

REFERENCE TITLE: department of revenue; reuse zone

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2634

Introduced by
Representative Grantham

AN ACT

PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTIONS 42-1301, 42-1302 AND 42-1303, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTIONS 42-5075 AND 42-12006, ARIZONA REVISED STATUTES; RELATING TO MILITARY REUSE ZONES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Transfer and renumber

3 Title 41, chapter 10, article 3, Arizona Revised Statutes, is
4 transferred and renumbered for placement in title 42, chapter 1, Arizona
5 Revised Statutes, as a new article 7. The following sections are
6 transferred and renumbered for placement in title 42, chapter 1,
7 article 7, Arizona Revised Statutes:

| <u>Former Sections</u> | <u>New Sections</u> |
|------------------------|---------------------|
| 8 41-1531 | 42-1301 |
| 9 41-1532 | 42-1302 |
| 10 41-1533 | 42-1303 |

11
12 Sec. 2. Section 42-1301, Arizona Revised Statutes, as transferred
13 and renumbered, is amended to read:

14 42-1301. Designating military reuse zone; term; renewal

15 A. After executing a lease with a term of fifteen years or longer
16 for the use or occupancy of real property or improvements that are located
17 on a closed military facility with a runway that is at least eight
18 thousand feet long at closing or after title to any part of a closed
19 military facility with a runway that is at least eight thousand feet long
20 at closing is transferred to this state or to another public or private
21 entity, the governor, after consulting with the ~~chief executive officer of~~
22 ~~the Arizona commerce authority~~ DIRECTOR, may designate the property as a
23 military reuse zone. Only properties that were used for operational and
24 training purposes of the active uniformed services of the United States
25 qualify for consideration as a military reuse zone.

26 B. The governor shall set a termination date for the military reuse
27 zone that is not more than ten years after the date the zone is
28 designated. During the last year before termination the governor may
29 renew the military reuse zone for one term of ten years. Thereafter, the
30 legislature and the governor by joint resolution may renew the military
31 reuse zone for additional ~~ten-year~~ TEN-YEAR terms.

32 Sec. 3. Section 42-1302, Arizona Revised Statutes, as transferred
33 and renumbered, is amended to read:

34 42-1302. Tax incentives; conditions

35 A. A prime contractor may qualify for an exemption from transaction
36 privilege tax with respect to activities in a military reuse zone as
37 provided, and subject to the terms and conditions prescribed, by section
38 42-5075, subsection B, paragraph 4.

39 B. Taxable property in a military reuse zone that is devoted to
40 providing aviation or aerospace services or to manufacturing, assembling
41 or fabricating aviation or aerospace products qualifies for assessment as
42 class six property as provided, and subject to the terms and conditions
43 prescribed, by sections 42-12006 and 42-15006.

44 C. To qualify for a tax incentive described in subsection A or B of
45 this section, the taxpayer shall provide to the ~~authority~~ DEPARTMENT

1 information relating to the amount of tax benefits the taxpayer receives
2 each year for each year in which the taxpayer claims the incentives on
3 forms prescribed by the ~~authority~~ DEPARTMENT. If the taxpayer fails to
4 provide the required information, the ~~authority~~ DEPARTMENT shall
5 immediately revoke the taxpayer's certification of eligibility ~~and notify~~
6 ~~the department of revenue.~~

7 D. Taxpayers who qualify for tax incentives under subsection B of
8 this section shall be certified by the ~~authority~~ DEPARTMENT as eligible
9 for a five-year period, subject to termination in the event of changed
10 circumstances rendering the taxpayer no longer eligible.

11 Sec. 4. Section 42-1303, Arizona Revised Statutes, as transferred
12 and renumbered, is amended to read:

13 42-1303. Duties of department of revenue; annual report

14 The ~~Arizona commerce authority~~ DEPARTMENT shall administer this
15 article and shall:

16 1. Monitor the implementation and operation of this article and
17 continually evaluate the progress made in the military reuse zone.

