

REFERENCE TITLE: TPT; exemption; motor vehicles

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

SB 1620

Introduced by
Senator Wadsack

AN ACT

AMENDING SECTIONS 28-2154, 28-2154.01, 42-5009, 42-5022, 42-5061, 42-5070, 42-5071, 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 43, SECTION 4 AND CHAPTER 321, SECTION 12; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2023, CHAPTER 204, SECTION 7; AMENDING SECTION 42-6017, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 28-2154, Arizona Revised Statutes, is amended to
3 read:

4 28-2154. Special registrations

5 A. A nonresident who purchases an unregistered vehicle in this
6 state for removal to the state of residence of the purchaser shall obtain
7 a special ninety day nonresident registration permit for the vehicle. The
8 nonresident shall obtain the special ninety day nonresident registration
9 permit by applying to the department, to an authorized third party or to a
10 motor vehicle dealer as defined in section 28-4301 and by paying the fees
11 prescribed by section 28-2003. ~~Unless the nonresident purchaser has~~
12 ~~completed a form prescribed by section 42-5009, subsection H,~~ An affidavit
13 in a form prescribed by the director shall accompany the application and
14 shall contain the following statements:

15 1. The purchaser is not a resident of this state as defined in
16 section 28-2001. For the purposes of this section and section 28-2154.01,
17 the purchaser shall present to the department, an authorized third party
18 or a motor vehicle dealer a driver license or other evidence prescribed by
19 the director showing that the purchaser is not a resident of this state.

20 2. The vehicle is purchased to be registered out of state within
21 ninety days after the issuance of the special ninety day nonresident
22 registration permit.

23 3. The vehicle is not purchased for transfer to a resident of this
24 state.

25 4. Other information that the director deems necessary.

26 B. At the time of application for a special ninety day nonresident
27 registration permit, the purchaser shall submit for inspection proper
28 evidence of ownership of the vehicle to be registered. The special ninety
29 day nonresident registration permit is valid for not more than ninety days
30 from the date of issuance and shall be in the form prescribed by the
31 director. A person who obtains a special ninety day nonresident
32 registration permit on a semitrailer that has been manufactured in this
33 state may use the semitrailer for commercial purposes if the semitrailer
34 is being used to transport goods from this state, subject to the payment
35 of any taxes prescribed by this title.

36 C. An enrolled member of an Indian tribe who resides on the Indian
37 reservation established for that tribe and who purchases an unregistered
38 vehicle in this state for removal to the Indian reservation shall obtain a
39 special ninety day nonresident registration permit for the vehicle. The
40 member may obtain the special ninety day nonresident registration permit
41 by applying to the department, to an authorized third party or to any
42 motor vehicle dealer as defined by section 28-4301 and by payment of the
43 fees prescribed by section 28-2003.

44 D. A resident who does not have complete documentation for issuance
45 of an Arizona title and registration on a noncommercial vehicle but who

1 has established ownership of the vehicle to the satisfaction of the
2 department may receive a special ninety day resident registration by
3 applying and paying the fee prescribed by section 28-2003 to the
4 department. The basis of assessment for the full annual registration fee
5 and vehicle license tax relates back to the date of issuance of the first
6 special ninety day resident registration.

7 E. A resident may receive a second consecutive special ninety day
8 resident registration on application and payment of the fee prescribed by
9 section 28-2003 if:

10 1. The person has applied for a bonded title and the title has not
11 been issued during the first ninety day registration.

12 2. The person is awaiting settlement of an estate.

13 3. The person is awaiting lien clearance.

14 4. The person is awaiting a hearing decision as a result of a title
15 complaint.

16 5. The person is awaiting the issuance of honorary consular
17 official special license plates.

18 6. The director determines other circumstances justify the
19 issuance.

20 F. At the discretion of the director, a resident may receive more
21 than two consecutive special ninety day resident registrations for a
22 vehicle in a twelve month period.

23 G. If there is a judgment against a resident of this state in
24 another state that requires suspension of the resident's vehicle
25 registration, in lieu of suspension of the resident's vehicle registration
26 the department may issue a special temporary registration for the
27 resident's vehicle that is valid for a period of not more than one hundred
28 eighty days.

29 Sec. 2. Section 28-2154.01, Arizona Revised Statutes, is amended to
30 read:

31 28-2154.01. Special ninety day nonresident registration
32 permits; procedures

33 A. A dealer or an authorized third party that issues a special
34 ninety day nonresident registration permit pursuant to section 28-2154
35 shall send an electronic record of the permit to the department through an
36 authorized third party or through the department's authorized third-party
37 electronic service provider.

38 B. The department, an authorized third party or a dealer shall not:

39 1. Issue, assign or deliver a special ninety day nonresident
40 registration permit to any person unless the person does all of the
41 following:

42 (a) Obtains the special ninety day nonresident registration permit
43 pursuant to section 28-2154.

1 (b) Completes an affidavit in a form prescribed by the director
2 pursuant to section 28-2154 ~~or completes a form prescribed by section~~
3 ~~42-5009, subsection H.~~

4 (c) Presents to the department, authorized third party or motor
5 vehicle dealer a current valid driver license issued by another state
6 indicating an address outside of this state.

7 (d) Provides any other information reasonably and uniformly
8 required by the department of transportation pursuant to section 28-2154
9 ~~or the department of revenue pursuant to section 42-5009, subsection H.~~

10 2. Issue and affix, as prescribed in subsection C of this section,
11 a special ninety day nonresident registration permit unless the permit is
12 recorded in the electronic records of the department.

13 C. A person who issues a special ninety day nonresident
14 registration permit shall affix or insert, clearly and indelibly, on the
15 face of each permit the dates of issuance and expiration and the make and
16 vehicle identification number of the vehicle. The special ninety day
17 nonresident registration permit shall not bear the name or address of the
18 person who purchased the vehicle in a position that is legible from
19 outside of the vehicle.

20 D. A dealer or authorized third party who issues a special ninety
21 day nonresident registration permit shall maintain a record, in a form
22 prescribed by the director, of all special ninety day nonresident
23 registration permits issued by the dealer or authorized third party and a
24 record of other information pertaining to the issuance of special ninety
25 day nonresident registration permits that the department of transportation
26 ~~or the department of revenue requires.~~

27 E. The dealer or authorized third party shall keep each record for
28 at least three years after the date of entry of the record.

29 F. A dealer or authorized third party shall allow the director of
30 the department of transportation ~~or the director of the department of~~
31 ~~revenue~~ full and free access to the records during regular business hours.

32 ~~G. The electronic record is written notice of the removal of the~~
33 ~~vehicle from this state for use in the purchaser's state of residence and~~
34 ~~relieves the dealer or authorized third party of liability in accordance~~
35 ~~with the requirements of section 42-5009.~~

36 ~~H. G. If a purchaser registers the vehicle in this state within~~
37 ~~three hundred sixty-five days after the issuance of the special ninety day~~
38 ~~nonresident registration permit, the purchaser is liable in an amount~~
39 ~~equal to any tax, penalty and interest that the motor vehicle dealer or~~
40 ~~authorized third party would have been required to pay under title 42,~~
41 ~~chapter 5 and under articles IV and VI of the model city tax code as~~
42 ~~defined in section 42-6051. At the time of issuing the special ninety day~~
43 ~~nonresident registration permit, a motor vehicle dealer or authorized~~
44 ~~third party shall inform the purchaser in writing of the purchaser's~~
45 ~~liability described in this section.~~ Subsequent registration or use of

1 the vehicle in this state does not create a cause of action against a
2 dealer or authorized third party that complies with section 28-2154,
3 subsection A, ~~AND this section and section 42-5009, subsection H.~~

4 ~~i. H.~~ H. The department of transportation ~~and the department of~~
5 ~~revenue~~ shall jointly develop and prescribe forms for the motor vehicle
6 dealer, the authorized third party and the purchaser to complete for the
7 proper administration and enforcement of this section.

8 ~~ii. I.~~ I. Compliance with this section and section 28-2154 allows
9 delivery of the vehicle to a nonresident purchaser in this state ~~and~~
10 ~~retains the applicable deductions pursuant to section 42-5061, subsection~~
11 ~~A, paragraph 28 and subsection U.~~

12 Sec. 3. Section 42-5009, Arizona Revised Statutes, is amended to
13 read:

14 42-5009. Certificates establishing deductions; liability for
15 making false certificate; tax exclusion;
16 definitions

17 A. A person who conducts any business classified under article 2 of
18 this chapter may establish entitlement to the allowable deductions from
19 the tax base of that business by both:

20 1. Marking the invoice for the transaction to indicate that the
21 gross proceeds of sales or gross income derived from the transaction was
22 deducted from the tax base.

23 2. Obtaining a certificate executed by the purchaser indicating the
24 name and address of the purchaser, the precise nature of the business of
25 the purchaser, the purpose for which the purchase was made, the necessary
26 facts to establish the appropriate deduction and the tax license number of
27 the purchaser to the extent the deduction depends on the purchaser
28 conducting business classified under article 2 of this chapter and a
29 certification that the person executing the certificate is authorized to
30 do so on behalf of the purchaser. The certificate may be disregarded if
31 the seller has reason to believe that the information contained in the
32 certificate is not accurate or complete.

33 B. A person who does not comply with subsection A of this section
34 may establish entitlement to the deduction by presenting facts necessary
35 to support the entitlement, but the burden of proof is on that person.

36 C. The department may prescribe a form for the certificate
37 described in subsection A of this section. Under such rules as it may
38 prescribe, the department may also describe transactions with respect to
39 which a person is not entitled to rely solely on the information contained
40 in the certificate provided for in subsection A of this section but must
41 instead obtain such additional information as required by the rules in
42 order to be entitled to the deduction.

43 D. If a seller is entitled to a deduction by complying with
44 subsection A of this section, the department may require the purchaser
45 that caused the execution of the certificate to establish the accuracy and

1 completeness of the information required to be contained in the
2 certificate that would entitle the seller to the deduction. If the
3 purchaser cannot establish the accuracy and completeness of the
4 information, the purchaser is liable in an amount equal to any tax,
5 penalty and interest that the seller would have been required to pay under
6 this article if the seller had not complied with subsection A of this
7 section. Payment of the amount under this subsection exempts the
8 purchaser from liability for any tax imposed under article 4 of this
9 chapter. The amount shall be treated as tax revenues collected from the
10 seller in order to designate the distribution base for purposes of section
11 42-5029.

12 E. If a seller is entitled to a deduction by complying with
13 subsection B of this section, the department may require the purchaser to
14 establish the accuracy and completeness of the information provided to the
15 seller that entitled the seller to the deduction. If the purchaser cannot
16 establish the accuracy and completeness of the information, the purchaser
17 is liable in an amount equal to any tax, penalty and interest that the
18 seller would have been required to pay under this article if the seller
19 had not complied with subsection B of this section. Payment of the amount
20 under this subsection exempts the purchaser from liability for any tax
21 imposed under article 4 of this chapter. The amount shall be treated as
22 tax revenues collected from the seller in order to designate the
23 distribution base for purposes of section 42-5029.

24 F. The department may prescribe a form for a certificate used to
25 establish entitlement to the deductions described in section 42-5061,
26 subsection A, paragraph ~~46~~ 44 and section 42-5063, subsection B, paragraph
27 3. Under rules the department may prescribe, the department may also
28 require additional information for the seller to be entitled to the
29 deduction. If a seller is entitled to the deductions described in section
30 42-5061, subsection A, paragraph ~~46~~ 44 and section 42-5063, subsection B,
31 paragraph 3, the department may require the purchaser who executed the
32 certificate to establish the accuracy and completeness of the information
33 contained in the certificate that would entitle the seller to the
34 deduction. If the purchaser cannot establish the accuracy and
35 completeness of the information, the purchaser is liable in an amount
36 equal to any tax, penalty and interest that the seller would have been
37 required to pay under this article. Payment of the amount under this
38 subsection exempts the purchaser from liability for any tax imposed under
39 article 4 of this chapter. The amount shall be treated as tax revenues
40 collected from the seller in order to designate the distribution base for
41 purposes of section 42-5029.

42 G. If a seller claims a deduction under section 42-5061,
43 subsection A, paragraph 25 and establishes entitlement to the deduction
44 with an exemption letter that the purchaser received from the department
45 and the exemption letter was based on a contingent event, the department

1 may require the purchaser that received the exemption letter to establish
2 the satisfaction of the contingent event within a reasonable time. If the
3 purchaser cannot establish the satisfaction of the event, the purchaser is
4 liable in an amount equal to any tax, penalty and interest that the seller
5 would have been required to pay under this article if the seller had not
6 been furnished the exemption letter. Payment of the amount under this
7 subsection exempts the purchaser from liability for any tax imposed under
8 article 4 of this chapter. The amount shall be treated as tax revenues
9 collected from the seller in order to designate the distribution base for
10 purposes of section 42-5029. For the purposes of this subsection,
11 "reasonable time" means a time limitation that the department determines
12 and that does not exceed the time limitations pursuant to section 42-1104.

13 ~~H. The department shall prescribe forms for certificates used to~~
14 ~~establish the satisfaction of the criteria necessary to qualify the sale~~
15 ~~of a motor vehicle for the deductions described in section 42-5061,~~
16 ~~subsection A, paragraph 14, paragraph 28 and paragraph 44 and~~
17 ~~subsection U. Except as provided in subsection J of this section, to~~
18 ~~establish entitlement to these deductions, a motor vehicle dealer shall~~
19 ~~retain:~~

20 ~~1. A valid certificate as prescribed by this subsection completed~~
21 ~~by the purchaser and obtained before the issuance of the nonresident~~
22 ~~registration permit authorized by section 28-2154.~~

23 ~~2. For the purposes of the deductions provided by section 42-5061,~~
24 ~~subsection A, paragraph 14, subdivision (b) and section 42-5061,~~
25 ~~subsection U, a copy of the nonresident registration permit authorized by~~
26 ~~section 28-2154.~~

27 ~~3. A legible copy of a current valid driver license issued to the~~
28 ~~purchaser by another state or foreign country that indicates an address~~
29 ~~outside of this state. For the sale of a motor vehicle to a nonresident~~
30 ~~entity, the entity's representative must have a current valid driver~~
31 ~~license issued by the same jurisdiction as that in which the entity is~~
32 ~~located.~~

33 ~~4. For the purposes of the deduction provided by section 42-5061,~~
34 ~~subsection A, paragraph 14, subdivision (a), a certificate documenting the~~
35 ~~delivery of the motor vehicle to an out-of-state location.~~

36 ~~I. Notwithstanding subsection A, paragraph 2 of this section, if a~~
37 ~~motor vehicle dealer has established entitlement to a deduction by~~
38 ~~complying with subsection H of this section, the department may require~~
39 ~~the purchaser who executed the certificate to establish the accuracy and~~
40 ~~completeness of the information contained in the certificate that entitled~~
41 ~~the motor vehicle dealer to the deduction. If the purchaser cannot~~
42 ~~establish the accuracy and completeness of the information, the purchaser~~
43 ~~is liable in an amount equal to any tax, penalty and interest that the~~
44 ~~motor vehicle dealer would have been required to pay under this article~~
45 ~~and under articles IV and V of the model city tax code as defined in~~

1 ~~section 42-6051. Payment of the amount under this subsection exempts the~~
2 ~~purchaser from liability for any tax imposed under article 4 of this~~
3 ~~chapter and any tax imposed under article VI of the model city tax code as~~
4 ~~defined in section 42-6051. The amount shall be treated as tax revenues~~
5 ~~collected from the motor vehicle dealer in order to designate the~~
6 ~~distribution base for purposes of section 42-5029.~~

7 ~~J. To establish entitlement to the deduction described in section~~
8 ~~42-5061, subsection A, paragraph 44, a public consignment auction dealer~~
9 ~~as defined in section 28-4301 shall retain a copy of the certificate~~
10 ~~prescribed by subsection H of this section for its records.~~

11 ~~K. Notwithstanding any other law, compliance with subsection H of~~
12 ~~this section by a motor vehicle dealer entitles the motor vehicle dealer~~
13 ~~to the exemption provided in section 42-6004, subsection A, paragraph 4.~~

14 ~~H.~~ H. The department shall prescribe a form for a certificate to
15 be used by a person that is not subject to tax under section 42-5075 when
16 the person is engaged by a contractor that is subject to tax under section
17 42-5075 for a project that is taxable under section 42-5075. The
18 certificate permits the person purchasing tangible personal property to be
19 incorporated or fabricated by the person into any real property,
20 structure, project, development or improvement to provide documentation to
21 a retailer that the sale of tangible personal property qualifies for the
22 deduction under section 42-5061, subsection A, paragraph 27,
23 subdivision (b). A prime contractor shall obtain the certificate from the
24 department and shall provide a copy to any such person working on the
25 project. The prime contractor shall obtain a new certificate for each
26 project to which this subsection applies. For the purposes of this
27 subsection, the following apply:

28 1. The person that is not subject to tax under section 42-5075 may
29 use the certificate issued pursuant to this subsection only with respect
30 to tangible personal property that will be incorporated into a project for
31 which the gross receipts are subject to tax under section 42-5075.

