

REFERENCE TITLE: online lodging; regulation; property classification

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1543

Introduced by
Senators Mendez: Alston, Epstein, Sundareshan

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4 repealed.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 the 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 22. The office of economic opportunity for the purpose of
24 performing the duties and obligations to or on behalf of this state
25 prescribed by title 41, chapter 53.

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

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

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

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

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

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

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

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

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

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

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

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

- 33 ~~(a) The information redisclosed is limited to the following:~~
34 ~~(i) The transaction privilege tax license number.~~
35 ~~(ii) The type of organization or ownership of the business.~~
36 ~~(iii) The legal business name and doing business as name, if~~
37 ~~different from the legal name.~~
38 ~~(iv) The business mailing address, tax record physical location~~
39 ~~address, telephone number, email address and fax number.~~
40 ~~(v) The date the business started in this state, the business~~
41 ~~description and the North American industry classification system code.~~
42 ~~(vi) The name, address and telephone number for each owner,~~
43 ~~partner, corporate officer, member, managing member or official of the~~
44 ~~employing unit.~~

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

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

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

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

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

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

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

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

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

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

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

1 N. This section does not prohibit the disclosure by the department
2 of any information or documents submitted to the department by a bingo
3 licensee. Before disclosing the information, the department shall obtain
4 the name and address of the person requesting the information.

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

8 P. Except as provided in section 42-2002, subsection D, the
9 department of revenue shall release confidential information as requested
10 by the department of economic security pursuant to section 42-1122 or
11 46-291. Information disclosed under this subsection is limited to the
12 same type of information that the United States internal revenue service
13 is authorized to disclose under section 6103(l)(6) of the internal revenue
14 code.

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

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

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

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

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

31 3. Sections 44-7101 and 44-7111, the master settlement agreement
32 referred to in those sections and all agreements regarding disputes under
33 the master settlement agreement.

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

1 the taxpayer's address, the taxpayer's signature and any attachments
2 containing any of the foregoing information are redacted and if either:

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

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

9 3. The method of payment of the taxpayer's withholding tax
10 liability or the method of filing the taxpayer's withholding tax return is
11 an issue for the period.

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

14 1. Federal, state or local agencies located in this state for the
15 purposes of enforcement of the statutes or agreements specified in
16 subsection S of this section or for the purposes of enforcement of
17 corresponding laws of other states.

18 2. Indian tribes located in this state for the purposes of
19 enforcement of the statutes or agreements specified in subsection S of
20 this section.

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

27 V. The department may provide the name and address of qualifying
28 hospitals and qualifying health care organizations, as defined in section
29 42-5001, to a business that is classified and reporting transaction
30 privilege tax under the utilities classification.

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

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

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

1 X. Notwithstanding any other provision of this section, the
2 department may not disclose information provided by an online lodging
3 marketplace, as defined in section 42-5076, without the written consent of
4 the online lodging marketplace, and the information may be disclosed only
5 pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,
6 paragraphs 1, 2, 7 and 8 and subsections C, ~~AND D and G~~ of this section.
7 Such information:

8 1. Is not subject to disclosure pursuant to title 39, relating to
9 public records.

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

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

14 42-5042. Online lodging operators; license requirements;
15 civil penalty; definitions

16 A. An online lodging operator may not offer for rent or rent a
17 lodging accommodation without a current transaction privilege tax license.
18 The online lodging operator shall list the transaction privilege tax
19 license number on each advertisement for each lodging accommodation the
20 online lodging operator maintains, including online lodging marketplace
21 postings. An online lodging operator that fails to comply with this
22 subsection shall pay a civil penalty of \$250 for a first offense and
23 \$1,000 for a second or any subsequent offense.

