information as required by the rules in order to be entitled to  
5 the deduction.

6 D. If a seller is entitled to a deduction by complying with subsection  
7 A of this section, the department may require the purchaser that caused the  
8 execution of the certificate to establish the accuracy and completeness of  
9 the information required to be contained in the certificate that would  
10 entitle the seller to the deduction. If the purchaser cannot establish the  
11 accuracy and completeness of the information, the purchaser is liable in an  
12 amount equal to any tax, penalty and interest that the seller would have been  
13 required to pay under this article if the seller had not complied with  
14 subsection A of this section. Payment of the amount under this subsection  
15 exempts the purchaser from liability for any tax imposed under article 4 of  
16 this chapter. The amount shall be treated as tax revenues collected from the  
17 seller in order to designate the distribution base for purposes of section  
18 42-5029.

19 E. If a seller is entitled to a deduction by complying with subsection  
20 B of this section, the department may require the purchaser to establish the  
21 accuracy and completeness of the information provided to the seller that  
22 entitled the seller to the deduction. If the purchaser cannot establish the  
23 accuracy and completeness of the information, the purchaser is liable in an  
24 amount equal to any tax, penalty and interest that the seller would have been  
25 required to pay under this article if the seller had not complied with  
26 subsection B of this section. Payment of the amount under this subsection  
27 exempts the purchaser from liability for any tax imposed under article 4 of  
28 this chapter. The amount shall be treated as tax revenues collected from the  
29 seller in order to designate the distribution base for purposes of section  
30 42-5029.

31 F. The department may prescribe a form for a certificate used to  
32 establish entitlement to the deductions described in section 42-5061,  
33 subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3.  
34 Under rules the department may prescribe, the department may also require  
35 additional information for the seller to be entitled to the deduction. If a  
36 seller is entitled to the deductions described in section 42-5061, subsection  
37 A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the  
38 department may require the purchaser who executed the certificate to  
39 establish the accuracy and completeness of the information contained in the  
40 certificate that would entitle the seller to the deduction. If the purchaser  
41 cannot establish the accuracy and completeness of the information, the  
42 purchaser is liable in an amount equal to any tax, penalty and interest that  
43 the seller would have been required to pay under this article. Payment of  
44 the amount under this subsection exempts the purchaser from liability for any  
45 tax imposed under article 4 of this chapter. The amount shall be treated as

1 tax revenues collected from the seller in order to designate the distribution  
2 base for purposes of section 42-5029.

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

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

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

29 2. A copy of the nonresident registration permit authorized by section  
30 28-2154.

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

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

39 I. Notwithstanding subsection A, paragraph 2 of this section, if a  
40 motor vehicle dealer has established entitlement to a deduction by complying  
41 with subsection H of this section, the department may require the purchaser  
42 who executed the certificate to establish the accuracy and completeness of  
43 the information contained in the certificate that entitled the motor vehicle  
44 dealer to the deduction. If the purchaser cannot establish the accuracy and  
45 completeness of the information, the purchaser is liable in an amount equal

1 to any tax, penalty and interest that the motor vehicle dealer would have  
 2 been required to pay under this article and under articles IV and V of the  
 3 model city tax code as defined in section 42-6051. Payment of the amount  
 4 under this subsection exempts the purchaser from liability for any tax  
 5 imposed under article 4 of this chapter and any tax imposed under article VI  
 6 of the model city tax code as defined in section 42-6051. The amount shall  
 7 be treated as tax revenues collected from the motor vehicle dealer in order  
 8 to designate the distribution base for purposes of section 42-5029.

9 J. To establish entitlement to the deduction described in section  
 10 42-5061, subsection A, paragraph ~~45~~ 44, a public consignment auction dealer  
 11 as defined in section 28-4301 shall submit the valid certificate prescribed  
 12 by subsection H of this section to the department and retain a copy for its  
 13 records.

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

17 L. The department shall prescribe a form for a certificate to be used  
 18 by a ~~contractor~~ PERSON that is not ~~otherwise~~ subject to tax under section  
 19 42-5075, ~~subsection 0~~ when THE PERSON IS EMPLOYED BY A CONTRACTOR THAT IS  
 20 SUBJECT TO TAX UNDER SECTION 42-5075 FOR A PROJECT THAT IS TAXABLE UNDER  
 21 SECTION 42-5075. THE CERTIFICATE PERMITS THE PERSON purchasing tangible  
 22 personal property to be incorporated or fabricated by the person into any  
 23 real property, structure, project, development or improvement to provide  
 24 documentation to a retailer that the sale of tangible personal property  
 25 qualifies for the deduction under section 42-5061, subsection A, paragraph  
 26 27, SUBDIVISION (b). A prime contractor shall obtain the certificate from  
 27 the department and shall provide a copy to any ~~contractor~~ SUCH PERSON working  
 28 on the project ~~that does not have a transaction privilege tax license by~~  
 29 ~~reason of not being subject to tax under section 42-5075, subsection 0~~. The  
 30 prime contractor shall obtain a new certificate for each project to which  
 31 this subsection applies. For the purposes of this subsection, the following  
 32 apply:

33 1. The ~~contractor~~ PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION  
 34 42-5075 may use the certificate issued pursuant to this subsection only with  
 35 respect to tangible personal property that will be incorporated into a  
 36 project for which the gross receipts are subject to tax under section  
 37 42-5075.

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

41 3. If ~~a contractor~~ ANY PERSON uses the certificate provided under this  
 42 subsection to purchase tangible personal property to be used in a ~~nontaxable~~  
 43 ~~contract~~ PROJECT THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075, the  
 44 ~~contractor~~ PERSON is liable in an amount equal to any tax, penalty and  
 45 interest that the seller would have been required to pay under this article

1 if the seller had not complied with subsection A of this section. Payment of  
 2 the amount under this section exempts the ~~contractor~~ PERSON from liability  
 3 for any tax imposed under article 4 of this chapter. The amount shall be  
 4 ~~treated as tax revenues collected from the seller in order to designate the~~  
 5 ~~distribution base for purposes of section 42-5029~~ SOURCED UNDER SECTION  
 6 42-5040, SUBSECTION A, PARAGRAPH 2.

7 M. Notwithstanding any other law, compliance with subsection L of this  
 8 section by a ~~contractor~~ PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION  
 9 42-5075 entitles the ~~contractor~~ PERSON TO THE EXEMPTION ALLOWED BY SECTION  
 10 465, SUBSECTION (k) OF THE MODEL CITY TAX CODE WHEN purchasing tangible  
 11 personal property to be incorporated or fabricated by the person into any  
 12 real property, structure, project, development or improvement ~~to the~~  
 13 ~~exemption provided in section 465, subsection (k) of the model city tax code.~~

14 Sec. 8. Repeal

15 Section 42-5009, Arizona Revised Statutes, as amended by Laws 2014,  
 16 chapter 245, section 3, is repealed.

17 Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:  
 18 42-5010. Rates; distribution base

19 A. The tax imposed by this article is levied and shall be collected at  
 20 the following rates:

21 1. Five ~~per-cent~~ PERCENT of the tax base as computed for the business  
 22 of every person engaging or continuing in this state in the following  
 23 business classifications described in article 2 of this chapter:

- 24 (a) Transporting classification.
- 25 (b) Utilities classification.
- 26 (c) Telecommunications classification.
- 27 (d) Pipeline classification.
- 28 (e) Private car line classification.
- 29 (f) Publication classification.
- 30 (g) Job printing classification.
- 31 (h) Prime contracting classification.
- 32 (i) Amusement classification.
- 33 (j) Restaurant classification.
- 34 (k) Personal property rental classification.
- 35 (l) Retail classification AND AMOUNTS EQUAL TO RETAIL TRANSACTION  
 36 PRIVILEGE TAX DUE PURSUANT TO SECTION 42-5008.01.

37 2. Five and one-half ~~per-cent~~ PERCENT of the tax base as computed for  
 38 the business of every person engaging or continuing in this state in the  
 39 transient lodging classification described in section 42-5070.

40 3. Three and one-eighth ~~per-cent~~ PERCENT of the tax base as computed  
 41 for the business of every person engaging or continuing in this state in the  
 42 mining classification described in section 42-5072.

43 4. Zero ~~per-cent~~ PERCENT of the tax base as computed for the business  
 44 of every person engaging or continuing in this state in the commercial lease  
 45 classification described in section 42-5069.

1 B. Except as provided by subsection J of this section, twenty ~~per cent~~  
2 PERCENT of the tax revenues collected at the rate prescribed by subsection A,  
3 paragraph 1 of this section from persons on account of engaging in business  
4 under the business classifications listed in subsection A, paragraph 1,  
5 subdivisions (a) through (h) of this section is designated as distribution  
6 base for purposes of section 42-5029.

7 C. Forty ~~per cent~~ PERCENT of the tax revenues collected at the rate  
8 prescribed by subsection A, paragraph 1 of this section from persons on  
9 account of engaging in business under the business classifications listed in  
10 subsection A, paragraph 1, subdivisions (i) through (l) of this section is  
11 designated as distribution base for purposes of section 42-5029.

12 D. Thirty-two ~~per cent~~ PERCENT of the tax revenues collected from  
13 persons on account of engaging in business under the business classification  
14 listed in subsection A, paragraph 3 of this section is designated as  
15 distribution base for purposes of section 42-5029.

