

House Engrossed

TPT; diapers; feminine hygiene; exemption

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2401

AN ACT

AMENDING SECTIONS 42-5061 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO TAX EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to
3 read:

4 42-5061. Retail classification; definitions

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

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

13 2. Services rendered in addition to selling tangible personal
14 property at retail.

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

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

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

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

27 7. The sale of stocks and bonds.

28 8. Drugs and medical oxygen, including delivery hose, mask or tent,
29 regulator and tank, if prescribed by a member of the medical, dental or
30 veterinarian profession who is licensed by law to administer such
31 substances.

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

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

36 11. Prescription eyeglasses or contact lenses.

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

38 13. Durable medical equipment that has a centers for medicare and
39 medicaid services common procedure code, is designated reimbursable by
40 medicare, is prescribed by a person who is licensed under title 32,
41 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
42 primarily and customarily used to serve a medical purpose, is generally
43 not useful to a person in the absence of illness or injury and is
44 appropriate for use in the home.

1 14. Sales of motor vehicles to nonresidents of this state for use
2 outside this state if either of the following ~~apply~~ APPLIES:

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

5 (b) The vehicle, trailer or semitrailer has a gross vehicle weight
6 rating of more than ten thousand pounds, is used or maintained to
7 transport property in the furtherance of interstate commerce and otherwise
8 meets the definition of commercial motor vehicle as defined in section
9 28-5201.

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

12 16. Items purchased with United States department of agriculture
13 coupons issued under the supplemental nutrition assistance program
14 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
15 7 United States Code sections 2011 through 2036b) by the United States
16 department of agriculture food and nutrition service or food instruments
17 issued under section 17 of the child nutrition act (P.L. 95-627;
18 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States
19 Code section 1786).

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

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

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

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

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

40 (a) "Cash equivalents" means items or intangibles, whether or not
41 negotiable, that are sold to one or more persons, through which a value
42 denominated in money is purchased in advance and may be redeemed in full
43 or in part for tangible personal property, intangibles or services. Cash
44 equivalents include gift cards, stored value cards, gift certificates,
45 vouchers, traveler's checks, money orders or other instruments, orders or

1 electronic mechanisms, such as an electronic code, personal identification
2 number or digital payment mechanism, or any other prepaid intangible right
3 to acquire tangible personal property, intangibles or services in the
4 future, whether from the seller of the cash equivalent or from another
5 person. Cash equivalents do not include either of the following:

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

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

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

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

17 22. Motor vehicle fuel and use fuel that are subject to a tax
18 imposed under title 28, chapter 16, article 1, sales of use fuel to a
19 holder of a valid single trip use fuel tax permit issued under section
20 28-5739, sales of aviation fuel that are subject to the tax imposed under
21 section 28-8344 and sales of jet fuel that are subject to the tax imposed
22 under article 8 of this chapter.

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

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

30 25. Tangible personal property sold to:

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

32 (b) A qualifying health care organization as defined in section
33 42-5001 if the tangible personal property is used by the organization
34 solely to provide health and medical related educational and charitable
35 services.

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

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

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

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

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

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

15 26. Magazines or other periodicals or other publications by this
16 state to encourage tourist travel.

17 27. Tangible personal property sold to:

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

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

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

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

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

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

40 29. Tangible personal property purchased in this state by a
41 nonprofit charitable organization that has qualified under section
42 501(c)(3) of the United States internal revenue code and that engages in
43 and uses such property exclusively in programs for persons with mental or
44 physical disabilities if the programs are exclusively for training, job
45 placement, rehabilitation or testing.

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

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

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

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

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

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

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

43 35. Sales of natural gas or liquefied petroleum gas used to propel
44 a motor vehicle.

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

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

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

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

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

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

42 40. Sales of food, drink and condiment for consumption within the
43 premises of any prison, jail or other institution under the jurisdiction
44 of the state department of corrections, the department of public safety,
45 the department of juvenile corrections or a county sheriff.

