

REFERENCE TITLE: online lodging; regulation; property classification

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1108

Introduced by
Senator Mendez: Representative Salman

AN ACT

REPEALING SECTIONS 9-500.39 AND 11-269.17, ARIZONA REVISED STATUTES;
AMENDING SECTIONS 42-1125.02, 42-2003, 42-5042, 42-5075, 42-5076,
42-12001, 42-12004, 42-12054 AND 42-12056, ARIZONA REVISED STATUTES;
RELATING TO ONLINE LODGING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Sections 9-500.39 and 11-269.17, Arizona Revised Statutes, are
4 repealed.

5 Sec. 2. Section 42-1125.02, Arizona Revised Statutes, is amended to
6 read:

7 42-1125.02. Civil penalties; online lodging operators;
8 definition

9 A. An online lodging operator that fails to comply with section
10 42-5042 shall pay the following civil penalty:

- 11 1. For a first offense, \$250.
- 12 2. For a second and any subsequent offense, \$1,000.

13 ~~B. If an online lodging operator received a verified violation, the~~
14 ~~online lodging operator shall pay the following civil penalty:~~

15 ~~1. For a first verified violation received for a property, either:~~

16 ~~(a) If the city, town or county did not impose a civil penalty on~~
17 ~~the online lodging operator for the verified violation, \$500.~~

18 ~~(b) If the city, town or county imposed a civil penalty on the~~
19 ~~online lodging operator for the verified violation, the difference between~~
20 ~~the amount prescribed in subdivision (a) of this paragraph and the amount~~
21 ~~of the civil penalty the city, town or county imposed on the online~~
22 ~~lodging operator for the verified violation.~~

23 ~~2. For a second verified violation received on the same property~~
24 ~~within a twelve-month period, either:~~

25 ~~(a) If the city, town or county did not impose a civil penalty on~~
26 ~~the online lodging operator for the verified violation, \$1,000.~~

27 ~~(b) If the city, town or county imposed a civil penalty on the~~
28 ~~online lodging operator for the verified violation, the difference between~~
29 ~~the amount prescribed in subdivision (a) of this paragraph and the amount~~
30 ~~of the civil penalty the city, town or county imposed on the online~~
31 ~~lodging operator for the verified violation.~~

32 ~~3. For a third and any subsequent verified violation received on~~
33 ~~the same property within the same twelve-month period, either:~~

34 ~~(a) If the city, town or county did not impose a civil penalty on~~
35 ~~the online lodging operator for the verified violation, fifty percent of~~
36 ~~the gross monthly revenues of the lodging accommodation at which the~~
37 ~~violation occurred for the month in which the violation occurred or~~
38 ~~\$1,500, whichever is greater.~~

39 ~~(b) If the city, town or county imposed a civil penalty on the~~
40 ~~online lodging operator for the verified violation, the difference between~~
41 ~~the amount prescribed in subdivision (a) of this paragraph and the amount~~
42 ~~of the civil penalty the city, town or county imposed on the online~~
43 ~~lodging operator for the verified violation.~~

44 ~~C. If the department imposes a civil penalty pursuant to subsection~~
45 ~~B, paragraph 1 of this section and the online lodging operator appeals the~~

1 ~~civil penalty, the hearing officer may waive or lower the civil penalty~~
2 ~~based on the online lodging operator's diligence in attempting to prohibit~~
3 ~~renters from violating state law or the city's or town's applicable laws,~~
4 ~~regulations or ordinances. In determining whether to waive or lower the~~
5 ~~civil penalty, the hearing officer shall consider both of the following:~~

6 ~~1. Whether rules that prohibit activities violating state law or~~
7 ~~the city's or town's applicable laws, regulations or ordinances were~~
8 ~~included in the advertisement for the lodging accommodation, vacation~~
9 ~~rental or short-term rental.~~

10 ~~2. Whether the rules described in paragraph 1 of this subsection~~
11 ~~were posted in a conspicuous location inside the lodging accommodation,~~
12 ~~vacation rental or short-term rental.~~

13 ~~D. B. For the purposes of this section, --~~

14 ~~1. "Lodging accommodation" has the same meaning prescribed in~~
15 ~~section 42-5076.~~

16 ~~2. "Online lodging marketplace" has the same meaning prescribed in~~
17 ~~section 42-5076.~~

18 ~~3. "online lodging operator" has the same meaning prescribed in~~
19 ~~section 42-5076 and includes an owner of a vacation rental or short-term~~
20 ~~rental that is not offered through an online lodging marketplace.~~

21 ~~4. "Vacation rental" and "short-term rental" have the same meanings~~
22 ~~prescribed in section 9-500.39 or 11-269.17.~~

23 ~~5. "Verified violation" has the same meaning prescribed in section~~
24 ~~9-500.39 or 11-269.17.~~

25 Sec. 3. Section 42-2003, Arizona Revised Statutes, is amended to
26 read:

27 42-2003. Authorized disclosure of confidential information

28 A. Confidential information relating to:

29 1. A taxpayer may be disclosed to the taxpayer, its successor in
30 interest or a designee of the taxpayer who is authorized in writing by the
31 taxpayer. A principal corporate officer of a parent corporation may
32 execute a written authorization for a controlled subsidiary.

33 2. A corporate taxpayer may be disclosed to any principal officer,
34 any person designated by a principal officer or any person designated in a
35 resolution by the corporate board of directors or other similar governing
36 body. If a corporate officer signs a statement under penalty of perjury
37 representing that the officer is a principal officer, the department may
38 rely on the statement until the statement is shown to be false. For the
39 purposes of this paragraph, "principal officer" includes a chief executive
40 officer, president, secretary, treasurer, vice president of tax, chief
41 financial officer, chief operating officer or chief tax officer or any
42 other corporate officer who has the authority to bind the taxpayer on
43 matters related to state taxes.

1 3. A partnership may be disclosed to any partner of the
2 partnership. This exception does not include disclosure of confidential
3 information of a particular partner unless otherwise authorized.

4 4. A limited liability company may be disclosed to any member of
5 the company or, if the company is manager-managed, to any manager.

6 5. An estate may be disclosed to the personal representative of the
7 estate and to any heir, next of kin or beneficiary under the will of the
8 decedent if the department finds that the heir, next of kin or beneficiary
9 has a material interest that will be affected by the confidential
10 information.

11 6. A trust may be disclosed to the trustee or trustees, jointly or
12 separately, and to the grantor or any beneficiary of the trust if the
13 department finds that the grantor or beneficiary has a material interest
14 that will be affected by the confidential information.

15 7. A government entity may be disclosed to the head of the entity
16 or a member of the governing board of the entity, or any employee of the
17 entity who has been delegated the authorization in writing by the head of
18 the entity or the governing board of the entity.

