

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

# SENATE BILL 1367

AN ACT

AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6 AND CHAPTER 341, SECTION 2; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 17, SECTION 1, CHAPTER 249, SECTION 6, CHAPTER 263, SECTION 3 AND CHAPTER 341, SECTION 2; RELATING TO LOCAL EXCISE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-6004, Arizona Revised Statutes, as amended by  
3 laws 2018, chapter 17, section 1, chapter 249, section 6 and chapter 341,  
4 section 2, is amended to read:

5 42-6004. Exemption from municipal tax; definitions

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

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

21 2. Interstate telecommunications services, which include that  
22 portion of telecommunications services, such as subscriber line service,  
23 allocable by federal law to interstate telecommunications service.

24 3. Sales of warranty or service contracts.

25 4. 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 outside this state.

28 5. Interest on finance contracts.

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

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

33 8. Sales of internet access services to the person's subscribers  
34 and customers. For the purposes of this paragraph:

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

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

1           9. The gross proceeds of sales or gross income retained by the  
2 Arizona exposition and state fair board from ride ticket sales at the  
3 annual Arizona state fair.

4           10. Leasing real property between affiliated companies, businesses,  
5 persons or reciprocal insurers. For the purposes of this paragraph:

6           (a) "Affiliated companies, businesses, persons or reciprocal  
7 insurers" means the lessor holds a controlling interest in the lessee, the  
8 lessee holds a controlling interest in the lessor, affiliated persons hold  
9 a controlling interest in both the lessor and the lessee, or an unrelated  
10 person holds a controlling interest in both the lessor and lessee.

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

13           (c) "Controlling interest" means direct or indirect ownership of at  
14 least eighty percent of the voting shares of a corporation or of the  
15 interests in a company, business or person other than a corporation.

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

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

21           11. The gross proceeds of sales or gross income derived from a  
22 contract for the installation, assembly, repair or maintenance of  
23 machinery, equipment or other tangible personal property that is described  
24 in section 42-5061, subsection B and that has independent functional  
25 utility, pursuant to the following provisions:

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

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

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

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

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

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

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

8 (i) Assembling the machinery, equipment or other tangible personal  
9 property.

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

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

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

19 12. The leasing or renting of certified ignition interlock devices  
20 installed pursuant to the requirements prescribed by section 28-1461. For  
21 the purposes of this paragraph, "certified ignition interlock device" has  
22 the same meaning prescribed in section 28-1301.

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

31 14. The gross proceeds of sales or gross income derived from a  
32 contract with the owner of real property or improvements to real property  
33 for the maintenance, repair, replacement or alteration of existing  
34 property, except as specified in this paragraph. The gross proceeds of  
35 sales or gross income derived from a de minimis amount of modification  
36 activity does not subject the contract or any part of the contract to tax.  
37 For the purposes of this paragraph:

38 (a) Each contract is independent of another contract, except that  
39 any change order that directly relates to the scope of work of the  
40 original contract shall be treated the same as the original contract under  
41 this paragraph, regardless of the amount of modification activities  
42 included in the change order. If a change order does not directly relate  
43 to the scope of work of the original contract, the change order shall be  
44 treated as a new contract, with the tax treatment of any subsequent change

1 order to follow the tax treatment of the contract to which the scope of  
2 work of the subsequent change order directly relates.

3 (b) Any term not defined in this paragraph that is defined in  
4 section 42-5075 has the same meaning prescribed in section 42-5075.

5 (c) This paragraph does not apply to a contract that primarily  
6 involves surface or subsurface improvements to land and that is subject to  
7 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the  
8 contract also includes vertical improvements. If a city or town imposes a  
9 tax on contracts that are subject to procurement processes under those  
10 provisions, the city or town shall include in the request for proposals a  
11 notice to bidders when those projects are subject to the tax. This  
12 subdivision does not apply to contracts with:

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

20 (ii) Any special taxing district not specified in item (i) of this  
21 subdivision if the district does not substantially engage in the  
22 modification, maintenance, repair, replacement or alteration of surface or  
23 subsurface improvements to land.

24 15. Monitoring services relating to an alarm system as defined in  
25 section 32-101.