32 2. The department shall issue the certificate to the prime
33 contractor on receiving sufficient documentation to establish that the
34 prime contractor meets the requirements of this subsection.

35 3. If any person uses the certificate provided under this
36 subsection to purchase tangible personal property to be used in a project
37 that is not subject to tax under section 42-5075, the person is liable in
38 an amount equal to any tax, penalty and interest that the seller would
39 have been required to pay under this article if the seller had not
40 complied with subsection A of this section. Payment of the amount under
41 this section exempts the person from liability for any tax imposed under
42 article 4 of this chapter. The amount shall be sourced under section
43 42-5040, subsection A, paragraph 2.

44 ~~M.~~ I. Notwithstanding any other law, compliance with subsection
45 ~~H~~ H of this section by a person that is not subject to tax under section

1 42-5075 entitles the person to the exemption allowed by section 465,
2 subsection (k) of the model city tax code when purchasing tangible
3 personal property to be incorporated or fabricated by the person into any
4 real property, structure, project, development or improvement.

5 ~~H.~~ J. The requirements of subsections A and B of this section do
6 not apply to owners, proprietors or tenants of agricultural lands or farms
7 who sell livestock or poultry feed that is grown or raised on their lands
8 to any of the following:

- 9 1. Persons who feed their own livestock or poultry.
- 10 2. Persons who are engaged in the business of producing livestock
11 or poultry commercially.
- 12 3. Persons who are engaged in the business of feeding livestock or
13 poultry commercially or who board livestock noncommercially.

14 ~~I.~~ K. A vendor who has reason to believe that a certificate
15 prescribed by this section is not accurate or complete will not be
16 relieved of the burden of proving entitlement to the exemption. A vendor
17 that accepts a certificate in good faith will be relieved of the burden of
18 proof and the purchaser may be required to establish the accuracy of the
19 claimed exemption. If the purchaser cannot establish the accuracy and
20 completeness of the information provided in the certificate, the purchaser
21 is liable for an amount equal to the transaction privilege tax, penalty
22 and interest that the vendor would have been required to pay if the vendor
23 had not accepted the certificate.

24 ~~P.~~ L. Notwithstanding any other law, an online lodging operator,
25 as defined in section 42-5076, shall be entitled to an exclusion from any
26 applicable taxes for any online lodging transaction, as defined in section
27 42-5076, facilitated by an online lodging marketplace, as defined in
28 section 42-5076, for which the online lodging operator has obtained from
29 the online lodging marketplace written notice that the online lodging
30 marketplace is registered with the department to collect applicable taxes
31 for all online lodging transactions facilitated by the online lodging
32 marketplace, and transaction history documenting tax collected by the
33 online lodging marketplace, pursuant to section 42-5005, subsection L.

34 ~~Q.~~ M. The department shall prescribe the form of a certificate to
35 be used by a person purchasing an aircraft to document eligibility for a
36 deduction pursuant to section 42-5061, subsection B, paragraph 8,
37 subdivision (a), item (v) or an exemption pursuant to section 42-5159,
38 subsection B, paragraph 8, subdivision (a), item (v), relating to
39 aircraft. The person must provide this certificate and documentation
40 confirming that the operational control of the aircraft has been
41 transferred or will be transferred immediately after the purchase to one
42 or more persons described in section 42-5061, subsection B, paragraph 8,
43 subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,
44 subsection B, paragraph 8, subdivision (a), item (i), (ii), (iii) or (iv).
45 Operational control of the aircraft must be transferred for at least fifty

1 percent of the aircraft's flight hours. If such operational control is
2 not transferred for at least fifty percent of the aircraft's flight hours
3 during the recapture period, the owner of the aircraft is liable for an
4 amount equal to any tax that the seller or purchaser would have been
5 required to pay under this chapter at the time of the sale, plus penalty
6 and interest. The recapture period begins on the date that operational
7 control of the aircraft is first transferred and ends on the later of the
8 date the aircraft is fully depreciated for federal income tax purposes or
9 five years after operational control was first transferred. For the
10 purposes of this subsection, operational control of the aircraft must be
11 within the meaning of federal aviation administration operations
12 specification A008, or its successor, except that:

13 1. If it is determined that operational control has been
14 transferred for less than fifty percent but more than forty percent of the
15 aircraft's flight hours, the owner of the aircraft is liable for an amount
16 equal to any tax that the seller or purchaser would have been required to
17 pay under this chapter at the time of the sale, plus interest.

18 2. If the aircraft is sold during the recapture period, the seller
19 is not liable for the amount determined pursuant to this subsection unless
20 the operational control of the aircraft had not been transferred for at
21 least fifty percent of the aircraft's flight hours at the time of the
22 sale.

23 ~~R.~~ N. Notwithstanding any other law, a shared vehicle owner is
24 entitled to an exclusion from any applicable taxes for a shared vehicle
25 transaction that is facilitated by a peer-to-peer car sharing program and
26 for which the peer-to-peer car sharing program has collected and remitted
27 applicable taxes.

28 ~~S.~~ O. A qualifying community health center, qualifying health care
29 organization or qualifying hospital or any other entity that is recognized
30 as nonprofit under section 501(c) of the United States internal revenue
31 code and that is required to obtain an exemption letter from the
32 department shall:

33 1. Apply to the department for the exemption letter and fully
34 answer any eligibility questions required by the department for the
35 purposes of the exemption letter. If the department approves the
36 exemption letter application, the exemption letter is valid until the
37 entity is no longer qualified for the exemption letter.

38 2. Notify the department in writing if the entity no longer
39 qualifies for the exemption letter. Regardless of whether the entity
40 notifies the department as required by this paragraph, if the entity no
41 longer qualifies for the exemption letter, the entity is liable in an
42 amount equal to any tax, penalty and interest that the seller would have
43 been required to pay under this article if the seller had not been
44 furnished the exemption letter. Payment of the amount under this
45 paragraph exempts the entity from liability for any tax imposed under

1 article 4 of this chapter. The amount shall be treated as tax revenues
2 collected from the seller in order to designate the distribution base for
3 the purposes of section 42-5029.

4 ~~F.~~ P. For the purposes of this section, "peer-to-peer car sharing
5 program", "shared vehicle owner" and "shared vehicle transaction" have the
6 same meanings prescribed in section 28-9601.

7 Sec. 4. Section 42-5022, Arizona Revised Statutes, is amended to
8 read:

9 42-5022. Burden of proving sale not at retail

10 The burden of proving that a sale of tangible personal property was
11 not a sale at retail shall be on the person ~~who~~ THAT made the sale, unless
12 either:

13 1. The person has taken from the purchaser a certificate signed by
14 and bearing the name and address of the purchaser that the property was
15 purchased for resale in the ordinary course of business and that ~~he~~ THE
16 PERSON has a valid license, with the number thereof, to sell the kind of
17 property purchased.

18 2. The person is exempt from the requirement of a certificate
19 pursuant to section 42-5009, subsection ~~H~~ J.

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

22 42-5061. Retail classification; definitions

23 A. The retail classification is comprised of the business of
24 selling tangible personal property at retail. The tax base for the retail
25 classification is the gross proceeds of sales or gross income derived from
26 the business. The tax imposed on the retail classification does not apply
27 to the gross proceeds of sales or gross income from:

28 1. Professional or personal service occupations or businesses that
29 involve sales or transfers of tangible personal property only as
30 inconsequential elements.

31 2. Services rendered in addition to selling tangible personal
32 property at retail.

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

36 4. Sales of tangible personal property by any nonprofit
37 organization organized and operated exclusively for charitable purposes
38 and recognized by the United States internal revenue service under section
39 501(c)(3) of the internal revenue code.

40 5. Sales to persons engaged in business classified under the
41 restaurant classification of articles used by human beings for food, drink
42 or condiment, whether simple, mixed or compounded.

43 6. Business activity that is properly included in any other
44 business classification that is taxable under this article.

45 7. The sale of stocks and bonds.

- 1 8. Drugs and medical oxygen, including delivery hose, mask or tent,
2 regulator and tank, if prescribed by a member of the medical, dental or
3 veterinarian profession who is licensed by law to administer such
4 substances.
- 5 9. Prosthetic appliances as defined in section 23-501 and as
6 prescribed or recommended by a health professional who is licensed
7 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 8 10. Insulin, insulin syringes and glucose test strips.
- 9 11. Prescription eyeglasses or contact lenses.
- 10 12. Hearing aids as defined in section 36-1901.
- 11 13. Durable medical equipment that has a centers for medicare and
12 medicaid services common procedure code, is designated reimbursable by
13 medicare, is prescribed by a person who is licensed under title 32,
14 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is
15 primarily and customarily used to serve a medical purpose, is generally
16 not useful to a person in the absence of illness or injury and is
17 appropriate for use in the home.
- 18 14. Sales of motor vehicles ~~to nonresidents of this state for use~~
19 ~~outside this state if either of the following apply:~~
- 20 ~~(a) The motor vehicle dealer ships or delivers the motor vehicle to~~
21 ~~a destination out of this state.~~
- 22 ~~(b) The vehicle, trailer or semitrailer has a gross vehicle weight~~
23 ~~rating of more than ten thousand pounds, is used or maintained to~~
24 ~~transport property in the furtherance of interstate commerce and otherwise~~
25 ~~meets the definition of commercial motor vehicle as defined in section~~
26 ~~28-5201.~~
- 27 15. Food, as provided in and subject to the conditions of article 3
28 of this chapter and sections 42-5074 and 42-6017.
- 29 16. Items purchased with United States department of agriculture
30 coupons issued under the supplemental nutrition assistance program
31 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
32 7 United States Code sections 2011 through 2036b) by the United States
33 department of agriculture food and nutrition service or food instruments
34 issued under section 17 of the child nutrition act (P.L. 95-627;
35 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States
36 Code section 1786).
- 37 17. Textbooks by any bookstore that are required by any state
38 university or community college.
- 39 18. Food and drink to a person that is engaged in a business that
40 is classified under the restaurant classification and that provides such
41 food and drink without monetary charge to its employees for their own
42 consumption on the premises during the employees' hours of employment.
- 43 19. Articles of food, drink or condiment and accessory tangible
44 personal property to a school district or charter school if such articles
45 and accessory tangible personal property are to be prepared and served to

1 persons for consumption on the premises of a public school within the
2 district or on the premises of the charter school during school hours.

3 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
4 article 1.

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

12 (a) "Cash equivalents" means items or intangibles, whether or not
13 negotiable, that are sold to one or more persons, through which a value
14 denominated in money is purchased in advance and may be redeemed in full
15 or in part for tangible personal property, intangibles or services. Cash
16 equivalents include gift cards, stored value cards, gift certificates,
17 vouchers, traveler's checks, money orders or other instruments, orders or
18 electronic mechanisms, such as an electronic code, personal identification
19 number or digital payment mechanism, or any other prepaid intangible right
20 to acquire tangible personal property, intangibles or services in the
21 future, whether from the seller of the cash equivalent or from another
22 person. Cash equivalents do not include either of the following:

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

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

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

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

34 22. Motor vehicle fuel and use fuel that are subject to a tax
35 imposed under title 28, chapter 16, article 1, sales of use fuel to a
36 holder of a valid single trip use fuel tax permit issued under section
37 28-5739, sales of aviation fuel that are subject to the tax imposed under
38 section 28-8344 and sales of jet fuel that are subject to the tax imposed
39 under article 8 of this chapter.

40 23. Tangible personal property sold to a person engaged in the
41 business of leasing or renting such property under the personal property
42 rental classification if such property is to be leased or rented by such
43 person.

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

4 25. Tangible personal property sold to:

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

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization
8 solely to provide health and medical related educational and charitable
9 services.

10 (c) A qualifying health care organization as defined in section
11 42-5001 if the organization is dedicated to providing educational,
12 therapeutic, rehabilitative and family medical education training for
13 blind and visually impaired children and children with multiple
14 disabilities from the time of birth to age twenty-one.

15 (d) A qualifying community health center as defined in section
16 42-5001.

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

20 (f) For taxable periods beginning from and after June 30, 2001, a
21 nonprofit charitable organization that has qualified under section
22 501(c)(3) of the internal revenue code and that provides residential
23 apartment housing for low-income persons over sixty-two years of age in a
24 facility that qualifies for a federal housing subsidy, if the tangible
25 personal property is used by the organization solely to provide
26 residential apartment housing for low-income persons over sixty-two years
27 of age in a facility that qualifies for a federal housing subsidy.

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

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

34 26. Magazines or other periodicals or other publications by this
35 state to encourage tourist travel.

36 27. Tangible personal property sold to:

37 (a) A person that is subject to tax under this article by reason of
38 being engaged in business classified under section 42-5075 or to a
39 subcontractor working under the control of a person engaged in business
40 classified under section 42-5075, if the property so sold is any of the
41 following:

42 (i) Incorporated or fabricated by the person into any real
43 property, structure, project, development or improvement as part of the
44 business.

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

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

5 (b) A person that is not subject to tax under section 42-5075 and
6 that has been provided a copy of a certificate under section 42-5009,
7 subsection ~~H~~, if the property so sold is incorporated or fabricated by
8 the person into the real property, structure, project, development or
9 improvement described in the certificate.

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

15 ~~29.~~ 28. Tangible personal property purchased in this state by a
16 nonprofit charitable organization that has qualified under section
17 501(c)(3) of the United States internal revenue code and that engages in
18 and uses such property exclusively in programs for persons with mental or
19 physical disabilities if the programs are exclusively for training, job
20 placement, rehabilitation or testing.

21 ~~30.~~ 29. Sales of tangible personal property by a nonprofit
22 organization that is exempt from taxation under section 501(c)(3),
23 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is
24 associated with a major league baseball team or a national touring
25 professional golfing association and no part of the organization's net
26 earnings inures to the benefit of any private shareholder or
27 individual. This paragraph does not apply to an organization that is
28 owned, managed or controlled, in whole or in part, by a major league
29 baseball team, or its owners, officers, employees or agents, or by a major
30 league baseball association or professional golfing association, or its
31 owners, officers, employees or agents, unless the organization conducted
32 or operated exhibition events in this state before January 1, 2018 that
33 were exempt from taxation under section 42-5073.

34 ~~31.~~ 30. Sales of commodities, as defined by title 7 United States
35 Code section 2, that are consigned for resale in a warehouse in this state
36 in or from which the commodity is deliverable on a contract for future
37 delivery subject to the rules of a commodity market regulated by the
38 United States commodity futures trading commission.

39 ~~32.~~ 31. Sales of tangible personal property by a nonprofit
40 organization that is exempt from taxation under section 501(c)(3),
41 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code
42 if the organization sponsors or operates a rodeo featuring primarily farm
43 and ranch animals and no part of the organization's net earnings inures to
44 the benefit of any private shareholder or individual.

1 ~~33.~~ 32. Sales of propagative materials to persons who use those
2 items to commercially produce agricultural, horticultural, viticultural or
3 floricultural crops in this state. For the purposes of this paragraph,
4 "propagative materials":

5 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
6 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
7 and plant substances, micronutrients, fertilizers, insecticides,
8 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
9 adjuvants, plant nutrients and plant growth regulators.

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

14 ~~34.~~ 33. Machinery, equipment, technology or related supplies that
15 are only useful to assist a person with a physical disability as defined
16 in section 46-191 or a person who has a developmental disability as
17 defined in section 36-551 or has a head injury as defined in section
18 41-3201 to be more independent and functional.

19 ~~35.~~ 34. Sales of natural gas or liquefied petroleum gas used to
20 propel a motor vehicle.

21 ~~36.~~ 35. Paper machine clothing, such as forming fabrics and dryer
22 felts, sold to a paper manufacturer and directly used or consumed in paper
23 manufacturing.

24 ~~37.~~ 36. Coal, petroleum, coke, natural gas, virgin fuel oil and
25 electricity sold to a qualified environmental technology manufacturer,
26 producer or processor as defined in section 41-1514.02 and directly used
27 or consumed in generating or providing on-site power or energy solely for
28 environmental technology manufacturing, producing or processing or
29 environmental protection. This paragraph applies for twenty full
30 consecutive calendar or fiscal years from the date the first paper
31 manufacturing machine is placed in service. In the case of an
32 environmental technology manufacturer, producer or processor that does not
33 manufacture paper, the time period begins with the date the first
34 manufacturing, processing or production equipment is placed in service.

35 ~~38.~~ 37. Sales of liquid, solid or gaseous chemicals used in
36 manufacturing, processing, fabricating, mining, refining, metallurgical
37 operations, research and development and, beginning on January 1, 1999,
38 printing, if using or consuming the chemicals, alone or as part of an
39 integrated system of chemicals, involves direct contact with the materials
40 from which the product is produced for the purpose of causing or allowing
41 a chemical or physical change to occur in the materials as part of the
42 production process. This paragraph does not include chemicals that are
43 used or consumed in activities such as packaging, storage or
44 transportation but does not affect any deduction for such chemicals that
45 is otherwise provided by this section. For the purposes of this

1 paragraph, "printing" means a commercial printing operation and includes
2 job printing, engraving, embossing, copying and bookbinding.