19 8. Any taxpayer may be disclosed if the taxpayer has waived any
20 rights to confidentiality either in writing or on the record in any
21 administrative or judicial proceeding.

22 9. The name and taxpayer identification numbers of persons issued
23 direct payment permits may be publicly disclosed.

24 10. Any taxpayer may be disclosed during a meeting or telephone
25 call if the taxpayer is present during the meeting or telephone call and
26 authorizes the disclosure of confidential information.

27 B. Confidential information may be disclosed to:

28 1. Any employee of the department whose official duties involve tax
29 administration.

30 2. The office of the attorney general solely for its use in
31 preparation for, or in an investigation that may result in, any proceeding
32 involving tax administration before the department or any other agency or
33 board of this state, or before any grand jury or any state or federal
34 court.

35 3. The department of liquor licenses and control for its use in
36 determining whether a spirituous liquor licensee has paid all transaction
37 privilege taxes and affiliated excise taxes incurred as a result of the
38 sale of spirituous liquor, as defined in section 4-101, at the licensed
39 establishment and imposed on the licensed establishments by this state and
40 its political subdivisions.

41 4. Other state tax officials whose official duties require the
42 disclosure for proper tax administration purposes if the information is
43 sought in connection with an investigation or any other proceeding
44 conducted by the official. Any disclosure is limited to information of a

1 taxpayer who is being investigated or who is a party to a proceeding
2 conducted by the official.

3 5. The following agencies, officials and organizations, if they
4 grant substantially similar privileges to the department for the type of
5 information being sought, pursuant to statute and a written agreement
6 between the department and the foreign country, agency, state, Indian
7 tribe or organization:

8 (a) The United States internal revenue service, alcohol and tobacco
9 tax and trade bureau of the United States treasury, United States bureau
10 of alcohol, tobacco, firearms and explosives of the United States
11 department of justice, United States drug enforcement agency and federal
12 bureau of investigation.

13 (b) A state tax official of another state.

14 (c) An organization of states, federation of tax administrators or
15 multistate tax commission that operates an information exchange for tax
16 administration purposes.

17 (d) An agency, official or organization of a foreign country with
18 responsibilities that are comparable to those listed in subdivision (a),
19 (b) or (c) of this paragraph.

20 (e) An agency, official or organization of an Indian tribal
21 government with responsibilities comparable to the responsibilities of the
22 agencies, officials or organizations identified in subdivision (a), (b) or
23 (c) of this paragraph.

24 6. The auditor general, in connection with any audit of the
25 department subject to the restrictions in section 42-2002, subsection D.

26 7. Any person to the extent necessary for effective tax
27 administration in connection with:

28 (a) The processing, storage, transmission, destruction and
29 reproduction of the information.

30 (b) The programming, maintenance, repair, testing and procurement
31 of equipment for purposes of tax administration.

32 (c) The collection of the taxpayer's civil liability.

33 8. The office of administrative hearings relating to taxes
34 administered by the department pursuant to section 42-1101, but the
35 department shall not disclose any confidential information without the
36 taxpayer's written consent:

37 (a) Regarding income tax or withholding tax.

38 (b) On any tax issue relating to information associated with the
39 reporting of income tax or withholding tax.

40 9. The United States treasury inspector general for tax
41 administration for the purpose of reporting a violation of internal
42 revenue code section 7213A (26 United States Code section 7213A),
43 unauthorized inspection of returns or return information.

44 10. The financial management service of the United States treasury
45 department for use in the treasury offset program.

1 11. The United States treasury department or its authorized agent
2 for use in the state income tax levy program and in the electronic federal
3 tax payment system.

4 12. The Arizona commerce authority for its use in:

5 (a) Qualifying renewable energy operations for the tax incentives
6 under section 42-12006.

7 (b) Qualifying businesses with a qualified facility for income tax
8 credits under sections 43-1083.03 and 43-1164.04.

9 (c) Fulfilling its annual reporting responsibility pursuant to
10 section 41-1511, subsections U and V and section 41-1512, subsections U
11 and V.

12 (d) Certifying computer data centers for tax relief under section
13 41-1519.

14 13. A prosecutor for purposes of section 32-1164, subsection C.

15 14. The office of the state fire marshal for use in determining
16 compliance with and enforcing title 37, chapter 9, article 5.

17 15. The department of transportation for its use in administering
18 taxes, surcharges and penalties prescribed by title 28.

19 16. The Arizona health care cost containment system administration
20 for its use in administering nursing facility provider assessments.

21 17. The department of administration risk management division and
22 the office of the attorney general if the information relates to a claim
23 against this state pursuant to section 12-821.01 involving the department
24 of revenue.

25 18. Another state agency if the taxpayer authorizes the disclosure
26 of confidential information in writing, including an authorization that is
27 part of an application form or other document submitted to the agency.

28 19. The department of economic security for its use in determining
29 whether an employer has paid all amounts due under the unemployment
30 insurance program pursuant to title 23, chapter 4.

31 20. The department of health services for its use in determining
32 the following:

33 (a) Whether a medical marijuana dispensary is in compliance with
34 the tax requirements of chapter 5 of this title for the purposes of
35 section 36-2806, subsection A.

36 (b) Whether a marijuana establishment, marijuana testing facility
37 or dual licensee licensed under title 36, chapter 28.2 is in compliance
38 with the tax obligations under this title or title 43.

39 C. Confidential information may be disclosed in any state or
40 federal judicial or administrative proceeding pertaining to tax
41 administration pursuant to the following conditions:

42 1. One or more of the following circumstances must apply:

43 (a) The taxpayer is a party to the proceeding.

44 (b) The proceeding arose out of, or in connection with, determining
45 the taxpayer's civil or criminal liability, or the collection of the

1 taxpayer's civil liability, with respect to any tax imposed under this
2 title or title 43.

3 (c) The treatment of an item reflected on the taxpayer's return is
4 directly related to the resolution of an issue in the proceeding.

5 (d) Return information directly relates to a transactional
6 relationship between a person who is a party to the proceeding and the
7 taxpayer and directly affects the resolution of an issue in the
8 proceeding.

9 2. Confidential information may not be disclosed under this
10 subsection if the disclosure is prohibited by section 42-2002, subsection
11 C or D.

12 D. Identity information may be disclosed for purposes of notifying
13 persons entitled to tax refunds if the department is unable to locate the
14 persons after reasonable effort.

15 E. The department, on the request of any person, shall provide the
16 names and addresses of bingo licensees as defined in section 5-401, verify
17 whether or not a person has a privilege license and number, a tobacco
18 product distributor's license and number or a withholding license and
19 number or disclose the information to be posted on the department's
20 website or otherwise publicly accessible pursuant to section 42-1124,
21 subsection F and section 42-3401.