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

6 42. Sales of:

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

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

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

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

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

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

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

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

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

41 48. Tangible personal property sold to a commercial airline and
42 consisting of food, beverages and condiments and accessories used for
43 serving the food and beverages, if those items are to be provided without
44 additional charge to passengers for consumption in flight. For the
45 purposes of this paragraph, "commercial airline" means a person holding a

1 federal certificate of public convenience and necessity or foreign air
2 carrier permit for air transportation to transport persons, property or
3 United States mail in intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 61. TAMPONS, SANITARY NAPKINS, MENSTRUAL SPONGES, MENSTRUAL CUPS
30 AND SIMILAR ITEMS USED FOR FEMININE HYGIENE.

31 62. DISPOSABLE DIAPERS AND SIMILAR DISPOSABLE ITEMS COMMONLY USED
32 BY INDIVIDUALS FOR INCONTINENCE.

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

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

44 2. Mining machinery, or equipment, used directly in the process of
45 extracting ores or minerals from the earth for commercial purposes,

1 including equipment required to prepare the materials for extraction and
2 handling, loading or transporting such extracted material to the surface.
3 "Mining" includes underground, surface and open pit operations for
4 extracting ores and minerals.

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

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

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

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

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

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

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

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

39 8. Aircraft, navigational and communication instruments and other
40 accessories and related equipment sold to:

41 (a) A person:

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

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

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

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

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

24 (b) Any foreign government.

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

32 9. Machinery, tools, equipment and related supplies used or
33 consumed directly in repairing, remodeling or maintaining aircraft,
34 aircraft engines or aircraft component parts by or on behalf of a
35 certificated or licensed carrier of persons or property.

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

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

41 12. Buses or other urban mass transit vehicles that are used
42 directly to transport persons or property for hire or pursuant to a
43 governmentally adopted and controlled urban mass transportation program
44 and that are sold to bus companies holding a federal certificate of
45 convenience and necessity or operated by any city, town or other

1 governmental entity or by any person contracting with such governmental
2 entity as part of a governmentally adopted and controlled program to
3 provide urban mass transportation.

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

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

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

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

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

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

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

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

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

1 (ii) Over two-thirds of the transmissions, measured in megabytes,
2 transmitted by or on behalf of those direct broadcast television or data
3 transmission services during the test period were transmitted by the
4 facility to or on behalf of those services. For the purposes of
5 subdivision (b) of this paragraph, "test period" means the three hundred
6 sixty-five day period beginning on the later of the date on which the
7 tangible personal property is purchased or the date on which the direct
8 broadcast satellite television or data transmission service first
9 transmits information to its customers.

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

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

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

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

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

1 20. Machinery and equipment that are sold to a person engaged in
2 commercially producing livestock, livestock products or agricultural,
3 horticultural, viticultural or floricultural crops or products in this
4 state, including a person representing or working on behalf of such a
5 person in a manner described in section 42-5075, subsection 0, if the
6 machinery and equipment are used directly and primarily to prevent,
7 monitor, control or reduce air, water or land pollution.

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

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

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

20 (c) Any machinery or equipment purchased after the television
21 station has ceased analog broadcasting, or purchased after November 1,
22 2009, whichever occurs first.

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

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

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

39 1. Expendable materials. For the purposes of this paragraph,
40 expendable materials do not include any of the categories of tangible
41 personal property specified in subsection B of this section regardless of
42 the cost or useful life of that property.

43 2. Janitorial equipment and hand tools.

44 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

31 G. If a person is engaged in the business of selling tangible
32 personal property at both wholesale and retail, the tax under this section
33 applies only to the gross proceeds of the sales made other than at
34 wholesale if the person's books are kept so as to show separately the
35 gross proceeds of sales of each class, and if the books are not so kept,
36 the tax under this section applies to the gross proceeds of every sale so
37 made.

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

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

- 5 2. Businesses classified under the:
- 6 (a) Transporting classification.
 - 7 (b) Utilities classification.
 - 8 (c) Telecommunications classification.
 - 9 (d) Pipeline classification.
 - 10 (e) Private car line classification.
 - 11 (f) Publication classification.
 - 12 (g) Job printing classification.
 - 13 (h) Prime contracting classification.
 - 14 (i) Restaurant classification.

