

REFERENCE TITLE: online lodging; regulation; property classification

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1346

Introduced by
Senators Mendez: Terán; Representative Salman

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

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4 repealed.

5 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to
6 read:

7 42-2003. Authorized disclosure of confidential information

8 A. Confidential information relating to:

9 1. A taxpayer may be disclosed to the taxpayer, its successor in
10 interest or a designee of the taxpayer who is authorized in writing by the
11 taxpayer. A principal corporate officer of a parent corporation may
12 execute a written authorization for a controlled subsidiary. If a
13 taxpayer elects to file an Arizona small business income tax return under
14 section 43-302, a written authorization by a taxpayer to allow the
15 department to disclose personal income tax information to a designee
16 includes the corresponding Arizona small business income tax return.

17 2. A corporate taxpayer may be disclosed to any principal officer,
18 any person designated by a principal officer or any person designated in a
19 resolution by the corporate board of directors or other similar governing
20 body. If a corporate officer signs a statement under penalty of perjury
21 representing that the officer is a principal officer, the department may
22 rely on the statement until the statement is shown to be false. For the
23 purposes of this paragraph, "principal officer" includes a chief executive
24 officer, president, secretary, treasurer, vice president of tax, chief
25 financial officer, chief operating officer or chief tax officer or any
26 other corporate officer who has the authority to bind the taxpayer on
27 matters related to state taxes.

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

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

33 5. An estate may be disclosed to the personal representative of the
34 estate and to any heir, next of kin or beneficiary under the will of the
35 decedent if the department finds that the heir, next of kin or beneficiary
36 has a material interest that will be affected by the confidential
37 information.

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

42 7. A government entity may be disclosed to the head of the entity
43 or a member of the governing board of the entity, or any employee of the
44 entity who has been delegated the authorization in writing by the head of
45 the entity or the governing board of the entity.

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

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

6 10. Any taxpayer may be disclosed during a meeting or telephone
7 call if the taxpayer is present during the meeting or telephone call and
8 authorizes the disclosure of confidential information.

9 B. Confidential information may be disclosed to:

10 1. Any employee of the department whose official duties involve tax
11 administration.

12 2. The office of the attorney general solely for its use in
13 preparation for, or in an investigation that may result in, any proceeding
14 involving tax administration before the department or any other agency or
15 board of this state, or before any grand jury or any state or federal
16 court.

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

23 4. Other state tax officials whose official duties require the
24 disclosure for proper tax administration purposes if the information is
25 sought in connection with an investigation or any other proceeding
26 conducted by the official. Any disclosure is limited to information of a
27 taxpayer who is being investigated or who is a party to a proceeding
28 conducted by the official.

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

34 (a) The United States internal revenue service, alcohol and tobacco
35 tax and trade bureau of the United States treasury, United States bureau
36 of alcohol, tobacco, firearms and explosives of the United States
37 department of justice, United States drug enforcement agency and federal
38 bureau of investigation.

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

40 (c) An organization of states, federation of tax administrators or
41 multistate tax commission that operates an information exchange for tax
42 administration purposes.

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

1 (e) An agency, official or organization of an Indian tribal
2 government with responsibilities comparable to the responsibilities of the
3 agencies, officials or organizations identified in subdivision (a), (b) or
4 (c) of this paragraph.

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

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

9 (a) The processing, storage, transmission, destruction and
10 reproduction of the information.

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

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

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

18 (a) Regarding income tax or withholding tax.

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

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

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

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

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

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

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

35 (c) Fulfilling its annual reporting responsibility pursuant to
36 section 41-1512, subsections U and V and section 41-1517, subsection L.

37 (d) Certifying computer data centers for tax relief under section
38 41-1519.

39 (e) Certifying applicants for the tax credit for motion picture
40 production costs under sections 43-1082 and 43-1165.

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

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

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

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

3 17. The department of administration risk management division and
4 the office of the attorney general if the information relates to a claim
5 against this state pursuant to section 12-821.01 involving the department
6 of revenue.

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

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

13 20. The department of health services for its use in determining
14 the following:

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

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

21 21. The Arizona department of agriculture for the purpose of
22 ascertaining compliance with the licensing provisions in title 3.