22 F. A department employee, in connection with the official duties
23 relating to any audit, collection activity or civil or criminal
24 investigation, may disclose return information to the extent that
25 disclosure is necessary to obtain information that is not otherwise
26 reasonably available. These official duties include the correct
27 determination of and liability for tax, the amount to be collected or the
28 enforcement of other state tax revenue laws.

29 G. Confidential information relating to transaction privilege tax,
30 use tax, severance tax, jet fuel excise and use tax and any other tax
31 collected by the department on behalf of any jurisdiction may be disclosed
32 to any county, city or town tax official if the information relates to a
33 taxpayer who is or may be taxable by a county, city or town or who may be
34 subject to audit by the department pursuant to section 42-6002. Any
35 taxpayer information that is released by the department to the county,
36 city or town:

37 1. May be used only for internal purposes, including audits. ~~If~~
38 ~~there is a legitimate business need relating to enforcing laws,~~
39 ~~regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a~~
40 ~~county, city or town tax official may redisclose transaction privilege tax~~
41 ~~information relating to a vacation rental or short-term rental property~~
42 ~~owner or online lodging operator from the new license report and license~~
43 ~~update report, subject to the following:~~

44 ~~(a) The information redisclosed is limited to the following:~~

45 ~~(i) The transaction privilege tax license number.~~

1 ~~(ii) The type of organization or ownership of the business.~~
2 ~~(iii) The legal business name and doing business as name, if~~
3 ~~different from the legal name.~~
4 ~~(iv) The business mailing address, tax record physical location~~
5 ~~address, telephone number, email address and fax number.~~
6 ~~(v) The date the business started in this state, the business~~
7 ~~description and the North American industry classification system code.~~
8 ~~(vi) The name, address and telephone number for each owner,~~
9 ~~partner, corporate officer, member, managing member or official of the~~
10 ~~employing unit.~~
11 ~~(b) Redisdisclosure is limited to nonelected officials in other units~~
12 ~~within the county, city or town. The information may not be redisclosed~~
13 ~~to an elected official or the elected official's staff.~~
14 ~~(c) All redisclosures of confidential information made pursuant to~~
15 ~~this paragraph are subject to paragraph 2 of this subsection.~~
16 2. May not be disclosed to the public in any manner that does not
17 comply with confidentiality standards established by the department. The
18 county, city or town shall agree in writing with the department that any
19 release of confidential information that violates the confidentiality
20 standards adopted by the department will result in the immediate
21 suspension of any rights of the county, city or town to receive taxpayer
22 information under this subsection.
23 H. The department may disclose statistical information gathered
24 from confidential information if it does not disclose confidential
25 information attributable to any one taxpayer. The department may disclose
26 statistical information gathered from confidential information, even if it
27 discloses confidential information attributable to a taxpayer, to:
28 1. The state treasurer in order to comply with the requirements of
29 section 42-5029, subsection A, paragraph 3.
30 2. The joint legislative income tax credit review committee, the
31 joint legislative budget committee staff and the legislative staff in
32 order to comply with the requirements of section 43-221.
33 I. The department may disclose the aggregate amounts of any tax
34 credit, tax deduction or tax exemption enacted after January 1, 1994.
35 Information subject to disclosure under this subsection shall not be
36 disclosed if a taxpayer demonstrates to the department that such
37 information would give an unfair advantage to competitors.
38 J. Except as provided in section 42-2002, subsection C,
39 confidential information, described in section 42-2001, paragraph 1,
40 subdivision (a), item (ii), may be disclosed to law enforcement agencies
41 for law enforcement purposes.
42 K. The department may provide transaction privilege tax license
43 information to property tax officials in a county for the purpose of
44 identification and verification of the tax status of commercial property.

1 L. The department may provide transaction privilege tax, luxury
2 tax, use tax, property tax and severance tax information to the
3 ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

4 M. Except as provided in section 42-2002, subsection D, a court may
5 order the department to disclose confidential information pertaining to a
6 party to an action. An order shall be made only on a showing of good
7 cause and that the party seeking the information has made demand on the
8 taxpayer for the information.

9 N. This section does not prohibit the disclosure by the department
10 of any information or documents submitted to the department by a bingo
11 licensee. Before disclosing the information, the department shall obtain
12 the name and address of the person requesting the information.

13 O. If the department is required or permitted to disclose
14 confidential information, it may charge the person or agency requesting
15 the information for the reasonable cost of its services.

16 P. Except as provided in section 42-2002, subsection D, the
17 department of revenue shall release confidential information as requested
18 by the department of economic security pursuant to section 42-1122 or
19 46-291. Information disclosed under this subsection is limited to the
20 same type of information that the United States internal revenue service
21 is authorized to disclose under section 6103(1)(6) of the internal revenue
22 code.

23 Q. Except as provided in section 42-2002, subsection D, the
24 department shall release confidential information as requested by the
25 courts and clerks of the court pursuant to section 42-1122.

26 R. To comply with the requirements of section 42-5031, the
27 department may disclose to the state treasurer, to the county stadium
28 district board of directors and to any city or town tax official that is
29 part of the county stadium district confidential information attributable
30 to a taxpayer's business activity conducted in the county stadium
31 district.

32 S. The department shall release to the attorney general
33 confidential information as requested by the attorney general for purposes
34 of determining compliance with or enforcing any of the following:

35 1. Any public health control law relating to tobacco sales as
36 provided under title 36, chapter 6, article 14.

37 2. Any law relating to reduced cigarette ignition propensity
38 standards as provided under title 37, chapter 9, article 5.

39 3. Sections 44-7101 and 44-7111, the master settlement agreement
40 referred to in those sections and all agreements regarding disputes under
41 the master settlement agreement.

42 T. For proceedings before the department, the office of
43 administrative hearings, the state board of tax appeals or any state or
44 federal court involving penalties that were assessed against a return
45 preparer, an electronic return preparer or a payroll service company

1 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
2 information may be disclosed only before the judge or administrative law
3 judge adjudicating the proceeding, the parties to the proceeding and the
4 parties' representatives in the proceeding prior to its introduction into
5 evidence in the proceeding. The confidential information may be
6 introduced as evidence in the proceeding only if the taxpayer's name, the
7 names of any dependents listed on the return, all social security numbers,
8 the taxpayer's address, the taxpayer's signature and any attachments
9 containing any of the foregoing information are redacted and if either:

10 1. The treatment of an item reflected on such a return is or may be
11 related to the resolution of an issue in the proceeding.

12 2. Such a return or the return information relates or may relate to
13 a transactional relationship between a person who is a party to the
14 proceeding and the taxpayer that directly affects the resolution of an
15 issue in the proceeding.

16 3. The method of payment of the taxpayer's withholding tax
17 liability or the method of filing the taxpayer's withholding tax return is
18 an issue for the period.

