

REFERENCE TITLE: TPT; digital goods and services

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

HB 2585

Introduced by
Representative Carter

AN ACT

AMENDING SECTIONS 42-5002, 42-5010, 42-5029.02, 42-5040, 42-5061, 42-5071 AND 42-5075, ARIZONA REVISED STATUTES; AMENDING TITLE 42 CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; AMENDING SECTION 42-5151, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5155.01; AMENDING SECTIONS 42-5167 AND 42-6017, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6018; RELATING TO STATE AND LOCAL TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5002, Arizona Revised Statutes, is amended to
3 read:

4 42-5002. Exclusions from gross income, receipts or proceeds

5 A. For the ~~purpose~~ PURPOSES of this article the total amount of
6 gross income, gross receipts or gross proceeds of sales ~~shall be~~ IS deemed
7 to be the amount received, exclusive of:

8 1. The taxes imposed by this chapter and chapter 6, article 3 of
9 this title, sales or transaction privilege taxes imposed by municipalities
10 in this state and sales or transaction privilege taxes imposed in this
11 state by Indian tribes, if the Indian tribal tax is imposed with respect
12 to sales by non-Indian or nonaffiliated Indian vendors to nonmembers of
13 the tribe. A person who imposes an added charge ~~to cover~~ THAT COVERS the
14 tax levied by this article or ~~which~~ THAT is identified as being imposed to
15 cover transaction privilege tax shall not remit less than the amount so
16 collected to the department.

17 2. Freight costs billed to and collected from a purchaser by a
18 retailer for tangible personal property ~~which~~ THAT, ~~upon~~ ON the order of
19 the retailer, is shipped directly from a manufacturer or wholesaler to the
20 purchaser.

21 B. For the purposes of this article the total amount of gross
22 income, gross receipts or gross proceeds of sales for nuclear fuel ~~shall~~
23 ~~be~~ IS deemed to be the value of the purchase price of uranium oxide used
24 in producing the fuel. The tax imposed by this article may be imposed
25 only once for any one quantity or batch of nuclear fuel regardless of the
26 number of transactions or financing arrangements ~~which~~ THAT may occur with
27 respect to that nuclear fuel.

28 C. FOR THE PURPOSES OF ARTICLES 2 AND 4 OF THIS CHAPTER AND CHAPTER
29 6 OF THIS TITLE:

30 1. THE GROSS INCOME, GROSS RECEIPTS, GROSS PROCEEDS, PURCHASE PRICE
31 OR SALES PRICE FROM SELLING, LEASING, LICENSING, PURCHASING OR USING
32 DIGITAL SERVICES AS DEFINED IN SECTION 42-5077 IS EXCLUDED FROM TAX. THE
33 FOLLOWING DO NOT CHANGE THE CHARACTERIZATION OF ANY DIGITAL SERVICE AS
34 BEING EXCLUDED FROM TAX:

35 (a) THE ABILITY TO RECEIVE, VIEW, SAVE, LISTEN TO OR PRINT THE
36 OUTPUT OF A DIGITAL SERVICE.

37 (b) THE TRANSFER OF ANY TRANSITORY OR TEMPORARY DOWNLOADED FILES
38 SUCH AS CACHE FILES OR USER GUIDES.

39 (c) THE TRANSFER OF ANY TRANSITORY OR AUXILIARY APPLICATION,
40 INCLUDING APPLETS, COOKIES OR PLUG-INS.

41 2. SPECIFIED DIGITAL GOODS AND PREWRITTEN COMPUTER SOFTWARE MAY BE
42 TAXED ONLY AS PROVIDED BY SECTIONS 42-5077, 42-5155.01 AND 42-6018.

43 3. PARAGRAPH 1 OF THIS SUBSECTION DOES NOT APPLY TO SERVICES
44 PROVIDED BY A PERSON THAT IS SUBJECT TO TAX UNDER THE ONLINE LODGING
45 MARKETPLACE CLASSIFICATION PURSUANT TO SECTIONS 42-5076 AND 42-6009.

1 Sec. 2. Section 42-5010, Arizona Revised Statutes, is amended to
2 read:

3 42-5010. Rates; distribution base

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

6 1. Five percent of the tax base as computed for the business of
7 every person engaging or continuing in this state in the following
8 business classifications described in article 2 of this chapter:

- 9 (a) Transporting classification.
- 10 (b) Utilities classification.
- 11 (c) Telecommunications classification.
- 12 (d) Pipeline classification.
- 13 (e) Private car line classification.
- 14 (f) Publication classification.
- 15 (g) Job printing classification.
- 16 (h) Prime contracting classification.
- 17 (i) Amusement classification.
- 18 (j) Restaurant classification.
- 19 (k) Personal property rental classification.
- 20 (l) Retail classification and amounts equal to retail transaction
21 privilege tax due pursuant to section 42-5008.01.

22 (m) DIGITAL GOODS CLASSIFICATION.

23 2. Five and one-half percent of the tax base as computed for the
24 business of every person engaging or continuing in this state in:

- 25 (a) The transient lodging classification described in section
26 42-5070.
- 27 (b) The online lodging marketplace classification described in
28 section 42-5076 who has entered into an agreement with the department to
29 register for, or has otherwise obtained from the department, a license to
30 collect tax pursuant to section 42-5005, subsection L.

31 3. Three and one-eighth percent of the tax base as computed for the
32 business of every person engaging or continuing in this state in the
33 mining classification described in section 42-5072.

34 4. Zero percent of the tax base as computed for the business of
35 every person engaging or continuing in this state in the commercial lease
36 classification described in section 42-5069.

37 B. Except as provided by subsection J of this section, twenty
38 percent of the tax revenues collected at the rate prescribed by subsection
39 A, paragraph 1 of this section from persons on account of engaging in
40 business under the business classifications listed in subsection A,
41 paragraph 1, subdivisions (a) through (h) of this section is designated as
42 distribution base for THE purposes of section 42-5029.

43 C. Forty percent of the tax revenues collected at the rate
44 prescribed by subsection A, paragraph 1 of this section from persons on
45 account of engaging in business under the business classifications listed

1 in subsection A, paragraph 1, subdivisions (i) through ~~(j)~~ (m) of this
2 section is designated as distribution base for THE purposes of section
3 42-5029.

4 D. Thirty-two percent of the tax revenues collected from persons on
5 account of engaging in business under the business classification listed
6 in subsection A, paragraph 3 of this section is designated as distribution
7 base for THE purposes of section 42-5029.

8 E. Fifty-three and one-third percent of the tax revenues collected
9 from persons on account of engaging in business under the business
10 classification listed in subsection A, paragraph 4 of this section is
11 designated as distribution base for THE purposes of section 42-5029.

12 F. Fifty percent of the tax revenues collected from persons on
13 account of engaging in business under the business classification listed
14 in subsection A, paragraph 2 of this section is designated as distribution
15 base for THE purposes of section 42-5029.

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

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

40 I. For taxpayers THAT ARE taxable under this chapter other than
41 prime contractors taxable pursuant to section 42-5075:

42 1. Any increase in the rate of tax that is levied by this article
43 or article 2 of this chapter enacted by the legislature or by a vote of
44 the people does not apply for a period of one hundred twenty days ~~from~~
45 AFTER the date of the tax rate increase to the gross proceeds of sales or

1 gross income from the business of the taxpayer with respect to written
2 contracts entered into before the effective date of the tax rate increase
3 unless the taxpayer has entered into a contract that contains a provision
4 that entitles the taxpayer to recover from the purchaser the amount of the
5 additional tax levied.

6 2. The provisions of this subsection apply without regard to the
7 accounting method used by the taxpayer to report the taxes imposed under
8 article 2 of this chapter.

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

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

23 Sec. 3. Section 42-5029.02, Arizona Revised Statutes, is amended to
24 read:

25 42-5029.02. Distribution of revenues for education;
26 definitions

27 A. All monies collected pursuant to section 42-5010.01, ~~and~~ section
28 42-5155, subsection E **AND SECTION 42-5155.01, SUBSECTION D** shall be
29 distributed each fiscal year pursuant to this subsection. The monies
30 distributed pursuant to this subsection are in addition to any other
31 appropriation, transfer or other allocation of public or private monies
32 from any other source and may not supplant, replace or cause a reduction
33 in other school district, charter school, university or community college
34 funding sources. The monies shall be distributed as follows:

35 1. \$64,100,000 is appropriated each fiscal year, to be paid in
36 monthly installments, to the superintendent of public instruction for
37 basic state aid.

38 2. After any transfer of monies pursuant to paragraph 1 of this
39 subsection, twelve percent of the remaining monies collected during the
40 preceding month shall be transferred to the technology and research
41 initiative fund established by section 15-1648 to be distributed among the
42 universities under the jurisdiction of the Arizona board of regents for
43 the purpose of investment in technology and research-based initiatives.

44 3. After the transfer of monies pursuant to paragraph 1 of this
45 subsection, three percent of the remaining monies collected during the

1 preceding month shall be transferred to the workforce development account
2 established in each community college district pursuant to section 15-1472
3 for the purpose of investment in workforce development programs.

4 4. After the transfer of monies pursuant to paragraphs 1, 2 and 3
5 of this subsection, one-twelfth of the amount a community college that is
6 owned, operated or chartered by a qualifying Indian tribe on its own
7 Indian reservation would receive pursuant to section 15-1472,
8 subsection D, paragraph 2 if it were a community college district shall be
9 distributed each month to the treasurer or other designated depository of
10 the qualifying Indian tribe. Monies distributed pursuant to this
11 paragraph are for the exclusive purpose of providing support to one or
12 more community colleges that are owned, operated or chartered by a
13 qualifying Indian tribe and shall be used in a manner consistent with
14 section 15-1472, subsection B.

15 5. After the transfer of monies pursuant to paragraphs 1, 2 and 3
16 of this subsection, one-twelfth of \$86,280,500 shall be transferred each
17 month to the department of education for the increased cost of basic state
18 aid under section 15-971 due to added school days and associated teacher
19 salary increases that were enacted in 2000.

20 6. After the transfer of monies pursuant to paragraphs 1, 2 and 3
21 of this subsection, \$7,800,000 is appropriated each fiscal year, to be
22 paid in monthly installments, to the department of education to be used
23 for school safety as provided in section 15-154 and \$200,000 is
24 appropriated each fiscal year, to be paid in monthly installments, to the
25 department of education to be used for the character education matching
26 grant program as provided in section 15-154.01.

27 7. After the transfer of monies pursuant to paragraphs 1, 2 and 3
28 of this subsection, the legislature may not appropriate more than
29 \$7,000,000 each fiscal year to the department of education to be used for
30 accountability purposes as described in section 15-241.02 and title 15,
31 chapter 9, article 8.

32 8. After the transfer of monies pursuant to paragraphs 1, 2 and 3
33 of this subsection, \$1,500,000 is appropriated each fiscal year, to be
34 paid in monthly installments, to the failing schools tutoring fund
35 established by section 15-241.

36 9. After the transfer of monies pursuant to paragraphs 1, 2 and 3
37 of this subsection, \$25,000,000 shall be transferred each fiscal year to
38 the state general fund to reimburse the state general fund for the cost of
39 the income tax credit allowed by section 43-1072.02.

40 10. From and after June 30, 2022 through June 30, 2028, after the
41 transfer of monies pursuant to paragraphs 1 through 9 of this subsection,
42 an amount determined by the director pursuant to section 42-5041 **SHALL BE**
43 **TRANSFERRED** to the department of revenue integrated tax system project
44 fund established by section 42-5041.

1 11. After the transfer of monies pursuant to paragraphs 1
2 through 10 of this subsection, the remaining monies collected during the
3 preceding month shall be transferred to the classroom site fund
4 established by section 15-977. The monies shall be allocated in the
5 manner prescribed by section 15-977.

6 B. For the purposes of this section:

7 1. "Community college district" means a community college district
8 that is established pursuant to sections 15-1402 and 15-1403 and that is a
9 political subdivision of this state and, unless otherwise specified,
10 includes a community college tuition financing district established
11 pursuant to section 15-1409.

12 2. "Qualifying Indian tribe" has the same meaning as defined in
13 section 42-5031.01.

14 Sec. 4. Section 42-5040, Arizona Revised Statutes, is amended to
15 read:

16 42-5040. Sourcing of certain transactions involving tangible
17 personal property, prewritten computer software
18 and specified digital goods; definitions

19 A. Except as provided in section 42-5075, retail sales of tangible
20 personal property shall be sourced as follows:

21 1. To the seller's business location if the seller receives the
22 order at a business location in this state.

23 2. Except as provided in section 42-5008.01, to the purchaser's
24 location in this state if the seller receives the order at a business
25 location outside this state or, if there is no delivery address, to the
26 purchaser's billing address.

27 B. A shared vehicle transaction shall be sourced as follows:

28 1. To the permanent street address of the registered shared vehicle
29 owner if the shared vehicle is registered in this state.

30 2. To the street address in this state where the shared vehicle
31 owner resides while in this state if the shared vehicle is registered in
32 another state or country.

33 3. To the location of the shared vehicle at the car sharing start
34 time if the shared vehicle owner does not reside in this state and the
35 shared vehicle is registered in another state or country.

36 C. For the purposes of subsection A of this section, an order is
37 received when all of the information necessary to accept the order has
38 been received by or on behalf of the seller, regardless of where the order
39 is accepted or approved. The place of business or residence of the
40 purchaser does not determine where the order is received.