15 I. The gross proceeds of sales or gross income derived from the
16 following shall be deducted from the tax base for the retail
17 classification:

18 1. Sales made directly to the United States government or its
19 departments or agencies by a manufacturer, modifier, assembler or
20 repairer.

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

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

31 4. Sales of overhead materials or other tangible personal property
32 to a manufacturer, modifier, assembler or repairer if the gross proceeds
33 of sales or gross income derived from the property by the manufacturer,
34 modifier, assembler or repairer will be exempt under paragraph 3 of this
35 subsection.

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

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

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

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

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

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

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

19 O. For the purposes of this section, a sale of wireless
20 telecommunications equipment to a person who holds the equipment for sale
21 or transfer to a customer as an inducement to enter into or continue a
22 contract for telecommunications services that are taxable under section
23 42-5064 is considered to be a sale for resale in the regular course of
24 business.

25 P. Retail sales of prepaid calling cards or prepaid authorization
26 numbers for telecommunications services, including sales of
27 reauthorization of a prepaid card or authorization number, are subject to
28 tax under this section.

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

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

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

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

41 1. The transfer of title or possession of the coal is for the
42 purpose of refining the coal.

43 2. The title or possession of the coal is transferred back to the
44 owner or operator of the power plant after completion of the coal refining
45 process. For the purposes of this paragraph, "coal refining process"

1 means the application of a coal additive system that aids in the reduction
2 of power plant emissions during the combustion of coal and the treatment
3 of flue gas.

4 S. If a seller is entitled to a deduction pursuant to subsection B,
5 paragraph 16, subdivision (b) of this section, the department may require
6 the purchaser to establish that the requirements of subsection B,
7 paragraph 16, subdivision (b) of this section have been satisfied. If the
8 purchaser cannot establish that the requirements of subsection B,
9 paragraph 16, subdivision (b) of this section have been satisfied, the
10 purchaser is liable in an amount equal to any tax, penalty and interest
11 that the seller would have been required to pay under article 1 of this
12 chapter if the seller had not made a deduction pursuant to subsection B,
13 paragraph 16, subdivision (b) of this section. Payment of the amount
14 under this subsection exempts the purchaser from liability for any tax
15 imposed under article 4 of this chapter and related to the tangible
16 personal property purchased. The amount shall be treated as transaction
17 privilege tax to the purchaser and as tax revenues collected from the
18 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

28 U. In computing the tax base for the sale of a motor vehicle to a
29 nonresident of this state, if the purchaser's state of residence allows a
30 corresponding use tax exemption to the tax imposed by article 1 of this
31 chapter and the rate of the tax in the purchaser's state of residence is
32 lower than the rate prescribed in article 1 of this chapter or if the
33 purchaser's state of residence does not impose an excise tax, and the
34 nonresident has secured a special ninety day nonresident registration
35 permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01,
36 there shall be deducted from the tax base a portion of the gross proceeds
37 or gross income from the sale so that the amount of transaction privilege
38 tax that is paid in this state is equal to the excise tax that is imposed
39 by the purchaser's state of residence on the nonexempt sale or use of the
40 motor vehicle.

41 V. For the purposes of this section:

42 1. "Agricultural aircraft" means an aircraft that is built for
43 agricultural use for the aerial application of pesticides or fertilizer or
44 for aerial seeding.