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

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

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

28 (b) The proceeding arose out of, or in connection with, determining
29 the taxpayer's civil or criminal liability, or the collection of the
30 taxpayer's civil liability, with respect to any tax imposed under this
31 title or title 43.

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

34 (d) Return information directly relates to a transactional
35 relationship between a person who is a party to the proceeding and the
36 taxpayer and directly affects the resolution of an issue in the
37 proceeding.

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

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

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

8 F. A department employee, in connection with the official duties
9 relating to any audit, collection activity or civil or criminal
10 investigation, may disclose return information to the extent that
11 disclosure is necessary to obtain information that is not otherwise
12 reasonably available. These official duties include the correct
13 determination of and liability for tax, the amount to be collected or the
14 enforcement of other state tax revenue laws.

15 G. Confidential information relating to transaction privilege tax,
16 use tax, severance tax, jet fuel excise and use tax and any other tax
17 collected by the department on behalf of any jurisdiction may be disclosed
18 to any county, city or town tax official if the information relates to a
19 taxpayer who is or may be taxable by a county, city or town or who may be
20 subject to audit by the department pursuant to section 42-6002. Any
21 taxpayer information that is released by the department to the county,
22 city or town:

23 1. May be used only for internal purposes, including audits. ~~if~~
24 ~~there is a legitimate business need relating to enforcing laws,~~
25 ~~regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a~~
26 ~~county, city or town tax official may redisclose transaction privilege tax~~
27 ~~information relating to a vacation rental or short-term rental property~~
28 ~~owner or online lodging operator from the new license report and license~~
29 ~~update report, subject to the following:~~

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

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

32 ~~(ii) The type of organization or ownership of the business.~~

33 ~~(iii) The legal business name and doing business as name, if~~
34 ~~different from the legal name.~~

35 ~~(iv) The business mailing address, tax record physical location~~
36 ~~address, telephone number, email address and fax number.~~

37 ~~(v) The date the business started in this state, the business~~
38 ~~description and the North American industry classification system code.~~

39 ~~(vi) The name, address and telephone number for each owner,~~
40 ~~partner, corporate officer, member, managing member or official of the~~
41 ~~employing unit.~~

42 ~~(b) Redisclosure is limited to nonelected officials in other units~~
43 ~~within the county, city or town. The information may not be redisclosed~~
44 ~~to an elected official or the elected official's staff.~~

1 ~~(c) All redisclosures of confidential information made pursuant to~~
2 ~~this paragraph are subject to paragraph 2 of this subsection.~~

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

10 H. The department may disclose statistical information gathered
11 from confidential information if it does not disclose confidential
12 information attributable to any one taxpayer. The department may disclose
13 statistical information gathered from confidential information, even if it
14 discloses confidential information attributable to a taxpayer, to:

15 1. The state treasurer in order to comply with the requirements of
16 section 42-5029, subsection A, paragraph 3.

17 2. The joint legislative income tax credit review committee, the
18 joint legislative budget committee staff and the legislative staff in
19 order to comply with the requirements of section 43-221.

20 I. The department may disclose the aggregate amounts of any tax
21 credit, tax deduction or tax exemption enacted after January 1, 1994.
22 Information subject to disclosure under this subsection shall not be
23 disclosed if a taxpayer demonstrates to the department that such
24 information would give an unfair advantage to competitors.

25 J. Except as provided in section 42-2002, subsection C,
26 confidential information, described in section 42-2001, paragraph 1,
27 subdivision (a), item (ii), may be disclosed to law enforcement agencies
28 for law enforcement purposes.

29 K. The department may provide transaction privilege tax license
30 information to property tax officials in a county for the purpose of
31 identification and verification of the tax status of commercial property.

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

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

40 N. This section does not prohibit the disclosure by the department
41 of any information or documents submitted to the department by a bingo
42 licensee. Before disclosing the information, the department shall obtain
43 the name and address of the person requesting the information.

1 O. If the department is required or allowed to disclose
2 confidential information, it may charge the person or agency requesting
3 the information for the reasonable cost of its services.