24 B. For the purposes of this section, ~~:-~~

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

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

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

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

35 ~~5. "Verified violation" has the same meaning prescribed in section~~
36 ~~9-500.39 or 11-269.17.~~

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

39 42-5075. Prime contracting classification; exemptions;
40 definitions

41 A. The prime contracting classification is comprised of the
42 business of prime contracting and the business of manufactured building
43 dealer. Sales for resale to another manufactured building dealer are not
44 subject to tax. Sales for resale do not include sales to a lessor of
45 manufactured buildings. The sale of a used manufactured building is not

1 taxable under this chapter. The prime contracting classification does not
2 include any work or operation performed by a person that is not required
3 to be licensed by the registrar of contractors pursuant to section
4 32-1121.

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

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

11 2. Sales and installation of groundwater measuring devices required
12 under section 45-604 and groundwater monitoring wells required by law,
13 including monitoring wells installed for acquiring information for a
14 permit required by law.

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

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

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

39 6. The gross proceeds of sales or gross income from a contract to
40 provide for one or more of the following actions, or a contract for site
41 preparation, constructing, furnishing or installing machinery, equipment
42 or other tangible personal property, including structures necessary to
43 protect exempt incorporated materials or installed machinery or equipment,
44 and tangible personal property incorporated into the project, to perform
45 one or more of the following actions in response to a release or suspected

1 release of a hazardous substance, pollutant or contaminant from a facility
2 to the environment, unless the release was authorized by a permit issued
3 by a governmental authority:

4 (a) Actions to monitor, assess and evaluate such a release or a
5 suspected release.

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

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

11 (d) Pumping and treatment or in situ treatment of contaminated
12 groundwater or surface water to reduce the concentration or toxicity of a
13 contaminant.

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

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

23 7. The gross proceeds of sales or gross income that is derived from
24 a contract for the installation, assembly, repair or maintenance of
25 machinery, equipment or other tangible personal property that is either
26 deducted from the tax base of the retail classification under section
27 42-5061, subsection B or that is exempt from use tax under section
28 42-5159, subsection B and that has independent functional utility,
29 pursuant to the following provisions:

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

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

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

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

42 (b) The deduction provided in this paragraph does not include gross
43 proceeds of sales or gross income from the portion of any contracting
44 activity that consists of the development of, or modification to, real
45 property in order to facilitate the installation, assembly, repair,

1 maintenance or removal of machinery, equipment or other tangible personal
2 property that is either deducted from the tax base of the retail
3 classification under section 42-5061, subsection B or exempt from use tax
4 under section 42-5159, subsection B.

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

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

12 (i) Assembling the machinery, equipment or other tangible personal
13 property.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 14. The gross proceeds of sales or gross income derived from a
20 contract entered into for the construction of a launch site, as defined in
21 14 Code of Federal Regulations section 401.5.

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

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

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

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

1 19. Any amount of the gross proceeds of sales or gross income
2 attributable to development fees that are incurred in relation to a
3 contract for construction, development or improvement of real property and
4 that are paid by a prime contractor or subcontractor. For the purposes of
5 this paragraph:

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

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

15 (c) "Development fees" means fees imposed to offset capital costs
16 of providing public infrastructure, public safety or other public services
17 to a development and authorized pursuant to section 9-463.05, section
18 11-1102 or title 48 regardless of the jurisdiction to which the fees are
19 paid.

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

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

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

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

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

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

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

8 1. A prime contractor may establish entitlement to the deduction by
9 both:

10 (a) Marking the invoice for the transaction to indicate that the
11 gross proceeds of sales or gross income derived from the transaction was
12 deducted from the base.

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

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

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

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

1 from the prime contractor in order to designate the distribution base for
2 purposes of section 42-5029.

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

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

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

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

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

43 I. The gross proceeds of sales or gross income derived from a
44 contract for lawn maintenance services is not subject to tax under this
45 section if the contract does not include landscaping activities. Lawn

1 maintenance service is a service pursuant to section 42-5061, subsection
2 A, paragraph 1, and includes lawn mowing and edging, weeding, repairing
3 sprinkler heads or drip irrigation heads, seasonal replacement of flowers,
4 refreshing gravel, lawn dethatching, seeding winter lawns, leaf and debris
5 collection and removal, tree or shrub pruning or clipping, garden and
6 gravel raking and applying pesticides, as defined in section 3-361, and
7 fertilizer materials, as defined in section 3-262.