19 U. The department and attorney general may share the information
20 specified in subsection S of this section with any of the following:

21 1. Federal, state or local agencies located in this state for the
22 purposes of enforcement of the statutes or agreements specified in
23 subsection S of this section or for the purposes of enforcement of
24 corresponding laws of other states.

25 2. Indian tribes located in this state for the purposes of
26 enforcement of the statutes or agreements specified in subsection S of
27 this section.

28 3. A court, arbitrator, data clearinghouse or similar entity for
29 the purpose of assessing compliance with or making calculations required
30 by the master settlement agreement or agreements regarding disputes under
31 the master settlement agreement, and with counsel for the parties or
32 expert witnesses in any such proceeding, if the information otherwise
33 remains confidential.

34 V. The department may provide the name and address of qualifying
35 hospitals and qualifying health care organizations, as defined in section
36 42-5001, to a business that is classified and reporting transaction
37 privilege tax under the utilities classification.

38 W. The department may disclose to an official of any city, town or
39 county in a current agreement or considering a prospective agreement with
40 the department as described in section 42-5032.02, subsection G any
41 information relating to amounts that are subject to distribution and that
42 are required by section 42-5032.02. Information disclosed by the
43 department under this subsection:

44 1. May only be used by the city, town or county for internal
45 purposes.

1 2. May not be disclosed to the public in any manner that does not
2 comply with confidentiality standards established by the department. The
3 city, town or county must agree with the department in writing that any
4 release of confidential information that violates the confidentiality
5 standards will result in the immediate suspension of any rights of the
6 city, town or county to receive information under this subsection.

7 X. Notwithstanding any other provision of this section, the
8 department may not disclose information provided by an online lodging
9 marketplace, as defined in section 42-5076, without the written consent of
10 the online lodging marketplace, and the information may be disclosed only
11 pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,
12 paragraphs 1, 2, 7 and 8 and subsections C, ~~AND D and E~~ of this section.
13 Such information:

14 1. Is not subject to disclosure pursuant to title 39, relating to
15 public records.

16 2. May not be disclosed to any agency of this state or of any
17 county, city, town or other political subdivision of this state.

18 Sec. 4. Section 42-5042, Arizona Revised Statutes, is amended to
19 read:

20 42-5042. Online lodging operators; requirements; definitions

21 A. An online lodging operator may not offer for rent or rent a
22 lodging accommodation without a current transaction privilege tax license.
23 The online lodging operator shall list the transaction privilege tax
24 license number on each advertisement for each lodging accommodation the
25 online lodging operator maintains, including online lodging marketplace
26 postings.

27 B. For the purposes of this section, ~~:-~~

28 ~~1.~~ "lodging accommodation", ~~has~~ "ONLINE LODGING MARKETPLACE" AND
29 "ONLINE LODGING OPERATOR" HAVE the same ~~meaning~~ MEANINGS prescribed in
30 section 42-5076.

31 ~~2. "Online lodging marketplace" has the same meaning prescribed in~~
32 ~~section 42-5076.~~

33 ~~3. "Online lodging operator" has the same meaning prescribed in~~
34 ~~section 42-5076 and includes an owner of a vacation rental or short-term~~
35 ~~rental, as defined in section 9-500.39 or 11-269.17, that is not offered~~
36 ~~through an online lodging marketplace.~~

37 Sec. 5. Section 42-5075, Arizona Revised Statutes, is amended to
38 read:

39 42-5075. Prime contracting classification; exemptions;
40 definitions

41 A. The prime contracting classification is comprised of the
42 business of prime contracting and the business of manufactured building
43 dealer. Sales for resale to another manufactured building dealer are not
44 subject to tax. Sales for resale do not include sales to a lessor of
45 manufactured buildings. The sale of a used manufactured building is not

1 taxable under this chapter. The prime contracting classification does not
2 include any work or operation performed by a person that is not required
3 to be licensed by the registrar of contractors pursuant to section
4 32-1121.

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

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

11 2. Sales and installation of groundwater measuring devices required
12 under section 45-604 and groundwater monitoring wells required by law,
13 including monitoring wells installed for acquiring information for a
14 permit required by law.

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

20 4. The gross proceeds of sales or gross income received from a
21 contract entered into for the modification of any building, highway, road,
22 railroad, excavation, manufactured building or other structure, project,
23 development or improvement located in a military reuse zone for providing
24 aviation or aerospace services or for a manufacturer, assembler or
25 fabricator of aviation or aerospace products within an active military
26 reuse zone after the zone is initially established or renewed under
27 section 41-1531. To be eligible to qualify for this deduction, before
28 beginning work under the contract, the prime contractor must have applied
29 for a letter of qualification from the department of revenue.

30 5. The gross proceeds of sales or gross income derived from a
31 contract to construct a qualified environmental technology manufacturing,
32 producing or processing facility, as described in section 41-1514.02, and
33 from subsequent construction and installation contracts that begin within
34 ten years after the start of initial construction. To qualify for this
35 deduction, before beginning work under the contract, the prime contractor
36 must obtain a letter of qualification from the department of revenue. This
37 paragraph shall apply for ten full consecutive calendar or fiscal years
38 after the start of initial construction.

39 6. The gross proceeds of sales or gross income from a contract to
40 provide for one or more of the following actions, or a contract for site
41 preparation, constructing, furnishing or installing machinery, equipment
42 or other tangible personal property, including structures necessary to
43 protect exempt incorporated materials or installed machinery or equipment,
44 and tangible personal property incorporated into the project, to perform
45 one or more of the following actions in response to a release or suspected

1 release of a hazardous substance, pollutant or contaminant from a facility
2 to the environment, unless the release was authorized by a permit issued
3 by a governmental authority:

4 (a) Actions to monitor, assess and evaluate such a release or a
5 suspected release.

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

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

11 (d) Pumping and treatment or in situ treatment of contaminated
12 groundwater or surface water to reduce the concentration or toxicity of a
13 contaminant.

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

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

23 7. The gross proceeds of sales or gross income that is derived from
24 a contract for the installation, assembly, repair or maintenance of
25 machinery, equipment or other tangible personal property that is either
26 deducted from the tax base of the retail classification under section
27 42-5061, subsection B or that is exempt from use tax under section
28 42-5159, subsection B and that has independent functional utility,
29 pursuant to the following provisions:

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

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

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

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

42 (b) The deduction provided in this paragraph does not include gross
43 proceeds of sales or gross income from the portion of any contracting
44 activity that consists of the development of, or modification to, real
45 property in order to facilitate the installation, assembly, repair,

1 maintenance or removal of machinery, equipment or other tangible personal
2 property that is either deducted from the tax base of the retail
3 classification under section 42-5061, subsection B or exempt from use tax
4 under section 42-5159, subsection B.

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

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

12 (i) Assembling the machinery, equipment or other tangible personal
13 property.