4 P. Except as provided in section 42-2002, subsection D, the
5 department of revenue shall release confidential information as requested
6 by the department of economic security pursuant to section 42-1122 or
7 46-291. Information disclosed under this subsection is limited to the
8 same type of information that the United States internal revenue service
9 is authorized to disclose under section 6103(l)(6) of the internal revenue
10 code.

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

14 R. To comply with the requirements of section 42-5031, the
15 department may disclose to the state treasurer, to the county stadium
16 district board of directors and to any city or town tax official that is
17 part of the county stadium district confidential information attributable
18 to a taxpayer's business activity conducted in the county stadium
19 district.

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

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

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

27 3. Sections 44-7101 and 44-7111, the master settlement agreement
28 referred to in those sections and all agreements regarding disputes under
29 the master settlement agreement.

30 T. For proceedings before the department, the office of
31 administrative hearings, the state board of tax appeals or any state or
32 federal court involving penalties that were assessed against a return
33 preparer, an electronic return preparer or a payroll service company
34 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
35 information may be disclosed only before the judge or administrative law
36 judge adjudicating the proceeding, the parties to the proceeding and the
37 parties' representatives in the proceeding prior to its introduction into
38 evidence in the proceeding. The confidential information may be
39 introduced as evidence in the proceeding only if the taxpayer's name, the
40 names of any dependents listed on the return, all social security numbers,
41 the taxpayer's address, the taxpayer's signature and any attachments
42 containing any of the foregoing information are redacted and if either:

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

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

5 3. The method of payment of the taxpayer's withholding tax
6 liability or the method of filing the taxpayer's withholding tax return is
7 an issue for the period.

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

10 1. Federal, state or local agencies located in this state for the
11 purposes of enforcement of the statutes or agreements specified in
12 subsection S of this section or for the purposes of enforcement of
13 corresponding laws of other states.

14 2. Indian tribes located in this state for the purposes of
15 enforcement of the statutes or agreements specified in subsection S of
16 this section.

17 3. A court, arbitrator, data clearinghouse or similar entity for
18 the purpose of assessing compliance with or making calculations required
19 by the master settlement agreement or agreements regarding disputes under
20 the master settlement agreement, and with counsel for the parties or
21 expert witnesses in any such proceeding, if the information otherwise
22 remains confidential.

23 V. The department may provide the name and address of qualifying
24 hospitals and qualifying health care organizations, as defined in section
25 42-5001, to a business that is classified and reporting transaction
26 privilege tax under the utilities classification.

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

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

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

41 X. Notwithstanding any other provision of this section, the
42 department may not disclose information provided by an online lodging
43 marketplace, as defined in section 42-5076, without the written consent of
44 the online lodging marketplace, and the information may be disclosed only
45 pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,

1 paragraphs 1, 2, 7 and 8 and subsections C, ~~AND~~ D ~~and~~ of this section.
2 Such information:

3 1. Is not subject to disclosure pursuant to title 39, relating to
4 public records.

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

7 Sec. 3. Section 42-5042, Arizona Revised Statutes, is amended to
8 read:

9 42-5042. Online lodging operators; requirements; civil
10 penalty; definition

11 A. An online lodging operator may not offer for rent or rent a
12 lodging accommodation without a current transaction privilege tax license.
13 The online lodging operator shall list the transaction privilege tax
14 license number on each advertisement for each lodging accommodation the
15 online lodging operator maintains, including online lodging marketplace
16 postings. An online lodging operator that fails to comply with this
17 subsection shall pay a civil penalty of \$250 for a first offense and
18 \$1,000 for a second or any subsequent offense.

19 B. For the purposes of this section, ~~1.~~

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

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

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

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

30 ~~5. "Verified violation" has the same meaning prescribed in section~~
31 ~~9-500.39 or 11-269.17.~~

32 Sec. 4. Section 42-5075, Arizona Revised Statutes, is amended to
33 read:

34 42-5075. Prime contracting classification; exemptions;
35 definitions

36 A. The prime contracting classification is comprised of the
37 business of prime contracting and the business of manufactured building
38 dealer. Sales for resale to another manufactured building dealer are not
39 subject to tax. Sales for resale do not include sales to a lessor of
40 manufactured buildings. The sale of a used manufactured building is not
41 taxable under this chapter. The prime contracting classification does not
42 include any work or operation performed by a person that is not required
43 to be licensed by the registrar of contractors pursuant to section
44 32-1121.