3 ~~39.~~ 38. Through December 31, 1994, personal property liquidation
4 transactions, conducted by a personal property liquidator. From and after
5 December 31, 1994, personal property liquidation transactions shall be
6 taxable under this section provided that nothing in this subsection shall
7 be construed to authorize the taxation of casual activities or
8 transactions under this chapter. For the purposes of this paragraph:

9 (a) "Personal property liquidation transaction" means a sale of
10 personal property made by a personal property liquidator acting solely on
11 behalf of the owner of the personal property sold at the dwelling of the
12 owner or on the death of any owner, on behalf of the surviving spouse, if
13 any, any devisee or heir or the personal representative of the estate of
14 the deceased, if one has been appointed.

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

17 ~~40.~~ 39. Sales of food, drink and condiment for consumption within
18 the premises of any prison, jail or other institution under the
19 jurisdiction of the state department of corrections, the department of
20 public safety, the department of juvenile corrections or a county sheriff.

21 ~~41.~~ 40. ~~A motor vehicle and~~ Any repair and replacement parts and
22 tangible personal property becoming a part of ~~such~~ A motor vehicle sold to
23 a motor carrier that is subject to a fee prescribed in title 28, chapter
24 16, article 4 and that is engaged in the business of leasing or renting
25 such property.

26 ~~42.~~ 41. Sales of:

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

29 (b) Livestock and poultry feed, salts, vitamins and other additives
30 for livestock or poultry consumption that are sold to persons for use or
31 consumption by their own livestock or poultry, for use or consumption in
32 the businesses of farming, ranching and producing or feeding livestock,
33 poultry, or livestock or poultry products or for use or consumption in
34 noncommercial boarding of livestock. For the purposes of this paragraph,
35 "poultry" includes ratites.

36 ~~43.~~ 42. Sales of implants used as growth promotants and injectable
37 medicines, not already exempt under paragraph 8 of this subsection, for
38 livestock or poultry owned by or in possession of persons that are engaged
39 in producing livestock, poultry, or livestock or poultry products or that
40 are engaged in feeding livestock or poultry commercially. For the
41 purposes of this paragraph, "poultry" includes ratites.

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

1 ~~45.~~ 43. Tangible personal property sold to a person engaged in
2 business and subject to tax under the transient lodging classification if
3 the tangible personal property is a personal hygiene item or articles used
4 by human beings for food, drink or condiment, except alcoholic beverages,
5 that are furnished without additional charge to and intended to be
6 consumed by the transient during the transient's occupancy.

7 ~~46.~~ 44. Sales of alternative fuel, as defined in section 1-215, to
8 a used oil fuel burner who has received a permit to burn used oil or used
9 oil fuel under section 49-426 or 49-480.

10 ~~47.~~ 45. Sales of materials that are purchased by or for publicly
11 funded libraries, including school district libraries, charter school
12 libraries, community college libraries, state university libraries or
13 federal, state, county or municipal libraries, for use by the public as
14 follows:

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

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

17 ~~48.~~ 46. Tangible personal property sold to a commercial airline
18 and consisting of food, beverages and condiments and accessories used for
19 serving the food and beverages, if those items are to be provided without
20 additional charge to passengers for consumption in flight. For the
21 purposes of this paragraph, "commercial airline" means a person holding a
22 federal certificate of public convenience and necessity or foreign air
23 carrier permit for air transportation to transport persons, property or
24 United States mail in intrastate, interstate or foreign commerce.

25 ~~49.~~ 47. Sales of alternative fuel vehicles if the vehicle was
26 manufactured as a diesel fuel vehicle and converted to operate on
27 alternative fuel and equipment that is installed in a conventional diesel
28 fuel motor vehicle to convert the vehicle to operate on an alternative
29 fuel, as defined in section 1-215.

30 ~~50.~~ 48. Sales of any spirituous, vinous or malt liquor by a person
31 that is licensed in this state as a wholesaler by the department of liquor
32 licenses and control pursuant to title 4, chapter 2, article 1.

33 ~~51.~~ 49. Sales of tangible personal property to be incorporated or
34 installed as part of environmental response or remediation activities
35 under section 42-5075, subsection B, paragraph 6.

36 ~~52.~~ 50. Sales of tangible personal property by a nonprofit
37 organization that is exempt from taxation under section 501(c)(6) of the
38 internal revenue code if the organization produces, organizes or promotes
39 cultural or civic related festivals or events and no part of the
40 organization's net earnings inures to the benefit of any private
41 shareholder or individual.

42 ~~53.~~ 51. Application services that are designed to assess or test
43 student learning or to promote curriculum design or enhancement purchased
44 by or for any school district, charter school, community college or state
45 university. For the purposes of this paragraph:

1 (a) "Application services" means software applications provided
2 remotely using hypertext transfer protocol or another network protocol.

3 (b) "Curriculum design or enhancement" means planning, implementing
4 or reporting on courses of study, lessons, assignments or other learning
5 activities.

6 ~~54.~~ 52. Sales of motor vehicle fuel and use fuel to a qualified
7 business under section 41-1516 for off-road use in harvesting, processing
8 or transporting qualifying forest products removed from qualifying
9 projects as defined in section 41-1516.

10 ~~55.~~ 53. Sales of repair parts installed in equipment used directly
11 by a qualified business under section 41-1516 in harvesting, processing or
12 transporting qualifying forest products removed from qualifying projects
13 as defined in section 41-1516.

14 ~~56.~~ 54. Sales or other transfers of renewable energy credits or
15 any other unit created to track energy derived from renewable energy
16 resources. For the purposes of this paragraph, "renewable energy credit"
17 means a unit created administratively by the corporation commission or
18 governing body of a public power utility to track kilowatt hours of
19 electricity derived from a renewable energy resource or the kilowatt hour
20 equivalent of conventional energy resources displaced by distributed
21 renewable energy resources.

22 ~~57.~~ 55. Orthodontic devices dispensed by a dental professional who
23 is licensed under title 32, chapter 11 to a patient as part of the
24 practice of dentistry.

25 ~~58.~~ 56. Sales of tangible personal property incorporated or
26 fabricated into a project described in section 42-5075, subsection 0, that
27 is located within the exterior boundaries of an Indian reservation for
28 which the owner, as defined in section 42-5075, of the project is an
29 Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

38 (c) "Indian tribe" means any organized nation, tribe, band or
39 community that is recognized as an Indian tribe by the United States
40 department of the interior and includes any entity formed under the laws
41 of the Indian tribe.

42 ~~59.~~ 57. Sales of works of fine art, as defined in section 44-1771,
43 at an art auction or gallery in this state to nonresidents of this state
44 for use outside this state if the vendor ships or delivers the work of
45 fine art to a destination outside this state.

1 ~~60.~~ 58. Sales of tangible personal property by a marketplace
2 seller that are facilitated by a marketplace facilitator in which the
3 marketplace facilitator has remitted or will remit the applicable tax to
4 the department pursuant to section 42-5014.

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

9 1. Machinery, or equipment, used directly in manufacturing,
10 processing, fabricating, job printing, refining or metallurgical
11 operations. The terms "manufacturing", "processing", "fabricating", "job
12 printing", "refining" and "metallurgical" as used in this paragraph refer
13 to and include those operations commonly understood within their ordinary
14 meaning. "Metallurgical operations" includes leaching, milling,
15 precipitating, smelting and refining.

16 2. Mining machinery, or equipment, used directly in the process of
17 extracting ores or minerals from the earth for commercial purposes,
18 including equipment required to prepare the materials for extraction and
19 handling, loading or transporting such extracted material to the surface.
20 "Mining" includes underground, surface and open pit operations for
21 extracting ores and minerals.

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

30 4. Machinery, equipment or transmission lines used directly in
31 producing or transmitting electrical power, but not including
32 distribution. Transformers and control equipment used at transmission
33 substation sites constitute equipment used in producing or transmitting
34 electrical power.

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

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

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

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

5 6. Neat animals, horses, asses, sheep, ratites, swine or goats used
6 or to be used as breeding or production stock, including sales of
7 breedings or ownership shares in such animals used for breeding or
8 production.

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

13 8. Aircraft, navigational and communication instruments and other
14 accessories and related equipment sold to:

15 (a) A person:

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

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

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

29 (iv) Operating an aircraft to transport persons in any manner for
30 compensation or hire, or for use in a fractional ownership program that
31 meets the requirements of federal aviation administration regulations
32 (14 Code of Federal Regulations part 91, subpart K), including as an air
33 carrier, a foreign air carrier or a commercial operator or under a
34 restricted category, within the meaning of 14 Code of Federal Regulations,
35 regardless of whether the operation or aircraft is regulated or certified
36 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code
37 of Federal Regulations.

38 (v) That will lease or otherwise transfer operational control,
39 within the meaning of federal aviation administration operations
40 specification A008, or its successor, of the aircraft, instruments or
41 accessories to one or more persons described in item (i), (ii), (iii) or
42 (iv) of this subdivision, subject to section 42-5009, subsection ~~Q~~ M.

43 (b) Any foreign government.

44 (c) Persons who are not residents of this state and who will not
45 use such property in this state other than in removing such property from

1 this state. This subdivision also applies to corporations that are not
2 incorporated in this state, regardless of maintaining a place of business
3 in this state, if the principal corporate office is located outside this
4 state and the property will not be used in this state other than in
5 removing the property from this state.

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

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

12 11. Machinery or equipment used directly to drill for oil or gas or
13 used directly in the process of extracting oil or gas from the earth for
14 commercial purposes.

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

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

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

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

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

40 15. Machinery or equipment used in research and development. For
41 the purposes of this paragraph, "research and development" means basic and
42 applied research in the sciences and engineering, and designing,
43 developing or testing prototypes, processes or new products, including
44 research and development of computer software that is embedded in or an
45 integral part of the prototype or new product or that is required for

1 machinery or equipment otherwise exempt under this section to function
2 effectively. Research and development do not include manufacturing
3 quality control, routine consumer product testing, market research, sales
4 promotion, sales service, research in social sciences or psychology,
5 computer software research that is not included in the definition of
6 research and development, or other nontechnological activities or
7 technical services.

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

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

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

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

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

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

38 (a) Includes the integrated systems, fixtures, piping, movable
39 partitions, lighting and all property that is necessary or adapted to
40 reduce contamination or to control airflow, temperature, humidity,
41 chemical purity or other environmental conditions or manufacturing
42 tolerances, as well as the production machinery and equipment operating in
43 conjunction with the clean room environment.

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

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

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

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

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

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

34 (b) Machinery or equipment purchased to replace machinery or
35 equipment for which an exemption was previously claimed and taken under
36 this paragraph.

37 (c) Any machinery or equipment purchased after the television
38 station has ceased analog broadcasting, or purchased after November 1,
39 2009, whichever occurs first.

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

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

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

11 1. Expendable materials. For the purposes of this paragraph,
12 expendable materials do not include any of the categories of tangible
13 personal property specified in subsection B of this section regardless of
14 the cost or useful life of that property.

15 2. Janitorial equipment and hand tools.

16 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

41 F. If a person is engaged in an occupation or business to which
42 subsection A of this section applies, the person's books shall be kept so
43 as to show separately the gross proceeds of sales of tangible personal
44 property and the gross income from sales of services, and if not so kept

1 the tax shall be imposed on the total of the person's gross proceeds of
2 sales of tangible personal property and gross income from services.

3 G. If a person is engaged in the business of selling tangible
4 personal property at both wholesale and retail, the tax under this section
5 applies only to the gross proceeds of the sales made other than at
6 wholesale if the person's books are kept so as to show separately the
7 gross proceeds of sales of each class, and if the books are not so kept,
8 the tax under this section applies to the gross proceeds of every sale so
9 made.

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

17 1. Agricultural producers who are owners, proprietors or tenants of
18 agricultural lands, orchards, farms or gardens where agricultural products
19 are grown, raised or prepared for market and who are marketing their own
20 agricultural products.

21 2. Businesses classified under the:

22 (a) Transporting classification.

23 (b) Utilities classification.

24 (c) Telecommunications classification.

25 (d) Pipeline classification.

26 (e) Private car line classification.

27 (f) Publication classification.

28 (g) Job printing classification.

29 (h) Prime contracting classification.

30 (i) Restaurant classification.

31 I. The gross proceeds of sales or gross income derived from the
32 following shall be deducted from the tax base for the retail
33 classification:

34 1. Sales made directly to the United States government or its
35 departments or agencies by a manufacturer, modifier, assembler or
36 repairer.

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

41 3. Overhead materials or other tangible personal property that is
42 used in performing a contract between the United States government and a
43 manufacturer, modifier, assembler or repairer, including property used in
44 performing a subcontract with a government contractor who is a

1 manufacturer, modifier, assembler or repairer, to which title passes to
2 the government under the terms of the contract or subcontract.

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

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

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

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

19 1. A manufacturer's cash rebate on the sales price of a motor
20 vehicle if the buyer assigns the buyer's right in the rebate to the
21 retailer.

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

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

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

35 O. For the purposes of this section, a sale of wireless
36 telecommunications equipment to a person who holds the equipment for sale
37 or transfer to a customer as an inducement to enter into or continue a
38 contract for telecommunications services that are taxable under section
39 42-5064 is considered to be a sale for resale in the regular course of
40 business.

41 P. Retail sales of prepaid calling cards or prepaid authorization
42 numbers for telecommunications services, including sales of
43 reauthorization of a prepaid card or authorization number, are subject to
44 tax under this section.

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

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

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

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

13 1. The transfer of title or possession of the coal is for the
14 purpose of refining the coal.

15 2. The title or possession of the coal is transferred back to the
16 owner or operator of the power plant after completion of the coal refining
17 process. For the purposes of this paragraph, "coal refining process"
18 means the application of a coal additive system that aids in the reduction
19 of power plant emissions during the combustion of coal and the treatment
20 of flue gas.

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

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

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

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

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

~~U.~~ U. For the purposes of this section:

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

2. "Aircraft" includes:

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

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

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

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

~~U.~~ V. For the purposes of subsection I of this section:

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

2. "Manufacturer" means a person who is principally engaged in fabricating, producing or manufacturing products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

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

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be

1 included in the retail classification, and that are used or consumed in
2 performing a contract, the cost of which is charged to an overhead expense
3 account and allocated to various contracts based on generally accepted
4 accounting principles and consistent with government contract accounting
5 standards.

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

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

18 Sec. 6. Section 42-5070, Arizona Revised Statutes, is amended to
19 read:

20 42-5070. Transient lodging classification; definition

21 A. The transient lodging classification is comprised of the
22 business of operating, for occupancy by transients, a hotel or motel,
23 including an inn, tourist home or house, dude ranch, resort, campground,
24 studio or bachelor hotel, lodging house, rooming house, apartment house,
25 dormitory, public or private club, mobile home or house trailer at a fixed
26 location or other similar structure, and also including a space, lot or
27 slab that is occupied or intended or designed for occupancy by transients
28 in a mobile home or house trailer furnished by them for such occupancy.

29 B. The transient lodging classification does not include:

30 1. Operating a convalescent home or facility, home for the aged,
31 hospital, jail, military installation or fraternity or sorority house or
32 operating any structure exclusively by an association, institution,
33 governmental agency or corporation for religious, charitable or
34 educational purposes, if no part of the net earnings of the association,
35 corporation or other entity inures to the benefit of any private
36 shareholder or individual.

37 2. A lease or rental of a mobile home or house trailer at a fixed
38 location or any other similar structure, and also including a space, lot
39 or slab that is occupied or intended or designed for occupancy by
40 transients in a mobile home or house trailer furnished by them for such
41 occupancy for thirty or more consecutive days.

42 3. Leasing or renting four or fewer rooms of an owner-occupied
43 residential home, together with furnishing ~~no~~ NOT more than a breakfast
44 meal, to transient lodgers at ~~no~~ NOT more than a fifty percent average
45 annual occupancy rate.

1 4. The activities of any online lodging marketplace, as defined in
2 section 42-5076.

3 C. The tax base for the transient lodging classification is the
4 gross proceeds of sales or gross income derived from the business, except
5 that the tax base does not include:

6 1. The gross proceeds of sales or gross income derived from
7 business activity that is properly included in another business
8 classification under this article and that is taxable to the person
9 engaged in that business classification, but the gross proceeds of sales
10 or gross income to be deducted shall not exceed the consideration paid to
11 the person conducting the activity.

12 2. The gross proceeds or gross income received by an online lodging
13 operator, as defined in section 42-5076, from any online lodging
14 transactions, as defined in section 42-5076, for which the online lodging
15 operator has received documentation from a registered online lodging
16 marketplace, as defined in section 42-5076, pursuant to section 42-5009,
17 subsection ~~P~~ L that the online lodging marketplace has remitted or will
18 remit the applicable tax to the department pursuant to section 42-5014,
19 subsection E.

20 D. For the purposes of this section, the tax base for the transient
21 lodging classification does not include gross proceeds of sales or gross
22 income derived from:

23 1. Transactions or activities that are not limited to transients
24 and that would not be taxable if engaged in by a person not subject to tax
25 under this article.