41 D. The gross receipts from leasing or renting tangible personal
42 property shall be sourced as follows:

43 1. To the lessor's business location if the lessor has a business
44 location in this state.

1 2. To the lessee's address if the lessor does not have a business
2 location in this state or, if there is no lessee's address, to the
3 lessee's billing address. The gross receipts are taxable when the
4 property is shipped, delivered or otherwise brought into this state for
5 use in this state.

6 E. PREWRITTEN COMPUTER SOFTWARE AND SPECIFIED DIGITAL GOODS SHALL
7 BE SOURCED AS FOLLOWS:

8 1. TO THE SELLER'S BUSINESS LOCATION IF THE SELLER RECEIVES THE
9 ORDER AT A BUSINESS LOCATION IN THIS STATE AND THE ITEMS ARE TO BE USED IN
10 THIS STATE.

11 2. TO THE PURCHASER'S LOCATION IN THIS STATE IF THE SELLER RECEIVES
12 THE ORDER AT A BUSINESS LOCATION OUTSIDE THIS STATE BUT THE ITEMS ARE TO
13 BE USED IN THIS STATE. IN THE ABSENCE OF A DELIVERY ADDRESS, THE
14 PURCHASER'S BILLING ADDRESS MAY BE USED FOR THE PURPOSES OF THIS
15 PARAGRAPH.

16 ~~E.~~ F. For the purposes of this section:

17 1. "Car sharing start time" has the same meaning prescribed in
18 section 28-9601.

19 2. "Lessee's address" means the residential address of an
20 individual lessee and the primary business address of any other lessee.

21 3. "Lessor's business location" means the business address that
22 appears on the lessor's transaction privilege tax license.

23 4. "Shared vehicle" has the same meaning prescribed in section
24 28-9601.

25 5. "Shared vehicle owner" has the same meaning prescribed in
26 section 28-9601.

27 6. "Shared vehicle transaction" has the same meaning prescribed in
28 section 28-9601.

29 Sec. 5. Section 42-5061, Arizona Revised Statutes, is amended to
30 read:

31 42-5061. Retail classification; definitions

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

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

40 2. Services rendered in addition to selling tangible personal
41 property at retail.

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

- 1 4. Sales of tangible personal property by any nonprofit
2 organization organized and operated exclusively for charitable purposes
3 and recognized by the United States internal revenue service under section
4 501(c)(3) of the internal revenue code.
- 5 5. Sales to persons engaged in business classified under the
6 restaurant classification of articles used by human beings for food, drink
7 or condiment, whether simple, mixed or compounded.
- 8 6. Business activity that is properly included in any other
9 business classification that is taxable under this article.
- 10 7. The sale of stocks and bonds.
- 11 8. Drugs and medical oxygen, including delivery hose, mask or tent,
12 regulator and tank, if prescribed by a member of the medical, dental or
13 veterinarian profession who is licensed by law to administer such
14 substances.
- 15 9. Prosthetic appliances as defined in section 23-501 and as
16 prescribed or recommended by a health professional who is licensed
17 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 18 10. Insulin, insulin syringes and glucose test strips.
- 19 11. Prescription eyeglasses or contact lenses.
- 20 12. Hearing aids as defined in section 36-1901.
- 21 13. Durable medical equipment that has a centers for medicare and
22 medicaid services common procedure code, is designated reimbursable by
23 medicare, is prescribed by a person who is licensed under title 32,
24 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
25 primarily and customarily used to serve a medical purpose, is generally
26 not useful to a person in the absence of illness or injury and is
27 appropriate for use in the home.
- 28 14. Sales of motor vehicles to nonresidents of this state for use
29 outside this state if either of the following ~~apply~~ APPLIES:
30 (a) The motor vehicle dealer ships or delivers the motor vehicle to
31 a destination out of this state.
32 (b) The vehicle, trailer or semitrailer has a gross vehicle weight
33 rating of more than ten thousand pounds, is used or maintained to
34 transport property in the furtherance of interstate commerce and otherwise
35 meets the definition of commercial motor vehicle as defined in section
36 28-5201.
- 37 15. Food, as provided in and subject to the conditions of article 3
38 of this chapter and sections 42-5074 and 42-6017.
- 39 16. Items purchased with United States department of agriculture
40 coupons issued under the supplemental nutrition assistance program
41 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
42 7 United States Code sections 2011 through 2036b) by the United States
43 department of agriculture food and nutrition service or food instruments
44 issued under section 17 of the child nutrition act (P.L. 95-627;

1 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States
2 Code section 1786).

3 17. Textbooks by any bookstore that are required by any state
4 university or community college.

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

9 19. Articles of food, drink or condiment and accessory tangible
10 personal property to a school district or charter school if such articles
11 and accessory tangible personal property are to be prepared and served to
12 persons for consumption on the premises of a public school within the
13 district or on the premises of the charter school during school hours.

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

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

23 (a) "Cash equivalents" means items or intangibles, whether or not
24 negotiable, that are sold to one or more persons, through which a value
25 denominated in money is purchased in advance and may be redeemed in full
26 or in part for tangible personal property, intangibles or services. Cash
27 equivalents include gift cards, stored value cards, gift certificates,
28 vouchers, traveler's checks, money orders or other instruments, orders or
29 electronic mechanisms, such as an electronic code, personal identification
30 number or digital payment mechanism, or any other prepaid intangible right
31 to acquire tangible personal property, intangibles or services in the
32 future, whether from the seller of the cash equivalent or from another
33 person. Cash equivalents do not include either of the following:

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

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

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

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

1 22. Motor vehicle fuel and use fuel that are subject to a tax
2 imposed under title 28, chapter 16, article 1, sales of use fuel to a
3 holder of a valid single trip use fuel tax permit issued under section
4 28-5739, sales of aviation fuel that are subject to the tax imposed under
5 section 28-8344 and sales of jet fuel that are subject to the tax imposed
6 under article 8 of this chapter.

7 23. Tangible personal property sold to a person engaged in the
8 business of leasing or renting such property under the personal property
9 rental classification if such property is to be leased or rented by such
10 person.

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

14 25. Tangible personal property sold to:

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

16 (b) A qualifying health care organization as defined in section
17 42-5001 if the tangible personal property is used by the organization
18 solely to provide health and medical related educational and charitable
19 services.

20 (c) A qualifying health care organization as defined in section
21 42-5001 if the organization is dedicated to providing educational,
22 therapeutic, rehabilitative and family medical education training for
23 blind and visually impaired children and children with multiple
24 disabilities from the time of birth to age twenty-one.

25 (d) A qualifying community health center as defined in section
26 42-5001.

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

30 (f) For taxable periods beginning from and after June 30, 2001, a
31 nonprofit charitable organization that has qualified under section
32 501(c)(3) of the internal revenue code and that provides residential
33 apartment housing for low-income persons over sixty-two years of age in a
34 facility that qualifies for a federal housing subsidy, if the tangible
35 personal property is used by the organization solely to provide
36 residential apartment housing for low-income persons over sixty-two years
37 of age in a facility that qualifies for a federal housing subsidy.

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

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

44 26. Magazines or other periodicals or other publications by this
45 state to encourage tourist travel.

1 27. Tangible personal property sold to:

2 (a) A person that is subject to tax under this article by reason of
3 being engaged in business classified under section 42-5075 or to a
4 subcontractor working under the control of a person engaged in business
5 classified under section 42-5075, if the property so sold is any of the
6 following:

7 (i) Incorporated or fabricated by the person into any real
8 property, structure, project, development or improvement as part of the
9 business.

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

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

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

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

24 29. Tangible personal property purchased in this state by a
25 nonprofit charitable organization that has qualified under section
26 501(c)(3) of the United States internal revenue code and that engages in
27 and uses such property exclusively in programs for persons with mental or
28 physical disabilities if the programs are exclusively for training, job
29 placement, rehabilitation or testing.

30 30. Sales of tangible personal property by a nonprofit organization
31 that is exempt from taxation under section 501(c)(3), 501(c)(4) or
32 501(c)(6) of the internal revenue code if the organization is associated
33 with a major league baseball team or a national touring professional
34 golfing association and no part of the organization's net earnings inures
35 to the benefit of any private shareholder or individual. This paragraph
36 does not apply to an organization that is owned, managed or controlled, in
37 whole or in part, by a major league baseball team, or its owners,
38 officers, employees or agents, or by a major league baseball association
39 or professional golfing association, or its owners, officers, employees or
40 agents, unless the organization conducted or operated exhibition events in
41 this state before January 1, 2018 that were exempt from taxation under
42 section 42-5073.

43 31. Sales of commodities, as defined by title 7 United States Code
44 section 2, that are consigned for resale in a warehouse in this state in
45 or from which the commodity is deliverable on a contract for future

1 delivery subject to the rules of a commodity market regulated by the
2 United States commodity futures trading commission.

3 32. Sales of tangible personal property by a nonprofit organization
4 that is exempt from taxation under section 501(c)(3), 501(c)(4),
5 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
6 organization sponsors or operates a rodeo featuring primarily farm and
7 ranch animals and no part of the organization's net earnings inures to the
8 benefit of any private shareholder or individual.

9 33. Sales of propagative materials to persons who use those items
10 to commercially produce agricultural, horticultural, viticultural or
11 floricultural crops in this state. For the purposes of this paragraph,
12 "propagative materials":

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

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

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

27 35. Sales of natural gas or liquefied petroleum gas used to propel
28 a motor vehicle.

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

32 37. Coal, petroleum, coke, natural gas, virgin fuel oil and
33 electricity sold to a qualified environmental technology manufacturer,
34 producer or processor as defined in section 41-1514.02 and directly used
35 or consumed in generating or providing on-site power or energy solely for
36 environmental technology manufacturing, producing or processing or
37 environmental protection. This paragraph applies for twenty full
38 consecutive calendar or fiscal years from the date the first paper
39 manufacturing machine is placed in service. In the case of an
40 environmental technology manufacturer, producer or processor that does not
41 manufacture paper, the time period begins with the date the first
42 manufacturing, processing or production equipment is placed in service.

43 38. Sales of liquid, solid or gaseous chemicals used in
44 manufacturing, processing, fabricating, mining, refining, metallurgical
45 operations, research and development and, beginning on January 1, 1999,

1 printing, if using or consuming the chemicals, alone or as part of an
 2 integrated system of chemicals, involves direct contact with the materials
 3 from which the product is produced for the purpose of causing or allowing
 4 a chemical or physical change to occur in the materials as part of the
 5 production process. This paragraph does not include chemicals that are
 6 used or consumed in activities such as packaging, storage or
 7 transportation but does not affect any deduction for such chemicals that
 8 is otherwise provided by this section. For the purposes of this
 9 paragraph, "printing" means a commercial printing operation and includes
 10 job printing, engraving, embossing, copying and bookbinding.

11 39. Through December 31, 1994, personal property liquidation
 12 transactions, conducted by a personal property liquidator. From and after
 13 December 31, 1994, personal property liquidation transactions shall be
 14 taxable under this section provided that nothing in this subsection shall
 15 be construed to authorize the taxation of casual activities or
 16 transactions under this chapter. For the purposes of this paragraph:

17 (a) "Personal property liquidation transaction" means a sale of
 18 personal property made by a personal property liquidator acting solely on
 19 behalf of the owner of the personal property sold at the dwelling of the
 20 owner or on the death of any owner, on behalf of the surviving spouse, if
 21 any, any devisee or heir or the personal representative of the estate of
 22 the deceased, if one has been appointed.

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

25 40. Sales of food, drink and condiment for consumption within the
 26 premises of any prison, jail or other institution under the jurisdiction
 27 of the state department of corrections, the department of public safety,
 28 the department of juvenile corrections or a county sheriff.

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

34 42. Sales of:

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

37 (b) Livestock and poultry feed, salts, vitamins and other additives
 38 for livestock or poultry consumption that are sold to persons for use or
 39 consumption by their own livestock or poultry, for use or consumption in
 40 the businesses of farming, ranching and producing or feeding livestock,
 41 poultry, or livestock or poultry products or for use or consumption in
 42 noncommercial boarding of livestock. For the purposes of this paragraph,
 43 "poultry" includes ratites.

44 43. Sales of implants used as growth promotants and injectable
 45 medicines, not already exempt under paragraph 8 of this subsection, for

1 livestock or poultry owned by or in possession of persons that are engaged
2 in producing livestock, poultry, or livestock or poultry products or that
3 are engaged in feeding livestock or poultry commercially. For the
4 purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

24 48. Tangible personal property sold to a commercial airline and
25 consisting of food, beverages and condiments and accessories used for
26 serving the food and beverages, if those items are to be provided without
27 additional charge to passengers for consumption in flight. For the
28 purposes of this paragraph, "commercial airline" means a person holding a
29 federal certificate of public convenience and necessity or foreign air
30 carrier permit for air transportation to transport persons, property or
31 United States mail in intrastate, interstate or foreign commerce.

32 49. Sales of alternative fuel vehicles if the vehicle was
33 manufactured as a diesel fuel vehicle and converted to operate on
34 alternative fuel and equipment that is installed in a conventional diesel
35 fuel motor vehicle to convert the vehicle to operate on an alternative
36 fuel, as defined in section 1-215.