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

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

7 2. Sales and installation of groundwater measuring devices required
8 under section 45-604 and groundwater monitoring wells required by law,
9 including monitoring wells installed for acquiring information for a
10 permit required by law.

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

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

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

35 6. The gross proceeds of sales or gross income from a contract to
36 provide for one or more of the following actions, or a contract for site
37 preparation, constructing, furnishing or installing machinery, equipment
38 or other tangible personal property, including structures necessary to
39 protect exempt incorporated materials or installed machinery or equipment,
40 and tangible personal property incorporated into the project, to perform
41 one or more of the following actions in response to a release or suspected
42 release of a hazardous substance, pollutant or contaminant from a facility
43 to the environment, unless the release was authorized by a permit issued
44 by a governmental authority:

1 (a) Actions to monitor, assess and evaluate such a release or a
2 suspected release.

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

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

8 (d) Pumping and treatment or in situ treatment of contaminated
9 groundwater or surface water to reduce the concentration or toxicity of a
10 contaminant.

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

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

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

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

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

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

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

39 (b) The deduction provided in this paragraph does not include gross
40 proceeds of sales or gross income from the portion of any contracting
41 activity that consists of the development of, or modification to, real
42 property in order to facilitate the installation, assembly, repair,
43 maintenance or removal of machinery, equipment or other tangible personal
44 property that is either deducted from the tax base of the retail

1 classification under section 42-5061, subsection B or exempt from use tax
2 under section 42-5159, subsection B.

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

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

10 (i) Assembling the machinery, equipment or other tangible personal
11 property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 19. Any amount of the gross proceeds of sales or gross income
41 attributable to development fees that are incurred in relation to a
42 contract for construction, development or improvement of real property and
43 that are paid by a prime contractor or subcontractor. For the purposes of
44 this paragraph:

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

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

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

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

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

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

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

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

39 21. The gross proceeds of sales or gross income derived from a
40 contract to install containment structures. For the purposes of this
41 paragraph, "containment structure" means a structure that prevents,
42 monitors, controls or reduces noxious or harmful discharge into the
43 environment.

1 C. Entitlement to the deduction pursuant to subsection B, paragraph
2 7 of this section is subject to the following provisions:

3 1. A prime contractor may establish entitlement to the deduction by
4 both:

5 (a) Marking the invoice for the transaction to indicate that the
6 gross proceeds of sales or gross income derived from the transaction was
7 deducted from the base.

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

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

20 3. The department may prescribe a form for the certificate
21 described in paragraph 1, subdivision (b) of this subsection. The
22 department may also adopt rules that describe the transactions with
23 respect to which a person is not entitled to rely solely on the
24 information contained in the certificate provided in paragraph 1,
25 subdivision (b) of this subsection but must instead obtain such additional
26 information as required in order to be entitled to the deduction.

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

42 D. Subcontractors or others who perform modification activities are
43 not subject to tax if they can demonstrate that the job was within the
44 control of a prime contractor or contractors or a dealership of
45 manufactured buildings and that the prime contractor or dealership is

1 liable for the tax on the gross income, gross proceeds of sales or gross
2 receipts attributable to the job and from which the subcontractors or
3 others were paid.

4 E. Amounts received by a contractor for a project are excluded from
5 the contractor's gross proceeds of sales or gross income derived from the
6 business if the person who hired the contractor executes and provides a
7 certificate to the contractor stating that the person providing the
8 certificate is a prime contractor and is liable for the tax under article
9 1 of this chapter. The department shall prescribe the form of the
10 certificate. If the contractor has reason to believe that the information
11 contained on the certificate is erroneous or incomplete, the department
12 may disregard the certificate. If the person who provides the certificate
13 is not liable for the tax as a prime contractor, that person is
14 nevertheless deemed to be the prime contractor in lieu of the contractor
15 and is subject to the tax under this section on the gross receipts or
16 gross proceeds received by the contractor.

