

REFERENCE TITLE: TPT; diapers; feminine hygiene; exemption

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

## **HB 2401**

Introduced by  
Representatives Hernandez A: Cook, Hernandez C, Longdon, Montenegro,  
Seaman

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.