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

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

43 52. Sales of tangible personal property by a nonprofit organization
44 that is exempt from taxation under section 501(c)(6) of the internal
45 revenue code if the organization produces, organizes or promotes cultural

1 or civic related festivals or events and no part of the organization's net
2 earnings inures to the benefit of any private shareholder or individual.

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

7 ~~(a) "Application services" means software applications provided~~
8 ~~remotely using hypertext transfer protocol or another network protocol.~~

9 ~~(b) "Curriculum design or enhancement" means planning, implementing~~
10 ~~or reporting on courses of study, lessons, assignments or other learning~~
11 ~~activities.~~

12 ~~54.~~ 53. Sales of motor vehicle fuel and use fuel to a qualified
13 business under section 41-1516 for off-road use in harvesting, processing
14 or transporting qualifying forest products removed from qualifying
15 projects as defined in section 41-1516.

16 ~~55.~~ 54. Sales of repair parts installed in equipment used directly
17 by a qualified business under section 41-1516 in harvesting, processing or
18 transporting qualifying forest products removed from qualifying projects
19 as defined in section 41-1516.

20 ~~56.~~ 55. Sales or other transfers of renewable energy credits or
21 any other unit created to track energy derived from renewable energy
22 resources. For the purposes of this paragraph, "renewable energy credit"
23 means a unit created administratively by the corporation commission or
24 governing body of a public power utility to track kilowatt hours of
25 electricity derived from a renewable energy resource or the kilowatt hour
26 equivalent of conventional energy resources displaced by distributed
27 renewable energy resources.

28 ~~57.~~ 56. Orthodontic devices dispensed by a dental professional who
29 is licensed under title 32, chapter 11 to a patient as part of the
30 practice of dentistry.

31 ~~58.~~ 57. Sales of tangible personal property incorporated or
32 fabricated into a project described in section 42-5075, subsection 0, that
33 is located within the exterior boundaries of an Indian reservation for
34 which the owner, as defined in section 42-5075, of the project is an
35 Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

44 (c) "Indian tribe" means any organized nation, tribe, band or
45 community that is recognized as an Indian tribe by the United States

1 department of the interior and includes any entity formed under the laws
2 of the Indian tribe.

3 ~~59.~~ 58. Sales of works of fine art, as defined in section 44-1771,
4 at an art auction or gallery in this state to nonresidents of this state
5 for use outside this state if the vendor ships or delivers the work of
6 fine art to a destination outside this state.

7 ~~60.~~ 59. Sales of tangible personal property by a marketplace
8 seller that are facilitated by a marketplace facilitator in which the
9 marketplace facilitator has remitted or will remit the applicable tax to
10 the department pursuant to section 42-5014.

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

15 1. Machinery, or equipment, used directly in manufacturing,
16 processing, fabricating, job printing, refining or metallurgical
17 operations. The terms "manufacturing", "processing", "fabricating", "job
18 printing", "refining" and "metallurgical" as used in this paragraph refer
19 to and include those operations commonly understood within their ordinary
20 meaning. "Metallurgical operations" includes leaching, milling,
21 precipitating, smelting and refining.

22 2. Mining machinery, or equipment, used directly in the process of
23 extracting ores or minerals from the earth for commercial purposes,
24 including equipment required to prepare the materials for extraction and
25 handling, loading or transporting such extracted material to the surface.
26 "Mining" includes underground, surface and open pit operations for
27 extracting ores and minerals.

28 3. Tangible personal property sold to persons engaged in business
29 classified under the telecommunications classification, including a person
30 representing or working on behalf of such a person in a manner described
31 in section 42-5075, subsection 0, and consisting of central office
32 switching equipment, switchboards, private branch exchange equipment,
33 microwave radio equipment and carrier equipment including optical fiber,
34 coaxial cable and other transmission media that are components of carrier
35 systems.

36 4. Machinery, equipment or transmission lines used directly in
37 producing or transmitting electrical power, but not including
38 distribution. Transformers and control equipment used at transmission
39 substation sites constitute equipment used in producing or transmitting
40 electrical power.

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

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

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

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

9 6. Neat animals, horses, asses, sheep, ratices, swine or goats used
10 or to be used as breeding or production stock, including sales of
11 breedings or ownership shares in such animals used for breeding or
12 production.

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

17 8. Aircraft, navigational and communication instruments and other
18 accessories and related equipment sold to:

19 (a) A person:

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

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

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

33 (iv) Operating an aircraft to transport persons in any manner for
34 compensation or hire, or for use in a fractional ownership program that
35 meets the requirements of federal aviation administration regulations
36 (14 Code of Federal Regulations part 91, subpart K), including as an air
37 carrier, a foreign air carrier or a commercial operator or under a
38 restricted category, within the meaning of 14 Code of Federal Regulations,
39 regardless of whether the operation or aircraft is regulated or certified
40 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
41 of Federal Regulations.

42 (v) That will lease or otherwise transfer operational control,
43 within the meaning of federal aviation administration operations
44 specification A008, or its successor, of the aircraft, instruments or

1 accessories to one or more persons described in item (i), (ii), (iii) or
2 (iv) of this subdivision, subject to section 42-5009, subsection Q.

3 (b) Any foreign government.

4 (c) Persons who are not residents of this state and who will not
5 use such property in this state other than in removing such property from
6 this state. This subdivision also applies to corporations that are not
7 incorporated in this state, regardless of maintaining a place of business
8 in this state, if the principal corporate office is located outside this
9 state and the property will not be used in this state other than in
10 removing the property from this state.

11 9. Machinery, tools, equipment and related supplies used or
12 consumed directly in repairing, remodeling or maintaining aircraft,
13 aircraft engines or aircraft component parts by or on behalf of a
14 certificated or licensed carrier of persons or property.

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

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

20 12. Buses or other urban mass transit vehicles that are used
21 directly to transport persons or property for hire or pursuant to a
22 governmentally adopted and controlled urban mass transportation program
23 and that are sold to bus companies holding a federal certificate of
24 convenience and necessity or operated by any city, town or other
25 governmental entity or by any person contracting with such governmental
26 entity as part of a governmentally adopted and controlled program to
27 provide urban mass transportation.

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

29 14. Machinery and equipment consisting of agricultural aircraft,
30 tractors, off-highway vehicles, tractor-drawn implements, self-powered
31 implements, machinery and equipment necessary for extracting milk, and
32 machinery and equipment necessary for cooling milk and livestock, and drip
33 irrigation lines not already exempt under paragraph 7 of this subsection
34 and that are used for commercial production of agricultural,
35 horticultural, viticultural and floricultural crops and products in this
36 state. For the purposes of this paragraph:

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

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

1 15. Machinery or equipment used in research and development. For
2 the purposes of this paragraph, "research and development" means basic and
3 applied research in the sciences and engineering, and designing,
4 developing or testing prototypes, processes or new products, including
5 research and development of computer software that is embedded in or an
6 integral part of the prototype or new product or that is required for
7 machinery or equipment otherwise exempt under this section to function
8 effectively. Research and development do not include manufacturing
9 quality control, routine consumer product testing, market research, sales
10 promotion, sales service, research in social sciences or psychology,
11 computer software research that is not included in the definition of
12 research and development, or other nontechnological activities or
13 technical services.

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

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

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

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

26 (ii) Over two-thirds of the transmissions, measured in megabytes,
27 transmitted by or on behalf of those direct broadcast television or data
28 transmission services during the test period were transmitted by the
29 facility to or on behalf of those services. For the purposes of
30 subdivision (b) of this paragraph, "test period" means the three hundred
31 sixty-five day period beginning on the later of the date on which the
32 tangible personal property is purchased or the date on which the direct
33 broadcast satellite television or data transmission service first
34 transmits information to its customers.

35 17. Clean rooms that are used for manufacturing, processing,
36 fabrication or research and development, as defined in paragraph 15 of
37 this subsection, of semiconductor products. For the purposes of this
38 paragraph, "clean room" means all property that comprises or creates an
39 environment where humidity, temperature, particulate matter and
40 contamination are precisely controlled within specified parameters,
41 without regard to whether the property is actually contained within that
42 environment or whether any of the property is affixed to or incorporated
43 into real property. Clean room:

44 (a) Includes the integrated systems, fixtures, piping, movable
45 partitions, lighting and all property that is necessary or adapted to

1 reduce contamination or to control airflow, temperature, humidity,
2 chemical purity or other environmental conditions or manufacturing
3 tolerances, as well as the production machinery and equipment operating in
4 conjunction with the clean room environment.

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

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

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

24 20. Machinery and equipment that are sold to a person engaged in
25 commercially producing livestock, livestock products or agricultural,
26 horticultural, viticultural or floricultural crops or products in this
27 state, including a person representing or working on behalf of such a
28 person in a manner described in section 42-5075, subsection 0, if the
29 machinery and equipment are used directly and primarily to prevent,
30 monitor, control or reduce air, water or land pollution.

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

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

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

43 (c) Any machinery or equipment purchased after the television
44 station has ceased analog broadcasting, or purchased after November 1,
45 2009, whichever occurs first.

1 22. Qualifying equipment that is purchased from and after June 30,
2 2004 through June 30, 2024 by a qualified business under section 41-1516
3 for harvesting or processing qualifying forest products removed from
4 qualifying projects as defined in section 41-1516. To qualify for this
5 deduction, the qualified business at the time of purchase must present its
6 certification approved by the department.

7 23. Computer data center equipment sold to the owner, operator or
8 qualified colocation tenant of a computer data center that is certified by
9 the Arizona commerce authority under section 41-1519 or an authorized
10 agent of the owner, operator or qualified colocation tenant during the
11 qualification period for use in the qualified computer data center. For
12 the purposes of this paragraph, "computer data center", "computer data
13 center equipment", "qualification period" and "qualified colocation
14 tenant" have the same meanings prescribed in section 41-1519.

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

17 1. Expendable materials. For the purposes of this paragraph,
18 expendable materials do not include any of the categories of tangible
19 personal property specified in subsection B of this section regardless of
20 the cost or useful life of that property.

21 2. Janitorial equipment and hand tools.

22 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

11 G. If a person is engaged in the business of selling tangible
12 personal property at both wholesale and retail, the tax under this section
13 applies only to the gross proceeds of the sales made other than at
14 wholesale if the person's books are kept so as to show separately the
15 gross proceeds of sales of each class, and if the books are not so kept,
16 the tax under this section applies to the gross proceeds of every sale so
17 made.

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

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

29 2. Businesses classified under the:

30 (a) Transporting classification.

31 (b) Utilities classification.

32 (c) Telecommunications classification.

33 (d) Pipeline classification.

34 (e) Private car line classification.

35 (f) Publication classification.

36 (g) Job printing classification.

37 (h) Prime contracting classification.

38 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 S. If a seller is entitled to a deduction pursuant to subsection B,
29 paragraph 16, subdivision (b) of this section, the department may require
30 the purchaser to establish that the requirements of subsection B,
31 paragraph 16, subdivision (b) of this section have been satisfied. If the
32 purchaser cannot establish that the requirements of subsection B,
33 paragraph 16, subdivision (b) of this section have been satisfied, the
34 purchaser is liable in an amount equal to any tax, penalty and interest
35 that the seller would have been required to pay under article 1 of this
36 chapter if the seller had not made a deduction pursuant to subsection B,
37 paragraph 16, subdivision (b) of this section. Payment of the amount
38 under this subsection exempts the purchaser from liability for any tax
39 imposed under article 4 of this chapter and related to the tangible
40 personal property purchased. The amount shall be treated as transaction
41 privilege tax to the purchaser and as tax revenues collected from the
42 seller to designate the distribution base pursuant to section 42-5029.

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

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

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

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

20 V. For the purposes of this section:

21 1. "Agricultural aircraft" means an aircraft that is built for
22 agricultural use for the aerial application of pesticides or fertilizer or
23 for aerial seeding.

24 2. "Aircraft" includes:

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

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

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

34 4. "Selling at retail" means a sale for any purpose other than for
35 resale in the regular course of business in the form of tangible personal
36 property, but transfer of possession, lease and rental as used in the
37 definition of sale mean only such transactions as are found on
38 investigation to be in lieu of sales as defined without the words lease or
39 rental.

40 W. For the purposes of subsection I of this section:

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

44 2. "Manufacturer" means a person who is principally engaged in
45 fabricating, producing or manufacturing products, wares or articles for

1 use from raw or prepared materials, imparting to those materials new
2 forms, qualities, properties and combinations.

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

5 4. "Overhead materials" means tangible personal property, the gross
6 proceeds of sales or gross income derived from that would otherwise be
7 included in the retail classification, and that are used or consumed in
8 performing a contract, the cost of which is charged to an overhead expense
9 account and allocated to various contracts based on generally accepted
10 accounting principles and consistent with government contract accounting
11 standards.

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

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

24 Sec. 6. Section 42-5071, Arizona Revised Statutes, is amended to
25 read:

26 42-5071. Personal property rental classification; definitions

27 A. The personal property rental classification is comprised of the
28 business of leasing or renting tangible personal property for a
29 consideration and includes peer-to-peer car sharing. The tax does not
30 apply to:

31 1. Leasing or renting films, tapes or slides used by theaters or
32 movies, which are engaged in business under the amusement classification,
33 or used by television stations or radio stations.

34 2. Activities engaged in by the Arizona exposition and state fair
35 board or county fair commissions in connection with events sponsored by
36 such entities.