17 F. Every person engaging or continuing in this state in the
18 business of prime contracting or dealership of manufactured buildings
19 shall present to the purchaser of such prime contracting or manufactured
20 building a written receipt of the gross income or gross proceeds of sales
21 from such activity and shall separately state the taxes to be paid
22 pursuant to this section.

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

29 H. For the purposes of section 42-5032.02, from and after
30 September 30, 2013, the department shall separately account for revenues
31 reported and collected under the prime contracting classification from any
32 prime contractor engaged in the construction of any buildings and
33 associated improvements that are for the benefit of a manufacturing
34 facility. For the purposes of this subsection, "associated improvements"
35 and "manufacturing facility" have the same meanings prescribed in section
36 42-5032.02.

37 I. The gross proceeds of sales or gross income derived from a
38 contract for lawn maintenance services is not subject to tax under this
39 section if the contract does not include landscaping activities. Lawn
40 maintenance service is a service pursuant to section 42-5061, subsection
41 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing
42 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
43 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris
44 collection and removal, tree or shrub pruning or clipping, garden and

1 gravel raking and applying pesticides, as defined in section 3-361, and
2 fertilizer materials, as defined in section 3-262.

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

10 K. The portion of gross proceeds of sales or gross income
11 attributable to the actual direct costs of providing architectural or
12 engineering services that are incorporated in a contract is not subject to
13 tax under this section. For the purposes of this subsection, "direct
14 costs" means the portion of the actual costs that are directly expended in
15 providing architectural or engineering services.

16 L. Operating a landfill or a solid waste disposal facility is not
17 subject to taxation under this section, including filling, compacting and
18 creating vehicle access to and from cell sites within the landfill.
19 Constructing roads to a landfill or solid waste disposal facility and
20 constructing cells within a landfill or solid waste disposal facility may
21 be deemed prime contracting under this section.

22 M. The following apply in determining the taxable situs of sales of
23 manufactured buildings:

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

27 2. For sales in this state where the manufactured building dealer
28 does not contract to deliver the building to a setup site or does not
29 perform the setup, the taxable situs is the location of the dealership
30 where the building is delivered to the buyer.

31 3. For sales in this state where the manufactured building dealer
32 contracts to deliver the building to a setup site that is outside this
33 state, the situs is outside this state and the transaction is excluded
34 from tax.

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

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

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

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

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

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

17 (ii) The amount of an adjustment, if any, to the guaranteed maximum
18 price as set in the contract for modification work. For the purposes of
19 this item, "guaranteed maximum price" means the amount guaranteed to be
20 the maximum amount due to a prime contractor for the performance of all
21 modification work for the project.

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

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

29 (e) Inspection to determine the dates of substantial completion or
30 final completion.

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

37 (g) Preparation of status reports after modification work has begun
38 detailing the progress of work performed, including preparation of any of
39 the following:

40 (i) Master schedule updates.

41 (ii) Modification work cash flow projection updates.

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

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

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

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

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

7 (j) Administration or supervision of any other activities for which
8 a prime contractor receives a certificate for payment or certificate for
9 final payment based on the progress of modification work performed on the
10 project.

11 2. "Design phase services" means services for developing and
12 completing a design for a project that are not construction phase
13 services, including the following:

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

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

20 (c) Preparing drawings and specifications for architectural program
21 documents, schematic design documents, design development documents,
22 modification work documents or documents that identify the scope of or
23 materials for the project.

24 (d) Preparing an initial schedule for the project, excluding the
25 preparation of updates to the master schedule after modification work has
26 begun.

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

30 (i) Labor, materials, machinery and equipment, tools, water, heat,
31 utilities, transportation and other facilities and services used in the
32 execution and completion of modification work, regardless of whether they
33 are temporary or permanent or whether they are incorporated in the
34 modifications.

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

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

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

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

45 (vi) Any bond and insurance premiums.

1 (vii) Any applicable taxes.

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

4 (f) Reviewing and evaluating cost estimates and project documents
5 to prepare recommendations on site use, site improvements, selection of
6 materials, building systems and equipment, modification feasibility,
7 availability of materials and labor, local modification activity as
8 related to schedules and time requirements for modification work.

9 (g) Preparing the plan and procedures for selection of
10 subcontractors, including any prequalification of subcontractor
11 candidates.