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

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

19 (iv) Stabilizing or protecting the machinery, equipment or other
20 tangible personal property during operation by bolting, burying or
21 performing other similar nonpermanent connections to either real property
22 or real property improvements.

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

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

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

28 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),
29 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 55.

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

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

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

43 11. The gross proceeds of sales or gross income that is derived
44 from the installation, assembly, repair or maintenance of clean rooms that

1 are deducted from the tax base of the retail classification pursuant to
2 section 42-5061, subsection B, paragraph 17.

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

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

17 14. The gross proceeds of sales or gross income derived from a
18 contract entered into for the construction of a launch site, as defined in
19 14 Code of Federal Regulations section 401.5.

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

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

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

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

42 19. Any amount of the gross proceeds of sales or gross income
43 attributable to development fees that are incurred in relation to a
44 contract for construction, development or improvement of real property and

1 that are paid by a prime contractor or subcontractor. For the purposes of
2 this paragraph:

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

5 (b) The attributable amount is equal to the total amount of
6 development fees paid by the prime contractor or subcontractor, and the
7 total development fees credited in exchange for the construction of,
8 contribution to or dedication of real property for providing public
9 infrastructure, public safety or other public services necessary to the
10 development. The real property must be the subject of the development
11 fees.

12 (c) "Development fees" means fees imposed to offset capital costs
13 of providing public infrastructure, public safety or other public services
14 to a development and authorized pursuant to section 9-463.05, section
15 11-1102 or title 48 regardless of the jurisdiction to which the fees are
16 paid.

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

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

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

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

37 (d) "Renewable energy" has the same meaning prescribed in section
38 41-1511.

39 C. Entitlement to the deduction pursuant to subsection B, paragraph
40 7 of this section is subject to the following provisions:

41 1. A prime contractor may establish entitlement to the deduction by
42 both:

43 (a) Marking the invoice for the transaction to indicate that the
44 gross proceeds of sales or gross income derived from the transaction was
45 deducted from the base.

1 (b) Obtaining a certificate executed by the purchaser indicating
2 the name and address of the purchaser, the precise nature of the business
3 of the purchaser, the purpose for which the purchase was made, the
4 necessary facts to establish the deductibility of the property under
5 section 42-5061, subsection B, and a certification that the person
6 executing the certificate is authorized to do so on behalf of the
7 purchaser. The certificate may be disregarded if the prime contractor has
8 reason to believe that the information contained in the certificate is not
9 accurate or complete.

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

13 3. The department may prescribe a form for the certificate
14 described in paragraph 1, subdivision (b) of this subsection. The
15 department may also adopt rules that describe the transactions with
16 respect to which a person is not entitled to rely solely on the
17 information contained in the certificate provided in paragraph 1,
18 subdivision (b) of this subsection but must instead obtain such additional
19 information as required in order to be entitled to the deduction.

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

35 D. Subcontractors or others who perform modification activities are
36 not subject to tax if they can demonstrate that the job was within the
37 control of a prime contractor or contractors or a dealership of
38 manufactured buildings and that the prime contractor or dealership is
39 liable for the tax on the gross income, gross proceeds of sales or gross
40 receipts attributable to the job and from which the subcontractors or
41 others were paid.

42 E. Amounts received by a contractor for a project are excluded from
43 the contractor's gross proceeds of sales or gross income derived from the
44 business if the person who hired the contractor executes and provides a
45 certificate to the contractor stating that the person providing the

1 certificate is a prime contractor and is liable for the tax under article
2 1 of this chapter. The department shall prescribe the form of the
3 certificate. If the contractor has reason to believe that the information
4 contained on the certificate is erroneous or incomplete, the department
5 may disregard the certificate. If the person who provides the certificate
6 is not liable for the tax as a prime contractor, that person is
7 nevertheless deemed to be the prime contractor in lieu of the contractor
8 and is subject to the tax under this section on the gross receipts or
9 gross proceeds received by the contractor.

10 F. Every person engaging or continuing in this state in the
11 business of prime contracting or dealership of manufactured buildings
12 shall present to the purchaser of such prime contracting or manufactured
13 building a written receipt of the gross income or gross proceeds of sales
14 from such activity and shall separately state the taxes to be paid
15 pursuant to this section.

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

22 H. For the purposes of section 42-5032.02, from and after
23 September 30, 2013, the department shall separately account for revenues
24 reported and collected under the prime contracting classification from any
25 prime contractor engaged in the construction of any buildings and
26 associated improvements that are for the benefit of a manufacturing
27 facility. For the purposes of this subsection, "associated improvements"
28 and "manufacturing facility" have the same meanings prescribed in section
29 42-5032.02.

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

40 J. Except as provided in subsection 0 of this section, the gross
41 proceeds of sales or gross income derived from landscaping activities is
42 subject to tax under this section. Landscaping includes installing lawns,
43 grading or leveling ground, installing gravel or boulders, planting trees
44 and other plants, felling trees, removing or mulching tree stumps,
45 removing other imbedded plants, building irrigation berms, installing

1 railroad ties and installing underground sprinkler or watering systems.

2 K. The portion of gross proceeds of sales or gross income
3 attributable to the actual direct costs of providing architectural or
4 engineering services that are incorporated in a contract is not subject to
5 tax under this section. For the purposes of this subsection, "direct
6 costs" means the portion of the actual costs that are directly expended in
7 providing architectural or engineering services.

8 L. Operating a landfill or a solid waste disposal facility is not
9 subject to taxation under this section, including filling, compacting and
10 creating vehicle access to and from cell sites within the landfill.
11 Constructing roads to a landfill or solid waste disposal facility and
12 constructing cells within a landfill or solid waste disposal facility may
13 be deemed prime contracting under this section.

14 M. The following apply in determining the taxable situs of sales of
15 manufactured buildings:

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

19 2. For sales in this state where the manufactured building dealer
20 does not contract to deliver the building to a setup site or does not
21 perform the setup, the taxable situs is the location of the dealership
22 where the building is delivered to the buyer.

23 3. For sales in this state where the manufactured building dealer
24 contracts to deliver the building to a setup site that is outside this
25 state, the situs is outside this state and the transaction is excluded
26 from tax.

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

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

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

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

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

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

11 (ii) The amount of an adjustment, if any, to the guaranteed maximum
12 price as set in the contract for modification work. For the purposes of
13 this item, "guaranteed maximum price" means the amount guaranteed to be
14 the maximum amount due to a prime contractor for the performance of all
15 modification work for the project.

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

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

23 (e) Inspection to determine the dates of substantial completion or
24 final completion.

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

31 (g) Preparation of status reports after modification work has begun
32 detailing the progress of work performed, including preparation of any of
33 the following:

34 (i) Master schedule updates.

35 (ii) Modification work cash flow projection updates.