18 2. Assist an employer or prospective employer in a zone to obtain
19 the benefits of any incentive authorized by this article.

20 3. Submit an annual written report to the governor evaluating the
21 effectiveness of the program with respect to each zone, stating the amount
22 of foregone tax revenue due to the incentives offered pursuant to section
23 ~~41-1532~~ 42-1302, reporting any abuses and presenting any suggestions to
24 improve the program. The report is due on or before March 1, beginning in
25 the first full calendar year after the zone is established and ending in
26 the first full calendar year after the zone is terminated.

27 4. Adopt rules as necessary to administer this article.

28 5. Provide information regarding military reuse zones on request
29 and conduct informational and instructional seminars and training.

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

32 42-5075. Prime contracting classification; exemptions;
33 definitions

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

43 B. The tax base for the prime contracting classification is
44 sixty-five percent of the gross proceeds of sales or gross income derived

1 from the business. The following amounts shall be deducted from the gross
2 proceeds of sales or gross income before computing the tax base:

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

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

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

14 4. The gross proceeds of sales or gross income received from a
15 contract entered into for the modification of any building, highway, road,
16 railroad, excavation, manufactured building or other structure, project,
17 development or improvement located in a military reuse zone for providing
18 aviation or aerospace services or for a manufacturer, assembler or
19 fabricator of aviation or aerospace products within an active military
20 reuse zone after the zone is initially established or renewed under
21 section ~~41-1531~~ 42-1301. To be eligible to qualify for this deduction,
22 before beginning work under the contract, the prime contractor must have
23 applied for a letter of qualification from the department of revenue.

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

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

43 (a) Actions to monitor, assess and evaluate such a release or a
44 suspected release.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (i) Assembling the machinery, equipment or other tangible personal
9 property.

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

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

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

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

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

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

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

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

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

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

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

43 12. For taxable periods beginning from and after June 30, 2001, the
44 gross proceeds of sales or gross income derived from a contract entered
45 into for the construction of a residential apartment housing facility that

1 qualifies for a federal housing subsidy for low-income persons over
2 sixty-two years of age and that is owned by a nonprofit charitable
3 organization that has qualified under section 501(c)(3) of the internal
4 revenue code.

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

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

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

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

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

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

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

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

44 (b) The attributable amount is equal to the total amount of
45 development fees paid by the prime contractor or subcontractor, and the

1 total development fees credited in exchange for the construction of,
2 contribution to or dedication of real property for providing public
3 infrastructure, public safety or other public services necessary to the
4 development. The real property must be the subject of the development
5 fees.

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

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

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

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

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

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

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

40 C. Entitlement to the deduction pursuant to subsection B, paragraph
41 7 of this section is subject to the following provisions:

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

1 (a) Marking the invoice for the transaction to indicate that the
2 gross proceeds of sales or gross income derived from the transaction was
3 deducted from the base.

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

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

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

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

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

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

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

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

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

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

44 J. Except as provided in subsection 0 of this section, the gross
45 proceeds of sales or gross income derived from landscaping activities is

1 subject to tax under this section. Landscaping includes installing lawns,
2 grading or leveling ground, installing gravel or boulders, planting trees
3 and other plants, felling trees, removing or mulching tree stumps,
4 removing other imbedded plants, building irrigation berms, installing
5 railroad ties and installing underground sprinkler or watering systems.

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

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

18 M. The following apply in determining the taxable situs of sales of
19 manufactured buildings:

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

23 2. For sales in this state where the manufactured building dealer
24 does not contract to deliver the building to a setup site or does not
25 perform the setup, the taxable situs is the location of the dealership
26 where the building is delivered to the buyer.

27 3. For sales in this state where the manufactured building dealer
28 contracts to deliver the building to a setup site that is outside this
29 state, the situs is outside this state and the transaction is excluded
30 from tax.

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

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

43 (a) Administration or supervision of any modification performed on
44 the project, including team management and coordination, scheduling, cost

1 controls, submittal process management, field management, safety program,
2 close-out process and warranty period services.