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

17 0. The gross proceeds of sales or gross income derived from a
18 contract with the owner of real property or improvements to real property
19 for the maintenance, repair, replacement or alteration of existing
20 property is not subject to tax under this section if the contract does not
21 include modification activities, except as specified in this subsection.
22 The gross proceeds of sales or gross income derived from a de minimis
23 amount of modification activity does not subject the contract or any part
24 of the contract to tax under this section. For the purposes of this
25 subsection:

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

29 2. Each contract is independent of any other contract, except that
30 any change order that directly relates to the scope of work of the
31 original contract shall be treated the same as the original contract under
32 this chapter, regardless of the amount of modification activities included
33 in the change order. If a change order does not directly relate to the
34 scope of work of the original contract, the change order shall be treated
35 as a new contract, with the tax treatment of any subsequent change order
36 to follow the tax treatment of the contract to which the scope of work of
37 the subsequent change order directly relates.

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

1 1. Community facilities districts, fire districts, county
2 television improvement districts, community park maintenance districts,
3 cotton pest control districts, hospital districts, pest abatement
4 districts, health service districts, agricultural improvement districts,
5 county free library districts, county jail districts, county stadium
6 districts, special health care districts, public health services
7 districts, theme park districts or revitalization districts.

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

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

22 1. If any part of the contract for sale of the property specifies
23 amounts to be paid to the original owner for the modifications to be made
24 in the period subsequent to the transfer of title, the amounts are
25 included in the original owner's gross proceeds of sale or gross income
26 under this section. Proceeds from the sale of the property that are
27 received after transfer of title and that are unrelated to the
28 modifications made subsequent to the transfer of title are not considered
29 gross proceeds of sale or gross income from the modifications.

30 2. If the original owner enters into an agreement separate from the
31 contract for sale of the real property providing for amounts to be paid to
32 the original owner for the modifications to be made in the period
33 subsequent to the transfer of title to the property, the amounts are
34 included in the original owner's gross proceeds of sale or gross income
35 received for the modifications made subsequent to the transfer of title.

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

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

1 R. For the purposes of this section:

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

4 (a) For existing property that is properly classified as CLASS ONE
5 PROPERTY UNDER SECTION 42-12001, PARAGRAPH 15, class two property under
6 section 42-12002, paragraph 1, subdivision (c) or paragraph 2, subdivision
7 (c) and that is used for residential purposes, class three property under
8 section 42-12003 or class four property under section 42-12004, this
9 paragraph does not apply if the contract amount is more than twenty-five
10 percent of the most recent full cash value established under chapter 13,
11 article 2 of this title as of the date of any bid for the work or the date
12 of the contract, whichever value is higher.

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

16 (c) Project elements may not be artificially separated from a
17 contract to cause a project to qualify as an alteration. The department
18 has the burden of proof that project elements have been artificially
19 separated from a contract.

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

27 (e) A change order that directly relates to the scope of work of
28 the original contract shall be treated as part of the original contract,
29 and the contract amount shall include any amount attributable to a change
30 order that directly relates to the scope of work of the original contract.