37 3. Leasing or renting tangible personal property by a parent
38 business entity to a subsidiary business entity or by a subsidiary
39 business entity to another subsidiary of the same parent business entity
40 if taxes were paid under this chapter on the gross proceeds or gross
41 income accruing from the initial sale of the tangible personal property.
42 For the purposes of this paragraph, "subsidiary" means a business entity
43 of which at least eighty percent of the voting shares are owned by the
44 parent business entity.

1 4. Operating coin-operated washing, drying and dry cleaning
2 machines or coin-operated car washing machines at establishments for the
3 use of such machines.

4 5. Leasing or renting tangible personal property for incorporation
5 into or comprising any part of a qualified environmental technology
6 facility as described in section 41-1514.02. This paragraph shall apply
7 for ten full consecutive calendar or fiscal years following the initial
8 lease or rental by each qualified environmental technology manufacturer,
9 producer or processor.

10 6. Leasing or renting aircraft, flight simulators or similar
11 training equipment to students or staff by nonprofit, accredited
12 educational institutions that offer associate or baccalaureate degrees in
13 aviation or aerospace related fields.

14 7. Leasing or renting photographs, transparencies or other creative
15 works used by this state on internet websites, in magazines or in other
16 publications that encourage tourism.

17 8. Leasing or renting certified ignition interlock devices
18 installed pursuant to the requirements prescribed by section 28-1461. For
19 the purposes of this paragraph, "certified ignition interlock device" has
20 the same meaning prescribed in section 28-1301.

21 9. The leasing or renting of space to make attachments to utility
22 poles, as follows:

23 (a) By a person that is engaged in business under section 42-5063
24 or 42-5064 or that is a cable operator.

25 (b) To a person that is engaged in business under section 42-5063
26 or 42-5064 or that is a cable operator.

27 10. Leasing or renting billboards that are designed, intended or
28 used to advertise or inform and that are visible from any street, road or
29 other highway.

30 B. The tax base for the personal property rental classification is
31 the gross proceeds of sales or gross income derived from the business, but
32 the gross proceeds of sales or gross income derived from the following
33 shall be deducted from the tax base:

34 1. Reimbursements by the lessee to the lessor of a motor vehicle
35 for payments by the lessor of the applicable fees and taxes imposed by
36 sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter
37 15, article 2 and article IX, section 11, Constitution of Arizona, to the
38 extent such amounts are separately identified as such fees and taxes and
39 are billed to the lessee.

40 2. Leases or rentals of tangible personal property that, if it had
41 been purchased instead of leased or rented by the lessee, would have been
42 exempt under:

43 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25,
44 ~~29~~, OR 49 ~~or 53~~.

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

1 (c) Section 42-5061, subsection I, paragraph 1.

2 (d) Section 42-5061, subsection M.

3 3. Motor vehicle fuel and use fuel that are subject to a tax
4 imposed under title 28, chapter 16, article 1, sales of use fuel to a
5 holder of a valid single trip use fuel tax permit issued under section
6 28-5739 and sales of aviation fuel that are subject to the tax imposed
7 under section 28-8344.

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

10 5. Amounts received by a motor vehicle dealer for the first month
11 of a lease payment if the lease and the lease payment for the first month
12 of the lease are transferred to a third-party leasing company.

13 C. Sales of tangible personal property to be leased or rented to a
14 person engaged in a business classified under the personal property rental
15 classification are deemed to be resale sales.

16 D. In computing the tax base, the gross proceeds of sales or gross
17 income from the lease or rental of a motor vehicle does not include any
18 amount attributable to the car rental surcharge under section 5-839,
19 28-5810 or 48-4234.

20 E. Until December 31, 1988, leasing or renting animals for
21 recreational purposes is exempt from the tax imposed by this section.
22 Beginning January 1, 1989, the gross proceeds or gross income from leasing
23 or renting animals for recreational purposes is subject to taxation under
24 this section. Tax liabilities, penalties and interest paid for taxable
25 periods before January 1, 1989 shall not be refunded unless the taxpayer
26 requesting the refund provides proof satisfactory to the department that
27 the monies paid as taxes will be returned to the customer.

28 F. The tax base of the personal property rental classification does
29 not include the gross proceeds or gross income received by a shared
30 vehicle owner from a peer-to-peer car sharing program pursuant to section
31 42-5009, subsection R.

32 G. For the purposes of this section:

33 1. "Cable operator" has the same meaning prescribed in section
34 9-505 and includes a video service provider.

35 2. "Peer-to-peer car sharing" has the same meaning prescribed in
36 section 28-9601.

37 3. "Peer-to-peer car sharing program" has the same meaning
38 prescribed in section 28-9601.

39 4. "Shared vehicle owner" has the same meaning prescribed in
40 section 28-9601.

41 5. "Utility pole" means any wooden, metal or other pole used for
42 utility purposes and the pole's appurtenances that are attached or
43 authorized for attachment by the person controlling the pole.

1 Sec. 7. Section 42-5075, Arizona Revised Statutes, is amended to
2 read:

3 42-5075. Prime contracting classification; exemptions;
4 definitions

5 A. The prime contracting classification is comprised of the
6 business of prime contracting and the business of manufactured building
7 dealer. Sales for resale to another manufactured building dealer are not
8 subject to tax. Sales for resale do not include sales to a lessor of
9 manufactured buildings. The sale of a used manufactured building is not
10 taxable under this chapter. The prime contracting classification does not
11 include any work or operation performed by a person that is not required
12 to be licensed by the registrar of contractors pursuant to section
13 32-1121.

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

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

20 2. Sales and installation of groundwater measuring devices required
21 under section 45-604 and groundwater monitoring wells required by law,
22 including monitoring wells installed for acquiring information for a
23 permit required by law.

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

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

39 5. The gross proceeds of sales or gross income derived from a
40 contract to construct a qualified environmental technology manufacturing,
41 producing or processing facility, as described in section 41-1514.02, and
42 from subsequent construction and installation contracts that begin within
43 ten years after the start of initial construction. To qualify for this
44 deduction, before beginning work under the contract, the prime contractor
45 must obtain a letter of qualification from the department of revenue.

1 This paragraph shall apply for ten full consecutive calendar or fiscal
2 years after the start of initial construction.

3 6. The gross proceeds of sales or gross income from a contract to
4 provide for one or more of the following actions, or a contract for site
5 preparation, constructing, furnishing or installing machinery, equipment
6 or other tangible personal property, including structures necessary to
7 protect exempt incorporated materials or installed machinery or equipment,
8 and tangible personal property incorporated into the project, to perform
9 one or more of the following actions in response to a release or suspected
10 release of a hazardous substance, pollutant or contaminant from a facility
11 to the environment, unless the release was authorized by a permit issued
12 by a governmental authority:

13 (a) Actions to monitor, assess and evaluate such a release or a
14 suspected release.

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

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

20 (d) Pumping and treatment or in situ treatment of contaminated
21 groundwater or surface water to reduce the concentration or toxicity of a
22 contaminant.

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

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

32 7. The gross proceeds of sales or gross income that is derived from
33 a contract for the installation, assembly, repair or maintenance of
34 machinery, equipment or other tangible personal property that is either
35 deducted from the tax base of the retail classification under section
36 42-5061, subsection B or that is exempt from use tax under section
37 42-5159, subsection B and that has independent functional utility,
38 pursuant to the following provisions:

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

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

43 (ii) Any activity performed on any tangible personal property
44 relating to machinery, equipment or other tangible personal property with

1 independent functional utility in furtherance of any of the purposes
2 provided for under subdivision (d) of this paragraph.

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

7 (b) The deduction provided in this paragraph does not include gross
8 proceeds of sales or gross income from the portion of any contracting
9 activity that consists of the development of, or modification to, real
10 property in order to facilitate the installation, assembly, repair,
11 maintenance or removal of machinery, equipment or other tangible personal
12 property that is either deducted from the tax base of the retail
13 classification under section 42-5061, subsection B or exempt from use tax
14 under section 42-5159, subsection B.

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

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

22 (i) Assembling the machinery, equipment or other tangible personal
23 property.

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

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

29 (iv) Stabilizing or protecting the machinery, equipment or other
30 tangible personal property during operation by bolting, burying or
31 performing other similar nonpermanent connections to either real property
32 or real property improvements.

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

36 (a) Section 42-5061, subsection A, paragraph 25, 29 or ~~58~~ 57.

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

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

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

41 9. The gross proceeds of sales or gross income received from a
42 contract for the construction of an environmentally controlled facility
43 for the raising of poultry for the production of eggs and the sorting,
44 cooling and packaging of eggs.

1 10. The gross proceeds of sales or gross income that is derived
2 from a contract entered into with a person who is engaged in the
3 commercial production of livestock, livestock products or agricultural,
4 horticultural, viticultural or floricultural crops or products in this
5 state for the modification of any building, highway, road, excavation,
6 manufactured building or other structure, project, development or
7 improvement used directly and primarily to prevent, monitor, control or
8 reduce air, water or land pollution.

9 11. The gross proceeds of sales or gross income that is derived
10 from the installation, assembly, repair or maintenance of clean rooms that
11 are deducted from the tax base of the retail classification pursuant to
12 section 42-5061, subsection B, paragraph 17.

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

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

27 14. The gross proceeds of sales or gross income derived from a
28 contract entered into for the construction of a launch site, as defined in
29 14 Code of Federal Regulations section 401.5.

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

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

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

44 18. The gross proceeds of sales or gross income received from a
45 contract for the construction of any building, or other structure,

1 project, development or improvement owned by a qualified business under
2 section 41-1516 for harvesting or processing qualifying forest products
3 removed from qualifying projects as defined in section 41-1516 if actual
4 construction begins before January 1, 2024. To qualify for this
5 deduction, the prime contractor must obtain a letter of qualification from
6 the Arizona commerce authority before beginning work under the contract.

7 19. Any amount of the gross proceeds of sales or gross income
8 attributable to development fees that are incurred in relation to a
9 contract for construction, development or improvement of real property and
10 that are paid by a prime contractor or subcontractor. For the purposes of
11 this paragraph:

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

14 (b) The attributable amount is equal to the total amount of
15 development fees paid by the prime contractor or subcontractor, and the
16 total development fees credited in exchange for the construction of,
17 contribution to or dedication of real property for providing public
18 infrastructure, public safety or other public services necessary to the
19 development. The real property must be the subject of the development
20 fees.

21 (c) "Development fees" means fees imposed to offset capital costs
22 of providing public infrastructure, public safety or other public services
23 to a development and authorized pursuant to section 9-463.05, section
24 11-1102 or title 48 regardless of the jurisdiction to which the fees are
25 paid.

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

31 (a) "Mixed waste processing facility" means a solid waste facility
32 that is owned, operated or used for the treatment, processing or disposal
33 of solid waste, recyclable solid waste, conditionally exempt small
34 quantity generator waste or household hazardous waste. For the purposes
35 of this subdivision, "conditionally exempt small quantity generator
36 waste", "household hazardous waste" and "solid waste facility" have the
37 same meanings prescribed in section 49-701, except that solid waste
38 facility does include a site that stores, treats or processes paper,
39 glass, wood, cardboard, household textiles, scrap metal, plastic,
40 vegetative waste, aluminum, steel or other recyclable material.

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

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

1 (d) "Renewable energy" means usable energy, including electricity,
2 fuels, gas and heat, produced through the conversion of energy provided by
3 sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or
4 ~~other~~ ANOTHER nonfossil renewable resource.

5 21. The gross proceeds of sales or gross income derived from a
6 contract to install containment structures. For the purposes of this
7 paragraph, "containment structure" means a structure that prevents,
8 monitors, controls or reduces noxious or harmful discharge into the
9 environment.

10 C. Entitlement to the deduction pursuant to subsection B, paragraph
11 7 of this section is subject to the following provisions:

12 1. A prime contractor may establish entitlement to the deduction by
13 both:

14 (a) Marking the invoice for the transaction to indicate that the
15 gross proceeds of sales or gross income derived from the transaction was
16 deducted from the base.

17 (b) Obtaining a certificate executed by the purchaser indicating
18 the name and address of the purchaser, the precise nature of the business
19 of the purchaser, the purpose for which the purchase was made, the
20 necessary facts to establish the deductibility of the property under
21 section 42-5061, subsection B, and a certification that the person
22 executing the certificate is authorized to do so on behalf of the
23 purchaser. The certificate may be disregarded if the prime contractor has
24 reason to believe that the information contained in the certificate is not
25 accurate or complete.

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

29 3. The department may prescribe a form for the certificate
30 described in paragraph 1, subdivision (b) of this subsection. The
31 department may also adopt rules that describe the transactions with
32 respect to which a person is not entitled to rely solely on the
33 information contained in the certificate provided in paragraph 1,
34 subdivision (b) of this subsection but must instead obtain such additional
35 information as required in order to be entitled to the deduction.