16 E. Fifty-three and one-third ~~per cent~~ PERCENT of the tax revenues  
17 collected from persons on account of engaging in business under the business  
18 classification listed in subsection A, paragraph 4 of this section is  
19 designated as distribution base for purposes of section 42-5029.

20 F. Fifty ~~per cent~~ PERCENT of the tax revenues collected from persons  
21 on account of engaging in business under the business classification listed  
22 in subsection A, paragraph 2 of this section is designated as distribution  
23 base for purposes of section 42-5029.

24 G. In addition to the rates prescribed by subsection A of this  
25 section, if approved by the qualified electors voting at a statewide general  
26 election, an additional rate increment is imposed and shall be collected  
27 through June 30, 2021. The taxpayer shall pay taxes pursuant to this  
28 subsection at the same time and in the same manner as under subsection A of  
29 this section. The department shall separately account for the revenues  
30 collected with respect to the rates imposed pursuant to this subsection and  
31 the state treasurer shall distribute all of those revenues in the manner  
32 prescribed by section 42-5029, subsection E. The rates imposed pursuant to  
33 this subsection shall not be considered local revenues for purposes of  
34 article IX, section 21, Constitution of Arizona. The additional tax rate  
35 increment is levied at the rate of six-tenths of one per cent of the tax base  
36 of every person engaging or continuing in this state in a business  
37 classification listed in subsection A, paragraph 1 of this section.

38 H. Any increase in the rate of tax that is imposed by this chapter and  
39 that is enacted by the legislature or by a vote of the people does not apply  
40 with respect to contracts entered into by prime contractors or pursuant to  
41 written bids made by prime contractors on or before the effective date of the  
42 legislation or the date of the election enacting the increase. To qualify  
43 for the exemption under this subsection, the prime contractor must maintain  
44 sufficient documentation, in a manner and form prescribed by the department,  
45 to verify the date of the contract or written bid.

1 I. For taxpayers taxable under this chapter other than prime  
2 contractors taxable pursuant to section 42-5075:

3 1. Any increase in the rate of tax that is levied by this article or  
4 article 2 of this chapter enacted by the legislature or by a vote of the  
5 people does not apply for a period of one hundred twenty days from the date  
6 of the tax rate increase to the gross proceeds of sales or gross income from  
7 the business of the taxpayer with respect to written contracts entered into  
8 before the effective date of the tax rate increase unless the taxpayer has  
9 entered into a contract that contains a provision that entitles the taxpayer  
10 to recover from the purchaser the amount of the additional tax levied.

11 2. The provisions of this subsection apply without regard to the  
12 accounting method used by the taxpayer to report the taxes imposed under  
13 article 2 of this chapter.

14 3. The provisions of this subsection shall not be considered in  
15 determining the rate of tax imposed under chapter 6, article 3 of this title.

16 J. Zero ~~per cent~~ PERCENT of the tax revenues that are collected at the  
17 rate prescribed by subsection A, paragraph 1 of this section from persons on  
18 account of engaging in business under the business classification listed in  
19 subsection A, paragraph 1, subdivision (h) of this section, and that are  
20 subject to any distribution required by section 42-5032.02, is designated as  
21 distribution base for the purposes of section 42-5029 until the total amount  
22 subject to distribution pursuant to section 42-5032.02 has reached the  
23 maximum amount prescribed by section 42-5032.02, subsection C. Thereafter,  
24 twenty ~~per cent~~ PERCENT of the remaining tax revenues is designated as  
25 distribution base for the purposes of section 42-5029 as provided by  
26 subsection B of this section.

27 Sec. 10. Section 42-5061, Arizona Revised Statutes, is amended to  
28 read:

29 42-5061. Retail classification; definitions

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

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

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

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

43 4. Sales of tangible personal property by any nonprofit organization  
44 organized and operated exclusively for charitable purposes and recognized by



- 1 the United States internal revenue service under section 501(c)(3) of the  
2 internal revenue code.
- 3 5. Sales to persons engaged in business classified under the  
4 restaurant classification of articles used by human beings for food, drink or  
5 condiment, whether simple, mixed or compounded.
- 6 6. Business activity that is properly included in any other business  
7 classification that is taxable under this article.
- 8 7. The sale of stocks and bonds.
- 9 8. Drugs and medical oxygen, including delivery hose, mask or tent,  
10 regulator and tank, on the prescription of a member of the medical, dental or  
11 veterinarian profession who is licensed by law to administer such substances.
- 12 9. Prosthetic appliances as defined in section 23-501 prescribed or  
13 recommended by a health professional who is licensed pursuant to title 32,  
14 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 15 10. Insulin, insulin syringes and glucose test strips.
- 16 11. Prescription eyeglasses or contact lenses.
- 17 12. Hearing aids as defined in section 36-1901.
- 18 13. Durable medical equipment that has a centers for medicare and  
19 medicaid services common procedure code, is designated reimbursable by  
20 medicare, is prescribed by a person who is licensed under title 32, chapter  
21 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
22 customarily used to serve a medical purpose, is generally not useful to a  
23 person in the absence of illness or injury and is appropriate for use in the  
24 home.
- 25 14. Sales of motor vehicles to nonresidents of this state for use  
26 outside this state if the motor vehicle dealer ships or delivers the motor  
27 vehicle to a destination out of this state.
- 28 15. Food, as provided in and subject to the conditions of article 3 of  
29 this chapter and section 42-5074.
- 30 16. Items purchased with United States department of agriculture food  
31 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
32 958) or food instruments issued under section 17 of the child nutrition act  
33 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
34 section 1786).
- 35 17. Textbooks by any bookstore that are required by any state  
36 university or community college.
- 37 18. Food and drink to a person that is engaged in a business that is  
38 classified under the restaurant classification and that provides such food  
39 and drink without monetary charge to its employees for their own consumption  
40 on the premises during the employees' hours of employment.
- 41 19. Articles of food, drink or condiment and accessory tangible  
42 personal property to a school district or charter school if such articles and  
43 accessory tangible personal property are to be prepared and served to persons  
44 for consumption on the premises of a public school within the district or on  
45 the premises of the charter school during school hours.

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

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

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

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

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

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

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

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

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

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

- 1           25. Tangible personal property sold to:
- 2           (a) A qualifying hospital as defined in section 42-5001.
- 3           (b) A qualifying health care organization as defined in section
- 4 42-5001 if the tangible personal property is used by the organization solely
- 5 to provide health and medical related educational and charitable services.
- 6           (c) A qualifying health care organization as defined in section
- 7 42-5001 if the organization is dedicated to providing educational,
- 8 therapeutic, rehabilitative and family medical education training for blind
- 9 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE
- 10 DISABILITIES from the time of birth to age twenty-one.
- 11           (d) A qualifying community health center as defined in section
- 12 42-5001.
- 13           (e) A nonprofit charitable organization that has qualified under
- 14 section 501(c)(3) of the internal revenue code and that regularly serves
- 15 meals to the needy and indigent on a continuing basis at no cost.
- 16           (f) For taxable periods beginning from and after June 30, 2001, a
- 17 nonprofit charitable organization that has qualified under section 501(c)(3)
- 18 of the internal revenue code and that provides residential apartment housing
- 19 for low income persons over sixty-two years of age in a facility that
- 20 qualifies for a federal housing subsidy, if the tangible personal property is
- 21 used by the organization solely to provide residential apartment housing for
- 22 low income persons over sixty-two years of age in a facility that qualifies
- 23 for a federal housing subsidy.
- 24           (g) A qualifying health sciences educational institution as defined in
- 25 section 42-5001.
- 26           (h) ANY PERSON REPRESENTING OR WORKING ON BEHALF OF ANOTHER PERSON
- 27 DESCRIBED IN SUBDIVISIONS (a) THROUGH (g) OF THIS PARAGRAPH IF THE TANGIBLE
- 28 PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN
- 29 SECTION 42-5075, SUBSECTION O.
- 30           26. Magazines or other periodicals or other publications by this state
- 31 to encourage tourist travel.
- 32           27. Tangible personal property sold to:
- 33           (a) A person that is subject to tax under this article by reason of
- 34 being engaged in business classified ~~under the prime contracting~~
- 35 ~~classification~~ under section 42-5075 or to a subcontractor working under the
- 36 control of a ~~prime contractor that is subject to tax under article 1 of this~~
- 37 ~~chapter~~ PERSON ENGAGED IN BUSINESS CLASSIFIED UNDER SECTION 42-5075, if the
- 38 property so sold is any of the following:
- 39           ~~(a)~~ (i) Incorporated or fabricated by the person into any real
- 40 property, structure, project, development or improvement as part of the
- 41 business.
- 42           (ii) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY PROJECT
- 43 DESCRIBED IN SECTION 42-5075, SUBSECTION O.
- 44           ~~(b)~~ (iii) Used in environmental response or remediation activities
- 45 under section 42-5075, subsection B, paragraph 6.

1 (b) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 AND THAT  
2 HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER SECTION 42-5009, SUBSECTION  
3 L, IF THE PROPERTY SO SOLD IS INCORPORATED OR FABRICATED BY THE PERSON INTO  
4 THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT DESCRIBED  
5 IN THE CERTIFICATE.