26 2. Transactions or activities that are not limited to transients
27 and that would not be taxable if engaged in by a person subject to
28 taxation under section 42-5062 or 42-5073 due to an exclusion, exemption
29 or deduction.

30 3. Commissions paid to a person that is engaged in transient
31 lodging business subject to taxation under this section by a person
32 providing services or property to the customers of the person engaging in
33 the transient lodging business.

34 E. The department shall separately account for revenues collected
35 under the transient lodging classification for the purposes of section
36 42-5029, subsection D, paragraph 4, subdivision (b).

37 F. For the purposes of this section, "transient" means any person
38 who either at the person's own expense or at the expense of another
39 obtains lodging space or the use of lodging space on a daily or weekly
40 basis, or on any other basis for less than thirty consecutive days.

41 Sec. 7. Section 42-5071, Arizona Revised Statutes, is amended to
42 read:

43 42-5071. Personal property rental classification; definitions

44 A. The personal property rental classification is comprised of the
45 business of leasing or renting tangible personal property for a

1 consideration and includes peer-to-peer car sharing. The tax does not
2 apply to:

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

6 2. Activities engaged in by the Arizona exposition and state fair
7 board or county fair commissions in connection with events sponsored by
8 such entities.

9 3. Leasing or renting tangible personal property by a parent
10 business entity to a subsidiary business entity or by a subsidiary
11 business entity to another subsidiary of the same parent business entity
12 if taxes were paid under this chapter on the gross proceeds or gross
13 income accruing from the initial sale of the tangible personal property.
14 For the purposes of this paragraph, "subsidiary" means a business entity
15 of which at least eighty percent of the voting shares are owned by the
16 parent business entity.

17 4. Operating coin-operated washing, drying and dry cleaning
18 machines or coin-operated car washing machines at establishments for the
19 use of such machines.

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

26 6. Leasing or renting aircraft, flight simulators or similar
27 training equipment to students or staff by nonprofit, accredited
28 educational institutions that offer associate or baccalaureate degrees in
29 aviation or aerospace related fields.

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

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

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

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

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

43 10. Leasing or renting billboards that are designed, intended or
44 used to advertise or inform and that are visible from any street, road or
45 other highway.

1 B. The tax base for the personal property rental classification is
2 the gross proceeds of sales or gross income derived from the business, but
3 the gross proceeds of sales or gross income derived from the following
4 shall be deducted from the tax base:

5 1. Reimbursements by the lessee to the lessor of a motor vehicle
6 for payments by the lessor of the applicable fees and taxes imposed by
7 sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter
8 15, article 2 and article IX, section 11, Constitution of Arizona, to the
9 extent such amounts are separately identified as such fees and taxes and
10 are billed to the lessee.

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

14 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25,
15 ~~29~~ 28, ~~49~~ 47 or ~~53~~ 51.

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

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

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

19 3. Motor vehicle fuel and use fuel that are subject to a tax
20 imposed under title 28, chapter 16, article 1, sales of use fuel to a
21 holder of a valid single trip use fuel tax permit issued under section
22 28-5739 and sales of aviation fuel that are subject to the tax imposed
23 under section 28-8344.

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

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

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

32 D. In computing the tax base, the gross proceeds of sales or gross
33 income from the lease or rental of a motor vehicle does not include any
34 amount attributable to the car rental surcharge under section 5-839,
35 28-5810 or 48-4234.

36 E. Until December 31, 1988, leasing or renting animals for
37 recreational purposes is exempt from the tax imposed by this section.
38 Beginning January 1, 1989, the gross proceeds or gross income from leasing
39 or renting animals for recreational purposes is subject to taxation under
40 this section. Tax liabilities, penalties and interest paid for taxable
41 periods before January 1, 1989 shall not be refunded unless the taxpayer
42 requesting the refund provides proof satisfactory to the department that
43 the monies paid as taxes will be returned to the customer.

44 F. The tax base of the personal property rental classification does
45 not include the gross proceeds or gross income received by a shared

1 vehicle owner from a peer-to-peer car sharing program pursuant to section
2 42-5009, subsection ~~R~~ N.

3 G. For the purposes of this section:

4 1. "Cable operator" has the same meaning prescribed in section
5 9-505 and includes a video service provider.

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

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

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

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

15 Sec. 8. Section 42-5075, Arizona Revised Statutes, is amended to
16 read:

17 42-5075. Prime contracting classification; exemptions;
18 definitions

19 A. The prime contracting classification is comprised of the
20 business of prime contracting and the business of manufactured building
21 dealer. Sales for resale to another manufactured building dealer are not
22 subject to tax. Sales for resale do not include sales to a lessor of
23 manufactured buildings. The sale of a used manufactured building is not
24 taxable under this chapter. The prime contracting classification does not
25 include any work or operation performed by a person that is not required
26 to be licensed by the registrar of contractors pursuant to section
27 32-1121.

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

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

34 2. Sales and installation of groundwater measuring devices required
35 under section 45-604 and groundwater monitoring wells required by law,
36 including monitoring wells installed for acquiring information for a
37 permit required by law.

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

43 4. The gross proceeds of sales or gross income received from a
44 contract entered into for the modification of any building, highway, road,
45 railroad, excavation, manufactured building or other structure, project,

1 development or improvement located in a military reuse zone for providing
2 aviation or aerospace services or for a manufacturer, assembler or
3 fabricator of aviation or aerospace products within an active military
4 reuse zone after the zone is initially established or renewed under
5 section 41-1531. To be eligible to qualify for this deduction, before
6 beginning work under the contract, the prime contractor must have applied
7 for a letter of qualification from the department of revenue.

8 5. The gross proceeds of sales or gross income derived from a
9 contract to construct a qualified environmental technology manufacturing,
10 producing or processing facility, as described in section 41-1514.02, and
11 from subsequent construction and installation contracts that begin within
12 ten years after the start of initial construction. To qualify for this
13 deduction, before beginning work under the contract, the prime contractor
14 must obtain a letter of qualification from the department of revenue.
15 This paragraph shall apply for ten full consecutive calendar or fiscal
16 years after the start of initial construction.

17 6. The gross proceeds of sales or gross income from a contract to
18 provide for one or more of the following actions, or a contract for site
19 preparation, constructing, furnishing or installing machinery, equipment
20 or other tangible personal property, including structures necessary to
21 protect exempt incorporated materials or installed machinery or equipment,
22 and tangible personal property incorporated into the project, to perform
23 one or more of the following actions in response to a release or suspected
24 release of a hazardous substance, pollutant or contaminant from a facility
25 to the environment, unless the release was authorized by a permit issued
26 by a governmental authority:

27 (a) Actions to monitor, assess and evaluate such a release or a
28 suspected release.

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

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

34 (d) Pumping and treatment or in situ treatment of contaminated
35 groundwater or surface water to reduce the concentration or toxicity of a
36 contaminant.

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

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

1 7. The gross proceeds of sales or gross income that is derived from
2 a contract for the installation, assembly, repair or maintenance of
3 machinery, equipment or other tangible personal property that is either
4 deducted from the tax base of the retail classification under section
5 42-5061, subsection B or that is exempt from use tax under section
6 42-5159, subsection B and that has independent functional utility,
7 pursuant to the following provisions:

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

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

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

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

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

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

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

35 (i) Assembling the machinery, equipment or other tangible personal
36 property.

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

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

42 (iv) Stabilizing or protecting the machinery, equipment or other
43 tangible personal property during operation by bolting, burying or
44 performing other similar nonpermanent connections to either real property
45 or real property improvements.

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

- 4 (a) Section 42-5061, subsection A, paragraph 25, ~~29~~ 28 or ~~58~~ 56.
- 5 (b) Section 42-5061, subsection B.
- 6 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),
7 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 55.
- 8 (d) Section 42-5159, subsection B.

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

13 10. The gross proceeds of sales or gross income that is derived
14 from a contract entered into with a person who is engaged in the
15 commercial production of livestock, livestock products or agricultural,
16 horticultural, viticultural or floricultural crops or products in this
17 state for the modification of any building, highway, road, excavation,
18 manufactured building or other structure, project, development or
19 improvement used directly and primarily to prevent, monitor, control or
20 reduce air, water or land pollution.

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

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

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

39 14. The gross proceeds of sales or gross income derived from a
40 contract entered into for the construction of a launch site, as defined in
41 14 Code of Federal Regulations section 401.5.

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

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

4 17. The gross proceeds of sales or gross income received from
5 contracts entered into before July 1, 2006 for constructing a state
6 university research infrastructure project if the project has been
7 reviewed by the joint committee on capital review before the university
8 enters into the construction contract for the project. For the purposes
9 of this paragraph, "research infrastructure" has the same meaning
10 prescribed in section 15-1670.

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

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

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

26 (b) The attributable amount is equal to the total amount of
27 development fees paid by the prime contractor or subcontractor, and the
28 total development fees credited in exchange for the construction of,
29 contribution to or dedication of real property for providing public
30 infrastructure, public safety or other public services necessary to the
31 development. The real property must be the subject of the development
32 fees.

33 (c) "Development fees" means fees imposed to offset capital costs
34 of providing public infrastructure, public safety or other public services
35 to a development and authorized pursuant to section 9-463.05, section
36 11-1102 or title 48 regardless of the jurisdiction to which the fees are
37 paid.

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

43 (a) "Mixed waste processing facility" means a solid waste facility
44 that is owned, operated or used for the treatment, processing or disposal
45 of solid waste, recyclable solid waste, conditionally exempt small

1 quantity generator waste or household hazardous waste. For the purposes
2 of this subdivision, "conditionally exempt small quantity generator
3 waste", "household hazardous waste" and "solid waste facility" have the
4 same meanings prescribed in section 49-701, except that solid waste
5 facility does include a site that stores, treats or processes paper,
6 glass, wood, cardboard, household textiles, scrap metal, plastic,
7 vegetative waste, aluminum, steel or other recyclable material.

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

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

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

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

22 C. Entitlement to the deduction pursuant to subsection B, paragraph
23 7 of this section is subject to the following provisions:

24 1. A prime contractor may establish entitlement to the deduction by
25 both:

26 (a) Marking the invoice for the transaction to indicate that the
27 gross proceeds of sales or gross income derived from the transaction was
28 deducted from the base.

29 (b) Obtaining a certificate executed by the purchaser indicating
30 the name and address of the purchaser, the precise nature of the business
31 of the purchaser, the purpose for which the purchase was made, the
32 necessary facts to establish the deductibility of the property under
33 section 42-5061, subsection B, and a certification that the person
34 executing the certificate is authorized to do so on behalf of the
35 purchaser. The certificate may be disregarded if the prime contractor has
36 reason to believe that the information contained in the certificate is not
37 accurate or complete.

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

41 3. The department may prescribe a form for the certificate
42 described in paragraph 1, subdivision (b) of this subsection. The
43 department may also adopt rules that describe the transactions with
44 respect to which a person is not entitled to rely solely on the
45 information contained in the certificate provided in paragraph 1,

1 subdivision (b) of this subsection but must instead obtain such additional
2 information as required in order to be entitled to the deduction.

3 4. If a prime contractor is entitled to a deduction by complying
4 with paragraph 1 of this subsection, the department may require the
5 purchaser who caused the execution of the certificate to establish the
6 accuracy and completeness of the information required to be contained in
7 the certificate that would entitle the prime contractor to the deduction.
8 If the purchaser cannot establish the accuracy and completeness of the
9 information, the purchaser is liable in an amount equal to any tax,
10 penalty and interest that the prime contractor would have been required to
11 pay under article 1 of this chapter if the prime contractor had not
12 complied with paragraph 1 of this subsection. Payment of the amount under
13 this paragraph exempts the purchaser from liability for any tax imposed
14 under article 4 of this chapter. The amount shall be treated as a
15 transaction privilege tax to the purchaser and as tax revenues collected
16 from the prime contractor in order to designate the distribution base for
17 purposes of section 42-5029.

18 D. Subcontractors or others who perform modification activities are
19 not subject to tax if they can demonstrate that the job was within the
20 control of a prime contractor or contractors or a dealership of
21 manufactured buildings and that the prime contractor or dealership is
22 liable for the tax on the gross income, gross proceeds of sales or gross
23 receipts attributable to the job and from which the subcontractors or
24 others were paid.

25 E. Amounts received by a contractor for a project are excluded from
26 the contractor's gross proceeds of sales or gross income derived from the
27 business if the person who hired the contractor executes and provides a
28 certificate to the contractor stating that the person providing the
29 certificate is a prime contractor and is liable for the tax under article
30 1 of this chapter. The department shall prescribe the form of the
31 certificate. If the contractor has reason to believe that the information
32 contained on the certificate is erroneous or incomplete, the department
33 may disregard the certificate. If the person who provides the certificate
34 is not liable for the tax as a prime contractor, that person is
35 nevertheless deemed to be the prime contractor in lieu of the contractor
36 and is subject to the tax under this section on the gross receipts or
37 gross proceeds received by the contractor.

38 F. Every person engaging or continuing in this state in the
39 business of prime contracting or dealership of manufactured buildings
40 shall present to the purchaser of such prime contracting or manufactured
41 building a written receipt of the gross income or gross proceeds of sales
42 from such activity and shall separately state the taxes to be paid
43 pursuant to this section.

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

7 H. For the purposes of section 42-5032.02, from and after
8 September 30, 2013, the department shall separately account for revenues
9 reported and collected under the prime contracting classification from any
10 prime contractor engaged in the construction of any buildings and
11 associated improvements that are for the benefit of a manufacturing
12 facility. For the purposes of this subsection, "associated improvements"
13 and "manufacturing facility" have the same meanings prescribed in section
14 42-5032.02.

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

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

32 K. The portion of gross proceeds of sales or gross income
33 attributable to the actual direct costs of providing architectural or
34 engineering services that are incorporated in a contract is not subject to
35 tax under this section. For the purposes of this subsection, "direct
36 costs" means the portion of the actual costs that are directly expended in
37 providing architectural or engineering services.

38 L. Operating a landfill or a solid waste disposal facility is not
39 subject to taxation under this section, including filling, compacting and
40 creating vehicle access to and from cell sites within the landfill.
41 Constructing roads to a landfill or solid waste disposal facility and
42 constructing cells within a landfill or solid waste disposal facility may
43 be deemed prime contracting under this section.

44 M. The following apply in determining the taxable situs of sales of
45 manufactured buildings:

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

4 2. For sales in this state where the manufactured building dealer
5 does not contract to deliver the building to a setup site or does not
6 perform the setup, the taxable situs is the location of the dealership
7 where the building is delivered to the buyer.

8 3. For sales in this state where the manufactured building dealer
9 contracts to deliver the building to a setup site that is outside this
10 state, the situs is outside this state and the transaction is excluded
11 from tax.

12 N. The gross proceeds of sales or gross income attributable to a
13 written contract for design phase services or professional services,
14 executed before modification begins and with terms, conditions and pricing
15 of all of these services separately stated in the contract from those for
16 construction phase services, is not subject to tax under this section,
17 regardless of whether the services are provided sequential to or
18 concurrent with prime contracting activities that are subject to tax under
19 this section. This subsection does not include the gross proceeds of
20 sales or gross income attributable to construction phase services. For
21 the purposes of this subsection:

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

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

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

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

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

38 (ii) The amount of an adjustment, if any, to the guaranteed maximum
39 price as set in the contract for modification work. For the purposes of
40 this item, "guaranteed maximum price" means the amount guaranteed to be
41 the maximum amount due to a prime contractor for the performance of all
42 modification work for the project.

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

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

6 (e) Inspection to determine the dates of substantial completion or
7 final completion.

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

14 (g) Preparation of status reports after modification work has begun
15 detailing the progress of work performed, including preparation of any of
16 the following:

17 (i) Master schedule updates.

18 (ii) Modification work cash flow projection updates.

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

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

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

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

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

28 (j) Administration or supervision of any other activities for which
29 a prime contractor receives a certificate for payment or certificate for
30 final payment based on the progress of modification work performed on the
31 project.

32 2. "Design phase services" means services for developing and
33 completing a design for a project that are not construction phase
34 services, including the following:

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

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

41 (c) Preparing drawings and specifications for architectural program
42 documents, schematic design documents, design development documents,
43 modification work documents or documents that identify the scope of or
44 materials for the project.

1 (d) Preparing an initial schedule for the project, excluding the
2 preparation of updates to the master schedule after modification work has
3 begun.

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

7 (i) Labor, materials, machinery and equipment, tools, water, heat,
8 utilities, transportation and other facilities and services used in the
9 execution and completion of modification work, regardless of whether they
10 are temporary or permanent or whether they are incorporated in the
11 modifications.

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

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

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

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

22 (vi) Any bond and insurance premiums.

23 (vii) Any applicable taxes.

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

26 (f) Reviewing and evaluating cost estimates and project documents
27 to prepare recommendations on site use, site improvements, selection of
28 materials, building systems and equipment, modification feasibility,
29 availability of materials and labor, local modification activity as
30 related to schedules and time requirements for modification work.

31 (g) Preparing the plan and procedures for selection of
32 subcontractors, including any prequalification of subcontractor
33 candidates.