- 1 2. "Aircraft" includes:
2 (a) An airplane flight simulator that is approved by the federal
3 aviation administration for use as a phase II or higher flight simulator
4 under appendix H, 14 Code of Federal Regulations part 121.
5 (b) Tangible personal property that is permanently affixed or
6 attached as a component part of an aircraft that is owned or operated by a
7 certificated or licensed carrier of persons or property.
8 3. "Other accessories and related equipment" includes aircraft
9 accessories and equipment such as ground service equipment that physically
10 contact aircraft at some point during the overall carrier operation.
11 4. "Selling at retail" means a sale for any purpose other than for
12 resale in the regular course of business in the form of tangible personal
13 property, but transfer of possession, lease and rental as used in the
14 definition of sale mean only such transactions as are found on
15 investigation to be in lieu of sales as defined without the words lease or
16 rental.
17 W. For the purposes of subsection I of this section:
18 1. "Assembler" means a person who unites or combines products,
19 wares or articles of manufacture so as to produce a change in form or
20 substance without changing or altering the component parts.
21 2. "Manufacturer" means a person who is principally engaged in
22 fabricating, producing or manufacturing products, wares or articles for
23 use from raw or prepared materials, imparting to those materials new
24 forms, qualities, properties and combinations.
25 3. "Modifier" means a person who reworks, changes or adds to
26 products, wares or articles of manufacture.
27 4. "Overhead materials" means tangible personal property, the gross
28 proceeds of sales or gross income derived from that would otherwise be
29 included in the retail classification, and that are used or consumed in
30 performing a contract, the cost of which is charged to an overhead expense
31 account and allocated to various contracts based on generally accepted
32 accounting principles and consistent with government contract accounting
33 standards.
34 5. "Repairer" means a person who restores or renews products, wares
35 or articles of manufacture.
36 6. "Subcontract" means an agreement between a contractor and any
37 person who is not an employee of the contractor for furnishing supplies or
38 services that, in whole or in part, are necessary to perform one or more
39 government contracts, or under which any portion of the contractor's
40 obligation under one or more government contracts is performed, undertaken
41 or assumed and that includes provisions causing title to overhead
42 materials or other tangible personal property used in performing the
43 subcontract to pass to the government or that includes provisions
44 incorporating such title passing clauses in a government contract into the
45 subcontract.

1 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to
2 read:

3 42-5159. Exemptions

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

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

10 2. Tangible personal property, the sale or use of which has already
11 been subjected to an excise tax at a rate equal to or exceeding the tax
12 imposed by this article under the laws of another state of the United
13 States. If the excise tax imposed by the other state is at a rate less
14 than the tax imposed by this article, the tax imposed by this article is
15 reduced by the amount of the tax already imposed by the other state.

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

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

24 5. Motor vehicle fuel and use fuel, the sales, distribution or use
25 of which in this state is subject to the tax imposed under title 28,
26 chapter 16, article 1, use fuel that is sold to or used by a person
27 holding a valid single trip use fuel tax permit issued under
28 section 28-5739, aviation fuel, the sales, distribution or use of which in
29 this state is subject to the tax imposed under section 28-8344, and jet
30 fuel, the sales, distribution or use of which in this state is subject to
31 the tax imposed under article 8 of this chapter.

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

37 7. Purchases of implants used as growth promotants and injectable
38 medicines, not already exempt under paragraph 16 of this subsection, for
39 livestock and poultry owned by, or in possession of, persons who are
40 engaged in producing livestock, poultry, or livestock or poultry products,
41 or who are engaged in feeding livestock or poultry commercially. For the
42 purposes of this paragraph, "poultry" includes ratites.

43 8. Purchases of:

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

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

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

9 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
10 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
11 and plant substances, micronutrients, fertilizers, insecticides,
12 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
13 adjuvants, plant nutrients and plant growth regulators.

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

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

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

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

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

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

31 13. Tangible personal property purchased by:

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

35 (b) A hospital operated by this state or a political subdivision of
36 this state.

37 (c) A licensed nursing care institution or a licensed residential
38 care institution or a residential care facility operated in conjunction
39 with a licensed nursing care institution or a licensed kidney dialysis
40 center, which provides medical services, nursing services or health
41 related services and is not used or held for profit.

42 (d) A qualifying health care organization, as defined in section
43 42-5001, if the tangible personal property is used by the organization
44 solely to provide health and medical related educational and charitable
45 services.