6 28. The sale of a motor vehicle to:

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

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

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

20 30. Sales of tangible personal property by a nonprofit organization  
21 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)  
22 of the internal revenue code if the organization is associated with a major  
23 league baseball team or a national touring professional golfing association  
24 and no part of the organization's net earnings inures to the benefit of any  
25 private shareholder or individual.

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

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

37 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
38 propagative material to persons who use those items to commercially produce  
39 agricultural, horticultural, viticultural or floricultural crops in this  
40 state.

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

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

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

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

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

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

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

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

44           40. Sales of food, drink and condiment for consumption within the  
45 premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the  
2 department of juvenile corrections or a county sheriff.

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

7 42. Livestock and poultry feed, salts, vitamins and other additives for  
8 livestock or poultry consumption that are sold to persons who are engaged in  
9 producing livestock, poultry, or livestock or poultry products or who are  
10 engaged in feeding livestock or poultry commercially. For the purposes of  
11 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

1           49. Sales of alternative fuel vehicles if the vehicle was manufactured  
2 as a 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 section  
5 1-215.

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

9           51. Sales of tangible personal property to be incorporated or installed  
10 as part of environmental response or remediation activities under section  
11 42-5075, subsection B, paragraph 6.

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

17           53. Through August 31, 2014, sales of Arizona centennial medallions by  
18 the historical advisory commission.

19           54. Application services that are designed to assess or test student  
20 learning or to promote curriculum design or enhancement purchased by or for  
21 any school district, charter school, community college or state university.  
22 For the purposes of this paragraph:

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

25           (b) "Curriculum design or enhancement" means planning, implementing or  
26 reporting on courses of study, lessons, assignments or other learning  
27 activities.

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

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

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

43           58. Computer data center equipment purchased by the owner, operator or  
44 qualified colocation tenant of the computer data center or an authorized  
45 agent of the owner, operator or qualified colocation tenant during the

1 qualification period for use in a computer data center that is certified by  
2 the Arizona commerce authority under section 41-1519. To qualify for this  
3 deduction, at the time of purchase, the owner, operator or qualified  
4 colocation tenant must present to the retailer its certificate that is issued  
5 pursuant to section 41-1519 and that establishes its qualification for the  
6 deduction. For the purposes of this paragraph, "computer data center",  
7 "computer data center equipment", "qualification period" and "qualified  
8 colocation tenant" have the same meanings prescribed in section 41-1519.

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

12 60. SALES OF TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO  
13 A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, THAT IS LOCATED WITHIN  
14 THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS  
15 DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN  
16 AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

17 (a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO  
18 IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT  
19 THE INDIAN RESERVATION WAS ESTABLISHED.

20 (b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF  
21 AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF  
22 AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS  
23 INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

24 (c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR  
25 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES  
26 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF  
27 THE INDIAN TRIBE.

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

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

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



1           3. Tangible personal property sold to persons engaged in business  
2 classified under the telecommunications classification, **INCLUDING A PERSON**  
3 **REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN**  
4 **SECTION 42-5075, SUBSECTION 0**, and consisting of central office switching  
5 equipment, switchboards, private branch exchange equipment, microwave radio  
6 equipment and carrier equipment including optical fiber, coaxial cable and  
7 other transmission media that are components of carrier systems.

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

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

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

19           7. Aircraft, navigational and communication instruments and other  
20 accessories and related equipment sold to:

21           (a) A person holding a federal certificate of public convenience and  
22 necessity, a supplemental air carrier certificate under federal aviation  
23 regulations (14 Code of Federal Regulations part 121) or a foreign air  
24 carrier permit for air transportation for use as or in conjunction with or  
25 becoming a part of aircraft to be used to transport persons, property or  
26 United States mail in intrastate, interstate or foreign commerce.

27           (b) Any foreign government.

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

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

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

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

44           11. Buses or other urban mass transit vehicles that are used directly  
45 to transport persons or property for hire or pursuant to a governmentally

1 adopted and controlled urban mass transportation program and that are sold to  
2 bus companies holding a federal certificate of convenience and necessity or  
3 operated by any city, town or other governmental entity or by any person  
4 contracting with such governmental entity as part of a governmentally adopted  
5 and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

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

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

43 (ii) Over two-thirds of the transmissions, measured in megabytes,  
44 transmitted by or on behalf of those direct broadcast television or data

1 transmission services during the test period were transmitted by the facility  
2 to or on behalf of those services.

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

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

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

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

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

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

38 19. Machinery and equipment that are sold to a person engaged in the  
39 commercial production of livestock, livestock products or agricultural,  
40 horticultural, viticultural or floricultural crops or products in this state,  
41 ~~and that~~ INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A  
42 PERSON IN A MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION 0, IF THE  
43 MACHINERY AND EQUIPMENT are used directly and primarily to prevent, monitor,  
44 control or reduce air, water or land pollution.

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

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

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

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

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

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

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

27           2. Janitorial equipment and hand tools.

28           3. Office equipment, furniture and supplies.

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

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

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

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

39           8. Machinery and equipment or other tangible personal property used by  
40 a contractor in the performance of a contract.

41           D. In addition to the deductions from the tax base prescribed by  
42 subsection A of this section, there shall be deducted from the tax base the  
43 gross proceeds of sales or gross income derived from sales of machinery,  
44 equipment, materials and other tangible personal property used directly and  
45 predominantly to construct a qualified environmental technology

1 manufacturing, producing or processing facility as described in section  
2 41-1514.02. This subsection applies for ten full consecutive calendar or  
3 fiscal years after the start of initial construction.

4 E. In computing the tax base, gross proceeds of sales or gross income  
5 from retail sales of heavy trucks and trailers does not include any amount  
6 attributable to federal excise taxes imposed by 26 United States Code section  
7 4051.

8 F. In computing the tax base, gross proceeds of sales or gross income  
9 from the sale of use fuel, as defined in section 28-5601, does not include  
10 any amount attributable to federal excise taxes imposed by 26 United States  
11 Code section 4091.

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

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

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

- 32 1. Transporting classification.
- 33 2. Utilities classification.
- 34 3. Telecommunications classification.
- 35 4. Pipeline classification.
- 36 5. Private car line classification.
- 37 6. Publication classification.
- 38 7. Job printing classification.
- 39 8. Prime contracting classification.
- 40 9. Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18           W. For the purposes of this section:

19           1. "Aircraft" includes:

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

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

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

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

34           X. For the purposes of subsection J of this section:

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

38           2. "Manufacturer" means a person who is principally engaged in the  
39 fabrication, production or manufacture of products, wares or articles for use  
40 from raw or prepared materials, imparting to those materials new forms,  
41 qualities, properties and combinations.

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

44           4. "Overhead materials" means tangible personal property, the gross  
45 proceeds of sales or gross income derived from that would otherwise be



1 included in the retail classification, and that are used or consumed in the  
2 performance of a contract, the cost of which is charged to an overhead  
3 expense account and allocated to various contracts based on generally  
4 accepted accounting principles and consistent with government contract  
5 accounting standards.

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

8 6. "Subcontract" means an agreement between a contractor and any  
9 person who is not an employee of the contractor for furnishing of supplies or  
10 services that, in whole or in part, are necessary to the performance of one  
11 or more government contracts, or under which any portion of the contractor's  
12 obligation under one or more government contracts is performed, undertaken or  
13 assumed and that includes provisions causing title to overhead materials or  
14 other tangible personal property used in the performance of the subcontract  
15 to pass to the government or that includes provisions incorporating such  
16 title passing clauses in a government contract into the subcontract. For the  
17 purposes of this paragraph, "contractor" has its ordinary and common meaning  
18 ~~and does not have the meaning prescribed by section 42-5001.~~

19 Sec. 11. Section 42-5075, Arizona Revised Statutes, is amended to  
20 read:

21 42-5075. Prime contracting classification; exemptions;  
22 definitions

23 A. The prime contracting classification is comprised of the business  
24 of prime contracting and dealership of manufactured buildings. Sales for  
25 resale to another ~~dealership of~~ manufactured ~~buildings~~ BUILDING DEALER are  
26 not subject to tax. Sales for resale do not include sales to a lessor of  
27 manufactured buildings. The sale of a used manufactured building is not  
28 taxable under this chapter. The proceeds from alteration and repairs to a  
29 used manufactured building are taxable under this section.

30 B. The tax base for the prime contracting classification is sixty-five  
31 ~~per cent~~ PERCENT of the gross proceeds of sales or gross income derived from  
32 the business. The following amounts shall be deducted from the gross  
33 proceeds of sales or gross income before computing the tax base:

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

36 2. Sales and installation of groundwater measuring devices required  
37 under section 45-604 and groundwater monitoring wells required by law,  
38 including monitoring wells installed for acquiring information for a permit  
39 required by law.

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

1           4. The gross proceeds of sales or gross income received from a  
2 contract entered into for the ~~construction, addition, subtraction,~~  
3 ~~improvement, movement, wrecking or demolition~~ MODIFICATION of any building,  
4 highway, road, railroad, excavation, manufactured building or other  
5 structure, project, development or improvement located in a military reuse  
6 zone for providing aviation or aerospace services or for a manufacturer,  
7 assembler or fabricator of aviation or aerospace products within an active  
8 military reuse zone after the zone is initially established or renewed under  
9 section 41-1531. To be eligible to qualify for this deduction, before  
10 beginning work under the contract, the prime contractor must have applied for  
11 a letter of qualification from the department of revenue.