36 4. If a prime contractor is entitled to a deduction by complying
37 with paragraph 1 of this subsection, the department may require the
38 purchaser who caused the execution of the certificate to establish the
39 accuracy and completeness of the information required to be contained in
40 the certificate that would entitle the prime contractor to the deduction.
41 If the purchaser cannot establish the accuracy and completeness of the
42 information, the purchaser is liable in an amount equal to any tax,
43 penalty and interest that the prime contractor would have been required to
44 pay under article 1 of this chapter if the prime contractor had not
45 complied with paragraph 1 of this subsection. Payment of the amount under

1 this paragraph exempts the purchaser from liability for any tax imposed
2 under article 4 of this chapter. The amount shall be treated as a
3 transaction privilege tax to the purchaser and as tax revenues collected
4 from the prime contractor in order to designate the distribution base for
5 purposes of section 42-5029.

6 D. Subcontractors or others who perform modification activities are
7 not subject to tax if they can demonstrate that the job was within the
8 control of a prime contractor or contractors or a dealership of
9 manufactured buildings and that the prime contractor or dealership is
10 liable for the tax on the gross income, gross proceeds of sales or gross
11 receipts attributable to the job and from which the subcontractors or
12 others were paid.

13 E. Amounts received by a contractor for a project are excluded from
14 the contractor's gross proceeds of sales or gross income derived from the
15 business if the person who hired the contractor executes and provides a
16 certificate to the contractor stating that the person providing the
17 certificate is a prime contractor and is liable for the tax under article
18 1 of this chapter. The department shall prescribe the form of the
19 certificate. If the contractor has reason to believe that the information
20 contained on the certificate is erroneous or incomplete, the department
21 may disregard the certificate. If the person who provides the certificate
22 is not liable for the tax as a prime contractor, that person is
23 nevertheless deemed to be the prime contractor in lieu of the contractor
24 and is subject to the tax under this section on the gross receipts or
25 gross proceeds received by the contractor.

26 F. Every person engaging or continuing in this state in the
27 business of prime contracting or dealership of manufactured buildings
28 shall present to the purchaser of such prime contracting or manufactured
29 building a written receipt of the gross income or gross proceeds of sales
30 from such activity and shall separately state the taxes to be paid
31 pursuant to this section.

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

38 H. For the purposes of section 42-5032.02, from and after
39 September 30, 2013, the department shall separately account for revenues
40 reported and collected under the prime contracting classification from any
41 prime contractor engaged in the construction of any buildings and
42 associated improvements that are for the benefit of a manufacturing
43 facility. For the purposes of this subsection, "associated improvements"
44 and "manufacturing facility" have the same meanings prescribed in section
45 42-5032.02.

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

11 J. Except as provided in subsection 0 of this section, the gross
12 proceeds of sales or gross income derived from landscaping activities is
13 subject to tax under this section. Landscaping includes installing lawns,
14 grading or leveling ground, installing gravel or boulders, planting trees
15 and other plants, felling trees, removing or mulching tree stumps,
16 removing other imbedded plants, building irrigation berms, installing
17 railroad ties and installing underground sprinkler or watering systems.

18 K. The portion of gross proceeds of sales or gross income
19 attributable to the actual direct costs of providing architectural or
20 engineering services that are incorporated in a contract is not subject to
21 tax under this section. For the purposes of this subsection, "direct
22 costs" means the portion of the actual costs that are directly expended in
23 providing architectural or engineering services.

24 L. Operating a landfill or a solid waste disposal facility is not
25 subject to taxation under this section, including filling, compacting and
26 creating vehicle access to and from cell sites within the landfill.
27 Constructing roads to a landfill or solid waste disposal facility and
28 constructing cells within a landfill or solid waste disposal facility may
29 be deemed prime contracting under this section.

30 M. The following apply in determining the taxable situs of sales of
31 manufactured buildings:

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

35 2. For sales in this state where the manufactured building dealer
36 does not contract to deliver the building to a setup site or does not
37 perform the setup, the taxable situs is the location of the dealership
38 where the building is delivered to the buyer.

39 3. For sales in this state where the manufactured building dealer
40 contracts to deliver the building to a setup site that is outside this
41 state, the situs is outside this state and the transaction is excluded
42 from tax.

43 N. The gross proceeds of sales or gross income attributable to a
44 written contract for design phase services or professional services,
45 executed before modification begins and with terms, conditions and pricing

1 of all of these services separately stated in the contract from those for
2 construction phase services, is not subject to tax under this section,
3 regardless of whether the services are provided sequential to or
4 concurrent with prime contracting activities that are subject to tax under
5 this section. This subsection does not include the gross proceeds of
6 sales or gross income attributable to construction phase services. For
7 the purposes of this subsection:

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

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

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

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

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

24 (ii) The amount of an adjustment, if any, to the guaranteed maximum
25 price as set in the contract for modification work. For the purposes of
26 this item, "guaranteed maximum price" means the amount guaranteed to be
27 the maximum amount due to a prime contractor for the performance of all
28 modification work for the project.

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

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

36 (e) Inspection to determine the dates of substantial completion or
37 final completion.

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

1 (g) Preparation of status reports after modification work has begun
2 detailing the progress of work performed, including preparation of any of
3 the following:

4 (i) Master schedule updates.

5 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

19 2. "Design phase services" means services for developing and
20 completing a design for a project that are not construction phase
21 services, including the following:

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

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

28 (c) Preparing drawings and specifications for architectural program
29 documents, schematic design documents, design development documents,
30 modification work documents or documents that identify the scope of or
31 materials for the project.

32 (d) Preparing an initial schedule for the project, excluding the
33 preparation of updates to the master schedule after modification work has
34 begun.

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

38 (i) Labor, materials, machinery and equipment, tools, water, heat,
39 utilities, transportation and other facilities and services used in the
40 execution and completion of modification work, regardless of whether they
41 are temporary or permanent or whether they are incorporated in the
42 modifications.

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

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

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

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

9 (vi) Any bond and insurance premiums.

10 (vii) Any applicable taxes.

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

13 (f) Reviewing and evaluating cost estimates and project documents
14 to prepare recommendations on site use, site improvements, selection of
15 materials, building systems and equipment, modification feasibility,
16 availability of materials and labor, local modification activity as
17 related to schedules and time requirements for modification work.

18 (g) Preparing the plan and procedures for selection of
19 subcontractors, including any prequalification of subcontractor
20 candidates.

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

26 0. The gross proceeds of sales or gross income derived from a
27 contract with the owner of real property or improvements to real property
28 for the maintenance, repair, replacement or alteration of existing
29 property is not subject to tax under this section if the contract does not
30 include modification activities, except as specified in this subsection.
31 The gross proceeds of sales or gross income derived from a de minimis
32 amount of modification activity does not subject the contract or any part
33 of the contract to tax under this section. For the purposes of this
34 subsection:

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

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

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

3 P. Notwithstanding subsection O of this section, a contract that
4 primarily involves surface or subsurface improvements to land and that is
5 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
6 taxable under this section, even if the contract also includes vertical
7 improvements. Agencies that are subject to procurement processes under
8 those provisions shall include in the request for proposals a notice to
9 bidders when those projects are subject to this section. This subsection
10 does not apply to contracts with:

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

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

22 Q. Notwithstanding subsection R, paragraph 10 of this section, a
23 person owning real property who enters into a contract for sale of the
24 real property, who is responsible to the new owner of the property for
25 modifications made to the property in the period subsequent to the
26 transfer of title and who receives a consideration for the modifications
27 is considered a prime contractor solely for purposes of taxing the gross
28 proceeds of sale or gross income received for the modifications made
29 subsequent to the transfer of title. The original owner's gross proceeds
30 of sale or gross income received for the modifications shall be determined
31 according to the following methodology:

32 1. If any part of the contract for sale of the property specifies
33 amounts to be paid to the original owner for the modifications to be made
34 in the period subsequent to the transfer of title, the amounts are
35 included in the original owner's gross proceeds of sale or gross income
36 under this section. Proceeds from the sale of the property that are
37 received after transfer of title and that are unrelated to the
38 modifications made subsequent to the transfer of title are not considered
39 gross proceeds of sale or gross income from the modifications.

40 2. If the original owner enters into an agreement separate from the
41 contract for sale of the real property providing for amounts to be paid to
42 the original owner for the modifications to be made in the period
43 subsequent to the transfer of title to the property, the amounts are
44 included in the original owner's gross proceeds of sale or gross income
45 received for the modifications made subsequent to the transfer of title.

1 3. If the original owner is responsible to the new owner for
2 modifications made to the property in the period subsequent to the
3 transfer of title and derives any gross proceeds of sale or gross income
4 from the project subsequent to the transfer of title other than a delayed
5 disbursement from escrow unrelated to the modifications, it is presumed
6 that the amounts are received for the modifications made subsequent to the
7 transfer of title unless the contrary is established by the owner through
8 its books, records and papers kept in the regular course of business.

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

11 R. For the purposes of this section:

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

14 (a) For existing property that is properly classified as class two
15 property under section 42-12002, paragraph 1, subdivision (c) or paragraph
16 2, subdivision (c) and that is used for residential purposes, class three
17 property under section 42-12003 or class four property under section
18 42-12004, this paragraph does not apply if the contract amount is more
19 than twenty-five percent of the most recent full cash value established
20 under chapter 13, article 2 of this title as of the date of any bid for
21 the work or the date of the contract, whichever value is higher.

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

25 (c) Project elements may not be artificially separated from a
26 contract to cause a project to qualify as an alteration. The department
27 has the burden of proof that project elements have been artificially
28 separated from a contract.

29 (d) If a project for which the owner and the person performing the
30 work reasonably believed, at the inception of the contract, would be
31 treated as an alteration under this paragraph and, on completion of the
32 project, the project exceeded the applicable threshold described in either
33 subdivision (a) or (b) of this paragraph by ~~no~~ NOT more than twenty-five
34 percent of the applicable threshold for any reason, the work performed
35 under the contract qualifies as an alteration.

36 (e) A change order that directly relates to the scope of work of
37 the original contract shall be treated as part of the original contract,
38 and the contract amount shall include any amount attributable to a change
39 order that directly relates to the scope of work of the original contract.

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

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

42 3. "Contractor" is synonymous with the term "builder" and means any
43 person or organization that undertakes to or offers to undertake to, or
44 purports to have the capacity to undertake to, or submits a bid to, or
45 does personally or by or through others, modify any building, highway,

1 road, railroad, excavation, manufactured building or other structure,
2 project, development or improvement, or to do any part of such a project,
3 including the erection of scaffolding or other structure or works in
4 connection with such a project, and includes subcontractors and specialty
5 contractors. For all purposes of taxation or deduction, this definition
6 shall govern without regard to whether or not such a contractor is acting
7 in fulfillment of a contract.

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

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

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

13 (b) Supervises, performs or coordinates the excavation and
14 completion of site improvements or the setup of a manufactured building,
15 including the contracting, if any, with any subcontractor or specialty
16 contractor for the completion of the contract.

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

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

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

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

27 7. "Modify" means to make a modification or cause a modification to
28 be made.

29 8. "Owner" means the person that holds title to the real property
30 or improvements to real property that is the subject of the work, as well
31 as an agent of the title holder and any person with the authority to
32 perform or authorize work on the real property or improvements, including
33 a tenant and a property manager. For the purposes of subsection 0 of this
34 section, a person who is hired by a general contractor that is hired by an
35 owner, or a subcontractor of a general contractor that is hired by an
36 owner, is considered to be hired by the owner.

37 9. "Prime contracting" means engaging in business as a prime
38 contractor.

39 10. "Prime contractor" means a contractor who supervises, performs
40 or coordinates the modification of any building, highway, road, railroad,
41 excavation, manufactured building or other structure, project, development
42 or improvement, including the contracting, if any, with any subcontractors
43 or specialty contractors and who is responsible for the completion of the
44 contract. Except as provided in subsections E and Q of this section, a
45 person who owns real property, who engages one or more contractors to

1 modify that real property and who does not itself modify that real
2 property is not a prime contractor within the meaning of this paragraph
3 regardless of the existence of a contract for sale or the subsequent sale
4 of that real property.

5 11. "Replacement" means the removal from service of one component
6 or system of existing property or tangible personal property installed in
7 existing property, including machinery or equipment, and the installation
8 of a new component or system or new tangible personal property, including
9 machinery or equipment, that provides the same, a similar or an upgraded
10 design or functionality, regardless of the contract amount and regardless
11 of whether the existing component or system or existing tangible personal
12 property is physically removed from the existing property.

13 12. "Sale of a used manufactured building" does not include a lease
14 of a used manufactured building.

15 Sec. 8. Title 42, chapter 5, article 2, Arizona Revised Statutes,
16 is amended by adding section 42-5077, to read:

17 42-5077. Digital goods classification; exemptions;
18 definitions

19 A. THE DIGITAL GOODS CLASSIFICATION IS COMPRISED OF THE BUSINESS OF
20 SELLING, LEASING OR LICENSING THE USE OF PREWRITTEN COMPUTER SOFTWARE OR
21 PROVIDING SPECIFIED DIGITAL GOODS. THE TAX BASE FOR THE DIGITAL GOODS
22 CLASSIFICATION IS THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM
23 THE BUSINESS. THE TAX IMPOSED ON THE DIGITAL GOODS CLASSIFICATION DOES
24 NOT APPLY TO PROCEEDS OF SALES OR GROSS INCOME FROM:

25 1. PROVIDING DIGITAL SERVICES.