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

39 0. The gross proceeds of sales or gross income derived from a
40 contract with the owner of real property or improvements to real property
41 for the maintenance, repair, replacement or alteration of existing
42 property is not subject to tax under this section if the contract does not
43 include modification activities, except as specified in this subsection.
44 The gross proceeds of sales or gross income derived from a de minimis
45 amount of modification activity does not subject the contract or any part

1 of the contract to tax under this section. For the purposes of this
2 subsection:

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

6 2. Each contract is independent of any other contract, except that
7 any change order that directly relates to the scope of work of the
8 original contract shall be treated the same as the original contract under
9 this chapter, regardless of the amount of modification activities included
10 in the change order. If a change order does not directly relate to the
11 scope of work of the original contract, the change order shall be treated
12 as a new contract, with the tax treatment of any subsequent change order
13 to follow the tax treatment of the contract to which the scope of work of
14 the subsequent change order directly relates.

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

23 1. Community facilities districts, fire districts, county
24 television improvement districts, community park maintenance districts,
25 cotton pest control districts, hospital districts, pest abatement
26 districts, health service districts, agricultural improvement districts,
27 county free library districts, county jail districts, county stadium
28 districts, special health care districts, public health services
29 districts, theme park districts or revitalization districts.

30 2. Any special taxing district not specified in paragraph 1 of this
31 subsection if the district does not substantially engage in the
32 modification, maintenance, repair, replacement or alteration of surface or
33 subsurface improvements to land.

34 Q. Notwithstanding subsection R, paragraph 10 of this section, a
35 person owning real property who enters into a contract for sale of the
36 real property, who is responsible to the new owner of the property for
37 modifications made to the property in the period subsequent to the
38 transfer of title and who receives a consideration for the modifications
39 is considered a prime contractor solely for purposes of taxing the gross
40 proceeds of sale or gross income received for the modifications made
41 subsequent to the transfer of title. The original owner's gross proceeds
42 of sale or gross income received for the modifications shall be determined
43 according to the following methodology:

44 1. If any part of the contract for sale of the property specifies
45 amounts to be paid to the original owner for the modifications to be made

1 in the period subsequent to the transfer of title, the amounts are
2 included in the original owner's gross proceeds of sale or gross income
3 under this section. Proceeds from the sale of the property that are
4 received after transfer of title and that are unrelated to the
5 modifications made subsequent to the transfer of title are not considered
6 gross proceeds of sale or gross income from the modifications.

7 2. If the original owner enters into an agreement separate from the
8 contract for sale of the real property providing for amounts to be paid to
9 the original owner for the modifications to be made in the period
10 subsequent to the transfer of title to the property, the amounts are
11 included in the original owner's gross proceeds of sale or gross income
12 received for the modifications made subsequent to the transfer of title.

13 3. If the original owner is responsible to the new owner for
14 modifications made to the property in the period subsequent to the
15 transfer of title and derives any gross proceeds of sale or gross income
16 from the project subsequent to the transfer of title other than a delayed
17 disbursement from escrow unrelated to the modifications, it is presumed
18 that the amounts are received for the modifications made subsequent to the
19 transfer of title unless the contrary is established by the owner through
20 its books, records and papers kept in the regular course of business.

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

23 R. For the purposes of this section:

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

26 (a) For existing property that is properly classified as class two
27 property under section 42-12002, paragraph 1, subdivision (c) or paragraph
28 2, subdivision (c) and that is used for residential purposes, class three
29 property under section 42-12003 or class four property under section
30 42-12004, this paragraph does not apply if the contract amount is more
31 than twenty-five percent of the most recent full cash value established
32 under chapter 13, article 2 of this title as of the date of any bid for
33 the work or the date of the contract, whichever value is higher.

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

37 (c) Project elements may not be artificially separated from a
38 contract to cause a project to qualify as an alteration. The department
39 has the burden of proof that project elements have been artificially
40 separated from a contract.

41 (d) If a project for which the owner and the person performing the
42 work reasonably believed, at the inception of the contract, would be
43 treated as an alteration under this paragraph and, on completion of the
44 project, the project exceeded the applicable threshold described in either
45 subdivision (a) or (b) of this paragraph by ~~no~~ NOT more than twenty-five

1 percent of the applicable threshold for any reason, the work performed
2 under the contract qualifies as an alteration.

3 (e) A change order that directly relates to the scope of work of
4 the original contract shall be treated as part of the original contract,
5 and the contract amount shall include any amount attributable to a change
6 order that directly relates to the scope of work of the original contract.

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

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

9 3. "Contractor" is synonymous with the term "builder" and means any
10 person or organization that undertakes to or offers to undertake to, or
11 purports to have the capacity to undertake to, or submits a bid to, or
12 does personally or by or through others, modify any building, highway,
13 road, railroad, excavation, manufactured building or other structure,
14 project, development or improvement, or to do any part of such a project,
15 including the erection of scaffolding or other structure or works in
16 connection with such a project, and includes subcontractors and specialty
17 contractors. For all purposes of taxation or deduction, this definition
18 shall govern without regard to whether or not such a contractor is acting
19 in fulfillment of a contract.

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

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

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

25 (b) Supervises, performs or coordinates the excavation and
26 completion of site improvements or the setup of a manufactured building,
27 including the contracting, if any, with any subcontractor or specialty
28 contractor for the completion of the contract.

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

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

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

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

39 7. "Modify" means to make a modification or cause a modification to
40 be made.

41 8. "Owner" means the person that holds title to the real property
42 or improvements to real property that is the subject of the work, as well
43 as an agent of the title holder and any person with the authority to
44 perform or authorize work on the real property or improvements, including
45 a tenant and a property manager. For the purposes of subsection 0 of this

1 section, a person who is hired by a general contractor that is hired by an
2 owner, or a subcontractor of a general contractor that is hired by an
3 owner, is considered to be hired by the owner.

4 9. "Prime contracting" means engaging in business as a prime
5 contractor.

6 10. "Prime contractor" means a contractor who supervises, performs
7 or coordinates the modification of any building, highway, road, railroad,
8 excavation, manufactured building or other structure, project, development
9 or improvement, including the contracting, if any, with any subcontractors
10 or specialty contractors and who is responsible for the completion of the
11 contract. Except as provided in subsections E and Q of this section, a
12 person who owns real property, who engages one or more contractors to
13 modify that real property and who does not itself modify that real
14 property is not a prime contractor within the meaning of this paragraph
15 regardless of the existence of a contract for sale or the subsequent sale
16 of that real property.

17 11. "Replacement" means the removal from service of one component
18 or system of existing property or tangible personal property installed in
19 existing property, including machinery or equipment, and the installation
20 of a new component or system or new tangible personal property, including
21 machinery or equipment, that provides the same, a similar or an upgraded
22 design or functionality, regardless of the contract amount and regardless
23 of whether the existing component or system or existing tangible personal
24 property is physically removed from the existing property.

25 12. "Sale of a used manufactured building" does not include a lease
26 of a used manufactured building.

27 Sec. 9. Section 42-5159, Arizona Revised Statutes, is amended to
28 read:

29 42-5159. Exemptions

30 A. The tax levied by this article does not apply to the storage,
31 use or consumption in this state of the following described tangible
32 personal property:

33 1. Tangible personal property, sold in this state, the gross
34 receipts from the sale of which are included in the measure of the tax
35 imposed by articles 1 and 2 of this chapter.

36 2. Tangible personal property, the sale or use of which has already
37 been subjected to an excise tax at a rate equal to or exceeding the tax
38 imposed by this article under the laws of another state of the United
39 States. If the excise tax imposed by the other state is at a rate less
40 than the tax imposed by this article, the tax imposed by this article is
41 reduced by the amount of the tax already imposed by the other state.

42 3. Tangible personal property, the storage, use or consumption of
43 which the constitution or laws of the United States prohibit this state
44 from taxing or to the extent that the rate or imposition of tax is
45 unconstitutional under the laws of the United States.

1 4. Tangible personal property that directly enters into and becomes
2 an ingredient or component part of any manufactured, fabricated or
3 processed article, substance or commodity for sale in the regular course
4 of business.

5 5. Motor vehicle fuel and use fuel, the sales, distribution or use
6 of which in this state is subject to the tax imposed under title 28,
7 chapter 16, article 1, use fuel that is sold to or used by a person
8 holding a valid single trip use fuel tax permit issued under
9 section 28-5739, aviation fuel, the sales, distribution or use of which in
10 this state is subject to the tax imposed under section 28-8344, and jet
11 fuel, the sales, distribution or use of which in this state is subject to
12 the tax imposed under article 8 of this chapter.

13 6. Tangible personal property brought into this state by an
14 individual who was a nonresident at the time the property was purchased
15 for storage, use or consumption by the individual if the first actual use
16 or consumption of the property was outside this state, unless the property
17 is used in conducting a business in this state.

18 7. Purchases of implants used as growth promotants and injectable
19 medicines, not already exempt under paragraph 16 of this subsection, for
20 livestock and poultry owned by, or in possession of, persons who are
21 engaged in producing livestock, poultry, or livestock or poultry products,
22 or who are engaged in feeding livestock or poultry commercially. For the
23 purposes of this paragraph, "poultry" includes ratites.

24 8. Purchases of:

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

27 (b) Livestock and poultry feed, salts, vitamins and other additives
28 sold to persons for use or consumption in the businesses of farming,
29 ranching and producing or feeding livestock or poultry or for use or
30 consumption in noncommercial boarding of livestock. For the purposes of
31 this paragraph, "poultry" includes ratites.

32 9. Propagative materials for use in commercially producing
33 agricultural, horticultural, viticultural or floricultural crops in this
34 state. For the purposes of this paragraph, "propagative materials":

35 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
36 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
37 and plant substances, micronutrients, fertilizers, insecticides,
38 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
39 adjuvants, plant nutrients and plant growth regulators.

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

1 10. Tangible personal property not exceeding \$200 in any one month
2 purchased by an individual at retail outside the continental limits of the
3 United States for the individual's own personal use and enjoyment.

4 11. Advertising supplements that are intended for sale with
5 newspapers published in this state and that have already been subjected to
6 an excise tax under the laws of another state in the United States that
7 equals or exceeds the tax imposed by this article.

8 12. Materials that are purchased by or for publicly funded
9 libraries, including school district libraries, charter school libraries,
10 community college libraries, state university libraries or federal, state,
11 county or municipal libraries, for use by the public as follows:

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

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

14 13. Tangible personal property purchased by:

15 (a) A hospital organized and operated exclusively for charitable
16 purposes, no part of the net earnings of which inures to the benefit of
17 any private shareholder or individual.

18 (b) A hospital operated by this state or a political subdivision of
19 this state.

20 (c) A licensed nursing care institution or a licensed residential
21 care institution or a residential care facility operated in conjunction
22 with a licensed nursing care institution or a licensed kidney dialysis
23 center, which provides medical services, nursing services or health
24 related services and is not used or held for profit.

25 (d) A qualifying health care organization, as defined in section
26 42-5001, if the tangible personal property is used by the organization
27 solely to provide health and medical related educational and charitable
28 services.

29 (e) A qualifying health care organization as defined in section
30 42-5001 if the organization is dedicated to providing educational,
31 therapeutic, rehabilitative and family medical education training for
32 blind and visually impaired children and children with multiple
33 disabilities from the time of birth to age twenty-one.

34 (f) A nonprofit charitable organization that has qualified under
35 section 501(c)(3) of the United States internal revenue code and that
36 engages in and uses such property exclusively in programs for persons with
37 mental or physical disabilities if the programs are exclusively for
38 training, job placement, rehabilitation or testing.

39 (g) A person that is subject to tax under this chapter by reason of
40 being engaged in business classified under section 42-5075, or a
41 subcontractor working under the control of a person that is engaged in
42 business classified under section 42-5075, if the tangible personal
43 property is any of the following:

44 (i) Incorporated or fabricated by the person into a structure,
45 project, development or improvement in fulfillment of a contract.

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

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

5 (h) A person that is not subject to tax under section 42-5075 and
6 that has been provided a copy of a certificate described in section
7 42-5009, subsection ~~H~~ H, if the property purchased is incorporated or
8 fabricated by the person into the real property, structure, project,
9 development or improvement described in the certificate.

10 (i) A nonprofit charitable organization that has qualified under
11 section 501(c)(3) of the internal revenue code if the property is
12 purchased from the parent or an affiliate organization that is located
13 outside this state.

14 (j) A qualifying community health center as defined in section
15 42-5001.

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

19 (l) A person engaged in business under the transient lodging
20 classification if the property is a personal hygiene item or articles used
21 by human beings for food, drink or condiment, except alcoholic beverages,
22 which are furnished without additional charge to and intended to be
23 consumed by the transient during the transient's occupancy.

24 (m) For taxable periods beginning from and after June 30, 2001, a
25 nonprofit charitable organization that has qualified under section
26 501(c)(3) of the internal revenue code and that provides residential
27 apartment housing for low-income persons over sixty-two years of age in a
28 facility that qualifies for a federal housing subsidy, if the tangible
29 personal property is used by the organization solely to provide
30 residential apartment housing for low-income persons over sixty-two years
31 of age in a facility that qualifies for a federal housing subsidy.

32 (n) A qualifying health sciences educational institution as defined
33 in section 42-5001.

34 (o) A person representing or working on behalf of any person
35 described in subdivision (a), (b), (c), (d), (e), (f), (i), (j), (k), (m)
36 or (n) of this paragraph, if the tangible personal property is
37 incorporated or fabricated into a project described in section 42-5075,
38 subsection 0.

39 14. Commodities, as defined by title 7 United States Code
40 section 2, that are consigned for resale in a warehouse in this state in
41 or from which the commodity is deliverable on a contract for future
42 delivery subject to the rules of a commodity market regulated by the
43 United States commodity futures trading commission.

1 15. Tangible personal property sold by:

2 (a) Any nonprofit organization organized and operated exclusively
3 for charitable purposes and recognized by the United States internal
4 revenue service under section 501(c)(3) of the internal revenue code.

5 (b) A nonprofit organization that is exempt from taxation under
6 section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if
7 the organization is associated with a major league baseball team or a
8 national touring professional golfing association and no part of the
9 organization's net earnings inures to the benefit of any private
10 shareholder or individual. This subdivision does not apply to an
11 organization that is owned, managed or controlled, in whole or in part, by
12 a major league baseball team, or its owners, officers, employees or
13 agents, or by a major league baseball association or professional golfing
14 association, or its owners, officers, employees or agents, unless the
15 organization conducted or operated exhibition events in this state before
16 January 1, 2018 that were exempt from transaction privilege tax under
17 section 42-5073.

18 (c) A nonprofit organization that is exempt from taxation under
19 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
20 internal revenue code if the organization sponsors or operates a rodeo
21 featuring primarily farm and ranch animals and no part of the
22 organization's net earnings inures to the benefit of any private
23 shareholder or individual.

24 16. Drugs and medical oxygen, including delivery hose, mask or
25 tent, regulator and tank, if prescribed by a member of the medical, dental
26 or veterinarian profession who is licensed by law to administer such
27 substances.

28 17. Prosthetic appliances, as defined in section 23-501, prescribed
29 or recommended by a person who is licensed, registered or otherwise
30 professionally credentialed as a physician, dentist, podiatrist,
31 chiropractor, naturopath, homeopath, nurse or optometrist.

32 18. Prescription eyeglasses and contact lenses.

33 19. Insulin, insulin syringes and glucose test strips.

34 20. Hearing aids as defined in section 36-1901.

35 21. Durable medical equipment that has a centers for medicare and
36 medicaid services common procedure code, is designated reimbursable by
37 medicare, is prescribed by a person who is licensed under title 32,
38 chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and
39 customarily used to serve a medical purpose, is generally not useful to a
40 person in the absence of illness or injury and is appropriate for use in
41 the home.

42 22. Food, as provided in and subject to the conditions of article 3
43 of this chapter and sections 42-5074 and 42-6017.

44 23. Items purchased with United States department of agriculture
45 coupons issued under the supplemental nutrition assistance program

1 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
2 7 United States Code sections 2011 through 2036b) by the United States
3 department of agriculture food and nutrition service or food instruments
4 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.
5 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code
6 section 1786).

7 24. Food and drink provided without monetary charge by a taxpayer
8 that is subject to section 42-5074 to its employees for their own
9 consumption on the premises during the employees' hours of employment.

10 25. Tangible personal property that is used or consumed in a
11 business subject to section 42-5074 for human food, drink or condiment,
12 whether simple, mixed or compounded.

13 26. Food, drink or condiment and accessory tangible personal
14 property that are acquired for use by or provided to a school district or
15 charter school if they are to be either served or prepared and served to
16 persons for consumption on the premises of a public school in the school
17 district or on the premises of the charter school during school hours.

18 27. Lottery tickets or shares purchased pursuant to title 5,
19 chapter 5.1, article 1.

20 28. Textbooks, sold by a bookstore, that are required by any state
21 university or community college.

22 29. Magazines, other periodicals or other publications produced by
23 this state to encourage tourist travel.

24 30. Paper machine clothing, such as forming fabrics and dryer
25 felts, purchased by a paper manufacturer and directly used or consumed in
26 paper manufacturing.