1 (e) A qualifying health care organization as defined in section
2 42-5001 if the organization is dedicated to providing educational,
3 therapeutic, rehabilitative and family medical education training for
4 blind and visually impaired children and children with multiple
5 disabilities from the time of birth to age twenty-one.

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

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

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

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

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

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

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

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

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

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

41 (m) For taxable periods beginning from and after June 30, 2001, a
42 nonprofit charitable organization that has qualified under section
43 501(c)(3) of the internal revenue code and that provides residential
44 apartment housing for low-income persons over sixty-two years of age in a
45 facility that qualifies for a federal housing subsidy, if the tangible

1 personal property is used by the organization solely to provide
2 residential apartment housing for low-income persons over sixty-two years
3 of age in a facility that qualifies for a federal housing subsidy.

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

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

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

16 15. Tangible personal property sold by:

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

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

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

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

43 17. Prosthetic appliances, as defined in section 23-501, prescribed
44 or recommended by a person who is licensed, registered or otherwise

- 1 professionally credentialed as a physician, dentist, podiatrist,
2 chiropractor, naturopath, homeopath, nurse or optometrist.
- 3 18. Prescription eyeglasses and contact lenses.
- 4 19. Insulin, insulin syringes and glucose test strips.
- 5 20. Hearing aids as defined in section 36-1901.
- 6 21. Durable medical equipment that has a centers for medicare and
7 medicaid services common procedure code, is designated reimbursable by
8 medicare, is prescribed by a person who is licensed under title 32,
9 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and
10 customarily used to serve a medical purpose, is generally not useful to a
11 person in the absence of illness or injury and is appropriate for use in
12 the home.
- 13 22. Food, as provided in and subject to the conditions of article 3
14 of this chapter and sections 42-5074 and 42-6017.
- 15 23. Items purchased with United States department of agriculture
16 coupons issued under the supplemental nutrition assistance program
17 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
18 7 United States Code sections 2011 through 2036b) by the United States
19 department of agriculture food and nutrition service or food instruments
20 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
21 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
22 section 1786).
- 23 24. Food and drink provided without monetary charge by a taxpayer
24 that is subject to section 42-5074 to its employees for their own
25 consumption on the premises during the employees' hours of employment.
- 26 25. Tangible personal property that is used or consumed in a
27 business subject to section 42-5074 for human food, drink or condiment,
28 whether simple, mixed or compounded.
- 29 26. Food, drink or condiment and accessory tangible personal
30 property that are acquired for use by or provided to a school district or
31 charter school if they are to be either served or prepared and served to
32 persons for consumption on the premises of a public school in the school
33 district or on the premises of the charter school during school hours.
- 34 27. Lottery tickets or shares purchased pursuant to title 5,
35 chapter 5.1, article 1.
- 36 28. Textbooks, sold by a bookstore, that are required by any state
37 university or community college.
- 38 29. Magazines, other periodicals or other publications produced by
39 this state to encourage tourist travel.
- 40 30. Paper machine clothing, such as forming fabrics and dryer
41 felts, purchased by a paper manufacturer and directly used or consumed in
42 paper manufacturing.
- 43 31. Coal, petroleum, coke, natural gas, virgin fuel oil and
44 electricity purchased by a qualified environmental technology
45 manufacturer, producer or processor as defined in section 41-1514.02 and

1 directly used or consumed in generating or providing on-site power or
2 energy solely for environmental technology manufacturing, producing or
3 processing or environmental protection. This paragraph applies for twenty
4 full consecutive calendar or fiscal years from the date the first paper
5 manufacturing machine is placed in service. In the case of an
6 environmental technology manufacturer, producer or processor that does not
7 manufacture paper, the time period begins with the date the first
8 manufacturing, processing or production equipment is placed in service.

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

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

13 (b) Public educational institutions.

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

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

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

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

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

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

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

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

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

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

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

35 41. Wireless telecommunications equipment that is held for sale or
36 transfer to a customer as an inducement to enter into or continue a
37 contract for telecommunications services that are taxable under section
38 42-5064.