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

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

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

27 M. The following apply in determining the taxable situs of sales of
28 manufactured buildings:

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

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

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

40 N. The gross proceeds of sales or gross income attributable to a
41 written contract for design phase services or professional services,
42 executed before modification begins and with terms, conditions and pricing
43 of all of these services separately stated in the contract from those for
44 construction phase services, is not subject to tax under this section,
45 regardless of whether the services are provided sequential to or

1 concurrent with prime contracting activities that are subject to tax under
2 this section. This subsection does not include the gross proceeds of
3 sales or gross income attributable to construction phase services. For
4 the purposes of this subsection:

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

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

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

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

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

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

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

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

33 (e) Inspection to determine the dates of substantial completion or
34 final completion.

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

41 (g) Preparation of status reports after modification work has begun
42 detailing the progress of work performed, including preparation of any of
43 the following:

44 (i) Master schedule updates.

45 (ii) Modification work cash flow projection updates.

- 1 (iii) Site reports made on a periodic basis.
- 2 (iv) Identification of discrepancies, conflicts or ambiguities in
- 3 modification work documents that require resolution.
- 4 (v) Identification of any health and safety issues that have arisen
- 5 in connection with the modification work.
- 6 (h) Preparation of daily logs of modification work, including
- 7 documentation of personnel, weather conditions and on-site occurrences.
- 8 (i) Preparation of any submittals or shop drawings used by the
- 9 prime contractor to illustrate details of the modification work performed.
- 10 (j) Administration or supervision of any other activities for which
- 11 a prime contractor receives a certificate for payment or certificate for
- 12 final payment based on the progress of modification work performed on the
- 13 project.
- 14 2. "Design phase services" means services for developing and
- 15 completing a design for a project that are not construction phase
- 16 services, including the following:
 - 17 (a) Evaluating surveys, reports, test results or any other
 - 18 information on-site conditions for the project, including physical
 - 19 characteristics, legal limitations and utility locations for the site.
 - 20 (b) Evaluating any criteria or programming objectives for the
 - 21 project to ascertain requirements for the project, such as physical
 - 22 requirements affecting cost or projected utilization of the project.
 - 23 (c) Preparing drawings and specifications for architectural program
 - 24 documents, schematic design documents, design development documents,
 - 25 modification work documents or documents that identify the scope of or
 - 26 materials for the project.
 - 27 (d) Preparing an initial schedule for the project, excluding the
 - 28 preparation of updates to the master schedule after modification work has
 - 29 begun.
 - 30 (e) Preparing preliminary estimates of costs of modification work
 - 31 before completion of the final design of the project, including an
 - 32 estimate or schedule of values for any of the following:
 - 33 (i) Labor, materials, machinery and equipment, tools, water, heat,
 - 34 utilities, transportation and other facilities and services used in the
 - 35 execution and completion of modification work, regardless of whether they
 - 36 are temporary or permanent or whether they are incorporated in the
 - 37 modifications.
 - 38 (ii) The cost of labor and materials to be furnished by the owner
 - 39 of the real property.
 - 40 (iii) The cost of any equipment of the owner of the real property
 - 41 to be assigned by the owner to the prime contractor.
 - 42 (iv) The cost of any labor for installation of equipment separately
 - 43 provided by the owner of the real property that has been designed,
 - 44 specified, selected or specifically provided for in any design document
 - 45 for the project.

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

3 (vi) Any bond and insurance premiums.

4 (vii) Any applicable taxes.

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

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

12 (g) Preparing the plan and procedures for selection of
13 subcontractors, including any prequalification of subcontractor
14 candidates.