26 2. TRANSACTIONS INVOLVING SELLING, LEASING OR LICENSING PREWRITTEN
27 COMPUTER SOFTWARE OR PROVIDING SPECIFIED DIGITAL GOODS TO PERSONS THAT ARE
28 ENGAGED IN BUSINESS UNDER THE DIGITAL GOODS CLASSIFICATION IF THE PERSON
29 ACQUIRES THE ITEMS TO SELL, LEASE, LICENSE OR PROVIDE TO ANOTHER PERSON AS
30 PART OF THE BUSINESS.

31 3. BUSINESSES THAT PROVIDE PREWRITTEN COMPUTER SOFTWARE OR
32 SPECIFIED DIGITAL GOODS ONLY AS INCONSEQUENTIAL ELEMENTS.

33 4. SERVICES THAT ARE RENDERED IN ADDITION TO PROVIDING PREWRITTEN
34 COMPUTER SOFTWARE OR SPECIFIED DIGITAL GOODS WHEN THE SERVICES ARE
35 OPTIONAL AND COULD BE PROVIDED BY A THIRD PARTY.

36 5. APPLICATION SERVICES THAT ARE DESIGNED TO ASSESS OR TEST STUDENT
37 LEARNING OR TO PROMOTE CURRICULUM DESIGN OR ENHANCEMENT AND THAT ARE
38 PURCHASED BY OR FOR ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE
39 OR STATE UNIVERSITY. FOR THE PURPOSES OF THIS PARAGRAPH:

40 (a) "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS THAT ARE
41 PROVIDED REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK
42 PROTOCOL.

43 (b) "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING
44 OR REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS OR OTHER LEARNING
45 ACTIVITIES.

1 6. TRANSACTIONS INVOLVING PREWRITTEN COMPUTER SOFTWARE OR SPECIFIED
2 DIGITAL GOODS THAT, IF THEY HAD BEEN PURCHASED AT RETAIL AND CLASSIFIED AS
3 TANGIBLE PERSONAL PROPERTY, WOULD HAVE BEEN EXEMPT UNDER THE FOLLOWING:

4 (a) SECTION 42-5061, SUBSECTION A, PARAGRAPH 24, 25, 29 OR 47.

5 (b) SECTION 42-5061, SUBSECTION B, PARAGRAPH 1, 2, 3, 4, 15, 22
6 OR 23.

7 (c) SECTION 42-5061, SUBSECTION I.

8 (d) SECTION 42-5061, SUBSECTION J, EXCEPT THE PROCEEDS OF SALES OR
9 GROSS INCOME OF SUCH TRANSACTIONS ARE ONLY FIFTY PERCENT EXEMPT.

10 7. TRANSACTIONS INVOLVING OVER-THE-TOP SERVICES CONSISTING OF AUDIO
11 OR VIDEO PROGRAMMING SERVICES RECEIVED BY THE END-USER CUSTOMER BY MEANS
12 OF AN INTERNET CONNECTION, REGARDLESS OF THE TECHNOLOGY USED, THAT INCLUDE
13 LINEAR OR LIVE PROGRAMMING THAT IS GENERALLY CONSIDERED COMPARABLE TO
14 PROGRAMMING PROVIDED BY A RADIO OR TELEVISION BROADCAST STATION REGARDLESS
15 OF WHETHER THE SERVICES ARE PROVIDED INDEPENDENTLY OR PACKAGED WITH OTHER
16 AUDIO OR VIDEO PROGRAMMING. OVER-THE-TOP SERVICES DO NOT INCLUDE
17 PAY-PER-VIEW AUDIO AND VIDEO PROGRAMMING SERVICES CONSISTING OF A SYSTEM
18 REQUIRING A CUSTOMER TO PAY SEPARATELY FOR EACH PROGRAM VIEWED REGARDLESS
19 OF THE MANNER IN WHICH THE PROGRAM MAY BE VIEWED OR WHETHER THE PROGRAM IS
20 LIVE, SCHEDULED OR AVAILABLE ON DEMAND.

21 B. IF A PERSON IS ENGAGED IN AN OCCUPATION OR BUSINESS TO WHICH
22 SUBSECTION A OF THIS SECTION APPLIES TO, THE PERSON'S BOOKS MUST BE KEPT
23 TO SHOW SEPARATELY THE GROSS PROCEEDS OF SALES AND GROSS INCOME FROM
24 PREWRITTEN COMPUTER SOFTWARE AND SPECIFIED DIGITAL GOODS AND THE GROSS
25 INCOME FROM SALES OF SERVICES AND, IF NOT SO KEPT, THE TAX SHALL BE
26 IMPOSED ON THE TOTAL OF THE PERSON'S GROSS PROCEEDS OF SALES AND GROSS
27 INCOME FROM PREWRITTEN COMPUTER SOFTWARE AND SPECIFIED DIGITAL GOODS AND
28 GROSS INCOME FROM SERVICES.

29 C. FOR THE PURPOSES OF THIS SECTION:

30 1. "COMPUTER" MEANS AN ELECTRONIC DEVICE THAT ACCEPTS INFORMATION
31 IN A DIGITAL OR SIMILAR FORM AND MANIPULATES THE INFORMATION FOR A RESULT
32 BASED ON A SEQUENCE OF INSTRUCTIONS.

33 2. "COMPUTER SOFTWARE" MEANS A PERPETUAL OR SUBSCRIPTION LICENSE TO
34 A SET OF CODED INSTRUCTIONS DESIGNED TO CAUSE A COMPUTER OR AUTOMATIC DATA
35 PROCESSING EQUIPMENT TO PERFORM A TASK.

36 3. "COMPUTER SOFTWARE MAINTENANCE CONTRACT" MEANS A CONTRACT THAT
37 OBLIGATES A COMPUTER SOFTWARE VENDOR TO PROVIDE CUSTOMERS WITH FUTURE
38 UPDATES OR UPGRADES TO COMPUTER SOFTWARE.

39 4. "DATA CENTER SERVICES" MEANS PROVIDING SPACE AND MECHANICAL AND
40 ELECTRICAL INFRASTRUCTURE FOR COMPUTERS OR COMPUTERS AND RELATED COMPUTER
41 EQUIPMENT THAT IS LOCATED IN A DATA CENTER ENVIRONMENT, TOGETHER WITH A
42 VARIETY OF SERVICES THAT MAY INCLUDE THE FOLLOWING:

43 (a) SECURING THE DATA CENTER BY USING LOCKED DOORS AND GATES, ALARM
44 SYSTEMS, VIDEO MONITORING AND SECURITY PERSONNEL.

1 (b) CONTROLLING THE TEMPERATURE, HUMIDITY AND PARTICULATE MATTER
2 WITHIN THE DATA CENTER TO OPTIMIZE THE LIFE, OPERATION AND RELIABILITY OF
3 THE COMPUTERS AND RELATED EQUIPMENT.

4 (c) PROVIDING FIRE SUPPRESSION SERVICES.

5 (d) ARRANGING FOR REDUNDANT HIGH-SPEED CONNECTIONS TO THE INTERNET
6 AND PROVIDING CROSS-CONNECTS FOR THE CONNECTIVITY.

7 (e) ENSURING AN ADEQUATE SUPPLY OF CLEAN, UNINTERRUPTED POWER.

8 (f) PROVIDING INSTANT, BATTERY-POWERED AND INTERMEDIATE DIESEL
9 GENERATOR BACK UP POWER SYSTEMS AND RETAINING ON-SITE TECHNICIANS
10 TWENTY-FOUR HOURS A DAY, SEVEN DAYS A WEEK TO MONITOR AND ALLEVIATE
11 PROBLEMS WITH THE SYSTEMS.

12 5. "DIGITAL SERVICES" MEANS:

13 (a) CLOUD-BASED OR REMOTELY ACCESSED SOFTWARE.

14 (b) DATA CENTER SERVICES.

15 (c) SERVICES THAT ARE PROVIDED ELECTRONICALLY AND THAT ARE NOT
16 SPECIFICALLY IDENTIFIED AS TAXABLE TRANSACTIONS AS PROVIDED IN THIS
17 ARTICLE.

18 6. "PREWRITTEN COMPUTER SOFTWARE":

19 (a) MEANS COMPUTER SOFTWARE THAT IS NOT DESIGNED AND NOT DEVELOPED
20 BY THE AUTHOR OR OTHER CREATOR TO THE SPECIFICATIONS OF A SPECIFIC
21 PURCHASER TO A SALE.

22 (b) INCLUDES:

23 (i) RELATED COMPUTER SOFTWARE MAINTENANCE CONTRACTS, WHETHER SOLD
24 TOGETHER WITH OR SEPARATELY FROM THE COMPUTER SOFTWARE.

25 (ii) COMBINATIONS OF TWO OR MORE PREWRITTEN COMPUTER SOFTWARE
26 PROGRAMS OR PREWRITTEN PORTIONS OF COMPUTER SOFTWARE PROGRAMS.

27 (iii) SOFTWARE THAT IS DESIGNED AND DEVELOPED BY THE AUTHOR OR
28 OTHER CREATOR TO THE SPECIFICATIONS OF A SPECIFIC PURCHASER IF THE
29 SOFTWARE IS SUBSEQUENTLY SOLD TO A PERSON OTHER THAN THE ORIGINAL
30 PURCHASER.

31 (iv) PREWRITTEN COMPUTER SOFTWARE, OR A PORTION OF PREWRITTEN
32 COMPUTER SOFTWARE, THAT IS MODIFIED OR ENHANCED TO ANY DEGREE IF THE
33 MODIFICATION OR ENHANCEMENT IS DESIGNED AND DEVELOPED TO THE
34 SPECIFICATIONS OF A SPECIFIC PURCHASER, BUT FOR WHICH THE SELLER'S,
35 LESSOR'S OR LICENSOR'S BOOKS ARE NOT KEPT TO SHOW SEPARATELY THE GROSS
36 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE MODIFICATION OR
37 ENHANCEMENT.

38 (c) DOES NOT INCLUDE A PORTION OF COMPUTER SOFTWARE THAT IS
39 MODIFIED OR ENHANCED TO ANY DEGREE, IF THE MODIFICATION OR ENHANCEMENT IS
40 DESIGNED AND DEVELOPED TO THE SPECIFICATIONS OF A SPECIFIC PURCHASER, AND
41 FOR WHICH THE SELLER'S, LESSOR'S OR LICENSOR'S BOOKS ARE KEPT TO SHOW
42 SEPARATELY THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE
43 MODIFICATION OR ENHANCEMENT.

- 1 7. "SPECIFIED DIGITAL GOODS":
2 (a) MEANS:
3 (i) DIGITAL AUDIOVISUAL WORKS, WHICH MEAN A SERIES OF RELATED
4 DIGITAL IMAGES THAT, WHEN SHOWN IN SUCCESSION, IMPART AN IMPRESSION OF
5 MOTION, TOGETHER WITH ACCOMPANYING SOUNDS, IF ANY.
6 (ii) DIGITAL AUDIO WORKS, WHICH MEAN WORKS THAT RESULT FROM THE
7 FIXATION OF A SERIES OF MUSICAL, SPOKEN OR OTHER DIGITAL SOUNDS, INCLUDING
8 RINGTONES. FOR THE PURPOSES OF THIS ITEM, "RINGTONES" MEANS DIGITIZED
9 SOUND FILES THAT ARE DOWNLOADED ONTO A DEVICE AND THAT MAY BE USED TO
10 ALERT THE CUSTOMER WITH RESPECT TO A COMMUNICATION.
11 (iii) DIGITAL BOOKS, ARTICLES, PERIODICALS AND OTHER PREWRITTEN
12 WORKS, WHICH MEAN DIGITAL WORKS THAT ARE GENERALLY RECOGNIZED IN THE
13 ORDINARY AND USUAL SENSE AS BOOKS, ARTICLES OR PERIODICALS.
14 (iv) DIGITAL VISUAL WORKS, WHICH MEAN DIGITAL IMAGES THAT CAN BE
15 VIEWED AS STILL IMAGES.
16 (b) DOES NOT INCLUDE:
17 (i) VIDEO SERVICE AS PRESCRIBED IN SECTION 9-1401 THAT IS PROVIDED
18 BY A CABLE OPERATOR. FOR THE PURPOSES OF THIS ITEM, "CABLE OPERATOR" HAS
19 THE SAME MEANING PRESCRIBED IN SECTION 9-505 AND INCLUDES A VIDEO SERVICE
20 PROVIDER AS PRESCRIBED IN SECTION 9-1401.
21 (ii) DIGITAL SERVICES.

22 Sec. 9. Section 42-5151, Arizona Revised Statutes, is amended to
23 read:

24 42-5151. Definitions

25 In this article, unless the context otherwise requires:

26 1. "Ancillary services" means those services so designated in
27 federal energy regulatory commission order 888 adopted in 1996 that
28 include the services necessary to support the transmission of electricity
29 from resources to loads while maintaining reliable operation of the
30 transmission system according to good utility practice.

31 2. "Electric distribution service" means distributing electricity
32 to retail electric customers through the use of electric distribution
33 facilities.

34 3. "Electric generation service" means providing electricity for
35 sale to retail electric customers but excluding electric distribution or
36 transmission services.

37 ~~6.~~ 4. "Electricity" means electric energy, electric capacity or
38 electric capacity and energy.

39 ~~7.~~ 5. "Electricity supplier" means a person, whether acting in a
40 principal, agent or other capacity, that offers to sell electricity to a
41 retail electric customer in this state.