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

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

31           (a) Actions to monitor, assess and evaluate such a release or a  
32 suspected release.

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

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

38           (d) Pumping and treatment or in situ treatment of contaminated  
39 groundwater or surface water to reduce the concentration or toxicity of a  
40 contaminant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

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

10 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),  
11 (c), (d), (e), (f), ~~(i)~~, (j) , (k) or ~~(l)~~ (m) or paragraph 54.

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

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

17 10. The gross proceeds of sales or gross income that is derived from a  
18 contract entered into with a person who is engaged in the commercial  
19 production of livestock, livestock products or agricultural, horticultural,  
20 viticultural or floricultural crops or products in this state for the  
21 ~~construction, alteration, repair, improvement, movement, wrecking or~~  
22 ~~demolition or addition to or subtraction from~~ MODIFICATION OF any building,  
23 highway, road, excavation, manufactured building or other structure, project,  
24 development or improvement used directly and primarily to prevent, monitor,  
25 control or reduce air, water or land pollution.

26 11. The gross proceeds of sales or gross income that is derived from  
27 the installation, assembly, repair or maintenance of clean rooms that are  
28 deducted from the tax base of the retail classification pursuant to section  
29 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

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

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

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

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

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

39           ~~20. The gross proceeds of sales or gross income derived from a contract  
40 with the owner of real property for the maintenance, repair or replacement of  
41 existing property if the contract does not include modification activities.  
42 For the purposes of this paragraph, each contract or project is independent  
43 of another contract. A contractor that has gross proceeds of sales or gross  
44 income derived from a contract that is not subject to tax under this~~

1 ~~paragraph is subject to tax on a contract that includes modification~~  
2 ~~activities.~~

3 ~~21-~~ 20. The gross proceeds of sales or gross income derived from a  
4 contract entered into for the construction of a mixed waste processing  
5 facility that is located on a municipal solid waste landfill and that is  
6 constructed for the purpose of recycling solid waste or producing renewable  
7 energy from landfill waste. For the purposes of this paragraph:

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

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

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

23 (d) "Renewable energy" has the same meaning prescribed in section  
24 41-1511.

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

27 1. A prime contractor may establish entitlement to the deduction by  
28 both:

29 (a) Marking the invoice for the transaction to indicate that the gross  
30 proceeds of sales or gross income derived from the transaction was deducted  
31 from the base.

32 (b) Obtaining a certificate executed by the purchaser indicating the  
33 name and address of the purchaser, the precise nature of the business of the  
34 purchaser, the purpose for which the purchase was made, the necessary facts  
35 to establish the deductibility of the property under section 42-5061,  
36 subsection B, and a certification that the person executing the certificate  
37 is authorized to do so on behalf of the purchaser. The certificate may be  
38 disregarded if the prime contractor has reason to believe that the  
39 information contained in the certificate is not accurate or complete.

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

43 3. The department may prescribe a form for the certificate described  
44 in paragraph 1, subdivision (b) of this subsection. The department may also  
45 adopt rules that describe the transactions with respect to which a person is

1 not entitled to rely solely on the information contained in the certificate  
2 provided in paragraph 1, subdivision (b) of this subsection but must instead  
3 obtain such additional information as required in order to be entitled to the  
4 deduction.

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

19 D. Subcontractors or others who perform ~~services in respect to any~~  
20 ~~improvement, building, highway, road, railroad, excavation, manufactured~~  
21 ~~building or other structure, project, development or improvement~~ MODIFICATION  
22 ACTIVITIES are not subject to tax if they can demonstrate that the job was  
23 within the control of a prime contractor or contractors or a dealership of  
24 manufactured buildings and that the prime contractor or dealership is liable  
25 for the tax on the gross income, gross proceeds of sales or gross receipts  
26 attributable to the job and from which the subcontractors or others were  
27 paid.

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

41 F. Every person engaging or continuing in this state in the business  
42 of prime contracting or dealership of manufactured buildings shall present to  
43 the purchaser of such prime contracting or manufactured building a written  
44 receipt of the gross income or gross proceeds of sales from such activity and  
45 shall separately state the taxes to be paid pursuant to this section.

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

7 H. For the purposes of section 42-5032.02, from and after  
8 September 30, 2013, the department shall separately account for revenues  
9 reported and collected under the prime contracting classification from any  
10 prime contractor engaged in the construction of any buildings and associated  
11 improvements that are for the benefit of a manufacturing facility. For the  
12 purposes of this subsection, "associated improvements" and "manufacturing  
13 facility" have the same meanings prescribed in section 42-5032.02.

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

24 J. ~~EXCEPT AS PROVIDED IN SUBSECTION O OF THIS SECTION,~~ the gross  
25 proceeds of sales or gross income derived from landscaping activities are  
26 subject to tax under this section. Landscaping includes installing lawns,  
27 grading or leveling ground, installing gravel or boulders, planting trees and  
28 other plants, felling trees, removing or mulching tree stumps, removing other  
29 imbedded plants, building ~~or modifying~~ irrigation berms, ~~repairing sprinkler~~  
30 ~~or watering systems,~~ installing railroad ties and installing underground  
31 sprinkler or watering systems.

32 K. The portion of gross proceeds of sales or gross income attributable  
33 to the actual direct costs of providing architectural or engineering services  
34 that are incorporated in a contract is not subject to tax under this section.  
35 For the purposes of this subsection, "direct costs" means the portion of the  
36 actual costs that are directly expended in providing architectural or  
37 engineering services.

38 L. Operating a landfill or a solid waste disposal facility is not  
39 subject to taxation under this section, including filling, compacting and  
40 creating vehicle access to and from cell sites within the landfill.  
41 Constructing roads to a landfill or solid waste disposal facility and  
42 constructing cells within a landfill or solid waste disposal facility may be  
43 deemed prime contracting under this section.

44 M. The following apply in determining the taxable situs of sales of  
45 manufactured buildings:



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

4           2. For sales in this state where the manufactured building dealer does  
5 not contract to deliver the building to a setup site or does not perform the  
6 setup, the taxable situs is the location of the dealership where the building  
7 is delivered to the buyer.

8           3. For sales in this state where the ~~dealership of~~ manufactured  
9 ~~buildings~~ BUILDING DEALER contracts to deliver the building to a setup site  
10 that is outside this state, the situs is outside this state and the  
11 transaction is excluded from tax.

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

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

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

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

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

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

38           (ii) The amount of an adjustment, if any, to the guaranteed maximum  
39 price as set in the contract for modification work. For the purposes of this  
40 item, "guaranteed maximum price" means the amount guaranteed to be the  
41 maximum amount due to a prime contractor for the performance of all  
42 modification work for the project.

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

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

6 (e) Inspection to determine the dates of substantial completion or  
7 final completion.

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

14 (g) Preparation of status reports after modification work has begun  
15 detailing the progress of work performed, including preparation of any of the  
16 following:

17 (i) Master schedule updates.

18 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

31 2. "Design phase services" means services for developing and  
32 completing a design for a project that are not construction phase services,  
33 including the following:

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

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

40 (c) Preparing drawings and specifications for architectural program  
41 documents, schematic design documents, design development documents,  
42 modification work documents or documents that identify the scope of or  
43 materials for the project.

1 (d) Preparing an initial schedule for the project, excluding the  
2 preparation of updates to the master schedule after modification work has  
3 begun.

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

7 (i) Labor, materials, machinery and equipment, tools, water, heat,  
8 utilities, transportation and other facilities and services used in the  
9 execution and completion of modification work, regardless of whether they are  
10 temporary or permanent or whether they are incorporated in the modifications.

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

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

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

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

20 (vi) Any bond and insurance premiums.

21 (vii) Any applicable taxes.

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

24 (f) Reviewing and evaluating cost estimates and project documents to  
25 prepare recommendations on site use, site improvements, selection of  
26 materials, building systems and equipment, modification feasibility,  
27 availability of materials and labor, local modification activity as related  
28 to schedules and time requirements for modification work.

29 (g) Preparing the plan and procedures for selection of subcontractors,  
30 including any prequalification of subcontractor candidates.

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

36 0. The gross proceeds of sales or gross income derived from a contract  
37 with the owner of real property or ~~the person owning the~~ improvements to ~~the~~  
38 real property for the maintenance, repair, replacement or alteration of  
39 existing property is not subject to tax under this section if the contract  
40 does not include modification activities, except as specified in this  
41 subsection. The gross proceeds of sales or gross income derived from a de  
42 minimis amount of modification activity ~~that is essential to the completion~~  
43 ~~of the maintenance, repair, replacement or alteration contract~~ does not  
44 subject the ~~entire~~ contract OR ANY PART OF THE CONTRACT to tax under this

1 section. For the purposes of this subsection: ~~, each contract or project is~~  
2 ~~independent of any other contract.~~

3 1. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO  
4 A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT  
5 PRESCRIBED IN SECTION 42-5008.01.

6 2. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY  
7 CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL  
8 CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS  
9 CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES INCLUDED IN THE  
10 CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF  
11 WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW  
12 CONTRACT, WITH THE TAX TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO FOLLOW THE  
13 TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE SUBSEQUENT  
14 CHANGE ORDER DIRECTLY RELATES.