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

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

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

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

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

45 (j) Administration or supervision of any other activities for which

1 a prime contractor receives a certificate for payment or certificate for
2 final payment based on the progress of modification work performed on the
3 project.

4 2. "Design phase services" means services for developing and
5 completing a design for a project that are not construction phase
6 services, including the following:

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

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

13 (c) Preparing drawings and specifications for architectural program
14 documents, schematic design documents, design development documents,
15 modification work documents or documents that identify the scope of or
16 materials for the project.

17 (d) Preparing an initial schedule for the project, excluding the
18 preparation of updates to the master schedule after modification work has
19 begun.

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

23 (i) Labor, materials, machinery and equipment, tools, water, heat,
24 utilities, transportation and other facilities and services used in the
25 execution and completion of modification work, regardless of whether they
26 are temporary or permanent or whether they are incorporated in the
27 modifications.

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

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

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

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

38 (vi) Any bond and insurance premiums.

39 (vii) Any applicable taxes.

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

42 (f) Reviewing and evaluating cost estimates and project documents
43 to prepare recommendations on site use, site improvements, selection of
44 materials, building systems and equipment, modification feasibility,
45 availability of materials and labor, local modification activity as

1 related to schedules and time requirements for modification work.

2 (g) Preparing the plan and procedures for selection of
3 subcontractors, including any prequalification of subcontractor
4 candidates.

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

10 0. The gross proceeds of sales or gross income derived from a
11 contract with the owner of real property or improvements to real property
12 for the maintenance, repair, replacement or alteration of existing
13 property is not subject to tax under this section if the contract does not
14 include modification activities, except as specified in this subsection.
15 The gross proceeds of sales or gross income derived from a de minimis
16 amount of modification activity does not subject the contract or any part
17 of the contract to tax under this section. For the purposes of this
18 subsection:

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

22 2. Each contract is independent of any other contract, except that
23 any change order that directly relates to the scope of work of the
24 original contract shall be treated the same as the original contract under
25 this chapter, regardless of the amount of modification activities included
26 in the change order. If a change order does not directly relate to the
27 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
29 to follow the tax treatment of the contract to which the scope of work of
30 the subsequent change order directly relates.

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

39 1. Community facilities districts, fire districts, county
40 television improvement districts, community park maintenance districts,
41 cotton pest control districts, hospital districts, pest abatement
42 districts, health service districts, agricultural improvement districts,
43 county free library districts, county jail districts, county stadium
44 districts, special health care districts, public health services
45 districts, theme park districts or revitalization districts.

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

5 Q. Notwithstanding subsection R, paragraph 10 of this section, a
6 person owning real property who enters into a contract for sale of the
7 real property, who is responsible to the new owner of the property for
8 modifications made to the property in the period subsequent to the
9 transfer of title and who receives a consideration for the modifications
10 is considered a prime contractor solely for purposes of taxing the gross
11 proceeds of sale or gross income received for the modifications made
12 subsequent to the transfer of title. The original owner's gross proceeds
13 of sale or gross income received for the modifications shall be determined
14 according to the following methodology:

15 1. If any part of the contract for sale of the property specifies
16 amounts to be paid to the original owner for the modifications to be made
17 in the period subsequent to the transfer of title, the amounts are
18 included in the original owner's gross proceeds of sale or gross income
19 under this section. Proceeds from the sale of the property that are
20 received after transfer of title and that are unrelated to the
21 modifications made subsequent to the transfer of title are not considered
22 gross proceeds of sale or gross income from the modifications.

23 2. If the original owner enters into an agreement separate from the
24 contract for sale of the real property providing for amounts to be paid to
25 the original owner for the modifications to be made in the period
26 subsequent to the transfer of title to the property, the amounts are
27 included in the original owner's gross proceeds of sale or gross income
28 received for the modifications made subsequent to the transfer of title.

29 3. If the original owner is responsible to the new owner for
30 modifications made to the property in the period subsequent to the
31 transfer of title and derives any gross proceeds of sale or gross income
32 from the project subsequent to the transfer of title other than a delayed
33 disbursement from escrow unrelated to the modifications, it is presumed
34 that the amounts are received for the modifications made subsequent to the
35 transfer of title unless the contrary is established by the owner through
36 its books, records and papers kept in the regular course of business.

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

39 R. For the purposes of this section:

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

42 (a) For existing property that is properly classified as **CLASS ONE**
43 **PROPERTY UNDER SECTION 42-12001, PARAGRAPH 15**, class two property under
44 section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision
45 (c) and that is used for residential purposes, class three property under

1 section 42-12003 or class four property under section 42-12004, this
2 paragraph does not apply if the contract amount is more than twenty-five
3 percent of the most recent full cash value established under chapter 13,
4 article 2 of this title as of the date of any bid for the work or the date
5 of the contract, whichever value is higher.

6 (b) For all existing property other than existing property
7 described in subdivision (a) of this paragraph, this paragraph does not
8 apply if the contract amount is more than \$750,000.

9 (c) Project elements may not be artificially separated from a
10 contract to cause a project to qualify as an alteration. The department
11 has the burden of proof that project elements have been artificially
12 separated from a contract.

13 (d) If a project for which the owner and the person performing the
14 work reasonably believed, at the inception of the contract, would be
15 treated as an alteration under this paragraph and, on completion of the
16 project, the project exceeded the applicable threshold described in either
17 subdivision (a) or (b) of this paragraph by no more than twenty-five
18 percent of the applicable threshold for any reason, the work performed
19 under the contract qualifies as an alteration.

20 (e) A change order that directly relates to the scope of work of
21 the original contract shall be treated as part of the original contract,
22 and the contract amount shall include any amount attributable to a change
23 order that directly relates to the scope of work of the original contract.

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

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

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

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

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

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

1 (b) Supervises, performs or coordinates the excavation and
2 completion of site improvements or the setup of a manufactured building,
3 including the contracting, if any, with any subcontractor or specialty
4 contractor for the completion of the contract.

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

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

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

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

15 7. "Modify" means to make a modification or cause a modification to
16 be made.

17 8. "Owner" means the person that holds title to the real property
18 or improvements to real property that is the subject of the work, as well
19 as an agent of the title holder and any person with the authority to
20 perform or authorize work on the real property or improvements, including
21 a tenant and a property manager. For the purposes of subsection 0 of this
22 section, a person who is hired by a general contractor that is hired by an
23 owner, or a subcontractor of a general contractor that is hired by an
24 owner, is considered to be hired by the owner.

25 9. "Prime contracting" means engaging in business as a prime
26 contractor.

27 10. "Prime contractor" means a contractor who supervises, performs
28 or coordinates the modification of any building, highway, road, railroad,
29 excavation, manufactured building or other structure, project, development
30 or improvement, including the contracting, if any, with any subcontractors
31 or specialty contractors and who is responsible for the completion of the
32 contract. Except as provided in subsections E and Q of this section, a
33 person who owns real property, who engages one or more contractors to
34 modify that real property and who does not itself modify that real
35 property is not a prime contractor within the meaning of this paragraph
36 regardless of the existence of a contract for sale or the subsequent sale
37 of that real property.