42 ~~4.~~ 6. "Electric transmission service" means transmitting
43 electricity to retail electric customers or to electric distribution
44 facilities so classified by the federal energy regulatory commission or,

1 to the extent permitted by law, so classified by the corporation
2 commission.

3 ~~5.~~ 7. "Electric utility services" means the business of providing
4 electric ancillary services, electric distribution services, electric
5 generation services, electric transmission services and other services
6 related to providing electricity.

7 8. "Motor vehicles that are removed from inventory" means ~~a~~ motor
8 ~~vehicle~~ VEHICLES that ~~has~~ HAVE been removed from THE INVENTORY OF a motor
9 vehicle ~~dealer's~~ DEALER, as defined in section 28-4301, ~~inventory~~ and that
10 ~~is~~ ARE not for sale.

11 9. "Natural gas" means natural or artificial gas and includes
12 methane and propane gas, the natural gas commodity, natural gas pipeline
13 capacity or natural gas commodity and pipeline capacity.

14 10. "Natural gas utility services" means the business of selling
15 natural gas or providing natural gas transportation services or other
16 services related to providing natural gas.

17 11. "Notice" means written notice served personally or by certified
18 mail and addressed to the last known address of the person to whom such
19 notice is given.

20 12. "Other services" includes metering, meter reading services,
21 billing and collecting services.

22 13. "Person" means an individual, firm, partnership, joint venture,
23 association, corporation, estate, trust, receiver or syndicate, this state
24 or a county, city, municipality, district or other political subdivision
25 or agency thereof.

26 14. "PREWRITTEN COMPUTER SOFTWARE" HAS THE SAME MEANING PRESCRIBED
27 IN SECTION 42-5077.

28 ~~14.~~ 15. "Purchase" means any transfer, exchange or barter,
29 conditional or otherwise, in any manner or by any means, of tangible
30 personal property for a consideration, including transactions by which the
31 possession of property is transferred but the seller retains the title as
32 security for payment.

33 ~~15.~~ 16. "Purchase price" or "sales price" means the total amount
34 for which tangible personal property is sold, including any services that
35 are a part of the sale, valued in money, whether paid in money or
36 otherwise, and any amount for which credit is given to the purchaser by
37 the seller without any deduction on account of the cost of the property
38 sold, materials used, labor or services performed, interest charged,
39 losses or other expenses, but does not include:

40 (a) Discounts allowed and taken.

41 (b) Charges for labor or services in installing, remodeling or
42 repairing.

43 (c) Freight costs billed to and collected from a purchaser by a
44 retailer for tangible personal property ~~which~~ THAT, on the order of the

1 retailer, is shipped directly from a manufacturer or wholesaler to the
2 purchaser.

3 (d) Amounts attributable to federal excise taxes imposed by 26
4 United States Code section 4001, 4051 or 4081 on sales of heavy trucks and
5 trailers and automobiles or on sales of use fuel, as defined in section
6 28-5601.

7 (e) The value of merchandise that is traded in on the purchase of
8 new or pre-owned merchandise when the trade-in allowance is deducted from
9 the sales price of the new or pre-owned merchandise before the completion
10 of the sale.

11 ~~16.~~ 17. "Retail electric customer" means a person who purchases
12 electricity for that person's own use, including use in that person's
13 trade or business, and not for resale, redistribution or retransmission.

14 18. "Retailer" includes:

15 (a) Every person engaged in the business of making sales of
16 tangible personal property for storage, use or other consumption or in the
17 business of making sales at auction of tangible personal property owned by
18 that person or others for storage, use or other consumption. If in the
19 opinion of the department it is necessary for the efficient administration
20 of this article to regard any salesmen, representatives, peddlers or
21 canvassers as the agents of the dealers, distributors, supervisors or
22 employers under whom they operate or from whom they obtain the tangible
23 personal property sold by them, regardless of whether they are making
24 sales on their own behalf or on behalf of such dealers, distributors,
25 supervisors or employers, the department may so regard them and may regard
26 the dealers, distributors, supervisors or employers as retailers for
27 purposes of this article.

28 (b) A person who solicits orders for tangible personal property by
29 mail if the solicitations are substantial and recurring or if the retailer
30 benefits from any banking, financing, debt collection, telecommunication,
31 television shopping system, cable, optic, microwave or other communication
32 system or marketing activities occurring in this state or benefits from
33 the location in this state of authorized installation, servicing or repair
34 facilities.

35 ~~17.~~ 19. "Retail natural gas customer" means a person who purchases
36 natural gas for that person's own use, including use in that person's
37 trade or business, and not for resale, redistribution or retransmission.

38 ~~19.~~ 20. "Solar daylighting" means a device that is specifically
39 designed to capture and redirect the visible portion of the solar beam,
40 while controlling the infrared portion, for use in illuminating interior
41 building spaces in lieu of artificial lighting.

42 ~~20.~~ 21. "Solar energy device" means a system or series of
43 mechanisms designed primarily to provide heating, to provide cooling, to
44 produce electrical power, to produce mechanical power, to provide solar
45 daylighting or to provide any combination of the foregoing by means of

1 collecting and transferring solar generated energy into such uses by
2 either active or passive means, including wind generator systems that
3 produce electricity. Solar energy systems may also have the capability of
4 storing solar energy for future use. Passive systems shall clearly be
5 designed as a solar energy device, such as a trombe wall, and not merely
6 as a part of a normal structure, such as a window.

7 ~~22.~~ 22. "SPECIFIED DIGITAL GOODS" HAS THE SAME MEANING PRESCRIBED IN
8 SECTION 42-5077.

9 ~~21.~~ 23. "Storage" means keeping or retaining tangible personal
10 property purchased from a retailer for any purpose except sale in the
11 regular course of business or subsequent use solely outside this state.
12 For the purposes of this paragraph, sale in the regular course of business
13 does not include the transfer of title or possession of coal back and
14 forth between an owner or operator of a power plant and a person who is
15 responsible for refining coal if both of the following apply:

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

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

24 ~~22.~~ 24. "Taxpayer" means:

25 (a) Any retailer or person storing, using or consuming tangible
26 personal property, ~~OF WHICH~~ the storage, use or consumption ~~of which~~ is
27 subject to the tax imposed by this article ~~when such~~ IF THE tax was not
28 paid to a retailer.

29 (b) ANY VENDOR OF PREWRITTEN COMPUTER SOFTWARE OR SPECIFIED DIGITAL
30 GOODS OR ANY PERSON THAT IS USING SUCH ITEMS OF WHICH THE USE IS SUBJECT
31 TO THE TAX IMPOSED BY THIS ARTICLE IF THE TAX WAS NOT PAID TO THE VENDOR.

32 ~~23.~~ 25. "Use or consumption" means the exercise of any right or
33 power over tangible personal property, ~~PREWRITTEN COMPUTER SOFTWARE OR~~
34 ~~SPECIFIED DIGITAL GOODS THAT ARE~~ incidental to owning the property except
35 holding for sale or selling the property in the regular course of
36 business. For the purposes of this paragraph, selling the property in the
37 regular course of business does not include the transfer of title or
38 possession of coal back and forth between an owner or operator of a power
39 plant and a person who is responsible for refining coal if both of the
40 following apply:

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

43 (b) 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 subdivision, "coal refining process"

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

4 ~~24.~~ 26. "Utility business" means a person that is engaged in the
5 business of providing electric utility services to retail electric
6 customers or natural gas utility services to retail natural gas customers.

7 Sec. 10. Title 42, chapter 5, article 4, Arizona Revised Statutes,
8 is amended by adding section 42-5155.01, to read:

9 42-5155.01. Levy of tax; prewritten computer software and
10 specified digital goods; rate; purchaser's
11 liability; return; extension

12 A. AN EXCISE TAX IS LEVIED AND IMPOSED ON USING OR CONSUMING
13 PREWRITTEN COMPUTER SOFTWARE AND SPECIFIED DIGITAL GOODS IN THIS STATE AS
14 A PERCENTAGE OF THE ACQUISITION PRICE.

15 B. THE TAX IMPOSED BY THIS SECTION APPLIES TO ANY PURCHASER THAT
16 PURCHASES PREWRITTEN COMPUTER SOFTWARE OR SPECIFIED DIGITAL GOODS FOR
17 RESALE BUT THAT SUBSEQUENTLY USES OR CONSUMES THE ITEMS. THIS SECTION
18 DOES NOT APPLY TO ANY PURCHASE OF PREWRITTEN COMPUTER SOFTWARE OR
19 SPECIFIED DIGITAL GOODS IF THE VENDOR IS SUBJECT TO TRANSACTION PRIVILEGE
20 TAX UNDER ARTICLES 1 AND 2 OF THIS CHAPTER ON THE GROSS RECEIPTS FROM THE
21 SALE, LEASE OR LICENSING FOR USE OF THE PREWRITTEN COMPUTER SOFTWARE OR
22 SPECIFIED DIGITAL GOODS.

23 C. THE TAX RATE IS THE RATE OF TAX PRESCRIBED PURSUANT TO SECTION
24 42-5010, SUBSECTION A AS APPLIED TO THE DIGITAL GOODS CLASSIFICATION.

25 D. IN ADDITION TO THE RATE PRESCRIBED BY SUBSECTION C OF THIS
26 SECTION, AN ADDITIONAL RATE INCREMENT OF SIX-TENTHS OF ONE PERCENT IS
27 IMPOSED AND SHALL BE COLLECTED THROUGH JUNE 30, 2041. THE TAXPAYER SHALL
28 PAY TAXES PURSUANT TO THIS SUBSECTION AT THE SAME TIME AND IN THE SAME
29 MANNER AS UNDER SUBSECTION C OF THIS SECTION. THE DEPARTMENT SHALL
30 SEPARATELY ACCOUNT FOR THE REVENUES COLLECTED WITH RESPECT TO THE RATE
31 IMPOSED PURSUANT TO THIS SUBSECTION, AND THE STATE TREASURER SHALL PAY ALL
32 OF THOSE REVENUES IN THE MANNER PRESCRIBED BY SECTION 42-5029.02,
33 SUBSECTION A.

34 E. EACH PERSON USING OR CONSUMING PREWRITTEN COMPUTER SOFTWARE OR
35 SPECIFIED DIGITAL GOODS IN THIS STATE IS LIABLE FOR THE TAX. THE PERSON'S
36 LIABILITY IS NOT EXTINGUISHED UNTIL THE TAX HAS BEEN PAID TO THIS STATE.

37 F. A RECEIPT GIVEN TO THE PURCHASER FROM A VENDOR THAT MAINTAINS A
38 PLACE OF BUSINESS IN THIS STATE OR FROM A VENDOR THAT IS AUTHORIZED BY THE
39 DEPARTMENT TO COLLECT THE TAX, UNDER RULES ADOPTED BY THE DEPARTMENT, AND
40 THAT FOR THE PURPOSES OF THIS ARTICLE IS REGARDED AS A VENDOR MAINTAINING
41 A PLACE OF BUSINESS IN THIS STATE IS SUFFICIENT TO RELIEVE THE PURCHASER
42 FROM FURTHER LIABILITY FOR THE TAX TO WHICH THE RECEIPT REFERS.

43 G. ALL EXEMPTIONS UNDER SECTION 42-5077 APPLY TO THE TAX UNDER THIS
44 SECTION.

1 H. A PERSON THAT USES OR CONSUMES PREWRITTEN COMPUTER SOFTWARE OR
2 SPECIFIED DIGITAL GOODS ON WHICH A TAX IS IMPOSED BY THIS ARTICLE AND ON
3 WHICH THE TAX HAS NOT BEEN COLLECTED BY A REGISTERED VENDOR SHALL PAY THE
4 TAX AS PROVIDED BY THIS ARTICLE, BUT EACH VENDOR MAINTAINING A PLACE OF
5 BUSINESS IN THIS STATE AND MAKING SALES OF PREWRITTEN COMPUTER SOFTWARE OR
6 SPECIFIED DIGITAL GOODS FOR USE OR CONSUMPTION IN THIS STATE SHALL COLLECT
7 THE TAX FROM THE PURCHASER OR USER UNLESS THE PROPERTY IS EXEMPT UNDER
8 THIS ARTICLE OR THE PURCHASER OR USER PAYS THE TAX DIRECTLY TO THE
9 DEPARTMENT AS PROVIDED BY SECTION 42-5167.

10 I. EACH VENDOR ENGAGED IN THE BUSINESS OF SELLING, LEASING OR
11 LICENSING THE USE OF PREWRITTEN COMPUTER SOFTWARE OR SPECIFIED DIGITAL
12 GOODS OF WHICH THE USE OR CONSUMPTION IS SUBJECT TO THE TAX IMPOSED BY
13 THIS ARTICLE, AND EACH PERSON WHO ACQUIRES ANY SUCH PROPERTY FOR USE OR
14 CONSUMPTION IN THIS STATE, AND FOR WHICH THE TAX IS NOT PAID TO THE
15 VENDOR, SHALL FILE A RETURN WITH THE DEPARTMENT ON OR BEFORE THE TWENTIETH
16 DAY OF THE MONTH NEXT SUCCEEDING THE MONTH IN WHICH THE PROPERTY IS
17 BROUGHT INTO THIS STATE FOR USE OR CONSUMPTION. THE RETURN SHALL BE ON A
18 FORM PRESCRIBED BY THE DEPARTMENT AND SHALL SHOW THE AMOUNT OF PROPERTY
19 SOLD, LEASED OR LICENSED FOR USE OR CONSUMPTION OR ACQUIRED FOR USE OR
20 CONSUMPTION IN THIS STATE DURING THE PRECEDING MONTH. THE RETURN SHALL BE
21 VERIFIED BY OATH OR AFFIRMATION OF THE VENDOR OR PERSON MAKING THE REPORT,
22 OR THE PERSON'S AGENT, AND SHALL BE ACCOMPANIED BY PAYMENT OF THE TAX
23 SHOWN TO BE DUE. THE RETURN AND TAX ARE DELINQUENT IF NOT RECEIVED BY THE
24 DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY
25 OF THE MONTH WHEN DUE.