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

38 32. Motor vehicles ~~that are removed from inventory by a motor~~
39 ~~vehicle dealer as defined in section 28-4301 and that are provided to:~~

40 ~~(a) Charitable or educational institutions that are exempt from~~
41 ~~taxation under section 501(c)(3) of the internal revenue code.~~

42 ~~(b) Public educational institutions.~~

43 ~~(c) State universities or affiliated organizations of a state~~
44 ~~university if no part of the organization's net earnings inures to the~~
45 ~~benefit of any private shareholder or individual.~~

1 33. Natural gas or liquefied petroleum gas used to propel a motor
2 vehicle.

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

8 35. Liquid, solid or gaseous chemicals used in manufacturing,
9 processing, fabricating, mining, refining, metallurgical operations,
10 research and development and, beginning on January 1, 1999, printing, if
11 using or consuming the chemicals, alone or as part of an integrated system
12 of chemicals, involves direct contact with the materials from which the
13 product is produced for the purpose of causing or allowing a chemical or
14 physical change to occur in the materials as part of the production
15 process. This paragraph does not include chemicals that are used or
16 consumed in activities such as packaging, storage or transportation but
17 does not affect any exemption for such chemicals that is otherwise
18 provided by this section. For the purposes of this paragraph, "printing"
19 means a commercial printing operation and includes job printing,
20 engraving, embossing, copying and bookbinding.

21 36. Food, drink and condiment purchased for consumption within the
22 premises of any prison, jail or other institution under the jurisdiction
23 of the state department of corrections, the department of public safety,
24 the department of juvenile corrections or a county sheriff.

25 37. ~~A motor vehicle and~~ Any repair and replacement parts and
26 tangible personal property becoming a part of ~~such~~ A motor vehicle sold to
27 a motor carrier that is subject to a fee prescribed in title 28, chapter
28 16, article 4 and that is engaged in the business of leasing or renting
29 such a property.

30 38. Tangible personal property that is or directly enters into and
31 becomes an ingredient or component part of cards used as prescription plan
32 identification cards.

33 39. Overhead materials or other tangible personal property that is
34 used in performing a contract between the United States government and a
35 manufacturer, modifier, assembler or repairer, including property used in
36 performing a subcontract with a government contractor who is a
37 manufacturer, modifier, assembler or repairer, to which title passes to
38 the government under the terms of the contract or subcontract. For the
39 purposes of this paragraph:

40 (a) "Overhead materials" means tangible personal property, the
41 gross proceeds of sales or gross income derived from which would otherwise
42 be included in the retail classification, that is used or consumed in
43 performing a contract, the cost of which is charged to an overhead expense
44 account and allocated to various contracts based on generally accepted

1 accounting principles and consistent with government contract accounting
2 standards.

3 (b) "Subcontract" means an agreement between a contractor and any
4 person who is not an employee of the contractor for furnishing of supplies
5 or services that, in whole or in part, are necessary to perform one or
6 more government contracts, or under which any portion of the contractor's
7 obligation under one or more government contracts is performed, undertaken
8 or assumed, and that includes provisions causing title to overhead
9 materials or other tangible personal property used in performing the
10 subcontract to pass to the government or that includes provisions
11 incorporating such title passing clauses in a government contract into the
12 subcontract.

13 40. Through December 31, 1994, tangible personal property sold
14 pursuant to a personal property liquidation transaction, as defined in
15 section 42-5061. From and after December 31, 1994, tangible personal
16 property sold pursuant to a personal property liquidation transaction, as
17 defined in section 42-5061, if the gross proceeds of the sales were
18 included in the measure of the tax imposed by article 1 of this chapter or
19 if the personal property liquidation was a casual activity or transaction.

20 41. Wireless telecommunications equipment that is held for sale or
21 transfer to a customer as an inducement to enter into or continue a
22 contract for telecommunications services that are taxable under section
23 42-5064.

24 42. Alternative fuel, as defined in section 1-215, purchased by a
25 used oil fuel burner who has received a permit to burn used oil or used
26 oil fuel under section 49-426 or 49-480.

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

35 44. Alternative fuel vehicles if the vehicle was manufactured as a
36 diesel fuel vehicle and converted to operate on alternative fuel and
37 equipment that is installed in a conventional diesel fuel motor vehicle to
38 convert the vehicle to operate on an alternative fuel, as defined in
39 section 1-215.

40 45. Gas diverted from a pipeline, by a person engaged in the
41 business of:

42 (a) Operating a natural or artificial gas pipeline, and used or
43 consumed for the sole purpose of fueling compressor equipment that
44 pressurizes the pipeline.

1 (b) Converting natural gas into liquefied natural gas, and used or
2 consumed for the sole purpose of fueling compressor equipment used in the
3 conversion process.

4 46. Tangible personal property that is excluded, exempt or
5 deductible from transaction privilege tax pursuant to section 42-5063.

6 47. Tangible personal property purchased to be incorporated or
7 installed as part of environmental response or remediation activities
8 under section 42-5075, subsection B, paragraph 6.

9 48. Tangible personal property sold by a nonprofit organization
10 that is exempt from taxation under section 501(c)(6) of the internal
11 revenue code if the organization produces, organizes or promotes cultural
12 or civic related festivals or events and no part of the organization's net
13 earnings inures to the benefit of any private shareholder or individual.

14 49. Prepared food, drink or condiment donated by a restaurant as
15 classified in section 42-5074, subsection A to a nonprofit charitable
16 organization that has qualified under section 501(c)(3) of the internal
17 revenue code and that regularly serves meals to the needy and indigent on
18 a continuing basis at no cost.

19 50. Application services that are designed to assess or test
20 student learning or to promote curriculum design or enhancement purchased
21 by or for any school district, charter school, community college or state
22 university. For the purposes of this paragraph:

23 (a) "Application services" means software applications provided
24 remotely using hypertext transfer protocol or another network protocol.

25 (b) "Curriculum design or enhancement" means planning, implementing
26 or reporting on courses of study, lessons, assignments or other learning
27 activities.

28 51. Motor vehicle fuel and use fuel to a qualified business under
29 section 41-1516 for off-road use in harvesting, processing or transporting
30 qualifying forest products removed from qualifying projects as defined in
31 section 41-1516.

32 52. Repair parts installed in equipment used directly by a
33 qualified business under section 41-1516 in harvesting, processing or
34 transporting qualifying forest products removed from qualifying projects
35 as defined in section 41-1516.

36 53. Renewable energy credits or any other unit created to track
37 energy derived from renewable energy resources. For the purposes of this
38 paragraph, "renewable energy credit" means a unit created administratively
39 by the corporation commission or governing body of a public power entity
40 to track kilowatt hours of electricity derived from a renewable energy
41 resource or the kilowatt hour equivalent of conventional energy resources
42 displaced by distributed renewable energy resources.

43 54. Coal acquired from an owner or operator of a power plant by a
44 person that is responsible for refining coal if both of the following
45 apply:

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

3 (b) The title or possession of the coal is transferred back to the
4 owner or operator of the power plant after completion of the coal refining
5 process. For the purposes of this subdivision, "coal refining process"
6 means the application of a coal additive system that aids the reduction of
7 power plant emissions during the combustion of coal and the treatment of
8 flue gas.

9 55. Tangible personal property incorporated or fabricated into a
10 project described in section 42-5075, subsection 0, that is located within
11 the exterior boundaries of an Indian reservation for which the owner, as
12 defined in section 42-5075, of the project is an Indian tribe or an
13 affiliated Indian. For the purposes of this paragraph:

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

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

22 (c) "Indian tribe" means any organized nation, tribe, band or
23 community that is recognized as an Indian tribe by the United States
24 department of the interior and includes any entity formed under the laws
25 of the Indian tribe.

26 56. Cash equivalents, precious metal bullion and monetized bullion
27 purchased by the ultimate consumer, but coins or other forms of money for
28 manufacture into jewelry or works of art are subject to tax, and tangible
29 personal property that is purchased through the redemption of any cash
30 equivalent by the holder as a means of payment for goods that are subject
31 to tax under this article is subject to tax. For the purposes of this
32 paragraph:

33 (a) "Cash equivalents" means items, whether or not negotiable, that
34 are sold to one or more persons, through which a value denominated in
35 money is purchased in advance and that may be redeemed in full or in part
36 for tangible personal property, intangibles or services. Cash equivalents
37 include gift cards, stored value cards, gift certificates, vouchers,
38 traveler's checks, money orders or other tangible instruments or orders.
39 Cash equivalents do not include either of the following:

40 (i) Items that are sold to one or more persons and through which a
41 value is not denominated in money.

42 (ii) Prepaid calling cards for telecommunications services.

43 (b) "Monetized bullion" means coins and other forms of money that
44 are manufactured from gold, silver or other metals and that have been or

1 are used as a medium of exchange in this or another state, the United
2 States or a foreign nation.

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

6 B. In addition to the exemptions allowed by subsection A of this
7 section, the following categories of tangible personal property are also
8 exempt:

9 1. Machinery, or equipment, used directly in manufacturing,
10 processing, fabricating, job printing, refining or metallurgical
11 operations. The terms "manufacturing", "processing", "fabricating", "job
12 printing", "refining" and "metallurgical" as used in this paragraph refer
13 to and include those operations commonly understood within their ordinary
14 meaning. "Metallurgical operations" includes leaching, milling,
15 precipitating, smelting and refining.

16 2. Machinery, or equipment, used directly in the process of
17 extracting ores or minerals from the earth for commercial purposes,
18 including equipment required to prepare the materials for extraction and
19 handling, loading or transporting such extracted material to the surface.
20 "Mining" includes underground, surface and open pit operations for
21 extracting ores and minerals.

22 3. Tangible personal property sold to persons engaged in business
23 classified under the telecommunications classification under section
24 42-5064, including a person representing or working on behalf of such a
25 person in a manner described in section 42-5075, subsection 0, and
26 consisting of central office switching equipment, switchboards, private
27 branch exchange equipment, microwave radio equipment and carrier equipment
28 including optical fiber, coaxial cable and other transmission media that
29 are components of carrier systems.

30 4. Machinery, equipment or transmission lines used directly in
31 producing or transmitting electrical power, but not including
32 distribution. Transformers and control equipment used at transmission
33 substation sites constitute equipment used in producing or transmitting
34 electrical power.

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

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

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

44 (c) "Machinery and equipment used directly" means all machinery and
45 equipment that are used for electric energy storage from the point of

1 receipt of such energy in order to facilitate storage of the electric
2 energy to the point where the electric energy is released.

3 6. Neat animals, horses, asses, sheep, ratites, swine or goats used
4 or to be used as breeding or production stock, including sales of
5 breedings or ownership shares in such animals used for breeding or
6 production.

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

11 8. Aircraft, navigational and communication instruments and other
12 accessories and related equipment sold to:

13 (a) A person:

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

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

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

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

36 (v) That will lease or otherwise transfer operational control,
37 within the meaning of federal aviation administration operations
38 specification A008, or its successor, of the aircraft, instruments or
39 accessories to one or more persons described in item (i), (ii), (iii) or
40 (iv) of this subdivision, subject to section 42-5009, subsection ~~Q~~ M.

41 (b) Any foreign government.

42 (c) Persons who are not residents of this state and who will not
43 use such property in this state other than in removing such property from
44 this state. This subdivision also applies to corporations that are not
45 incorporated in this state, regardless of maintaining a place of business

1 in this state, if the principal corporate office is located outside this
2 state and the property will not be used in this state other than in
3 removing the property from this state.

4 9. Machinery, tools, equipment and related supplies used or
5 consumed directly in repairing, remodeling or maintaining aircraft,
6 aircraft engines or aircraft component parts by or on behalf of a
7 certificated or licensed carrier of persons or property.

8 10. Rolling stock, rails, ties and signal control equipment used
9 directly to transport persons or property.

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

13 12. Buses or other urban mass transit vehicles that are used
14 directly to transport persons or property for hire or pursuant to a
15 governmentally adopted and controlled urban mass transportation program
16 and that are sold to bus companies holding a federal certificate of
17 convenience and necessity or operated by any city, town or other
18 governmental entity or by any person contracting with such governmental
19 entity as part of a governmentally adopted and controlled program to
20 provide urban mass transportation.

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

22 14. Machinery and equipment consisting of agricultural aircraft,
23 tractors, off-highway vehicles, tractor-drawn implements, self-powered
24 implements, machinery and equipment necessary for extracting milk, and
25 machinery and equipment necessary for cooling milk and livestock, and drip
26 irrigation lines not already exempt under paragraph 7 of this subsection
27 and that are used for commercially producing agricultural, horticultural,
28 viticultural and floricultural crops and products in this state. For the
29 purposes of this paragraph:

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

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

38 15. Machinery or equipment used in research and development. For
39 the purposes of this paragraph, "research and development" means basic and
40 applied research in the sciences and engineering, and designing,
41 developing or testing prototypes, processes or new products, including
42 research and development of computer software that is embedded in or an
43 integral part of the prototype or new product or that is required for
44 machinery or equipment otherwise exempt under this section to function
45 effectively. Research and development do not include manufacturing

1 quality control, routine consumer product testing, market research, sales
2 promotion, sales service, research in social sciences or psychology,
3 computer software research that is not included in the definition of
4 research and development, or other nontechnological activities or
5 technical services.

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

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

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

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

18 (ii) Over two-thirds of the transmissions, measured in megabytes,
19 transmitted by or on behalf of those direct broadcast television or data
20 transmission services during the test period were transmitted by the
21 facility to or on behalf of those services.

22 For the purposes of subdivision (b) of this paragraph, "test period" means
23 the three hundred sixty-five day period beginning on the later of the date
24 on which the tangible personal property is purchased or the date on which
25 the direct broadcast satellite television or data transmission service
26 first transmits information to its customers.

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

36 (a) Includes the integrated systems, fixtures, piping, movable
37 partitions, lighting and all property that is necessary or adapted to
38 reduce contamination or to control airflow, temperature, humidity,
39 chemical purity or other environmental conditions or manufacturing
40 tolerances, as well as the production machinery and equipment operating in
41 conjunction with the clean room environment.

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

44 18. Machinery and equipment that are used directly in feeding
45 poultry, environmentally controlling housing for poultry, moving eggs

1 within a production and packaging facility or sorting or cooling eggs.
2 This exemption does not apply to vehicles used for transporting eggs.

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

16 20. Machinery and equipment that are used in commercially producing
17 livestock, livestock products or agricultural, horticultural, viticultural
18 or floricultural crops or products in this state, including production by
19 a person representing or working on behalf of such a person in a manner
20 described in section 42-5075, subsection 0, if the machinery and equipment
21 are used directly and primarily to prevent, monitor, control or reduce
22 air, water or land pollution.

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

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

32 (b) Machinery or equipment purchased to replace machinery or
33 equipment for which an exemption was previously claimed and taken under
34 this paragraph.

35 (c) Any machinery or equipment purchased after the television
36 station has ceased analog broadcasting, or purchased after November 1,
37 2009, whichever occurs first.

38 22. Qualifying equipment that is purchased from and after June 30,
39 2004 through June 30, 2024 by a qualified business under section 41-1516
40 for harvesting or processing qualifying forest products removed from
41 qualifying projects as defined in section 41-1516. To qualify for this
42 exemption, the qualified business must obtain and present its
43 certification from the Arizona commerce authority at the time of purchase.

1 23. Machinery, equipment, materials and other tangible personal
2 property used directly and predominantly to construct a qualified
3 environmental technology manufacturing, producing or processing facility
4 as described in section 41-1514.02. This paragraph applies for ten full
5 consecutive calendar or fiscal years after the start of initial
6 construction.

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

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

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

21 2. Janitorial equipment and hand tools.

22 3. Office equipment, furniture and supplies.

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

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

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

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

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

35 D. The following shall be deducted in computing the purchase price
36 of electricity by a retail electric customer from a utility business:

37 1. Revenues received from sales of ancillary services, electric
38 distribution services, electric generation services, electric transmission
39 services and other services related to providing electricity to a retail
40 electric customer who is located outside this state for use outside this
41 state if the electricity is delivered to a point of sale outside this
42 state.

43 2. Revenues received from providing electricity, including
44 ancillary services, electric distribution services, electric generation
45 services, electric transmission services and other services related to

1 providing electricity with respect to which the transaction privilege tax
2 imposed under section 42-5063 has been paid.

3 E. The tax levied by this article does not apply to the purchase of
4 solar energy devices from a retailer that is registered with the
5 department as a solar energy retailer or a solar energy contractor.

6 F. The following shall be deducted in computing the purchase price
7 of electricity by a retail electric customer from a utility business:

8 1. Fees charged by a municipally owned utility to persons
9 constructing residential, commercial or industrial developments or
10 connecting residential, commercial or industrial developments to a
11 municipal utility system or systems if the fees are segregated and used
12 only for capital expansion, system enlargement or debt service of the
13 utility system or systems.

14 2. Reimbursement or contribution compensation to any person or
15 persons owning a utility system for property and equipment installed to
16 provide utility access to, on or across the land of an actual utility
17 consumer if the property and equipment become the property of the utility.
18 This deduction shall not exceed the value of such property and equipment.