38 11. "Replacement" means the removal from service of one component
39 or system of existing property or tangible personal property installed in
40 existing property, including machinery or equipment, and the installation
41 of a new component or system or new tangible personal property, including
42 machinery or equipment, that provides the same, a similar or an upgraded
43 design or functionality, regardless of the contract amount and regardless
44 of whether the existing component or system or existing tangible personal
45 property is physically removed from the existing property.

1 12. "Sale of a used manufactured building" does not include a lease
2 of a used manufactured building.

3 Sec. 6. Section 42-5076, Arizona Revised Statutes, is amended to
4 read:

5 42-5076. Online lodging marketplace classification;
6 definitions

7 A. The online lodging marketplace classification is comprised of
8 the business of operating an online lodging marketplace.

9 B. The tax base for the online lodging marketplace classification
10 is the gross proceeds of sales or gross income derived from the business
11 measured by the total amount charged for an online transient lodging
12 transaction by the online lodging operator.

13 C. Through December 31, 2018, the online lodging marketplace
14 classification does not include any online lodging marketplace that has
15 not entered into an agreement with the department to register for, or has
16 not otherwise obtained from the department, a license to collect tax
17 pursuant to section 42-5005, subsection L.

18 D. The tax base for the online lodging marketplace classification
19 does not include the gross proceeds of sales or gross income derived from
20 charges to an occupant who is a transient as defined in section 42-5070
21 for the occupancy of any lodging accommodation in this state that is
22 classified for property tax purposes under section 42-12001.

23 E. For the purposes of this section:

24 1. "Online lodging marketplace" means a person that provides a
25 digital platform for compensation through which an unaffiliated third
26 party offers to rent lodging accommodations in this state to an occupant,
27 including a transient, as defined in section 42-5070, and the
28 accommodations are ~~not~~ classified for property tax purposes under section
29 42-12001, ~~PARAGRAPH 15 OR SECTION 42-12003 OR 42-12004~~. For the purposes
30 of this paragraph:

31 (a) "Lodging accommodations" means any space offered to the public
32 for lodging, including any hotel, motel, inn, tourist home or house, dude
33 ranch, resort, campground, studio or bachelor hotel, lodging house,
34 rooming house, residential home, apartment house, dormitory, public or
35 private club, mobile home or house trailer at a fixed location in this
36 state or other similar structure or space.

37 (b) "Unaffiliated third party" means a person that is not owned or
38 controlled, directly or indirectly, by the same interests.

39 2. "Online lodging operator" means a person that is engaged in the
40 business of renting to an occupant, including a transient as defined in
41 section 42-5070, any lodging accommodation in this state offered through
42 an online lodging marketplace.

43 3. "Online lodging transaction" means a charge to an occupant,
44 including a transient as defined in section 42-5070, by an online lodging

1 operator for the occupancy of any lodging accommodation in this state and
2 includes an online transient lodging transaction.

3 4. "Online transient lodging transaction" means a charge to an
4 occupant who is a transient as defined in section 42-5070 by an online
5 lodging operator for the occupancy of any lodging accommodation in this
6 state.

7 Sec. 7. Section 42-12001, Arizona Revised Statutes, is amended to
8 read:

9 42-12001. Class one property

10 For THE purposes of taxation, class one is established consisting of
11 the following subclasses:

12 1. Producing mines and mining claims, personal property used on
13 mines and mining claims, improvements to mines and mining claims and mills
14 and smelters operated in conjunction with mines and mining claims that are
15 valued at full cash value pursuant to section 42-14053.

16 2. Standing timber that is valued at full cash value.

17 3. Real and personal property of gas distribution companies,
18 electric transmission companies, electric distribution companies,
19 combination gas and electric transmission and distribution companies, and
20 companies engaged in ~~the generation of~~ GENERATING electricity that are
21 valued at full cash value pursuant to section 42-14151.

22 4. Real and personal property of airport fuel delivery companies
23 that are valued pursuant to section 42-14503.

24 5. Real and personal property that is used by producing oil, gas
25 and geothermal resource interests that are valued at full cash value
26 pursuant to section 42-14102.

27 6. Real and personal property of water, sewer and wastewater
28 utility companies that are valued at full cash value pursuant to section
29 42-14151.

30 7. Real and personal property of pipeline companies that are valued
31 at full cash value pursuant to section 42-14201.

32 8. Real and personal property of shopping centers that are valued
33 at full cash value or pursuant to chapter 13, article 5 of this title, as
34 applicable, other than property that is included in class nine.

35 9. Real and personal property of golf courses that are valued at
36 full cash value or pursuant to chapter 13, article 4 of this title.

37 10. All property, both real and personal, of manufacturers,
38 assemblers or fabricators, other than property that is specifically
39 included in another class described in this article, that is valued under
40 this title.

41 11. Real and personal property that is used in communications
42 transmission facilities and that provides public telephone or
43 telecommunications exchange or interexchange access for compensation to
44 effect two-way communication to, from, through or within this state.

1 12. Real property and improvements that are devoted to any other
2 commercial or industrial use, other than property that is specifically
3 included in another class described in this article, and that are valued
4 at full cash value.

5 13. Personal property that is devoted to any other commercial or
6 industrial use, other than property that is specifically included in
7 another class described in this article, and that is valued at full cash
8 value.

9 14. Real and personal property of electric cooperatives that are
10 valued at full cash value pursuant to section 42-14159.

11 15. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE USED FOR
12 RESIDENTIAL PURPOSES, THAT ARE SOLELY LEASED OR RENTED TO LODGERS FOR
13 PERIODS OF LESS THAN THIRTY DAYS AND THAT ARE VALUED AT FULL CASH VALUE,
14 EXCEPT FOR:

15 (a) PROPERTY THAT IS OCCUPIED BY THE OWNER OF THE PROPERTY AS THE
16 OWNER'S PRIMARY RESIDENCE AND INCLUDED IN CLASS THREE.

17 (b) PROPERTY FOR RESIDENTIAL PURPOSES THAT IS LEASED OR RENTED AND
18 INCLUDED IN CLASS FOUR.

19 Sec. 8. Section 42-12004, Arizona Revised Statutes, is amended to
20 read:

21 42-12004. Class four property

22 A. For THE purposes of taxation, class four is established
23 consisting of:

24 1. Real and personal property and improvements to the property that
25 are used for residential purposes, including residential property that is
26 owned in foreclosure by a financial institution, that is not otherwise
27 included in another classification and that is valued at full cash value.
28 The homesite that is included in class four may include:

29 (a) Up to ten acres on a single parcel of real property on which
30 the residential improvement is located.