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

42 43. Tangible personal property purchased by a commercial airline
43 and consisting of food, beverages and condiments and accessories used for
44 serving the food and beverages, if those items are to be provided without
45 additional charge to passengers for consumption in flight. For the

1 purposes of this paragraph, "commercial airline" means a person holding a
2 federal certificate of public convenience and necessity or foreign air
3 carrier permit for air transportation to transport persons, property or
4 United States mail in intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

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

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

1 52. Repair parts installed in equipment used directly by a
2 qualified business under section 41-1516 in harvesting, processing or
3 transporting qualifying forest products removed from qualifying projects
4 as defined in section 41-1516.

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

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

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

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

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

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

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

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

40 56. Cash equivalents, precious metal bullion and monetized bullion
41 purchased by the ultimate consumer, but coins or other forms of money for
42 manufacture into jewelry or works of art are subject to tax, and tangible
43 personal property that is purchased through the redemption of any cash
44 equivalent by the holder as a means of payment for goods that are subject

1 to tax under this article is subject to tax. For the purposes of this
2 paragraph:

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

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

12 (ii) Prepaid calling cards for telecommunications services.

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

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

20 57. TAMPONS, SANITARY NAPKINS, MENSTRUAL SPONGES, MENSTRUAL CUPS
21 AND SIMILAR ITEMS USED FOR FEMININE HYGIENE.

22 58. DISPOSABLE DIAPERS AND SIMILAR DISPOSABLE ITEMS COMMONLY USED
23 BY INDIVIDUALS FOR INCONTINENCE.

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

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

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

40 3. Tangible personal property sold to persons engaged in business
41 classified under the telecommunications classification under section
42 42-5064, including a person representing or working on behalf of such a
43 person in a manner described in section 42-5075, subsection 0, and
44 consisting of central office switching equipment, switchboards, private
45 branch exchange equipment, microwave radio equipment and carrier equipment

1 including optical fiber, coaxial cable and other transmission media that
2 are components of carrier systems.

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

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

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

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

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

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

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

29 8. Aircraft, navigational and communication instruments and other
30 accessories and related equipment sold to:

31 (a) A person:

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

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

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

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

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

15 (b) Any foreign government.

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

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

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

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

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

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

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

1 and that are used for commercially producing agricultural, horticultural,
2 viticultural and floricultural crops and products in this state. For the
3 purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 22. Qualifying equipment that is purchased from and after June 30,
13 2004 through June 30, 2024 by a qualified business under section 41-1516
14 for harvesting or processing qualifying forest products removed from
15 qualifying projects as defined in section 41-1516. To qualify for this
16 exemption, the qualified business must obtain and present its
17 certification from the Arizona commerce authority at the time of purchase.

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

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

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

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

38 2. Janitorial equipment and hand tools.

39 3. Office equipment, furniture and supplies.

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

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

1 to subsection B, paragraph 12 of this section, without regard to the use
2 of such motor vehicles.

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) "Gas transportation services" means the services of
2 transporting natural gas to a natural gas customer or to a natural gas
3 distribution facility if the natural gas was purchased from a supplier
4 other than the utility.

5 (b) "Manufacturing" means the performance as a business of an
6 integrated series of operations that places tangible personal property in
7 a form, composition or character different from that in which it was
8 acquired and transforms it into a different product with a distinctive
9 name, character or use. Manufacturing does not include job printing,
10 publishing, packaging, mining, generating electricity or operating a
11 restaurant.

12 (c) "Qualified manufacturing or smelting business" means one of the
13 following:

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

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

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

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

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

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

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

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

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

2 1. "Agricultural aircraft" means an aircraft that is built for
3 agricultural use for the aerial application of pesticides or fertilizer or
4 for aerial seeding.

5 2. "Aircraft" includes:

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

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

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

15 J. For the purposes of subsection D of this section, "ancillary
16 services", "electric distribution service", "electric generation service",
17 "electric transmission service" and "other services" have the same
18 meanings prescribed in section 42-5063.

19 Sec. 3. Applicability

20 This act applies to taxable periods beginning on or after the first
21 day of the month following the general effective date.