26 16. Tangible personal property, job printing or publications sold  
27 to or purchased by, or tangible personal property leased, rented or  
28 licensed for use to or by, a qualifying health sciences educational  
29 institution as defined in section 42-5001.

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

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

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

41 18. Tangible personal property incorporated or fabricated into a  
42 project described in paragraph 14 of this subsection, that is located  
43 within the exterior boundaries of an Indian reservation for which the  
44 owner, as defined in section 42-5075, of the project is an Indian tribe or  
45 an affiliated Indian. For the purposes of this paragraph:

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

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

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

13 19. The charges for the leasing or renting of space to make  
14 attachments to utility poles as follows:

15 (a) By a person that is engaged in the business of providing or  
16 furnishing electrical services or telecommunication services or that is a  
17 cable operator.

18 (b) To a person that is engaged in the business of providing or  
19 furnishing electrical services or telecommunication services or that is a  
20 cable operator.

21 20. Until March 1, 2017, the gross proceeds of sales or gross  
22 income derived from entry fees paid by participants for events that  
23 consist of a run, walk, swim or bicycle ride or a similar event, or any  
24 combination of these events.

25 21. The gross proceeds of sales or gross income derived from entry  
26 fees paid by participants for events that are operated or conducted by  
27 nonprofit organizations that are exempt from taxation under section  
28 501(c)(3) of the internal revenue code and of which no part of the  
29 organization's net earnings inures to the benefit of any private  
30 shareholder or individual, if the event consists of a run, walk, swim or  
31 bicycle ride or a similar event, or any combination of these events.

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

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

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

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

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

6           4. Incarcerating or detaining in a privately operated prison, jail  
7 or detention facility prisoners who are under the jurisdiction of the  
8 United States, this state or any other state or a political subdivision of  
9 this state or of any other state.

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

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

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

19           (b) The attributable amount is equal to the total amount of  
20 development fees paid by the taxpayer or by a contractor providing  
21 services to the taxpayer and the total development fees credited in  
22 exchange for the construction of, contribution to or dedication of real  
23 property for providing public infrastructure, public safety or other  
24 public services necessary to the development. The real property must be  
25 the subject of the development fees.

26           (c) "Development fees" means fees imposed to offset capital costs  
27 of providing public infrastructure, public safety or other public services  
28 to a development and authorized pursuant to section 9-463.05, section  
29 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
30 paid.

31          7. Any amount attributable to fees collected by transportation  
32 network companies issued a permit pursuant to section 28-9552.

33          8. Transporting for hire persons by transportation network company  
34 drivers on transactions involving transportation network services as  
35 defined in section 28-9551.

36          9. Transporting for hire persons by vehicle for hire companies that  
37 are issued permits pursuant to section 28-9503.

38          10. Transporting for hire persons by vehicle for hire drivers on  
39 transactions involving vehicle for hire services as defined in section  
40 28-9501.

41          D. A city, town or other taxing jurisdiction shall not levy a  
42 transaction privilege, sales, use, franchise or other similar tax or fee,  
43 however denominated, in excess of one-tenth of one percent of the value of  
44 the entire product mined, smelted, extracted, refined, produced or  
45 prepared for sale, profit or commercial use, on persons engaged in the

1 business of mineral processing, except to the extent that the tax is  
2 computed on the gross proceeds or gross income from sales at retail.

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

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

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

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

13 G. EXCEPT AS EXPRESSLY PROVIDED BY THIS SUBSECTION, A CITY, TOWN OR  
14 TAXING JURISDICTION SHALL NOT LEVY A TRANSACTION PRIVILEGE, SALES, GROSS  
15 RECEIPTS, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED,  
16 ON GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM RECONSTRUCTION  
17 CONTRACTING. RECONSTRUCTION CONTRACTING MAY NOT BE INCLUDED IN THE TAX  
18 BASE UNLESS THE PROPERTY WAS SUBDIVIDED AND RECEIVED A CONDOMINIUM PLAT  
19 AND THE TOTAL COST OF ALL CONSTRUCTION CONTRACTING ACTIVITIES PERFORMED ON  
20 THE REAL PROPERTY IN THE TWENTY-FOUR-MONTH PERIOD BEFORE THE SALE OF ANY  
21 PART OF THE REAL PROPERTY EXCEEDS FIFTEEN PERCENT OF THE PRIOR VALUE OF  
22 THE REAL PROPERTY. IF TAX IS ASSESSED ON RECONSTRUCTION CONTRACTING, THE  
23 SPECULATIVE BUILDER MAY EXCLUDE FROM GROSS INCOME THE PRIOR VALUE ALLOWED  
24 FOR RECONSTRUCTION CONTRACTING IN DETERMINING THE TAXABLE GROSS INCOME.  
25 THE PRIOR VALUE IS DETERMINED BY THE TAXPAYER AND IS EQUAL TO ANY OF THE  
26 FOLLOWING:

27 1. THE PROPERTY'S FULL CASH VALUE BEFORE THE RECONSTRUCTION  
28 CONTRACTING IMPROVEMENT AS DETERMINED BY THE COUNTY ASSESSOR IN THE YEAR  
29 IMMEDIATELY PRECEDING THE YEAR IN WHICH THE RECONSTRUCTION CONTRACTING  
30 IMPROVEMENT COULD HAVE BEEN INCLUDED IN THE COUNTY ASSESSOR'S VALUATION.

31 2. THE TAXPAYER'S ACTUAL ARMS-LENGTH COST OF THE RECONSTRUCTED  
32 PROPERTY BEFORE THE RECONSTRUCTION CONTRACTING ACTIVITY.

33 3. THE VALUE DETERMINED BY A LICENSED REAL ESTATE APPRAISER IN AN  
34 INDEPENDENT APPRAISAL OF ALL PROPERTY INVOLVED IN THE SALE THAT IS SUBJECT  
35 TO TAX UNDER RECONSTRUCTION CONTRACTING. THE VALUATION DATE SHALL BE AS OF  
36 THE PREVIOUS ACQUISITION DATE OF THE PROPERTY.

37 ~~G.~~ H. For the purposes of this section:

38 1. "Cable operator" has the same meaning prescribed in section  
39 9-505.

40 2. "Electrical services" means transmitting or distributing  
41 electricity, electric lights, current or power over lines, wires or  
42 cables.

43 3. "PRIOR VALUE" MEANS THE VALUE OF THE TOTAL INTEGRATED PROPERTY,  
44 WITH IMPROVEMENTS, AS EXISTING IMMEDIATELY BEFORE ANY RECONSTRUCTION  
45 CONTRACTING ACTIVITY.



1           4. "RECONSTRUCTION CONTRACTING" MEANS RECONSTRUCTION ACTIVITY ON  
2 REAL PROPERTY TO WHICH BOTH OF THE FOLLOWING APPLY:

3           (a) A STRUCTURE EXISTED ON THE REAL PROPERTY BEFORE THE  
4 RECONSTRUCTION CONTRACTING ACTIVITY.

5           (b) THE STRUCTURE THAT EXISTED ON THE REAL PROPERTY BEFORE THE  
6 RECONSTRUCTION CONTRACTING ACTIVITY STILL EXISTS IN SOME FORM ON THE REAL  
7 PROPERTY AND IS INCLUDED, IN WHOLE OR IN PART, IN THE REAL PROPERTY SOLD.

8           ~~5.~~ 5. "Telecommunication services" means transmitting or relaying  
9 sound, visual image, data, information, images or material over lines,  
10 wires or cables by radio signal, light beam, telephone, telegraph or other  
11 electromagnetic means.

12           ~~6.~~ 6. "Utility pole" means any wooden, metal or other pole used  
13 for utility purposes and the pole's appurtenances that are attached or  
14 authorized for attachment by the person controlling the pole.

15           Sec. 2. Section 42-6004, Arizona Revised Statutes, as amended by  
16 Laws 2018, chapter 17, section 1, chapter 249, section 6, chapter 263,  
17 section 3 and chapter 341, section 2, is amended to read:

18           42-6004. Exemption from municipal tax; definitions

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

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

34           2. Interstate telecommunications services, which include that  
35 portion of telecommunications services, such as subscriber line service,  
36 allocable by federal law to interstate telecommunications service.

37           3. Sales of warranty or service contracts.

38           4. Sales of motor vehicles to nonresidents of this state for use  
39 outside this state if the motor vehicle dealer ships or delivers the motor  
40 vehicle to a destination outside this state.