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

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

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

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

- 1 5. "Manufactured building dealer" means a dealer who either:
2 (a) Is licensed pursuant to title 41, chapter 37, article 4 and who
3 sells manufactured buildings to the final consumer.
4 (b) Supervises, performs or coordinates the excavation and
5 completion of site improvements or the setup of a manufactured building,
6 including the contracting, if any, with any subcontractor or specialty
7 contractor for the completion of the contract.
- 8 6. "Modification" means construction, grading and leveling ground,
9 wreckage or demolition. Modification does not include:
10 (a) Any project described in subsection 0 of this section.
11 (b) Any wreckage or demolition of existing property, or any other
12 activity that is a necessary component of a project described in
13 subsection 0 of this section.
14 (c) Any mobilization or demobilization related to a project
15 described in subsection 0 of this section, such as the erection or removal
16 of temporary facilities to be used by those persons working on the
17 project.
- 18 7. "Modify" means to make a modification or cause a modification to
19 be made.
- 20 8. "Owner" means the person that holds title to the real property
21 or improvements to real property that is the subject of the work, as well
22 as an agent of the title holder and any person with the authority to
23 perform or authorize work on the real property or improvements, including
24 a tenant and a property manager. For the purposes of subsection 0 of this
25 section, a person who is hired by a general contractor that is hired by an
26 owner, or a subcontractor of a general contractor that is hired by an
27 owner, is considered to be hired by the owner.
- 28 9. "Prime contracting" means engaging in business as a prime
29 contractor.
- 30 10. "Prime contractor" means a contractor who supervises, performs
31 or coordinates the modification of any building, highway, road, railroad,
32 excavation, manufactured building or other structure, project, development
33 or improvement, including the contracting, if any, with any subcontractors
34 or specialty contractors and who is responsible for the completion of the
35 contract. Except as provided in subsections E and Q of this section, a
36 person who owns real property, who engages one or more contractors to
37 modify that real property and who does not itself modify that real
38 property is not a prime contractor within the meaning of this paragraph
39 regardless of the existence of a contract for sale or the subsequent sale
40 of that real property.
- 41 11. "Replacement" means the removal from service of one component
42 or system of existing property or tangible personal property installed in
43 existing property, including machinery or equipment, and the installation
44 of a new component or system or new tangible personal property, including
45 machinery or equipment, that provides the same, a similar or an upgraded

1 design or functionality, regardless of the contract amount and regardless
2 of whether the existing component or system or existing tangible personal
3 property is physically removed from the existing property.

4 12. "Sale of a used manufactured building" does not include a lease
5 of a used manufactured building.

6 Sec. 5. Section 42-5076, Arizona Revised Statutes, is amended to
7 read:

8 42-5076. Online lodging marketplace classification;
9 definitions

10 A. The online lodging marketplace classification is comprised of
11 the business of operating an online lodging marketplace.

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

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

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

26 E. For the purposes of this section:

27 1. "Online lodging marketplace" means a person that provides a
28 digital platform for compensation through which an unaffiliated third
29 party offers to rent lodging accommodations in this state to an occupant,
30 including a transient, as defined in section 42-5070, and the
31 accommodations are ~~not~~ classified for property tax purposes under section
32 42-12001, PARAGRAPH 15 OR SECTION 42-12003 OR 42-12004. For the purposes
33 of this paragraph:

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

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

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

1 3. "Online lodging transaction" means a charge to an occupant,
2 including a transient as defined in section 42-5070, by an online lodging
3 operator for the occupancy of any lodging accommodation in this state and
4 includes an online transient lodging transaction.

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

9 Sec. 6. Section 42-12001, Arizona Revised Statutes, is amended to
10 read:

11 42-12001. Class one property

12 For THE purposes of taxation, class one is established consisting of
13 the following subclasses:

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

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

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

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

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

29 6. Real and personal property of water, sewer and wastewater
30 utility companies that are valued at full cash value pursuant to section
31 42-14151.

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

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

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

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

43 11. Real and personal property that is used in communications
44 transmission facilities and that provides public telephone or

1 telecommunications exchange or interexchange access for compensation to
2 effect two-way communication to, from, through or within this state.

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

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

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

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

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

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

21 Sec. 7. Section 42-12004, Arizona Revised Statutes, is amended to
22 read:

23 42-12004. Class four property

24 A. For the purposes of taxation, class four is established
25 consisting of:

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

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

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

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

44 3. Child care facilities that are licensed under title 36, chapter
45 7.1 and that are valued at full cash value.

1 4. Real and personal property and improvements to property that are
2 used to operate nonprofit residential housing facilities that are
3 structured to house or care for persons with disabilities or who are at
4 least sixty-two years of age and that are valued at full cash value.

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

11 6. Real and personal property consisting of not more than eight
12 rooms of residential property that are leased or rented to transient
13 lodgers, together with furnishing not more than a breakfast meal, by the
14 owner who resides on the property and that is valued at full cash value.

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

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

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

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

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

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

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

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

39 Sec. 8. Section 42-12054, Arizona Revised Statutes, is amended to
40 read:

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

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

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

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

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

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

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

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

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

1 Sec. 9. Section 42-12056, Arizona Revised Statutes, is amended to
2 read:

3 42-12056. Renewable energy systems valuation; definition

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

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