26 J. NOTWITHSTANDING SUBSECTION I OF THIS SECTION, A PERSON WHO IS
27 REQUIRED TO FILE A RETURN UNDER ARTICLE 1 OF THIS CHAPTER MAY REPORT AND
28 PAY THE TAX LIABILITY UNDER THIS ARTICLE ON THE SAME RETURN AND FILING
29 BASIS AS THE TAXES REPORTED UNDER ARTICLE 1 OF THIS CHAPTER.

30 K. FOR GOOD CAUSE THE DEPARTMENT MAY EXTEND THE TIME FOR MAKING A
31 RETURN AND PAYING THE TAX, BUT THE TIME FOR FILING THE RETURN MAY NOT BE
32 EXTENDED BEYOND THE FIRST DAY OF THE THIRD MONTH NEXT SUCCEEDING THE
33 REGULAR DUE DATE OF THE RETURN.

34 Sec. 11. Section 42-5167, Arizona Revised Statutes, is amended to
35 read:

36 42-5167. Use tax; direct payments; application; permits;
37 certificates

38 A. A person may elect to pay use taxes directly to the department
39 under this article if the person:

40 1. Applies to the department for a use tax direct payment permit.
41 The application must be on a form prescribed by the department setting
42 forth the name under which the applicant transacts or intends to transact
43 business, the location of the place or places of business where the
44 applicant intends to make direct payment of use taxes and any other

1 information that the department may require. The application must be
2 signed, in the case of:

- 3 (a) A natural person, by the owner.
- 4 (b) An association or partnership, by a member or partner.
- 5 (c) A corporation, by an executive officer or another person
6 specifically authorized by the corporation to sign the application.

7 2. Agrees to self-assess and pay directly to the department any use
8 tax liability incurred under this article.

9 3. Certifies to the department that the person purchased for the
10 person's own use ANY COMBINATION OF tangible personal property, PREWRITTEN
11 COMPUTER SOFTWARE OR SPECIFIED DIGITAL GOODS at a cost of ~~five hundred~~
12 ~~thousand dollars~~ \$500,000 or more, in the aggregate, during the
13 immediately preceding calendar year.

14 B. The department shall issue a use tax direct payment permit to
15 any applicant that meets the requirements of subsection A of this section.

16 C. If the department deems it necessary to protect the revenues to
17 be collected under this section, it may require a person to file a bond to
18 secure the payment of such amounts pursuant to section 42-1102.

19 D. A person ~~who~~ THAT holds a valid use tax direct payment permit
20 shall:

21 1. Self-assess and pay directly to the department use taxes due
22 under this article for all tangible personal property, PREWRITTEN COMPUTER
23 SOFTWARE OR SPECIFIED DIGITAL GOODS THAT ARE subject to use tax.

24 2. Report the tax on a tax return prescribed by the department.

25 E. A holder of a use tax direct payment ~~certificate~~ PERMIT may
26 issue a use tax direct payment certificate to any retailer or seller,
27 subject to all of the following:

28 1. The certificate shall be in a form prescribed by the department
29 and must be signed by and bear the name, address and permit number of the
30 holder of the use tax direct payment permit.

31 2. The certificate is effective until the permit holder revises or
32 withdraws the certificate or until the retailer or seller receives actual
33 notice that the department has revoked the permit.

34 3. The certificate relieves the retailer or seller of the duty to
35 collect use tax only if taken in good faith from a person ~~who~~ THAT holds a
36 use tax direct payment permit. The department may periodically publish on
37 its ~~web site~~ WEBSITE a list of taxpayers by name with tax identification
38 numbers ~~who~~ THAT have been issued direct payment permits. A purchaser
39 holding a direct payment permit ~~who~~ THAT issues a use tax direct payment
40 certificate that is accepted in good faith by a retailer or seller of
41 tangible personal property ~~shall be~~ OR A VENDOR OF PREWRITTEN COMPUTER
42 SOFTWARE OR SPECIFIED DIGITAL GOODS IS liable for use tax and related
43 interest and penalties with respect to any transaction that the department
44 subsequently determines properly subjects the vendor to the transaction

1 privilege tax and not use tax. The vendor ~~shall be~~ IS relieved of the
2 duty to pay transaction privilege tax on such transactions.

3 4. In addition to any use tax liabilities, a holder of a use tax
4 direct payment permit that gives a use tax direct payment certificate to a
5 retailer or seller is subject to the same penalty provisions that apply to
6 a retailer or seller.

7 Sec. 12. Section 42-6017, Arizona Revised Statutes, is amended to
8 read:

9 42-6017. Municipal taxation of businesses selling tangible
10 personal property at retail: state preemption:
11 exceptions; definitions

12 A. Except as provided in this section, section 42-5061 supersedes
13 all city or town ordinances or other local laws insofar as the ordinances
14 or local laws now or hereafter relate to the taxation of business
15 activities classified under section 42-5061.

16 B. The municipal tax rate for businesses selling tangible personal
17 property at retail for marketplace facilitators is the municipal tax rate
18 that is in effect in the city or town for businesses selling tangible
19 personal property at retail on September 30, 2019, until the city or town
20 changes the tax rate.

21 C. A city or town may:

22 1. Notwithstanding section 42-5061, subsection A, paragraph 15,
23 levy a transaction privilege tax on the gross proceeds of sales or gross
24 income derived from the business of selling food at retail by the persons
25 described in section 42-5102, subsection A, subject to the conditions of
26 sections 42-5074, 42-5101 and 42-6015.

27 2. Notwithstanding section 42-5061, subsection A, paragraph 17,
28 levy a transaction privilege tax on the gross proceeds of sales or gross
29 income derived from a bookstore selling textbooks that are required by any
30 state university or community college.

31 3. Notwithstanding section 42-5061, subsection A, paragraph 33,
32 paragraph 42, subdivision (b) and paragraph 43 and subsection B, paragraph
33 5, continue to levy an existing transaction privilege tax that was levied
34 on or before May 1, 2019 on the gross proceeds of sales or gross income
35 derived from the sales of:

36 (a) Propagative materials to persons who use those items to
37 commercially produce agricultural, horticultural, viticultural or
38 floricultural crops in this state. This subdivision does not apply and a
39 city or town may not continue to levy a transaction privilege tax pursuant
40 to this subdivision as follows:

41 (i) For a city or town with a population of fifty thousand persons
42 or less, from and after June 30, 2021.

43 (ii) For a city or town with a population of more than fifty
44 thousand persons, from and after December 31, 2019.

1 (b) Livestock and poultry feed, salts, vitamins and other additives
2 for livestock or poultry consumption that are sold to persons for use or
3 consumption by their own livestock or poultry, for use or consumption in
4 the businesses of farming, ranching and producing or feeding livestock,
5 poultry, or livestock or poultry products or for use or consumption in
6 noncommercial boarding of livestock.

7 (c) Implants used as growth promotants and injectable medicines,
8 not already exempt under section 42-5061, subsection A, paragraph 8, for
9 livestock or poultry owned by or in possession of persons who are engaged
10 in producing livestock, poultry, or livestock or poultry products or who
11 are engaged in feeding livestock or poultry commercially. This subdivision
12 does not apply and a city or town may not continue to levy a transaction
13 privilege tax pursuant to this subdivision as follows:

14 (i) For a city or town with a population of fifty thousand persons
15 or less, from and after June 30, 2021.

16 (ii) For a city or town with a population of more than fifty
17 thousand persons, from and after December 31, 2019.

18 (d) Neat animals, horses, asses, sheep, ratites, swine or goats
19 used or to be used as breeding or production stock, including sales of
20 breedings or ownership shares in such animals used for breeding or
21 production. This subdivision does not apply and a city or town may not
22 continue to levy a transaction privilege tax pursuant to this subdivision
23 as follows:

24 (i) For a city or town with a population of fifty thousand persons
25 or less, from and after June 30, 2021.

26 (ii) For a city or town with a population of more than fifty
27 thousand persons, from and after December 31, 2019.

28 4. Levy a transaction privilege tax on the gross proceeds of sales
29 or gross income derived from the sale of nonmetalliferous mined materials
30 at retail.

31 5. Notwithstanding section 42-5061, subsection A, paragraph ~~59~~ 58,
32 levy a transaction privilege tax on the gross proceeds of sales or gross
33 income derived from the sale of works of fine art, as defined in section
34 44-1771, at an art auction or gallery in this state to nonresidents of
35 this state for use outside this state if the vendor ships or delivers the
36 work of fine art to a destination outside this state.

37 6. Notwithstanding section 42-5061, subsection A, paragraph 28 or
38 section 42-5122, levy a transaction privilege tax on the gross proceeds of
39 sales or gross income derived from the sale of a motor vehicle to:

40 (a) A nonresident of this state if the purchaser's state of
41 residence does not allow a corresponding use tax exemption to the tax
42 imposed by chapter 5, article 1 of this title and if the nonresident has
43 secured a special ninety day nonresident registration permit for the
44 vehicle as prescribed by sections 28-2154 and 28-2154.01. This

1 subdivision does not apply if the purchaser takes possession of the
2 vehicle outside of this state.

3 (b) An enrolled member of an Indian tribe who resides on the Indian
4 reservation established for that tribe, except if possession of the
5 vehicle is received on the enrolled member's Indian reservation.

6 7. Exempt from transaction privilege, sales, use or other similar
7 tax the sale of paintings, sculptures or similar works of fine art, if
8 such works of fine art are sold by the original artist. For the purposes
9 of this paragraph, fine art does not include an art creation such as
10 jewelry, macramé, glasswork, pottery, woodwork, metalwork, furniture or
11 clothing if the art creation has a dual purpose, both aesthetic and
12 utilitarian, whether sold by the artist or by another person.

13 D. For the purposes of this section:

14 1. "Food" has the same meaning prescribed by rule adopted by the
15 department pursuant to section 42-5106.

16 2. "Marketplace facilitator" has the same meaning prescribed in
17 section 42-5001.

18 3. "Poultry" includes ratites.

19 4. "Propagative materials":

20 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
21 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
22 and plant substances, micronutrients, fertilizers, insecticides,
23 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
24 adjuvants, plant nutrients and plant growth regulators.

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

29 5. "Remote seller" has the same meaning prescribed in section
30 42-5001.

31 Sec. 13. Title 42, chapter 6, article 1, Arizona Revised Statutes,
32 is amended by adding section 42-6018, to read:

33 42-6018. Municipal tax on prewritten computer software,
34 specified digital goods and digital services;
35 definitions

36 A. A CITY OR TOWN THAT IMPOSES A TRANSACTION PRIVILEGE TAX SHALL
37 IMPOSE THE TAX ON PROCEEDS FROM SELLING, LEASING OR LICENSING THE USE OF
38 PREWRITTEN COMPUTER SOFTWARE AND PROVIDING SPECIFIED DIGITAL GOODS BUT
39 ONLY BY ADOPTING THE SAME TERMS AND CONDITIONS PROVIDED IN SECTION
40 42-5077. ALL TAXES ON PREWRITTEN COMPUTER SOFTWARE AND SPECIFIED DIGITAL
41 GOODS SHALL BE SOURCED AS PROVIDED IN SECTION 42-5040.

42 B. A CITY, TOWN OR OTHER TAXING JURISDICTION MAY NOT LEVY A
43 TRANSACTION PRIVILEGE, SALES, USE OR OTHER SIMILAR TAX, HOWEVER
44 DENOMINATED, ON DIGITAL SERVICES OR SPECIFIED DIGITAL GOODS THAT ARE
45 EXPRESSLY EXCLUDED FROM TAXATION UNDER SECTION 42-5002, SUBSECTION C.

1 C. THIS SECTION DOES NOT APPLY WITH RESPECT TO SERVICES PROVIDED BY
2 A PERSON THAT IS SUBJECT TO TAX UNDER THE ONLINE LODGING MARKETPLACE
3 CLASSIFICATION PURSUANT TO SECTIONS 42-5076 AND 42-6009.

4 D. FOR THE PURPOSES OF THIS SECTION, "DIGITAL SERVICES",
5 "PREWRITTEN COMPUTER SOFTWARE" AND "SPECIFIED DIGITAL GOODS" HAVE THE SAME
6 MEANINGS PRESCRIBED IN SECTION 42-5077.

7 Sec. 14. Legislative intent

8 The legislature intends that:

9 1. Proceeds from sales, leases and licenses for using prewritten
10 computer software and providing specified digital goods be subject to
11 transaction privilege and use tax as provided by law beginning the first
12 day of the month following the effective date of this act.

13 2. Proceeds from providing digital services not be subject to state
14 and local transaction privilege and use taxes.

15 Sec. 15. Applicability

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