41           5. Interest on finance contracts.

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

43           7. Orthodontic devices dispensed by a dental professional who is  
44 licensed under title 32, chapter 11 to a patient as part of the practice  
45 of dentistry.

1           8. Sales of internet access services to the person's subscribers  
2 and customers. For the purposes of this paragraph:

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

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

12           9. The gross proceeds of sales or gross income retained by the  
13 Arizona exposition and state fair board from ride ticket sales at the  
14 annual Arizona state fair.

15           10. Leasing real property between affiliated companies, businesses,  
16 persons or reciprocal insurers. For the purposes of this paragraph:

17           (a) "Affiliated companies, businesses, persons or reciprocal  
18 insurers" means the lessor holds a controlling interest in the lessee, the  
19 lessee holds a controlling interest in the lessor, affiliated persons hold  
20 a controlling interest in both the lessor and the lessee, or an unrelated  
21 person holds a controlling interest in both the lessor and lessee.

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

24           (c) "Controlling interest" means direct or indirect ownership of at  
25 least eighty percent of the voting shares of a corporation or of the  
26 interests in a company, business or person other than a corporation.

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

30           (e) "Reciprocal insurer" has the same meaning prescribed in section  
31 20-762.

32           11. The gross proceeds of sales or gross income derived from a  
33 contract for the installation, assembly, repair or maintenance of  
34 machinery, equipment or other tangible personal property that is described  
35 in section 42-5061, subsection B and that has independent functional  
36 utility, pursuant to the following provisions:

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

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

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

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

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

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

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

18 (i) Assembling the machinery, equipment or other tangible personal  
19 property.

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

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

25 (iv) Stabilizing or protecting the machinery, equipment or other  
26 tangible personal property during operation by bolting, burying or  
27 performing other dissimilar nonpermanent connections to either real  
28 property or real property improvements.

29 12. The leasing or renting of certified ignition interlock devices  
30 installed pursuant to the requirements prescribed by section 28-1461. For  
31 the purposes of this paragraph, "certified ignition interlock device" has  
32 the same meaning prescribed in section 28-1301.

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

41 14. The gross proceeds of sales or gross income derived from a  
42 contract with the owner of real property or improvements to real property  
43 for the maintenance, repair, replacement or alteration of existing  
44 property, except as specified in this paragraph. The gross proceeds of  
45 sales or gross income derived from a de minimis amount of modification

1 activity does not subject the contract or any part of the contract to tax.  
2 For the purposes of this paragraph:

3 (a) Each contract is independent of another contract, except that  
4 any change order that directly relates to the scope of work of the  
5 original contract shall be treated the same as the original contract under  
6 this paragraph, regardless of the amount of modification activities  
7 included in the change order. If a change order does not directly relate  
8 to the scope of work of the original contract, the change order shall be  
9 treated as a new contract, with the tax treatment of any subsequent change  
10 order to follow the tax treatment of the contract to which the scope of  
11 work of the subsequent change order directly relates.

12 (b) Any term not defined in this paragraph that is defined in  
13 section 42-5075 has the same meaning prescribed in section 42-5075.

14 (c) This paragraph does not apply to a contract that primarily  
15 involves surface or subsurface improvements to land and that is subject to  
16 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the  
17 contract also includes vertical improvements. If a city or town imposes a  
18 tax on contracts that are subject to procurement processes under those  
19 provisions, the city or town shall include in the request for proposals a  
20 notice to bidders when those projects are subject to the tax. This  
21 subdivision does not apply to contracts with:

22 (i) Community facilities districts, fire districts, county  
23 television improvement districts, community park maintenance districts,  
24 cotton pest control districts, hospital districts, pest abatement  
25 districts, health service districts, agricultural improvement districts,  
26 county free library districts, county jail districts, county stadium  
27 districts, special health care districts, public health services  
28 districts, theme park districts or revitalization districts.

29 (ii) Any special taxing district not specified in item (i) of this  
30 subdivision if the district does not substantially engage in the  
31 modification, maintenance, repair, replacement or alteration of surface or  
32 subsurface improvements to land.

33 15. Monitoring services relating to an alarm system as defined in  
34 section 32-101.