15 P. NOTWITHSTANDING SUBSECTION O OF THIS SECTION, A CONTRACT THAT  
16 PRIMARILY INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS  
17 SUBJECT TO TITLE 28, CHAPTER 19, 20 OR 22 OR TITLE 34, CHAPTER 2 OR 6 IS  
18 TAXABLE UNDER THIS SECTION, EVEN IF THE CONTRACT ALSO INCLUDES VERTICAL  
19 IMPROVEMENTS. AGENCIES THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE  
20 PROVISIONS SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A NOTICE TO BIDDERS  
21 WHEN THOSE PROJECTS ARE SUBJECT TO THIS SECTION. THIS SUBSECTION DOES NOT  
22 APPLY TO CONTRACTS WITH:

23 1. COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION  
24 IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST  
25 CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH  
26 SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY  
27 DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, SPECIAL HEALTH  
28 CARE DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS, THEME PARK DISTRICTS,  
29 REGIONAL ATTRACTION DISTRICTS OR REVITALIZATION DISTRICTS.

30 2. ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN PARAGRAPH 1 OF THIS  
31 SUBSECTION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE MODIFICATION,  
32 MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF SURFACE OR SUBSURFACE  
33 IMPROVEMENTS TO LAND.

34 ~~P.~~ Q. Notwithstanding subsection ~~Q~~ R, paragraph ~~8~~ 10 of this  
35 section, a person owning real property who enters into a contract for sale of  
36 the real property, who is responsible to the new owner of the property for  
37 modifications made to the property in the period subsequent to the transfer  
38 of title and who receives a consideration for the modifications is considered  
39 a prime contractor solely for purposes of taxing the gross proceeds of sale  
40 or gross income received for the modifications made subsequent to the  
41 transfer of title. The original owner's gross proceeds of sale or gross  
42 income received for the modifications shall be determined according to the  
43 following methodology:

44 1. If any part of the contract for sale of the property specifies  
45 amounts to be paid to the original owner for the modifications to be made in

1 the period subsequent to the transfer of title, the amounts are included in  
2 the original owner's gross proceeds of sale or gross income under this  
3 section. Proceeds from the sale of the property that are received after  
4 transfer of title and that are unrelated to the modifications made subsequent  
5 to the transfer of title are not considered gross proceeds of sale or gross  
6 income from the modifications.

7 2. If the original owner enters into an agreement separate from the  
8 contract for sale of the real property providing for amounts to be paid to  
9 the original owner for the modifications to be made in the period subsequent  
10 to the transfer of title to the property, the amounts are included in the  
11 original owner's gross proceeds of sale or gross income received for the  
12 modifications made subsequent to the transfer of title.

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

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

23 ~~Q.~~ R. For the purposes of this section:

24 1. "ALTERATION" MEANS AN ACTIVITY OR ACTION THAT CAUSES A DIRECT  
25 PHYSICAL CHANGE TO EXISTING PROPERTY. FOR THE PURPOSES OF THIS PARAGRAPH:

26 (a) FOR EXISTING PROPERTY THAT IS PROPERLY CLASSIFIED AS CLASS TWO  
27 PROPERTY UNDER SECTION 42-12002, PARAGRAPH 1, SUBDIVISION (c) OR PARAGRAPH 2,  
28 SUBDIVISION (c) AND THAT IS USED FOR RESIDENTIAL PURPOSES, AS DESCRIBED IN  
29 SECTION 42-12003 OR 42-12004, THIS PARAGRAPH DOES NOT APPLY IF THE CONTRACT  
30 AMOUNT IS MORE THAN TWENTY-FIVE PERCENT OF THE MOST RECENT FULL CASH VALUE  
31 ESTABLISHED UNDER CHAPTER 13, ARTICLE 2 OF THIS TITLE AS OF THE DATE OF ANY  
32 BID FOR THE WORK OR THE DATE OF THE CONTRACT, WHICHEVER VALUE IS HIGHER.

33 (b) FOR ALL EXISTING PROPERTY OTHER THAN EXISTING PROPERTY DESCRIBED  
34 IN SUBDIVISION (a) OF THIS PARAGRAPH, THIS PARAGRAPH DOES NOT APPLY IF ANY OF  
35 THE FOLLOWING IS TRUE:

36 (i) THE CONTRACT AMOUNT IS MORE THAN SEVEN HUNDRED FIFTY THOUSAND  
37 DOLLARS.

38 (ii) THE SCOPE OF WORK DIRECTLY RELATES TO MORE THAN FORTY PERCENT OF  
39 THE EXISTING SQUARE FOOTAGE OF THE EXISTING PROPERTY.

40 (iii) THE SCOPE OF WORK INVOLVES EXPANDING THE SQUARE FOOTAGE OF MORE  
41 THAN TEN PERCENT OF THE EXISTING PROPERTY.

42 (c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT  
43 TO CAUSE A PROJECT TO QUALIFY AS AN ALTERATION. THE DEPARTMENT HAS THE  
44 BURDEN OF PROOF THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A  
45 CONTRACT.

1 (d) IF A PROJECT FOR WHICH THE OWNER AND THE PERSON PERFORMING THE  
2 WORK REASONABLY BELIEVED, AT THE INCEPTION OF THE CONTRACT, WOULD BE TREATED  
3 AS AN ALTERATION UNDER THIS PARAGRAPH AND, ON COMPLETION OF THE PROJECT, THE  
4 PROJECT EXCEEDED THE APPLICABLE THRESHOLD DESCRIBED IN EITHER SUBDIVISION (a)  
5 OR (b) OF THIS PARAGRAPH BY NO MORE THAN TWENTY-FIVE PERCENT OF THE  
6 APPLICABLE THRESHOLD FOR ANY REASON, THE WORK PERFORMED UNDER THE CONTRACT  
7 QUALIFIES AS AN ALTERATION.

8 (e) A CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE  
9 ORIGINAL CONTRACT SHALL BE TREATED AS PART OF THE ORIGINAL CONTRACT, AND THE  
10 CONTRACT AMOUNT SHALL INCLUDE ANY AMOUNT ATTRIBUTABLE TO A CHANGE ORDER THAT  
11 DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT.

12 (f) ALTERATION DOES NOT INCLUDE MAINTENANCE, REPAIR OR REPLACEMENT.

13 ~~1-~~ 2. "Contracting" means engaging in business as a contractor.

14 ~~2-~~ 3. "Contractor" is synonymous with the term "builder" and means  
15 any person or organization that undertakes to or offers to undertake to, or  
16 purports to have the capacity to undertake to, or submits a bid to, or does  
17 personally or by or through others, modify any building, highway, road,  
18 railroad, excavation, manufactured building or other structure, project,  
19 development or improvement, or to do any part of such a project, including  
20 the erection of scaffolding or other structure or works in connection with  
21 such a project, and includes subcontractors and specialty contractors. For  
22 all purposes of taxation or deduction, this definition shall govern without  
23 regard to whether or not such contractor is acting in fulfillment of a  
24 contract.

25 ~~3-~~ 4. "Manufactured building" means a manufactured home, mobile home  
26 or factory-built building, as defined in section 41-2142.

27 ~~4-~~ 5. "Manufactured building dealer" means a dealer who either:

28 (a) Is licensed pursuant to title 41, chapter 16 and who sells  
29 manufactured buildings to the final consumer.

30 (b) Supervises, performs or coordinates the excavation and completion  
31 of site improvements or the setup or moving of a manufactured building  
32 including the contracting, if any, with any subcontractor or specialty  
33 contractor for the completion of the contract.

34 ~~5-~~ 6. "Modification" means construction, ~~improvement, movement,~~  
35 GRADING AND LEVELING GROUND, wreckage or demolition. MODIFICATION DOES NOT  
36 INCLUDE:

37 (a) ANY PROJECT DESCRIBED IN SUBSECTION 0 OF THIS SECTION.

38 (b) ANY WRECKAGE OR DEMOLITION OF EXISTING PROPERTY, OR ANY OTHER  
39 ACTIVITY THAT IS A NECESSARY COMPONENT OF A PROJECT DESCRIBED IN SUBSECTION 0  
40 OF THIS SECTION.

41 (c) ANY MOBILIZATION OR DEMOBILIZATION RELATED TO A PROJECT DESCRIBED  
42 IN SUBSECTION 0 OF THIS SECTION, SUCH AS THE ERECTION OR REMOVAL OF TEMPORARY  
43 FACILITIES TO BE USED BY THOSE PERSONS WORKING ON THE PROJECT.

44 ~~6-~~ 7. "Modify" means to ~~construct, improve, move, wreck or demolish~~  
45 MAKE A MODIFICATION OR CAUSE A MODIFICATION TO BE MADE.

1           8. "OWNER" MEANS THE PERSON THAT HOLDS TITLE TO THE REAL PROPERTY OR  
2 IMPROVEMENTS TO REAL PROPERTY THAT IS THE SUBJECT OF THE WORK, AS WELL AS AN  
3 AGENT OF THE TITLE HOLDER AND ANY PERSON WITH THE AUTHORITY TO PERFORM OR  
4 AUTHORIZE WORK ON THE REAL PROPERTY OR IMPROVEMENTS, INCLUDING A TENANT AND A  
5 PROPERTY MANAGER. FOR THE PURPOSES OF SUBSECTION O OF THIS SECTION, A PERSON  
6 WHO IS HIRED BY A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, OR A  
7 SUBCONTRACTOR OF A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, IS  
8 CONSIDERED TO BE HIRED BY THE OWNER.