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

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

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

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

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

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

25 (e) Inspection to determine the dates of substantial completion or
26 final completion.

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

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

36 (i) Master schedule updates.

37 (ii) Modification work cash flow projection updates.

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

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

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

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

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

3 (j) Administration or supervision of any other activities for which
4 a prime contractor receives a certificate for payment or certificate for
5 final payment based on the progress of modification work performed on the
6 project.

7 2. "Design phase services" means services for developing and
8 completing a design for a project that are not construction phase
9 services, including the following:

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

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

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

20 (d) Preparing an initial schedule for the project, excluding the
21 preparation of updates to the master schedule after modification work has
22 begun.

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

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

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

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

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

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

41 (vi) Any bond and insurance premiums.

42 (vii) Any applicable taxes.

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

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

6 (g) Preparing the plan and procedures for selection of
7 subcontractors, including any prequalification of subcontractor
8 candidates.

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

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

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

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

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

43 1. Community facilities districts, fire districts, county
44 television improvement districts, community park maintenance districts,
45 cotton pest control districts, hospital districts, pest abatement

1 districts, health service districts, agricultural improvement districts,
2 county free library districts, county jail districts, county stadium
3 districts, special health care districts, public health services
4 districts, theme park districts or revitalization districts.

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

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

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

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

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

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

43 R. For the purposes of this section:

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

1 (a) For existing property that is properly classified as class two
2 property under section 42-12002, paragraph 1, subdivision (c) or paragraph
3 2, subdivision (c) and that is used for residential purposes, class three
4 property under section 42-12003 or class four property under section
5 42-12004, this paragraph does not apply if the contract amount is more
6 than twenty-five percent of the most recent full cash value established
7 under chapter 13, article 2 of this title as of the date of any bid for
8 the work or the date of the contract, whichever value is higher.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Sec. 6. Section 42-12006, Arizona Revised Statutes, is amended to
4 read:

5 42-12006. Class six property

6 For the purposes of taxation, class six is established consisting
7 of:

8 1. Noncommercial historic property as defined in section 42-12101
9 and valued at full cash value.

10 2. Real and personal property that is located within the area of a
11 foreign trade zone or subzone established under 19 United States Code
12 sections 81a through 81u and title 44, chapter 18, that is activated for
13 foreign trade zone use by the district director of the United States
14 customs service pursuant to 19 Code of Federal Regulations section 146.6
15 and that is valued at full cash value. Property that is classified under
16 this paragraph shall not thereafter be classified under paragraph 6 of
17 this section.

18 3. Real and personal property and improvements that are located in
19 a military reuse zone that is established under ~~title 41, chapter 10,~~
20 ~~article 3~~ CHAPTER 1, ARTICLE 7 OF THIS TITLE and that is devoted to
21 providing aviation or aerospace services or to manufacturing, assembling
22 or fabricating aviation or aerospace products, valued at full cash value
23 and subject to the following terms and conditions:

24 (a) Property may not be classified under this paragraph for more
25 than five tax years.

26 (b) Any new addition or improvement to property already classified
27 under this paragraph qualifies separately for classification under this
28 paragraph for not more than five tax years.

29 (c) If a military reuse zone is terminated, the property in that
30 zone that was previously classified under this paragraph shall be
31 reclassified as prescribed by this article.

32 (d) Property that is classified under this paragraph shall not
33 thereafter be classified under paragraph 6 of this section.

34 4. Real and personal property and improvements or a portion of such
35 property comprising an environmental technology manufacturing, producing
36 or processing facility that qualified under section 41-1514.02, valued at
37 full cash value and subject to the following terms and conditions:

38 (a) Property shall be classified under this paragraph for twenty
39 tax years from the date placed in service.

40 (b) Any addition or improvement to property already classified
41 under this paragraph qualifies separately for classification under this
42 subdivision for an additional twenty tax years from the date placed in
43 service.

1 (c) After revocation of certification under section 41-1514.02,
2 property that was previously classified under this paragraph shall be
3 reclassified as prescribed by this article.