31 (b) More than ten, but not more than forty, acres on a single
32 parcel of real property on which the residential improvement is located if
33 it is zoned exclusively for residential purposes or contains legal
34 restrictions or physical conditions that prevent the division of the
35 parcel. For the purposes of this subdivision, "physical conditions" means
36 topography, mountains, washes, rivers, roads or any other configuration
37 that limits the residential usable land area.

38 2. Real and personal property and improvements to the property that
39 are used solely as leased or rented property for residential purposes,
40 that are not included in class one, two, three, six, seven or eight and
41 that are valued at full cash value.

42 3. Child care facilities that are licensed under title 36, chapter
43 7.1 and that are valued at full cash value.

44 4. Real and personal property and improvements to property that are
45 used to operate nonprofit residential housing facilities that are

1 structured to house or care for persons with disabilities or who are
2 sixty-two years of age or older and that are valued at full cash value.

3 5. Real and personal property and improvements that are used to
4 operate licensed residential care institutions or licensed nursing care
5 institutions that provide medical services, nursing services or ~~health~~
6 ~~related~~ HEALTH-RELATED services and that are structured to house or care
7 for persons with disabilities or who are sixty-two years of age or older
8 and that are valued at full cash value.

9 6. Real and personal property consisting of ~~no~~ NOT more than eight
10 rooms of residential property that are leased or rented to transient
11 lodgers, together with furnishing ~~no~~ NOT more than a breakfast meal, by
12 the owner who resides on the property and that is valued at full cash
13 value.

14 7. Real and personal property ~~consisting~~ THAT CONSISTS of
15 residential dwellings ~~that are~~ maintained for occupancy by agricultural
16 employees as a condition of employment or as a convenience to the
17 employer, that is not included in class three and that is valued at full
18 cash value. The land associated with these dwellings shall be valued as
19 agricultural land pursuant to chapter 13, article 3 of this title.

20 8. Real property and improvements to property constituting common
21 areas that are valued pursuant to chapter 13, article 9 of this title.

22 9. Real and personal property that is defined as timeshare property
23 by section 32-2197 and valued pursuant to chapter 13, article 10 of this
24 title, except for any property used for commercial, industrial or
25 transient occupancy purposes and included in class one to the extent of
26 that use.

27 ~~10. Real and personal property and improvements that are used for~~
28 ~~residential purposes and that are leased or rented to lodgers, except for:~~

29 ~~(a) Property occupied by the owner of the property as the owner's~~
30 ~~primary residence and included in class three.~~

31 ~~(b) Property used for commercial purposes and included in class~~
32 ~~one.~~

33 ~~ii.~~ 10. Low-income multifamily residential rental properties that
34 are valued pursuant to chapter 13, article 13 of this title.

35 B. Subsection A, paragraphs 4 and 5 of this section do not limit
36 eligibility for exemption from taxation under chapter 11, article 3 of
37 this title.

38 Sec. 9. Section 42-12054, Arizona Revised Statutes, is amended to
39 read:

40 42-12054. Change in classification of owner-occupied
41 residence

42 A. If a person purchases or converts property that is listed as
43 class one PURSUANT TO SECTION 42-12001, paragraph 12, ~~or~~ 13 OR 15, class
44 two or class four pursuant to article 1 of this chapter and occupies the
45 property as the person's primary residence, the person may have the

1 classification reviewed for change to class three from the date of
2 conversion and occupancy as a primary residence and may appeal from the
3 decision resulting from the review in the same manner as provided by law
4 for review of a valuation for ad valorem property taxes and appeal from
5 that review.

6 B. If a person purchases or converts property that is listed as
7 class one PURSUANT TO SECTION 42-12001, paragraph 12, ~~OR~~ 13 OR 15, class
8 two or class four pursuant to article 1 of this chapter and the property
9 is occupied by a member of the owner's immediate family as described in
10 section 42-12053, the person may have the classification reviewed for
11 change to class three from the date of occupancy and may appeal the
12 decision resulting from the review in the same manner as provided by law
13 for review of a valuation for ad valorem property taxes and appeal from
14 that review.

15 C. If a person makes such a conversion or occupancy or appeals the
16 classification after the county assessor has closed the rolls, the person
17 may petition the county board of supervisors to change the classification
18 and reduce the assessed valuation from the date of conversion or
19 occupancy.

20 D. The board of supervisors shall entertain the petition in the
21 same manner as a board of equalization hears a request for reduction in
22 valuation.

23 E. The petitioner may appeal the board of supervisors' decision in
24 the same manner as provided in section 42-16111, except that the
25 petitioner shall file the notice of appeal within fifteen days after the
26 board's finding.

27 F. If the board of supervisors finds that the property is in fact
28 being used for the owner's primary residence and should be listed as class
29 three property, ~~IT~~ THE BOARD shall change the classification on the roll
30 and fix the assessed valuation from the date of occupancy. The amount of
31 taxes that is assessed against the property shall be computed by applying
32 the current tax rate to the original assessed valuation prorated for the
33 portion of the tax year before the property was occupied plus the current
34 tax rate applied to the reassessed value of the property prorated for the
35 balance of the year.

36 G. The board of supervisors shall notify the department, assessor
37 and county treasurer of the change in classification, the change in
38 assessed valuation and the amount of tax assessed. The department and the
39 assessor may appeal any such decision in the same manner as provided in
40 section 42-16111. The assessor and treasurer shall note the change on
41 their records, and the treasurer may issue a future tax credit, endorsed
42 by the board, to the person whose property is liable for the tax. The tax
43 credit shall be used on the next or several succeeding property tax
44 assessments that the person may owe thereafter.

1 Sec. 10. Section 42-12056, Arizona Revised Statutes, is amended to
2 read:

3 42-12056. Renewable energy systems valuation; definition

4 A. For properties ~~THAT ARE~~ subject to this chapter and that are
5 ~~CLASS ONE AS PRESCRIBED IN SECTION 42-12001, PARAGRAPH 15,~~ class three as
6 ~~defined~~ PRESCRIBED in section 42-12003 or class four as ~~defined~~ PRESCRIBED
7 in section 42-12004, renewable energy systems and any other device or
8 system designed primarily ~~for the production of~~ TO PRODUCE renewable
9 energy in which the majority of the energy is consumed on-site, are
10 considered to add no value to the property.

11 B. For the purposes of this section, "renewable energy systems"
12 means electric generation systems and electric transmission and
13 distribution SYSTEMS that ~~is~~ ARE used or useful for ~~the generation,~~
14 ~~storage, transmission~~ GENERATING, STORING, TRANSMITTING or ~~distribution of~~
15 DISTRIBUTING electric power, energy or fuel derived from solar, wind or
16 other nonpetroleum renewable sources, including materials and supplies.