19 G. The tax levied by this article does not apply to the purchase
20 price of electricity, natural gas or liquefied petroleum gas by:

21 1. A qualified manufacturing or smelting business. A utility that
22 claims this deduction shall report each month, on a form prescribed by the
23 department, the name and address of each qualified manufacturing or
24 smelting business for which this deduction is taken. This paragraph
25 applies to gas transportation services. For the purposes of this
26 paragraph:

27 (a) "Gas transportation services" means the services of
28 transporting natural gas to a natural gas customer or to a natural gas
29 distribution facility if the natural gas was purchased from a supplier
30 other than the utility.

31 (b) "Manufacturing" means the performance as a business of an
32 integrated series of operations that places tangible personal property in
33 a form, composition or character different from that in which it was
34 acquired and transforms it into a different product with a distinctive
35 name, character or use. Manufacturing does not include job printing,
36 publishing, packaging, mining, generating electricity or operating a
37 restaurant.

38 (c) "Qualified manufacturing or smelting business" means one of the
39 following:

40 (i) A business that manufactures or smelts tangible products in
41 this state, of which at least fifty-one percent of the manufactured or
42 smelted products will be exported out of state for incorporation into
43 another product or sold out of state for a final sale.

1 (ii) A business that derives at least fifty-one percent of its
2 gross income from the sale of manufactured or smelted products
3 manufactured or smelted by the business.

4 (iii) A business that uses at least fifty-one percent of its square
5 footage in this state for manufacturing or smelting and business
6 activities directly related to manufacturing or smelting.

7 (iv) A business that employs at least fifty-one percent of its
8 workforce in this state in manufacturing or smelting and business
9 activities directly related to manufacturing or smelting.

10 (v) A business that uses at least fifty-one percent of the value of
11 its capitalized assets in this state, as reflected on the business's books
12 and records, for manufacturing or smelting and business activities
13 directly related to manufacturing or smelting.

14 (d) "Smelting" means to melt or fuse a metalliferous mineral, often
15 with an accompanying chemical change, usually to separate the metal.

16 2. A business that operates an international operations center in
17 this state and that is certified by the Arizona commerce authority
18 pursuant to section 41-1520.

19 H. A city or town may exempt proceeds from sales of paintings,
20 sculptures or similar works of fine art if such works of fine art are sold
21 by the original artist. For the purposes of this subsection, fine art
22 does not include an art creation such as jewelry, macrame, glasswork,
23 pottery, woodwork, metalwork, furniture or clothing if the art creation
24 has a dual purpose, both aesthetic and utilitarian, whether sold by the
25 artist or by another person.

26 I. For the purposes of subsection B of this section:

27 1. "Agricultural aircraft" means an aircraft that is built for
28 agricultural use for the aerial application of pesticides or fertilizer or
29 for aerial seeding.

30 2. "Aircraft" includes:

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

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

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

40 J. For the purposes of subsection D of this section, "ancillary
41 services", "electric distribution service", "electric generation service",
42 "electric transmission service" and "other services" have the same
43 meanings prescribed in section 42-5063.

1 Sec. 10. Section 42-6004, Arizona Revised Statutes, as amended by
2 Laws 2022, chapter 43, section 4 and chapter 321, section 12, is amended
3 to read:

4 42-6004. Exemption from municipal tax; definitions

5 A. A city, town or special taxing district shall not levy a
6 transaction privilege, sales, use or other similar tax on:

7 1. Exhibition events in this state sponsored, conducted or operated
8 by a nonprofit organization that is exempt from taxation under section
9 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
10 organization is associated with a major league baseball team or a national
11 touring professional golfing association and no part of the organization's
12 net earnings inures to the benefit of any private shareholder or
13 individual. This paragraph does not apply to an organization that is
14 owned, managed or controlled, in whole or in part, by a major league
15 baseball team, or its owners, officers, employees or agents, or by a major
16 league baseball association or professional golfing association, or its
17 owners, officers, employees or agents, unless the organization conducted
18 or operated exhibition events in this state before January 1, 2018 that
19 were exempt from state transaction privilege tax under section 42-5073.

20 2. Interstate telecommunications services, which include that
21 portion of telecommunications services, such as subscriber line service,
22 allocable by federal law to interstate telecommunications service.

23 3. Sales of warranty or service contracts.

24 4. Sales of motor vehicles ~~to nonresidents of this state for use~~
25 ~~outside this state if either of the following apply:~~

26 ~~(a) The motor vehicle dealer ships or delivers the motor vehicle to~~
27 ~~a destination outside this state.~~

28 ~~(b) The vehicle, trailer or semitrailer has a gross vehicle weight~~
29 ~~rating of more than ten thousand pounds, is used or maintained to~~
30 ~~transport property in the furtherance of interstate commerce and otherwise~~
31 ~~meets the definition of commercial motor vehicle as defined in section~~
32 ~~28-5201.~~

33 5. Interest on finance contracts.

34 6. Dealer documentation fees on the sales of motor vehicles.

35 7. Orthodontic devices dispensed by a dental professional who is
36 licensed under title 32, chapter 11 to a patient as part of the practice
37 of dentistry.

38 8. Sales of internet access services to the person's subscribers
39 and customers. For the purposes of this paragraph:

40 (a) "Internet" means the computer and telecommunications facilities
41 that comprise the interconnected worldwide network of networks that employ
42 the transmission control protocol or internet protocol, or any predecessor
43 or successor protocol, to communicate information of all kinds by wire or
44 radio.

1 (b) "Internet access" means a service that enables users to access
2 content, information, electronic mail or other services over the internet.
3 Internet access does not include telecommunication services provided by a
4 common carrier.

5 9. The gross proceeds of sales or gross income retained by the
6 Arizona exposition and state fair board from ride ticket sales at the
7 annual Arizona state fair.

8 10. Leasing real property between affiliated companies, businesses,
9 persons or reciprocal insurers. For the purposes of this paragraph:

10 (a) "Affiliated companies, businesses, persons or reciprocal
11 insurers" means the lessor holds a controlling interest in the lessee, the
12 lessee holds a controlling interest in the lessor, affiliated persons hold
13 a controlling interest in both the lessor and the lessee, or an unrelated
14 person holds a controlling interest in both the lessor and lessee.

15 (b) "Affiliated persons" means members of the individual's family
16 or persons who have ownership or control of a business entity.

17 (c) "Controlling interest" means direct or indirect ownership of at
18 least eighty percent of the voting shares of a corporation or of the
19 interests in a company, business or person other than a corporation.

20 (d) "Members of the individual's family" means the individual's
21 spouse and brothers and sisters, whether by whole or half blood, including
22 adopted persons, ancestors and lineal descendants.

23 (e) "Reciprocal insurer" has the same meaning prescribed in section
24 20-762.

25 11. The gross proceeds of sales or gross income derived from a
26 contract for the installation, assembly, repair or maintenance of
27 machinery, equipment or other tangible personal property that is described
28 in section 42-5061, subsection B and that has independent functional
29 utility, 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 described in section 42-5061, subsection B.

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

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

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

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

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

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

21 12. The leasing or renting of certified ignition interlock devices
22 installed pursuant to the requirements prescribed by section 28-1461. For
23 the purposes of this paragraph, "certified ignition interlock device" has
24 the same meaning prescribed in section 28-1301.

25 13. Computer data center equipment sold to the owner, operator or
26 qualified colocation tenant of a computer data center that is certified by
27 the Arizona commerce authority under section 41-1519 or an authorized
28 agent of the owner, operator or qualified colocation tenant during the
29 qualification period for use in the qualified computer data center. For
30 the purposes of this paragraph, "computer data center", "computer data
31 center equipment", "qualification period" and "qualified colocation
32 tenant" have the same meanings prescribed in section 41-1519.

33 14. The gross proceeds of sales or gross income derived from a
34 contract with the owner of real property or improvements to real property
35 for the maintenance, repair, replacement or alteration of existing
36 property, except as specified in this paragraph. The gross proceeds of
37 sales or gross income derived from a de minimis amount of modification
38 activity does not subject the contract or any part of the contract to tax.
39 For the purposes of this paragraph:

40 (a) Each contract is independent of another contract, except that
41 any change order that directly relates to the scope of work of the
42 original contract shall be treated the same as the original contract under
43 this paragraph, regardless of the amount of modification activities
44 included in the change order. If a change order does not directly relate
45 to the scope of work of the original contract, the change order shall be

1 treated as a new contract, with the tax treatment of any subsequent change
2 order to follow the tax treatment of the contract to which the scope of
3 work of the subsequent change order directly relates.

4 (b) Any term not defined in this paragraph that is defined in
5 section 42-5075 has the same meaning prescribed in section 42-5075.

6 (c) This paragraph does not apply to a contract that primarily
7 involves surface or subsurface improvements to land and that is subject to
8 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
9 contract also includes vertical improvements. If a city or town imposes a
10 tax on contracts that are subject to procurement processes under those
11 provisions, the city or town shall include in the request for proposals a
12 notice to bidders when those projects are subject to the tax. This
13 subdivision does not apply to contracts with:

14 (i) Community facilities districts, fire districts, county
15 television improvement districts, community park maintenance districts,
16 cotton pest control districts, hospital districts, pest abatement
17 districts, health service districts, agricultural improvement districts,
18 county free library districts, county jail districts, county stadium
19 districts, special health care districts, public health services
20 districts, theme park districts or revitalization districts.

21 (ii) Any special taxing district not specified in item (i) of this
22 subdivision if the district does not substantially engage in the
23 modification, maintenance, repair, replacement or alteration of surface or
24 subsurface improvements to land.

25 15. Monitoring services relating to an alarm system as defined in
26 section 32-101.

27 16. Tangible personal property, job printing or publications sold
28 to or purchased by, or tangible personal property leased, rented or
29 licensed for use to or by, a qualifying health sciences educational
30 institution as defined in section 42-5001.

31 17. The transfer of title or possession of coal back and forth
32 between an owner or operator of a power plant and a person who is
33 responsible for refining coal if both of the following apply:

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

36 (b) The title or possession of the coal is transferred back to the
37 owner or operator of the power plant after completion of the coal refining
38 process. For the purposes of this subdivision, "coal refining process"
39 means the application of a coal additive system that aids the reduction of
40 power plant emissions during the combustion of coal and the treatment of
41 flue gas.

42 18. Tangible personal property incorporated or fabricated into a
43 project described in paragraph 14 of this subsection, that is located
44 within the exterior boundaries of an Indian reservation for which the

1 owner, as defined in section 42-5075, of the project is an Indian tribe or
2 an affiliated Indian. For the purposes of this paragraph:

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

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

11 (c) "Indian tribe" means any organized nation, tribe, band or
12 community that is recognized as an Indian tribe by the United States
13 department of the interior and includes any entity formed under the laws
14 of that Indian tribe.

15 19. The charges for the leasing or renting of space to make
16 attachments to utility poles as follows:

17 (a) By a person that is engaged in the business of providing or
18 furnishing electrical services or telecommunication services or that is a
19 cable operator.

20 (b) To a person that is engaged in the business of providing or
21 furnishing electrical services or telecommunication services or that is a
22 cable operator.

23 20. Until March 1, 2017, the gross proceeds of sales or gross
24 income derived from entry fees paid by participants for events that
25 consist of a run, walk, swim or bicycle ride or a similar event, or any
26 combination of these events.

27 21. The gross proceeds of sales or gross income derived from entry
28 fees paid by participants for events that are operated or conducted by
29 nonprofit organizations that are exempt from taxation under section
30 501(c)(3) of the internal revenue code and of which no part of the
31 organization's net earnings inures to the benefit of any private
32 shareholder or individual, if the event consists of a run, walk, swim or
33 bicycle ride or a similar event, or any combination of these events.

34 22. The gross proceeds of sales or gross income derived from sales
35 of machinery and equipment used directly for energy storage for later
36 electrical use. For the purposes of this paragraph:

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

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

44 (c) "Machinery and equipment used directly" means all machinery and
45 equipment that are used for electric energy storage from the point of

1 receipt of such energy in order to facilitate storage of the electric
2 energy to the point where the electric energy is released.

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

8 B. A city, town or other taxing jurisdiction shall not levy a
9 transaction privilege, sales, use, franchise or other similar tax or fee,
10 however denominated, on natural gas or liquefied petroleum gas used to
11 propel a motor vehicle.

12 C. A city, town or other taxing jurisdiction shall not levy a
13 transaction privilege, sales, gross receipts, use, franchise or other
14 similar tax or fee, however denominated, on gross proceeds of sales or
15 gross income derived from any of the following:

16 1. A motor carrier's use on the public highways in this state if
17 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
18 article 4.

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

21 3. The sale of a motor vehicle and any repair and replacement parts
22 and tangible personal property becoming a part of such motor vehicle to a
23 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
24 article 4 and who is engaged in the business of leasing, renting or
25 licensing such property.

26 4. Incarcerating or detaining in a privately operated prison, jail
27 or detention facility prisoners who are under the jurisdiction of the
28 United States, this state or any other state or a political subdivision of
29 this state or of any other state.

30 5. Transporting for hire persons, freight or property by light
31 motor vehicles subject to a fee under title 28, chapter 15, article 4.

32 6. Any amount attributable to development fees that are incurred in
33 relation to the construction, development or improvement of real property
34 and paid by the taxpayer as defined in the model city tax code or by a
35 contractor providing services to the taxpayer. For the purposes of this
36 paragraph:

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

39 (b) The attributable amount is equal to the total amount of
40 development fees paid by the taxpayer or by a contractor providing
41 services to the taxpayer and the total development fees credited in
42 exchange for the construction of, contribution to or dedication of real
43 property for providing public infrastructure, public safety or other
44 public services necessary to the development. The real property must be
45 the subject of the development fees.

1 (c) "Development fees" means fees imposed to offset capital costs
2 of providing public infrastructure, public safety or other public services
3 to a development and authorized pursuant to section 9-463.05, section
4 11-1102 or title 48 regardless of the jurisdiction to which the fees are
5 paid.

6 7. Any amount attributable to fees collected by transportation
7 network companies issued a permit pursuant to section 28-9552.

8 8. Transporting for hire persons by transportation network company
9 drivers on transactions involving transportation network services as
10 defined in section 28-9551.

11 9. Transporting for hire persons by vehicle for hire companies that
12 are issued permits pursuant to section 28-9503.

13 10. Transporting for hire persons by vehicle for hire drivers on
14 transactions involving vehicle for hire services as defined in section
15 28-9501.

16 D. A city, town or other taxing jurisdiction shall not levy a
17 transaction privilege, sales, use, franchise or other similar tax or fee,
18 however denominated, in excess of one-tenth of one percent of the value of
19 the entire product mined, smelted, extracted, refined, produced or
20 prepared for sale, profit or commercial use, on persons engaged in the
21 business of mineral processing, except to the extent that the tax is
22 computed on the gross proceeds or gross income from sales at retail.

23 E. In computing the tax base, any city, town or other taxing
24 jurisdiction shall not include in the gross proceeds of sales or gross
25 income:

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

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

30 F. A city or town shall not levy a use tax on the storage, use or
31 consumption of tangible personal property in the city or town by a school
32 district or charter school.

33 G. A city, town or taxing jurisdiction shall not levy a transaction
34 privilege, sales, gross receipts, use, franchise or other similar tax or
35 fee, however denominated, on gross proceeds of sales or gross income
36 derived from over-the-top services. For the purposes of this subsection,
37 "over-the-top services" means audio or video programming services that are
38 received by the purchaser by means of an internet connection, regardless
39 of the technology used, that include linear or live programming and that
40 are generally considered comparable to programming provided by a radio or
41 television broadcast station and includes related on-demand programming
42 that is provided at no additional charge, regardless of whether the
43 services are provided independently or packaged with other audio or video
44 programming.

1 H. For the purposes of this section:

2 1. "Cable operator" has the same meaning prescribed in section
3 9-505 and includes a video service provider.

4 2. "Electrical services" means transmitting or distributing
5 electricity, electric lights, current or power over lines, wires or
6 cables.

7 3. "Telecommunication services" means transmitting or relaying
8 sound, visual image, data, information, images or material over lines,
9 wires or cables by radio signal, light beam, telephone, telegraph or other
10 electromagnetic means.

11 4. "Utility pole" means any wooden, metal or other pole used for
12 utility purposes and the pole's appurtenances that are attached or
13 authorized for attachment by the person controlling the pole.

14 Sec. 11. Section 42-6004, Arizona Revised Statutes, as amended by
15 Laws 2023, chapter 204, section 7, is amended to read:

16 42-6004. Exemption from municipal tax; definitions

17 A. A city, town or special taxing district shall not levy a
18 transaction privilege, sales, use or other similar tax on:

19 1. Exhibition events in this state sponsored, conducted or operated
20 by a nonprofit organization that is exempt from taxation under section
21 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
22 organization is associated with a major league baseball team or a national
23 touring professional golfing association and no part of the organization's
24 net earnings inures to the benefit of any private shareholder or
25 individual. This paragraph does not apply to an organization that is
26 owned, managed or controlled, in whole or in part, by a major league
27 baseball team, or its owners, officers, employees or agents, or by a major
28 league baseball association or professional golfing association, or its
29 owners, officers, employees or agents, unless the organization conducted
30 or operated exhibition events in this state before January 1, 2018 that
31 were exempt from state transaction privilege tax under section 42-5073.