9           ~~7-~~ 9. "Prime contracting" means engaging in business as a prime  
10 contractor.

11           ~~8-~~ 10. "Prime contractor" means a contractor who supervises, performs  
12 or coordinates the modification of any building, highway, road, railroad,  
13 excavation, manufactured building or other structure, project, development or  
14 improvement including the contracting, if any, with any subcontractors or  
15 specialty contractors and who is responsible for the completion of the  
16 contract. Except as provided in subsections E and ~~P-~~ Q of this section, a  
17 person who owns real property, who engages one or more contractors to modify  
18 that real property and who does not itself modify that real property is not a  
19 prime contractor within the meaning of this paragraph regardless of the  
20 existence of a contract for sale or the subsequent sale of that real  
21 property.

22           11. "REPLACEMENT" MEANS THE REMOVAL OF ONE COMPONENT OR SYSTEM OF  
23 EXISTING PROPERTY OR TANGIBLE PERSONAL PROPERTY INSTALLED IN EXISTING  
24 PROPERTY, INCLUDING MACHINERY OR EQUIPMENT, AND THE INSTALLATION OF A NEW  
25 COMPONENT OR SYSTEM OR NEW TANGIBLE PERSONAL PROPERTY, INCLUDING MACHINERY OR  
26 EQUIPMENT, THAT PROVIDES THE SAME OR UPGRADED FUNCTIONALITY, REGARDLESS OF  
27 THE CONTRACT AMOUNT FOR THE REMOVAL AND INSTALLATION.

28           ~~9-~~ 12. "Sale of a used manufactured building" does not include a  
29 lease of a used manufactured building.

30           Sec. 12. Section 42-5159, Arizona Revised Statutes, is amended to  
31 read:

32           42-5159. Exemptions

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

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

39           2. Tangible personal property the sale or use of which has already  
40 been subjected to an excise tax at a rate equal to or exceeding the tax  
41 imposed by this article under the laws of another state of the United States.  
42 If the excise tax imposed by the other state is at a rate less than the tax  
43 imposed by this article, the tax imposed by this article is reduced by the  
44 amount of the tax already imposed by the other state.

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

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

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

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

21           7. Purchases of implants used as growth promotants and injectable  
22 medicines, not already exempt under paragraph 16 of this subsection, for  
23 livestock and poultry owned by, or in possession of, persons who are engaged  
24 in producing livestock, poultry, or livestock or poultry products, or who are  
25 engaged in feeding livestock or poultry commercially. For the purposes of  
26 this paragraph, "poultry" includes ratites.

27           8. Livestock, poultry, supplies, feed, salts, vitamins and other  
28 additives for use or consumption in the businesses of farming, ranching and  
29 feeding livestock or poultry, not including fertilizers, herbicides and  
30 insecticides. For the purposes of this paragraph, "poultry" includes  
31 ratites.

32           9. Seeds, seedlings, roots, bulbs, cuttings and other propagative  
33 material for use in commercially producing agricultural, horticultural,  
34 viticultural or floricultural crops in this state.

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

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

42           12. Materials that are purchased by or for publicly funded libraries  
43 including school district libraries, charter school libraries, community  
44 college libraries, state university libraries or federal, state, county or  
45 municipal libraries for use by the public as follows:



- 1 (a) Printed or photographic materials, beginning August 7, 1985.
- 2 (b) Electronic or digital media materials, beginning July 17, 1994.
- 3 13. Tangible personal property purchased by:
- 4 (a) A hospital organized and operated exclusively for charitable
- 5 purposes, no part of the net earnings of which inures to the benefit of any
- 6 private shareholder or individual.
- 7 (b) A hospital operated by this state or a political subdivision of
- 8 this state.
- 9 (c) A licensed nursing care institution or a licensed residential care
- 10 institution or a residential care facility operated in conjunction with a
- 11 licensed nursing care institution or a licensed kidney dialysis center, which
- 12 provides medical services, nursing services or health related services and is
- 13 not used or held for profit.
- 14 (d) A qualifying health care organization, as defined in section
- 15 42-5001, if the tangible personal property is used by the organization solely
- 16 to provide health and medical related educational and charitable services.
- 17 (e) A qualifying health care organization as defined in section
- 18 42-5001 if the organization is dedicated to providing educational,
- 19 therapeutic, rehabilitative and family medical education training for blind
- 20 and visually impaired children and children with ~~multidisabilities~~ MULTIPLE
- 21 DISABILITIES from the time of birth to age twenty-one.
- 22 (f) A nonprofit charitable organization that has qualified under
- 23 section 501(c)(3) of the United States internal revenue code and that engages
- 24 in and uses such property exclusively in programs for persons with mental or
- 25 physical disabilities if the programs are exclusively for training, job
- 26 placement, rehabilitation or testing.
- 27 (g) A person that is subject to tax under ~~article 1 of~~ this chapter by
- 28 reason of being engaged in business classified under the prime contracting
- 29 classification under section 42-5075, or a subcontractor working under the
- 30 control of a ~~prime contractor~~ PERSON THAT IS ENGAGED IN BUSINESS CLASSIFIED
- 31 UNDER SECTION 42-5075, if the tangible personal property is any of the
- 32 following:
- 33 (i) Incorporated or fabricated by the ~~contractor~~ PERSON into a
- 34 structure, project, development or improvement in fulfillment of a contract.
- 35 (ii) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY PROJECT
- 36 DESCRIBED IN SECTION 42-5075, SUBSECTION O.
- 37 ~~(ii)~~ (iii) Used in environmental response or remediation activities
- 38 under section 42-5075, subsection B, paragraph 6.
- 39 (h) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 AND THAT
- 40 HAS BEEN PROVIDED A COPY OF A CERTIFICATE DESCRIBED IN SECTION 42-5009,
- 41 SUBSECTION L, IF THE PROPERTY PURCHASED IS INCORPORATED OR FABRICATED BY THE
- 42 PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT
- 43 DESCRIBED IN THE CERTIFICATE.
- 44 ~~(h)~~ (i) A nonprofit charitable organization that has qualified under
- 45 section 501(c)(3) of the internal revenue code if the property is purchased

1 from the parent or an affiliate organization that is located outside this  
2 state.

3 ~~(i)~~ (j) A qualifying community health center as defined in section  
4 42-5001.

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

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

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

21 ~~(m)~~ (n) A qualifying health sciences educational institution as  
22 defined in section 42-5001.

23 (o) A PERSON REPRESENTING OR WORKING ON BEHALF OF ANY PERSON DESCRIBED  
24 IN SUBDIVISION (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) OR (n) OF  
25 THIS PARAGRAPH, IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR  
26 FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION 0.

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

32 15. Tangible personal property sold by:

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

36 (b) A nonprofit organization that is exempt from taxation under  
37 section 501(c)(3) or 501(c)(6) of the internal revenue code if the  
38 organization is associated with a major league baseball team or a national  
39 touring professional golfing association and no part of the organization's  
40 net earnings inures to the benefit of any private shareholder or individual.

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

- 1           16. Drugs and medical oxygen, including delivery hose, mask or tent,  
2 regulator and tank, on the prescription of a member of the medical, dental or  
3 veterinarian profession who is licensed by law to administer such substances.
- 4           17. Prosthetic appliances, as defined in section 23-501, prescribed or  
5 recommended by a person who is licensed, registered or otherwise  
6 professionally credentialed as a physician, dentist, podiatrist,  
7 chiropractor, naturopath, homeopath, nurse or optometrist.
- 8           18. Prescription eyeglasses and contact lenses.
- 9           19. Insulin, insulin syringes and glucose test strips.
- 10          20. Hearing aids as defined in section 36-1901.
- 11          21. Durable medical equipment that has a centers for medicare and  
12 medicaid services common procedure code, is designated reimbursable by  
13 medicare, is prescribed by a person who is licensed under title 32, chapter  
14 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
15 used to serve a medical purpose, is generally not useful to a person in the  
16 absence of illness or injury and is appropriate for use in the home.
- 17          22. Food, as provided in and subject to the conditions of article 3 of  
18 this chapter and section 42-5074.
- 19          23. Items purchased with United States department of agriculture food  
20 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
21 958) or food instruments issued under section 17 of the child nutrition act  
22 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
23 section 1786).
- 24          24. Food and drink provided without monetary charge by a taxpayer that  
25 is subject to section 42-5074 to its employees for their own consumption on  
26 the premises during the employees' hours of employment.
- 27          25. Tangible personal property that is used or consumed in a business  
28 subject to section 42-5074 for human food, drink or condiment, whether  
29 simple, mixed or compounded.
- 30          26. Food, drink or condiment and accessory tangible personal property  
31 that are acquired for use by or provided to a school district or charter  
32 school if they are to be either served or prepared and served to persons for  
33 consumption on the premises of a public school in the school district or on  
34 the premises of the charter school during school hours.
- 35          27. Lottery tickets or shares purchased pursuant to title 5, chapter  
36 5.1, article 1.
- 37          28. Textbooks, sold by a bookstore, that are required by any state  
38 university or community college.
- 39          29. Magazines, other periodicals or other publications produced by this  
40 state to encourage tourist travel.
- 41          30. Paper machine clothing, such as forming fabrics and dryer felts,  
42 purchased by a paper manufacturer and directly used or consumed in paper  
43 manufacturing.
- 44          31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
45 purchased by a qualified environmental technology manufacturer, producer or

1 processor as defined in section 41-1514.02 and directly used or consumed in  
 2 the generation or provision of on-site power or energy solely for  
 3 environmental technology manufacturing, producing or processing or  
 4 environmental protection. This paragraph shall apply for twenty full  
 5 consecutive calendar or fiscal years from the date the first paper  
 6 manufacturing machine is placed in service. In the case of an environmental  
 7 technology manufacturer, producer or processor who does not manufacture  
 8 paper, the time period shall begin with the date the first manufacturing,  
 9 processing or production equipment is placed in service.