35 16. Tangible personal property, job printing or publications sold  
36 to or purchased by, or tangible personal property leased, rented or  
37 licensed for use to or by, a qualifying health sciences educational  
38 institution as defined in section 42-5001.

39 17. The sale of coal.

40 18. Tangible personal property incorporated or fabricated into a  
41 project described in paragraph 14 of this subsection, that is located  
42 within the exterior boundaries of an Indian reservation for which the  
43 owner, as defined in section 42-5075, of the project is an Indian tribe or  
44 an affiliated Indian. For the purposes of this paragraph:

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

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

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

13 19. The charges for the leasing or renting of space to make  
14 attachments to utility poles as follows:

15 (a) By a person that is engaged in the business of providing or  
16 furnishing electrical services or telecommunication services or that is a  
17 cable operator.

18 (b) To a person that is engaged in the business of providing or  
19 furnishing electrical services or telecommunication services or that is a  
20 cable operator.

21 20. Until March 1, 2017, the gross proceeds of sales or gross  
22 income derived from entry fees paid by participants for events that  
23 consist of a run, walk, swim or bicycle ride or a similar event, or any  
24 combination of these events.

25 21. The gross proceeds of sales or gross income derived from entry  
26 fees paid by participants for events that are operated or conducted by  
27 nonprofit organizations that are exempt from taxation under section  
28 501(c)(3) of the internal revenue code and of which no part of the  
29 organization's net earnings inures to the benefit of any private  
30 shareholder or individual, if the event consists of a run, walk, swim or  
31 bicycle ride or a similar event, or any combination of these events.

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

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

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

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

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

6           4. Incarcerating or detaining in a privately operated prison, jail  
7 or detention facility prisoners who are under the jurisdiction of the  
8 United States, this state or any other state or a political subdivision of  
9 this state or of any other state.

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

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

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

19           (b) The attributable amount is equal to the total amount of  
20 development fees paid by the taxpayer or by a contractor providing  
21 services to the taxpayer and the total development fees credited in  
22 exchange for the construction of, contribution to or dedication of real  
23 property for providing public infrastructure, public safety or other  
24 public services necessary to the development. The real property must be  
25 the subject of the development fees.

26           (c) "Development fees" means fees imposed to offset capital costs  
27 of providing public infrastructure, public safety or other public services  
28 to a development and authorized pursuant to section 9-463.05, section  
29 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
30 paid.

31          7. Any amount attributable to fees collected by transportation  
32 network companies issued a permit pursuant to section 28-9552.

33          8. Transporting for hire persons by transportation network company  
34 drivers on transactions involving transportation network services as  
35 defined in section 28-9551.

36          9. Transporting for hire persons by vehicle for hire companies that  
37 are issued permits pursuant to section 28-9503.

38          10. Transporting for hire persons by vehicle for hire drivers on  
39 transactions involving vehicle for hire services as defined in section  
40 28-9501.

41          D. A city, town or other taxing jurisdiction shall not levy a  
42 transaction privilege, sales, use, franchise or other similar tax or fee,  
43 however denominated, in excess of one-tenth of one percent of the value of  
44 the entire product mined, smelted, extracted, refined, produced or  
45 prepared for sale, profit or commercial use, on persons engaged in the

1 business of mineral processing, except to the extent that the tax is  
2 computed on the gross proceeds or gross income from sales at retail.

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

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

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

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

13 G. EXCEPT AS EXPRESSLY PROVIDED BY THIS SUBSECTION, A CITY, TOWN OR  
14 TAXING JURISDICTION SHALL NOT LEVY A TRANSACTION PRIVILEGE, SALES, GROSS  
15 RECEIPTS, USE, FRANCHISE OR OTHER SIMILAR TAX OR FEE, HOWEVER DENOMINATED,  
16 ON GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM RECONSTRUCTION  
17 CONTRACTING. RECONSTRUCTION CONTRACTING MAY NOT BE INCLUDED IN THE TAX  
18 BASE UNLESS THE PROPERTY WAS SUBDIVIDED AND RECEIVED A CONDOMINIUM PLAT  
19 AND THE TOTAL COST OF ALL CONSTRUCTION CONTRACTING ACTIVITIES PERFORMED ON  
20 THE REAL PROPERTY IN THE TWENTY-FOUR-MONTH PERIOD BEFORE THE SALE OF ANY  
21 PART OF THE REAL PROPERTY EXCEEDS FIFTEEN PERCENT OF THE PRIOR VALUE OF  
22 THE REAL PROPERTY. IF TAX IS ASSESSED ON RECONSTRUCTION CONTRACTING, THE  
23 SPECULATIVE BUILDER MAY EXCLUDE FROM GROSS INCOME THE PRIOR VALUE ALLOWED  
24 FOR RECONSTRUCTION CONTRACTING IN DETERMINING THE TAXABLE GROSS INCOME.  
25 THE PRIOR VALUE IS DETERMINED BY THE TAXPAYER AND IS EQUAL TO ANY OF THE  
26 FOLLOWING:

27 1. THE PROPERTY'S FULL CASH VALUE BEFORE THE RECONSTRUCTION  
28 CONTRACTING IMPROVEMENT AS DETERMINED BY THE COUNTY ASSESSOR IN THE YEAR  
29 IMMEDIATELY PRECEDING THE YEAR IN WHICH THE RECONSTRUCTION CONTRACTING  
30 IMPROVEMENT COULD HAVE BEEN INCLUDED IN THE COUNTY ASSESSOR'S VALUATION.

31 2. THE TAXPAYER'S ACTUAL ARMS-LENGTH COST OF THE RECONSTRUCTED  
32 PROPERTY BEFORE THE RECONSTRUCTION CONTRACTING ACTIVITY.

33 3. THE VALUE DETERMINED BY A LICENSED REAL ESTATE APPRAISER IN AN  
34 INDEPENDENT APPRAISAL OF ALL PROPERTY INVOLVED IN THE SALE THAT IS SUBJECT  
35 TO TAX UNDER RECONSTRUCTION CONTRACTING. THE VALUATION DATE SHALL BE AS OF  
36 THE PREVIOUS ACQUISITION DATE OF THE PROPERTY.

37 ~~G.~~ H. For the purposes of this section:

38 1. "Cable operator" has the same meaning prescribed in section  
39 9-505.

40 2. "Electrical services" means transmitting or distributing  
41 electricity, electric lights, current or power over lines, wires or  
42 cables.

43 3. "PRIOR VALUE" MEANS THE VALUE OF THE TOTAL INTEGRATED PROPERTY,  
44 WITH IMPROVEMENTS, AS EXISTING IMMEDIATELY BEFORE ANY RECONSTRUCTION  
45 CONTRACTING ACTIVITY.

1           4. "RECONSTRUCTION CONTRACTING" MEANS RECONSTRUCTION ACTIVITY ON  
2 REAL PROPERTY TO WHICH BOTH OF THE FOLLOWING APPLY:

3           (a) A STRUCTURE EXISTED ON THE REAL PROPERTY BEFORE THE  
4 RECONSTRUCTION CONTRACTING ACTIVITY.

5           (b) THE STRUCTURE THAT EXISTED ON THE REAL PROPERTY BEFORE THE  
6 RECONSTRUCTION CONTRACTING ACTIVITY STILL EXISTS IN SOME FORM ON THE REAL  
7 PROPERTY AND IS INCLUDED, IN WHOLE OR IN PART, IN THE REAL PROPERTY SOLD.

8           ~~3.~~ 5. "Telecommunication services" means transmitting or relaying  
9 sound, visual image, data, information, images or material over lines,  
10 wires or cables by radio signal, light beam, telephone, telegraph or other  
11 electromagnetic means.

12           ~~4.~~ 6. "Utility pole" means any wooden, metal or other pole used  
13 for utility purposes and the pole's appurtenances that are attached or  
14 authorized for attachment by the person controlling the pole.

15           Sec. 3. Conditional enactment

16           Section 42-6004, Arizona Revised Statutes, as amended by Laws 2018,  
17 chapter 17, section 1, chapter 249, section 6, chapter 263, section 3 and  
18 chapter 341, section 2 and this act, becomes effective on the date  
19 prescribed by Laws 2018, chapter 263, section 5 but only on the occurrence  
20 of the condition prescribed in Laws 2018, chapter 263, section 5.