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

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

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

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

41 P. Notwithstanding subsection 0 of this section, a contract that
42 primarily involves surface or subsurface improvements to land and that is
43 subject to title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 is
44 taxable under this section, even if the contract also includes vertical
45 improvements. Agencies that are subject to procurement processes under

1 those provisions shall include in the request for proposals a notice to
2 bidders when those projects are subject to this section. This subsection
3 does not apply to contracts with:

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

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

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

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

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

39 3. If the original owner is responsible to the new owner for
40 modifications made to the property in the period subsequent to the
41 transfer of title and derives any gross proceeds of sale or gross income
42 from the project subsequent to the transfer of title other than a delayed
43 disbursement from escrow unrelated to the modifications, it is presumed
44 that the amounts are received for the modifications made subsequent to the

1 transfer of title unless the contrary is established by the owner through
2 its books, records and papers kept in the regular course of business.

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

5 R. For the purposes of this section:

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

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

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

20 (c) Project elements may not be artificially separated from a
21 contract to cause a project to qualify as an alteration. The department
22 has the burden of proof that project elements have been artificially
23 separated from a contract.

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

31 (e) A change order that directly relates to the scope of work of
32 the original contract shall be treated as part of the original contract,
33 and the contract amount shall include any amount attributable to a change
34 order that directly relates to the scope of work of the original contract.

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

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

37 3. "Contractor" is synonymous with the term "builder" and means any
38 person or organization that undertakes to or offers to undertake to, or
39 purports to have the capacity to undertake to, or submits a bid to, or
40 does personally or by or through others, modify any building, highway,
41 road, railroad, excavation, manufactured building or other structure,
42 project, development or improvement, or to do any part of such a project,
43 including the erection of scaffolding or other structure or works in
44 connection with such a project, and includes subcontractors and specialty
45 contractors. For all purposes of taxation or deduction, this definition

1 shall govern without regard to whether or not such a contractor is acting
2 in fulfillment of a contract.

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

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

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

8 (b) Supervises, performs or coordinates the excavation and
9 completion of site improvements or the setup of a manufactured building,
10 including the contracting, if any, with any subcontractor or specialty
11 contractor for the completion of the contract.

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

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

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

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

22 7. "Modify" means to make a modification or cause a modification to
23 be made.

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

32 9. "Prime contracting" means engaging in business as a prime
33 contractor.

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

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

9 12. "Sale of a used manufactured building" does not include a lease
10 of a used manufactured building.

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

13 42-5076. Online lodging marketplace classification;
14 definitions

15 A. The online lodging marketplace classification is comprised of
16 the business of operating an online lodging marketplace.

17 B. The tax base for the online lodging marketplace classification
18 is the gross proceeds of sales or gross income derived from the business
19 measured by the total amount charged for an online transient lodging
20 transaction by the online lodging operator.

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

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

31 E. For the purposes of this section:

32 1. "Online lodging marketplace" means a person that provides a
33 digital platform for compensation through which an unaffiliated third
34 party offers to rent lodging accommodations in this state to an occupant,
35 including a transient, as defined in section 42-5070, and the
36 accommodations are ~~not~~ classified for property tax purposes under section
37 42-12001, **PARAGRAPH 15 OR SECTION 42-12003 OR 42-12004**. For the purposes
38 of this paragraph:

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

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

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

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

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

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

17 42-12001. Class one property

18 For THE purposes of taxation, class one is established consisting of
19 the following subclasses:

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

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

25 3. Real and personal property of gas distribution companies,
26 electric transmission companies, electric distribution companies,
27 combination gas and electric transmission and distribution companies, and
28 companies engaged in ~~the generation of~~ GENERATING electricity that are
29 valued at full cash value pursuant to section 42-14151.

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

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

35 6. Real and personal property of water, sewer and wastewater
36 utility companies that are valued at full cash value pursuant to section
37 42-14151.

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

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

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

1 10. All property, both real and personal, of manufacturers,
2 assemblers or fabricators, other than property that is specifically
3 included in another class described in this article, that is valued under
4 this title.