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

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

14 (b) Public educational institutions.

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

18 33. Natural gas or liquefied petroleum gas used to propel a motor  
 19 vehicle.

20 34. Machinery, equipment, technology or related supplies that are only  
 21 useful to assist a person ~~who has~~ WITH a physical disability as defined in  
 22 section 46-191, ~~OR A PERSON WHO~~ has a developmental disability as defined in  
 23 section 36-551 or has a head injury as defined in section 41-3201 to be more  
 24 independent and functional.

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

38 36. Food, drink and condiment purchased for consumption within the  
 39 premises of any prison, jail or other institution under the jurisdiction of  
 40 the state department of corrections, the department of public safety, the  
 41 department of juvenile corrections or a county sheriff.

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

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

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

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

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

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

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

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

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

1 transportation to transport persons, property or United States mail in  
2 intrastate, interstate or foreign commerce.

3 44. Alternative fuel vehicles if the vehicle was manufactured as a  
4 diesel fuel vehicle and converted to operate on alternative fuel and  
5 equipment that is installed in a conventional diesel fuel motor vehicle to  
6 convert the vehicle to operate on an alternative fuel, as defined in section  
7 1-215.

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

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

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

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

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

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

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

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

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

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

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

44 52. Repair parts installed in equipment used directly by a qualified  
45 business under section 41-1516 in harvesting, processing or transporting

1 qualifying forest products removed from qualifying projects as defined in  
2 section 41-1516.

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

10 54. Computer data center equipment purchased by the owner, operator or  
11 qualified colocation tenant of the computer data center or an authorized  
12 agent of the owner, operator or qualified colocation tenant during the  
13 qualification period for use in a computer data center that is certified by  
14 the Arizona commerce authority under section 41-1519. To qualify for this  
15 deduction, at the time of purchase, the owner, operator or qualified  
16 colocation tenant must present to the retailer its certificate that is issued  
17 pursuant to section 41-1519 and that establishes its qualification for the  
18 deduction. For the purposes of this paragraph, "computer data center",  
19 "computer data center equipment", "qualification period" and "qualified  
20 colocation tenant" have the same meanings prescribed in section 41-1519.

21 55. Coal acquired from an owner or operator of a power plant by a  
22 person who is responsible for refining coal if both of the following apply:

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

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

30 56. TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A  
31 PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, THAT IS LOCATED WITHIN  
32 THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS  
33 DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN  
34 AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

35 (a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO  
36 IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT  
37 THE INDIAN RESERVATION WAS ESTABLISHED.

38 (b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF  
39 AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF  
40 AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS  
41 INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

42 (c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR  
43 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES  
44 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF  
45 THE INDIAN TRIBE.

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

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

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

17           3. Tangible personal property sold to persons engaged in business  
18 classified under the telecommunications classification under section 42-5064,  
19 [INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A](#)  
20 [MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION O](#), and consisting of central  
21 office switching equipment, switchboards, private branch exchange equipment,  
22 microwave radio equipment and carrier equipment including optical fiber,  
23 coaxial cable and other transmission media that are components of carrier  
24 systems.

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

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

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

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

38           (a) A person holding a federal certificate of public convenience and  
39 necessity, a supplemental air carrier certificate under federal aviation  
40 regulations (14 Code of Federal Regulations part 121) or a foreign air  
41 carrier permit for air transportation for use as or in conjunction with or  
42 becoming a part of aircraft to be used to transport persons, property or  
43 United States mail in intrastate, interstate or foreign commerce.



1 (b) Any foreign government, or sold to persons who are not residents  
2 of this state and who will not use such property in this state other than in  
3 removing such property from this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38           17. Machinery and equipment that are used directly in the feeding of  
39 poultry, the environmental control of housing for poultry, the movement of  
40 eggs within a production and packaging facility or the sorting or cooling of  
41 eggs. This exemption does not apply to vehicles used for transporting eggs.

42           18. Machinery or equipment, including related structural components,  
43 that is employed in connection with manufacturing, processing, fabricating,  
44 job printing, refining, mining, natural gas pipelines, metallurgical  
45 operations, telecommunications, producing or transmitting electricity or

1 research and development and that is used directly to meet or exceed rules or  
2 regulations adopted by the federal energy regulatory commission, the United  
3 States environmental protection agency, the United States nuclear regulatory  
4 commission, the Arizona department of environmental quality or a political  
5 subdivision of this state to prevent, monitor, control or reduce land, water  
6 or air pollution.

7 19. Machinery and equipment that are used in the commercial production  
8 of livestock, livestock products or agricultural, horticultural, viticultural  
9 or floricultural crops or products in this state and that are used directly  
10 and primarily to prevent, monitor, control or reduce air, water or land  
11 pollution.

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

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

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

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

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

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

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

38 2. Janitorial equipment and hand tools.

39 3. Office equipment, furniture and supplies.

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

43 5. Motor vehicles required to be licensed by this state, except buses  
44 or other urban mass transit vehicles specifically exempted pursuant to

1 subsection B, paragraph 11 of this section, without regard to the use of such  
2 motor vehicles.

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

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

6 8. Machinery and equipment or tangible personal property used by a  
7 contractor in the performance of a contract.

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

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

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

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

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

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

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

35 G. The tax levied by this article does not apply to the purchase price  
36 of electricity or natural gas by a business that is principally engaged in  
37 manufacturing or smelting operations and that uses at least fifty-one ~~per~~  
38 ~~cent~~ PERCENT of the electricity or natural gas in the manufacturing or  
39 smelting operations. This subsection does not apply to gas transportation  
40 services. For the purposes of this subsection:

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

1           2. "Manufacturing" means the performance as a business of an  
2 integrated series of operations that places tangible personal property in a  
3 form, composition or character different from that in which it was acquired  
4 and transforms it into a different product with a distinctive name, character  
5 or use. Manufacturing does not include processing, fabricating, job  
6 printing, mining, generating electricity or operating a restaurant.

7           3. "Principally engaged" means at least fifty-one ~~per-cent~~ PERCENT of  
8 the business is a manufacturing or smelting operation.

9           4. "Smelting" means to melt or fuse a metalliferous mineral, often  
10 with an accompanying chemical change, usually to separate the metal.

11           H. For the purposes of subsection B of this section:

12           1. "Aircraft" includes:

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

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

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

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

26           Sec. 13. Section 42-6004, Arizona Revised Statutes, is amended to  
27 read:

28           42-6004. Exemption from municipal tax

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

31           1. Exhibition events in this state sponsored, conducted or operated by  
32 a nonprofit organization that is exempt from taxation under section  
33 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
34 organization is associated with a major league baseball team or a national  
35 touring professional golfing association and no part of the organization's  
36 net earnings inures to the benefit of any private shareholder or individual.

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

40           3. Sales of warranty or service contracts.

41           4. Sales of motor vehicles to nonresidents of this state for use  
42 outside this state if the motor vehicle dealer ships or delivers the motor  
43 vehicle to a destination outside this state.

44           5. Interest on finance contracts.

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

1           7. Sales of food or other items purchased with United States  
2 department of agriculture food stamp coupons issued under the food stamp act  
3 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
4 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
5 section 4302; 42 United States Code section 1786) but may impose such a tax  
6 on other sales of food. If a city, town or special taxing district exempts  
7 sales of food from its tax or imposes a different transaction privilege rate  
8 on the gross proceeds of sales or gross income from sales of food and nonfood  
9 items, it shall use the definition of food prescribed by rule adopted by the  
10 department pursuant to section 42-5106.

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

14           9. Sales of internet access services to the person's subscribers and  
15 customers. For the purposes of this paragraph:

16           (a) "Internet" means the computer and telecommunications facilities  
17 that comprise the interconnected worldwide network of networks that employ  
18 the transmission control protocol or internet protocol, or any predecessor or  
19 successor protocol, to communicate information of all kinds by wire or radio.

20           (b) "Internet access" means a service that enables users to access  
21 content, information, electronic mail or other services over the internet.  
22 Internet access does not include telecommunication services provided by a  
23 common carrier.

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

27           11. Through August 31, 2014, sales of Arizona centennial medallions by  
28 the historical advisory commission.

29           12. Leasing real property between affiliated companies, businesses,  
30 persons or reciprocal insurers. For the purposes of this paragraph:

31           (a) "Affiliated companies, businesses, persons or reciprocal insurers"  
32 means the lessor holds a controlling interest in the lessee, the lessee holds  
33 a controlling interest in the lessor, affiliated persons hold a controlling  
34 interest in both the lessor and the lessee, or an unrelated person holds a  
35 controlling interest in both the lessor and lessee.

36           (b) "Affiliated persons" means members of the individual's family or  
37 persons who have ownership or control of a business entity.