32 2. Interstate telecommunications services, which include that
33 portion of telecommunications services, such as subscriber line service,
34 allocable by federal law to interstate telecommunications service.

35 3. Sales of warranty or service contracts.

36 4. Sales of motor vehicles ~~to nonresidents of this state for use~~
37 ~~outside this state if either of the following applies:~~

38 ~~(a) The motor vehicle dealer ships or delivers the motor vehicle to~~
39 ~~a destination outside this state.~~

40 ~~(b) The vehicle, trailer or semitrailer has a gross vehicle weight~~
41 ~~rating of more than ten thousand pounds, is used or maintained to~~
42 ~~transport property in the furtherance of interstate commerce and otherwise~~
43 ~~meets the definition of commercial motor vehicle as defined in section~~
44 ~~28-5201.~~

45 5. Interest on finance contracts.

1 6. Dealer documentation fees on the sales of motor vehicles.

2 7. Orthodontic devices dispensed by a dental professional who is
3 licensed under title 32, chapter 11 to a patient as part of the practice
4 of dentistry.

5 8. Sales of internet access services to the person's subscribers
6 and customers. For the purposes of this paragraph:

7 (a) "Internet" means the computer and telecommunications facilities
8 that comprise the interconnected worldwide network of networks that employ
9 the transmission control protocol or internet protocol, or any predecessor
10 or successor protocol, to communicate information of all kinds by wire or
11 radio.

12 (b) "Internet access" means a service that enables users to access
13 content, information, electronic mail or other services over the internet.
14 Internet access does not include telecommunication services provided by a
15 common carrier.

16 9. The gross proceeds of sales or gross income retained by the
17 Arizona exposition and state fair board from ride ticket sales at the
18 annual Arizona state fair.

19 10. Leasing real property between affiliated companies, businesses,
20 persons or reciprocal insurers. For the purposes of this paragraph:

21 (a) "Affiliated companies, businesses, persons or reciprocal
22 insurers" means the lessor holds a controlling interest in the lessee, the
23 lessee holds a controlling interest in the lessor, affiliated persons hold
24 a controlling interest in both the lessor and the lessee, or an unrelated
25 person holds a controlling interest in both the lessor and lessee.

26 (b) "Affiliated persons" means members of the individual's family
27 or persons who have ownership or control of a business entity.

28 (c) "Controlling interest" means direct or indirect ownership of at
29 least eighty percent of the voting shares of a corporation or of the
30 interests in a company, business or person other than a corporation.

31 (d) "Members of the individual's family" means the individual's
32 spouse and brothers and sisters, whether by whole or half blood, including
33 adopted persons, ancestors and lineal descendants.

34 (e) "Reciprocal insurer" has the same meaning prescribed in section
35 20-762.

36 11. The gross proceeds of sales or gross income derived from a
37 contract for the installation, assembly, repair or maintenance of
38 machinery, equipment or other tangible personal property that is described
39 in section 42-5061, subsection B and that has independent functional
40 utility, pursuant to the following provisions:

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

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

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

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

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

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

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

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

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

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

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

33 12. The leasing or renting of certified ignition interlock devices
34 installed pursuant to the requirements prescribed by section 28-1461. For
35 the purposes of this paragraph, "certified ignition interlock device" has
36 the same meaning prescribed in section 28-1301.

37 13. Computer data center equipment sold to the owner, operator or
38 qualified colocation tenant of a computer data center that is certified by
39 the Arizona commerce authority under section 41-1519 or an authorized
40 agent of the owner, operator or qualified colocation tenant during the
41 qualification period for use in the qualified computer data center. For
42 the purposes of this paragraph, "computer data center", "computer data
43 center equipment", "qualification period" and "qualified colocation
44 tenant" have the same meanings prescribed in section 41-1519.

1 14. The gross proceeds of sales or gross income derived from a
2 contract with the owner of real property or improvements to real property
3 for the maintenance, repair, replacement or alteration of existing
4 property, except as specified in this paragraph. The gross proceeds of
5 sales or gross income derived from a de minimis amount of modification
6 activity does not subject the contract or any part of the contract to tax.
7 For the purposes of this paragraph:

8 (a) Each contract is independent of another contract, except that
9 any change order that directly relates to the scope of work of the
10 original contract shall be treated the same as the original contract under
11 this paragraph, regardless of the amount of modification activities
12 included in the change order. If a change order does not directly relate
13 to the scope of work of the original contract, the change order shall be
14 treated as a new contract, with the tax treatment of any subsequent change
15 order to follow the tax treatment of the contract to which the scope of
16 work of the subsequent change order directly relates.

17 (b) Any term not defined in this paragraph that is defined in
18 section 42-5075 has the same meaning prescribed in section 42-5075.

19 (c) This paragraph does not apply to a contract that primarily
20 involves surface or subsurface improvements to land and that is subject to
21 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the
22 contract also includes vertical improvements. If a city or town imposes a
23 tax on contracts that are subject to procurement processes under those
24 provisions, the city or town shall include in the request for proposals a
25 notice to bidders when those projects are subject to the tax. This
26 subdivision does not apply to contracts with:

27 (i) Community facilities districts, fire districts, county
28 television improvement districts, community park maintenance districts,
29 cotton pest control districts, hospital districts, pest abatement
30 districts, health service districts, agricultural improvement districts,
31 county free library districts, county jail districts, county stadium
32 districts, special health care districts, public health services
33 districts, theme park districts or revitalization districts.

34 (ii) Any special taxing district not specified in item (i) of this
35 subdivision if the district does not substantially engage in the
36 modification, maintenance, repair, replacement or alteration of surface or
37 subsurface improvements to land.

38 15. Monitoring services relating to an alarm system as defined in
39 section 32-101.

40 16. Tangible personal property, job printing or publications sold
41 to or purchased by, or tangible personal property leased, rented or
42 licensed for use to or by, a qualifying health sciences educational
43 institution as defined in section 42-5001.

1 17. The transfer of title or possession of coal back and forth
2 between an owner or operator of a power plant and a person who is
3 responsible for refining coal if both of the following apply:

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

6 (b) The title or possession of the coal is transferred back to the
7 owner or operator of the power plant after completion of the coal refining
8 process. For the purposes of this subdivision, "coal refining process"
9 means the application of a coal additive system that aids the reduction of
10 power plant emissions during the combustion of coal and the treatment of
11 flue gas.

12 18. Tangible personal property incorporated or fabricated into a
13 project described in paragraph 14 of this subsection, that is located
14 within the exterior boundaries of an Indian reservation for which the
15 owner, as defined in section 42-5075, of the project is an Indian tribe or
16 an affiliated Indian. For the purposes of this paragraph:

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

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

25 (c) "Indian tribe" means any organized nation, tribe, band or
26 community that is recognized as an Indian tribe by the United States
27 department of the interior and includes any entity formed under the laws
28 of that Indian tribe.

29 19. The charges for the leasing or renting of space to make
30 attachments to utility poles as follows:

31 (a) By a person that is engaged in the business of providing or
32 furnishing electrical services or telecommunication services or that is a
33 cable operator.

34 (b) To a person that is engaged in the business of providing or
35 furnishing electrical services or telecommunication services or that is a
36 cable operator.

37 20. Until March 1, 2017, the gross proceeds of sales or gross
38 income derived from entry fees paid by participants for events that
39 consist of a run, walk, swim or bicycle ride or a similar event, or any
40 combination of these events.

41 21. The gross proceeds of sales or gross income derived from entry
42 fees paid by participants for events that are operated or conducted by
43 nonprofit organizations that are exempt from taxation under section
44 501(c)(3) of the internal revenue code and of which no part of the
45 organization's net earnings inures to the benefit of any private

1 shareholder or individual, if the event consists of a run, walk, swim or
2 bicycle ride or a similar event, or any combination of these events.

3 22. The gross proceeds of sales or gross income derived from sales
4 of machinery and equipment used directly for energy storage for later
5 electrical use. For the purposes of this paragraph:

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

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

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

17 23. The gross proceeds of sales or gross income derived from a
18 contract to install containment structures. For the purposes of this
19 paragraph, "containment structure" means a structure that prevents,
20 monitors, controls or reduces noxious or harmful discharge into the
21 environment.

22 B. A city, town or other taxing jurisdiction shall not levy a
23 transaction privilege, sales, use, franchise or other similar tax or fee,
24 however denominated, on natural gas or liquefied petroleum gas used to
25 propel a motor vehicle.

26 C. A city, town or other taxing jurisdiction shall not levy a
27 transaction privilege, sales, gross receipts, use, franchise or other
28 similar tax or fee, however denominated, on gross proceeds of sales or
29 gross income derived from any of the following:

30 1. A motor carrier's use on the public highways in this state if
31 the motor carrier is subject to a fee prescribed in title 28, chapter 16,
32 article 4.

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

35 3. The sale of a motor vehicle and any repair and replacement parts
36 and tangible personal property becoming a part of such motor vehicle to a
37 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
38 article 4 and who is engaged in the business of leasing, renting or
39 licensing such property.

40 4. Incarcerating or detaining in a privately operated prison, jail
41 or detention facility prisoners who are under the jurisdiction of the
42 United States, this state or any other state or a political subdivision of
43 this state or of any other state.

44 5. Transporting for hire persons, freight or property by light
45 motor vehicles subject to a fee under title 28, chapter 15, article 4.

1 6. Any amount attributable to development fees that are incurred in
2 relation to the construction, development or improvement of real property
3 and paid by the taxpayer as defined in the model city tax code or by a
4 contractor providing services to the taxpayer. For the purposes of this
5 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 taxpayer or by a contractor providing
10 services to the taxpayer and the total development fees credited in
11 exchange for the construction of, contribution to or dedication of real
12 property for providing public infrastructure, public safety or other
13 public services necessary to the development. The real property must be
14 the subject of the development 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 7. Any amount attributable to fees collected by transportation
21 network companies issued a permit pursuant to section 28-9552.

22 8. Transporting for hire persons by transportation network company
23 drivers on transactions involving transportation network services as
24 defined in section 28-9551.

25 9. Transporting for hire persons by vehicle for hire companies that
26 are issued permits pursuant to section 28-9503.

27 10. Transporting for hire persons by vehicle for hire drivers on
28 transactions involving vehicle for hire services as defined in section
29 28-9501.

30 D. A city, town or other taxing jurisdiction shall not levy a
31 transaction privilege, sales, use, franchise or other similar tax or fee,
32 however denominated, in excess of one-tenth of one percent of the value of
33 the entire product mined, smelted, extracted, refined, produced or
34 prepared for sale, profit or commercial use, on persons engaged in the
35 business of mineral processing, except to the extent that the tax is
36 computed on the gross proceeds or gross income from sales at retail.

37 E. In computing the tax base, any city, town or other taxing
38 jurisdiction shall not include in the gross proceeds of sales or gross
39 income:

40 1. A manufacturer's cash rebate on the sales price of a motor
41 vehicle if the buyer assigns the buyer's right in the rebate to the
42 retailer.

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

1 F. A city or town shall not levy a use tax on the storage, use or
2 consumption of tangible personal property in the city or town by a school
3 district or charter school.

4 G. A city, town or taxing jurisdiction shall not levy a transaction
5 privilege, sales, gross receipts, use, franchise or other similar tax or
6 fee, however denominated, on gross proceeds of sales or gross income
7 derived from over-the-top services. For the purposes of this subsection,
8 "over-the-top services" means audio or video programming services that are
9 received by the purchaser by means of an internet connection, regardless
10 of the technology used, that include linear or live programming and that
11 are generally considered comparable to programming provided by a radio or
12 television broadcast station and includes related on-demand programming
13 that is provided at no additional charge, regardless of whether the
14 services are provided independently or packaged with other audio or video
15 programming.

16 H. From and after December 31, 2024, a city, town or other taxing
17 jurisdiction may not levy a transaction privilege, sales, gross receipts,
18 use, franchise or other similar tax or fee, however denominated, on the
19 business of renting or leasing real property for residential purposes.
20 This subsection:

21 1. Does not apply to health care facilities, long-term care
22 facilities or hotel, motel or other transient lodging businesses.

23 2. Applies regardless of whether the city or town has adopted the
24 model city tax code pursuant to article 2 of this chapter.

25 I. For the purposes of this section:

26 1. "Cable operator" has the same meaning prescribed in section
27 9-505 and includes a video service provider.

28 2. "Electrical services" means transmitting or distributing
29 electricity, electric lights, current or power over lines, wires or
30 cables.

31 3. "Telecommunication services" means transmitting or relaying
32 sound, visual image, data, information, images or material over lines,
33 wires or cables by radio signal, light beam, telephone, telegraph or other
34 electromagnetic means.

35 4. "Utility pole" means any wooden, metal or other pole used for
36 utility purposes and the pole's appurtenances that are attached or
37 authorized for attachment by the person controlling the pole.

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

40 42-6017. Municipal taxation of businesses selling tangible
41 personal property at retail; state preemption;
42 exceptions; definitions

43 A. Except as provided in this section, section 42-5061 supersedes
44 all city or town ordinances or other local laws insofar as the ordinances

1 or local laws now or hereafter relate to the taxation of business
2 activities classified under section 42-5061.

3 B. The municipal tax rate for businesses selling tangible personal
4 property at retail for marketplace facilitators is the municipal tax rate
5 that is in effect in the city or town for businesses selling tangible
6 personal property at retail on September 30, 2019, until the city or town
7 changes the tax rate.

8 C. A city or town may:

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

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

18 3. Notwithstanding section 42-5061, subsection A, paragraph ~~33~~ 32,
19 paragraph ~~42~~ 41, subdivision (b) and paragraph ~~43~~ 42 and subsection B,
20 paragraph 5, continue to levy an existing transaction privilege tax that
21 was levied on or before May 1, 2019 on the gross proceeds of sales or
22 gross income derived from the sales of:

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

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

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

32 (b) Livestock and poultry feed, salts, vitamins and other additives
33 for livestock or poultry consumption that are sold to persons for use or
34 consumption by their own livestock or poultry, for use or consumption in
35 the businesses of farming, ranching and producing or feeding livestock,
36 poultry, or livestock or poultry products or for use or consumption in
37 noncommercial boarding of livestock.

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

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

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

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

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

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

15 4. Levy a transaction privilege tax on the gross proceeds of sales
16 or gross income derived from the sale of nonmetalliferous mined materials
17 at retail.

18 5. Notwithstanding section 42-5061, subsection A, paragraph ~~59~~ 57,
19 levy a transaction privilege tax on the gross proceeds of sales or gross
20 income derived from the sale of works of fine art, as defined in section
21 44-1771, at an art auction or gallery in this state to nonresidents of
22 this state for use outside this state if the vendor ships or delivers the
23 work of fine art to a destination outside this state.

~~24 6. Notwithstanding section 42-5061, subsection A, paragraph 28 or
25 section 42-5122, levy a transaction privilege tax on the gross proceeds of
26 sales or gross income derived from the sale of a motor vehicle to:~~

~~27 (a) A nonresident of this state if the purchaser's state of
28 residence does not allow a corresponding use tax exemption to the tax
29 imposed by chapter 5, article 1 of this title and if the nonresident has
30 secured a special ninety day nonresident registration permit for the
31 vehicle as prescribed by sections 28-2154 and 28-2154.01. This
32 subdivision does not apply if the purchaser takes possession of the
33 vehicle outside of this state.~~

~~34 (b) An enrolled member of an Indian tribe who resides on the Indian
35 reservation established for that tribe, except if possession of the
36 vehicle is received on the enrolled member's Indian reservation.~~

37 ~~7.~~ 6. Exempt from transaction privilege, sales, use or other
38 similar tax the sale of paintings, sculptures or similar works of fine
39 art, if such works of fine art are sold by the original artist. For the
40 purposes of this paragraph, fine art does not include an art creation such
41 as jewelry, macramé, glasswork, pottery, woodwork, metalwork, furniture or
42 clothing if the art creation has a dual purpose, both aesthetic and
43 utilitarian, whether sold by the artist or by another person.

1 D. For the purposes of this section:

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

4 2. "Marketplace facilitator" has the same meaning prescribed in
5 section 42-5001.

6 3. "Poultry" includes ratites.

7 4. "Propagative materials":

8 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,
9 cuttings, soil and plant additives, agricultural minerals, auxiliary soil
10 and plant substances, micronutrients, fertilizers, insecticides,
11 herbicides, fungicides, soil fumigants, desiccants, rodenticides,
12 adjuvants, plant nutrients and plant growth regulators.

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

17 5. "Remote seller" has the same meaning prescribed in section
18 42-5001.

19 Sec. 13. Applicability

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

22 Sec. 14. Effective date

23 Section 42-6004, Arizona Revised Statutes, as amended by Laws 2023,
24 chapter 204, section 7 and this act, is effective from and after December
25 31, 2024.