5 11. Real and personal property that is used in communications
6 transmission facilities and that provides public telephone or
7 telecommunications exchange or interexchange access for compensation to
8 effect two-way communication to, from, through or within this state.

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

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

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

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

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

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

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

29 42-12004. Class four property

30 A. For the purposes of taxation, class four is established
31 consisting of:

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

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

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

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

5 3. Child care facilities that are licensed under title 36, chapter
6 7.1 and that are valued at full cash value.

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

11 5. Real and personal property and improvements that are used to
12 operate licensed residential care institutions or licensed nursing care
13 institutions that provide medical services, nursing services or
14 health-related services and that are structured to house or care for
15 persons with disabilities or who are at least sixty-two years of age and
16 that are valued at full cash value.

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

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

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

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

34 ~~10. Real and personal property and improvements that are used for~~
35 ~~residential purposes and that are leased or rented to lodgers, except for:~~
36 ~~(a) Property occupied by the owner of the property as the owner's~~
37 ~~primary residence and included in class three.~~

38 ~~(b) Property used for commercial purposes and included in class~~
39 ~~one.~~

40 ~~11.~~ 10. Low-income multifamily residential rental properties that
41 are valued pursuant to chapter 13, article 13 of this title.

42 ~~12.~~ 11. Real and personal property and improvements to property of
43 a guest ranch that meets the requirements prescribed in chapter 13,
44 article 12 of this title and that is included in the Arizona dude ranch

1 heritage trail program established by section 41-867 and that are valued
2 at full cash value.

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

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

8 42-12054. Change in classification of owner-occupied
9 residence

10 A. If a person purchases or converts property that is listed as
11 class one pursuant to section 42-12001, paragraph 12, ~~OR~~ 13 OR 15, class
12 two or class four pursuant to article 1 of this chapter and occupies the
13 property as the person's primary residence, the person may have the
14 classification reviewed for change to class three from the date of
15 conversion and occupancy as a primary residence and may appeal from the
16 decision resulting from the review in the same manner as provided by law
17 for review of a valuation for ad valorem property taxes and appeal from
18 that review.

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

28 C. If a person makes such a conversion or occupancy or appeals the
29 classification after the county assessor has closed the rolls, the person
30 may petition the county board of supervisors to change the classification
31 and reduce the assessed valuation from the date of conversion or
32 occupancy.

33 D. The board of supervisors shall entertain the petition in the
34 same manner as a board of equalization hears a request for reduction in
35 valuation.

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

40 F. If the board of supervisors finds that the property is in fact
41 the owner's primary residence and should be listed as class three
42 property, the board shall change the classification on the roll and fix
43 the assessed valuation from the date of occupancy. The amount of taxes
44 that is assessed against the property shall be computed by applying the
45 current tax rate to the original assessed valuation prorated for the

1 portion of the tax year before the property was occupied plus the current
2 tax rate applied to the reassessed value of the property prorated for the
3 balance of the year.

4 G. The board of supervisors shall notify the department, assessor
5 and county treasurer of the change in classification, the change in
6 assessed valuation and the amount of tax assessed. The department and the
7 assessor may appeal any such decision in the same manner as provided in
8 section 42-16111. The assessor and treasurer shall note the change on
9 their records, and the treasurer may issue a future tax credit, endorsed
10 by the board, to the person whose property is liable for the tax. The tax
11 credit shall be used on the next or several succeeding property tax
12 assessments that the person may owe thereafter.

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

15 42-12056. Renewable energy systems valuation; definition

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

23 B. For the purposes of this section, "renewable energy systems"
24 means electric generation systems and electric transmission and
25 distribution SYSTEMS that ~~is~~ ARE used or useful for ~~the generation,~~
26 ~~storage, transmission~~ GENERATING, STORING, TRANSMITTING or ~~distribution of~~
27 DISTRIBUTING electric power, energy or fuel derived from solar, wind or
28 other nonpetroleum renewable sources, including materials and supplies.