38           (c) "Controlling interest" means direct or indirect ownership of at  
39 least eighty ~~per cent~~ PERCENT of the voting shares of a corporation or of the  
40 interests in a company, business or person other than a corporation.

41           (d) "Members of the individual's family" means the individual's spouse  
42 and brothers and sisters, whether by whole or half blood, including adopted  
43 persons, ancestors and lineal descendants.

44           (e) "Reciprocal insurer" has the same meaning prescribed in section  
45 20-762.

1           13. The gross proceeds of sales or gross income derived from a contract  
2 for the installation, assembly, repair or maintenance of machinery, equipment  
3 or other tangible personal property **THAT IS** described in section 42-5061,  
4 subsection B and that has independent functional utility, pursuant to the  
5 following provisions:

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

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

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

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

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

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

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

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

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

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

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

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

1           15. Computer data center equipment purchased by the owner, operator or  
 2 qualified colocation tenant of the computer data center or an authorized  
 3 agent of the owner, operator or qualified colocation tenant during the  
 4 qualification period for use in a computer data center that is certified by  
 5 the Arizona commerce authority under section 41-1519. To qualify for this  
 6 deduction, at the time of purchase, the owner, operator or qualified  
 7 colocation tenant must present to the retailer its certificate that is issued  
 8 pursuant to section 41-1519 and that establishes its qualification for the  
 9 deduction. For the purposes of this paragraph, "computer data center",  
 10 "computer data center equipment", "qualification period" and "qualified  
 11 colocation tenant" have the same meanings prescribed in section 41-1519.

12           16. The gross proceeds of sales or gross income derived from a contract  
 13 with the owner of real property or ~~the person owning the~~ improvements to ~~the~~  
 14 real property for the maintenance, repair, ~~or~~ replacement or alteration of  
 15 existing property ~~is not subject to tax under this section if the contract~~  
 16 ~~does not include modification activities~~, except as specified in this  
 17 paragraph. The gross proceeds of sales or gross income derived from a  
 18 de minimis amount of modification activity ~~that is essential to the~~  
 19 ~~completion of the maintenance, repair, replacement or alteration contract~~  
 20 does not subject the ~~entire~~ contract **OR ANY PART OF THE CONTRACT** to tax ~~under~~  
 21 ~~this section~~. For the purposes of this paragraph:

22           (a) Each contract ~~or project~~ is independent of another contract,  
 23 **EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF**  
 24 **THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT**  
 25 **UNDER THIS CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES**  
 26 **INCLUDED IN THE CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO**  
 27 **THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED**  
 28 **AS A NEW CONTRACT, WITH THE TAX TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO**  
 29 **FOLLOW THE TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE**  
 30 **SUBSEQUENT CHANGE ORDER DIRECTLY RELATES.**

31           ~~(b) "Modification" means construction, alteration, addition,~~  
 32 ~~subtraction, improvement, movement, wreckage or demolition.~~

33           (b) **ANY TERM NOT DEFINED IN THIS PARAGRAPH THAT IS DEFINED IN SECTION**  
 34 **42-5075 HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5075.**

35           (c) **THIS PARAGRAPH DOES NOT APPLY TO A CONTRACT THAT PRIMARILY**  
 36 **INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS SUBJECT TO**  
 37 **TITLE 28, CHAPTER 19, 20 OR 22 OR TITLE 34, CHAPTER 2 OR 6 EVEN IF THE**  
 38 **CONTRACT ALSO INCLUDES VERTICAL IMPROVEMENTS. IF A CITY OR TOWN IMPOSES A**  
 39 **TAX ON CONTRACTS THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE**  
 40 **PROVISIONS, THE CITY OR TOWN SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A**  
 41 **NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THE TAX. THIS**  
 42 **SUBDIVISION DOES NOT APPLY TO CONTRACTS WITH:**

43           (i) **COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION**  
 44 **IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST**  
 45 **CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH**



1 SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY  
2 DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, SPECIAL HEALTH  
3 CARE DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS, THEME PARK DISTRICTS,  
4 REGIONAL ATTRACTION DISTRICTS OR REVITALIZATION DISTRICTS.

5 (ii) ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN ITEM (i) OF THIS  
6 SUBDIVISION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE  
7 MODIFICATION, MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF SURFACE OR  
8 SUBSURFACE IMPROVEMENTS TO LAND.

9 17. Monitoring services relating to an alarm system as defined in  
10 section 32-101.

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

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

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

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

25 20. The gross proceeds of sales or gross income from sales of low or  
26 reduced cost articles of food or drink to eligible elderly, ~~disabled~~ or  
27 homeless persons OR PERSONS WITH A DISABILITY by a business subject to tax  
28 under section 42-5074 that contracts with the department of economic security  
29 and that is approved by the food and nutrition service of the United States  
30 department of agriculture pursuant to the supplemental nutrition assistance  
31 program established by the food and nutrition act of 2008 (P.L. 110-246; 122  
32 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the  
33 purchases are made with the benefits issued pursuant to the supplemental  
34 nutrition assistance program.

35 21. TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A  
36 PROJECT DESCRIBED IN PARAGRAPH 16 OF THIS SUBSECTION, THAT IS LOCATED WITHIN  
37 THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS  
38 DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN  
39 AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

40 (a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO  
41 IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT  
42 THE INDIAN RESERVATION WAS ESTABLISHED.

43 (b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF  
44 AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF

1 AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS  
2 INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

3 (c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR  
4 COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES  
5 DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF  
6 THAT INDIAN TRIBE.

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

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

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

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

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

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

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

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

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

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

44 (c) "Development fees" means fees imposed to offset capital costs of  
45 providing public infrastructure, public safety or other public services to a

1 development and authorized pursuant to section 9-463.05, section 11-1102 or  
2 title 48 regardless of the jurisdiction to which the fees are paid.

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

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

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

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

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

19 Sec. 14. Legislative intent

20 This act is intended to clarify and simplify the transaction privilege  
21 tax reform measures enacted by Laws 2014, chapter 263 until such time as the  
22 prime contracting transaction privilege tax classification can be repealed.

23 Sec. 15. Exemption from rulemaking

24 For the purposes of this act, the department of revenue is exempt from  
25 the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes,  
26 through December 31, 2015.

27 Sec. 16. Retroactivity; persons canceling transaction privilege  
28 tax prime contracting licenses; safe harbor; change  
29 orders; transition; application; definition

30 A. This act applies retroactively to from and after December 31, 2014.

31 B. With respect to any person canceling a transaction privilege tax  
32 license for the purposes of section 42-5075, Arizona Revised Statutes, on or  
33 before the last day of the first month that occurs at least sixty days after  
34 the enactment date of this act, the following provisions apply, and the  
35 department of revenue shall provide written guidelines that include these  
36 provisions in addition to any forms necessary to effectuate this act. For  
37 any materials on hand that the person purchased exempt from tax under section  
38 42-5061, subsection A, paragraph 27 or section 42-5159, subsection A,  
39 paragraph 13, subdivision (g), Arizona Revised Statutes, with no intent to  
40 evade taxation, the person may make a reasonable estimation of the value of  
41 all such items on hand at the time the tax license is canceled. If the  
42 reasonable estimate of the value is:

43 1. Ten thousand dollars or less, the person is not liable for any tax  
44 or similar amounts that otherwise would be due by law.

1           2. More than ten thousand dollars, the person is not liable for any  
2 tax or similar amounts that otherwise would be due by law on the first ten  
3 thousand dollars, and the value in excess of ten thousand dollars is subject  
4 to tax in an amount determined, reported and paid pursuant to any of the  
5 following:

6           (a) Pursuant to section 42-5008.01, subsection B, Arizona Revised  
7 Statutes.

8           (b) In a single payment, based on any tax that the seller would have  
9 been required to pay under title 42, chapter 5 or 6, Arizona Revised  
10 Statutes, if the seller were located at the person's principal place of  
11 business in this state.

12           (c) In twelve equal monthly installments to be reported and paid to  
13 the department beginning immediately following the month in which the  
14 person's license is canceled, based on any tax that the seller would have  
15 been required to pay under title 42, chapter 5 or 6, Arizona Revised  
16 Statutes, if the seller were located at the person's principal place of  
17 business in this state.

18           C. For contracts that are bid or entered into or for any other binding  
19 obligation executed on or before the last day of the first month that occurs  
20 at least sixty days after the enactment date of this act:

21           1. A person may treat the contract as a contract that is taxable under  
22 section 42-5075, Arizona Revised Statutes.

23           2. A person shall be held harmless from any additional tax, penalty  
24 and interest if the department of revenue determines, under audit, that the  
25 person's good faith treatment of the contract, as either subject to tax under  
26 section 42-5075, Arizona Revised Statutes, or excluded from tax under section  
27 42-5075, subsection 0, Arizona Revised Statutes, was incorrect.

28           D. The treatment of change orders under this act does not alter or  
29 affect the treatment of change orders in any other context, including with  
30 respect to the application of changes in the rate of tax.

31           E. For the purposes of this section, "enactment date" means the date  
32 the governor signs this act or the date the secretary of state receives the  
33 transmission of the unsigned act from the governor pursuant to article V,  
34 section 7, Constitution of Arizona.

35           Sec. 17. Emergency

36           This act is an emergency measure that is necessary to preserve the  
37 public peace, health or safety and is operative immediately as provided by  
38 law.