4 (d) Property that is classified under this paragraph shall not
5 thereafter be classified under paragraph 6 of this section.

6 5. That portion of real and personal property that is used on or
7 after January 1, 1999 specifically and solely for remediation of the
8 environment by an action that has been determined to be reasonable and
9 necessary to respond to the release or threatened release of a hazardous
10 substance by the department of environmental quality pursuant to section
11 49-282.06 or pursuant to its corrective action authority under rules
12 adopted pursuant to section 49-922, subsection B, paragraph 4 or by the
13 United States environmental protection agency pursuant to the national
14 contingency plan (40 Code of Federal Regulations part 300) and that is
15 valued at full cash value. Property that is not being used specifically
16 and solely for the remediation objectives described in this paragraph
17 shall not be classified under this paragraph. For the purposes of this
18 paragraph, "remediation of the environment" means one or more of the
19 following actions:

20 (a) Monitoring, assessing or evaluating the release or threatened
21 release.

22 (b) Excavating, removing, transporting, treating and disposing of
23 contaminated soil.

24 (c) Pumping and treating contaminated water.

25 (d) Treating, containing or removing ~~of~~ contaminants in groundwater
26 or soil.

27 6. Real and personal property and improvements constructed or
28 installed from and after December 31, 2004 through December 31, 2024 and
29 owned by a qualified business under section 41-1516 and used solely for
30 the purpose of harvesting, transporting or processing qualifying forest
31 products removed from qualifying projects as defined in section 41-1516.
32 The classification under this paragraph is subject to the following terms
33 and conditions:

34 (a) Property may be initially classified under this paragraph only
35 in valuation years 2005 through 2024.

36 (b) Property may not be classified under this paragraph for more
37 than five years.

38 (c) Any new addition or improvement, constructed or installed from
39 and after December 31, 2004 through December 31, 2024, to property already
40 classified under this paragraph qualifies separately for classification
41 and assessment under this paragraph for not more than five years.

42 (d) Property that is classified under this paragraph shall not
43 thereafter be classified under paragraph 2, 3 or 4 of this section.

44 7. Real and personal property and improvements to the property that
45 are used specifically and solely to manufacture from and after December

1 31, 2006 through December 31, 2023 biodiesel fuel that is one hundred
2 percent biodiesel and its by-products or motor vehicle biofuel and its
3 by-products and that are valued at full cash value. This paragraph
4 applies only to the portion of property that is used specifically for
5 manufacturing and processing one hundred ~~per cent~~ PERCENT biodiesel fuel,
6 or its related by-products, or motor vehicle biofuel, or its related
7 by-products, from raw feedstock obtained from off-site sources, including
8 necessary on-site storage facilities that are intrinsically associated
9 with the manufacturing process. Any other commercial or industrial use
10 disqualifies the entire property from classification under this paragraph.
11 For the purposes of this paragraph, "motor vehicle biofuel" means a solid,
12 liquid or gaseous fuel that is derived from biological material such as
13 plant or animal matter, excluding organic material that has been
14 transformed by geological processes into substances such as coal or
15 petroleum or derivatives thereof, and that:

16 (a) Contains fuel additives in compliance with federal and state
17 law.

18 (b) Is manufactured exclusively for use in a motor vehicle.

19 8. Real and personal property and improvements that are used for
20 renewable energy manufacturing or headquarters operations as provided by
21 section 42-12057. This paragraph applies only to property that is used in
22 manufacturing and headquarters operations of renewable energy companies,
23 including necessary on-site research and development, testing and storage
24 facilities that are associated with the manufacturing process. Up to ten
25 percent of the aggregate full cash value of the property may be derived
26 from uses that are ancillary to and intrinsically associated with the
27 manufacturing process or headquarters operation. Any additional ancillary
28 property is not qualified for classification under this paragraph. No new
29 properties may be classified pursuant to this paragraph from and after
30 December 31, 2014. Property that is classified under this paragraph shall
31 not thereafter be classified under any other paragraph of this section.