

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1208

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 42-5061, Arizona Revised Statutes, is amended to  
3 read:

4 42-5061. Retail classification; definitions

5 A. The retail classification is comprised of the business of selling  
6 tangible personal property at retail. The tax base for the retail  
7 classification is the gross proceeds of sales or gross income derived from  
8 the business. The tax imposed on the retail classification does not apply  
9 to the gross proceeds of sales or gross income from:

10 1. Professional or personal service occupations or businesses that  
11 involve sales or transfers of tangible personal property only as  
12 inconsequential elements.

13 2. Services rendered in addition to selling tangible personal  
14 property at retail.

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

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

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

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

27 7. The sale of stocks and bonds.

28 8. Drugs and medical oxygen, including delivery hose, mask or tent,  
29 regulator and tank, if prescribed by a member of the medical, dental or  
30 veterinarian profession who is licensed by law to administer such  
31 substances.

32 9. Prosthetic appliances as defined in section 23-501 and as  
33 prescribed or recommended by a health professional who is licensed pursuant  
34 to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.

35 10. Insulin, insulin syringes and glucose test strips.

36 11. Prescription eyeglasses or contact lenses.

37 12. Hearing aids as defined in section 36-1901.

1           13. Durable medical equipment that has a centers for medicare and  
2           medicaid services common procedure code, is designated reimbursable by  
3           medicare, is prescribed by a person who is licensed under title 32, chapter  
4           7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and  
5           customarily used to serve a medical purpose, is generally not useful to a  
6           person in the absence of illness or injury and is appropriate for use in  
7           the home.

8           14. Sales of motor vehicles to nonresidents of this state for use  
9           outside this state if either of the following applies:

10          (a) The motor vehicle dealer ships or delivers the motor vehicle to  
11          a destination out of this state.

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

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

18          16. Items purchased with United States department of agriculture  
19          coupons issued under the supplemental nutrition assistance program pursuant  
20          to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703; 7 United  
21          States Code sections 2011 through 2036b) by the United States department of  
22          agriculture food and nutrition service or food instruments issued under  
23          section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603;  
24          P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code section  
25          1786).

26          17. Textbooks by any bookstore that are required by any state  
27          university or community college.

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

32          19. Articles of food, drink or condiment and accessory tangible  
33          personal property to a school district or charter school if such articles  
34          and accessory tangible personal property are to be prepared and served to  
35          persons for consumption on the premises of a public school within the  
36          district or on the premises of the charter school during school hours.

37          20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
38          article 1.

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

46          (a) "Cash equivalents" means items or intangibles, whether or not  
47          negotiable, that are sold to one or more persons, through which a value  
48          denominated in money is purchased in advance and may be redeemed in full or

1 in part for tangible personal property, intangibles or services. Cash  
2 equivalents include gift cards, stored value cards, gift certificates,  
3 vouchers, traveler's checks, money orders or other instruments, orders or  
4 electronic mechanisms, such as an electronic code, personal identification  
5 number or digital payment mechanism, or any other prepaid intangible right  
6 to acquire tangible personal property, intangibles or services in the  
7 future, whether from the seller of the cash equivalent or from another  
8 person. Cash equivalents do not include either of the following:

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

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

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

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

20 22. Motor vehicle fuel and use fuel that are subject to a tax  
21 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
22 holder of a valid single trip use fuel tax permit issued under section  
23 28-5739, sales of aviation fuel that are subject to the tax imposed under  
24 section 28-8344 and sales of jet fuel that are subject to the tax imposed  
25 under article 8 of this chapter.

26 23. Tangible personal property sold to a person engaged in the  
27 business of leasing or renting such property under the personal property  
28 rental classification if such property is to be leased or rented by such  
29 person.

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

33 25. Tangible personal property sold to:

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

35 (b) A qualifying health care organization as defined in section  
36 42-5001 if the tangible personal property is used by the organization  
37 solely to provide health and medical related educational and charitable  
38 services.

39 (c) A qualifying health care organization as defined in section  
40 42-5001 if the organization is dedicated to providing educational,  
41 therapeutic, rehabilitative and family medical education training for blind  
42 and visually impaired children and children with multiple disabilities from  
43 the time of birth to age twenty-one.

44 (d) A qualifying community health center as defined in section  
45 42-5001.

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

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

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

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

15 26. Magazines or other periodicals or other publications by this  
16 state to encourage tourist travel.

17 27. Tangible personal property sold to:

18 (a) A person that is subject to tax under this article by reason of  
19 being engaged in business classified under section 42-5075 or to a  
20 subcontractor working under the control of a person engaged in business  
21 classified under section 42-5075, if the property so sold is any of the  
22 following:

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

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

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

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

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

39 29. Tangible personal property purchased in this state by a  
40 nonprofit charitable organization that has qualified under section  
41 501(c)(3) of the United States internal revenue code and that engages in  
42 and uses such property exclusively in programs for persons with mental or  
43 physical disabilities if the programs are exclusively for training, job  
44 placement, rehabilitation or testing.

45 30. Sales of tangible personal property by a nonprofit organization  
46 that is exempt from taxation under section 501(c)(3), 501(c)(4) or  
47 501(c)(6) of the internal revenue code if the organization is associated  
48 with a major league baseball team or a national touring professional

1 golfing association and no part of the organization's net earnings inures  
2 to the benefit of any private shareholder or individual. This paragraph  
3 does not apply to an organization that is owned, managed or controlled, in  
4 whole or in part, by a major league baseball team, or its owners, officers,  
5 employees or agents, or by a major league baseball association or  
6 professional golfing association, or its owners, officers, employees or  
7 agents, unless the organization conducted or operated exhibition events in  
8 this state before January 1, 2018 that were exempt from taxation under  
9 section 42-5073.

10 31. Sales of commodities, as defined by title 7 United States Code  
11 section 2, that are consigned for resale in a warehouse in this state in or  
12 from which the commodity is deliverable on a contract for future delivery  
13 subject to the rules of a commodity market regulated by the United States  
14 commodity futures trading commission.

15 32. Sales of tangible personal property by a nonprofit organization  
16 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),  
17 501(c)(7) or 501(c)(8) of the internal revenue code if the organization  
18 sponsors or operates a rodeo featuring primarily farm and ranch animals and  
19 no part of the organization's net earnings inures to the benefit of any  
20 private shareholder or individual.

21 33. Sales of propagative materials to persons who use those items to  
22 commercially produce agricultural, horticultural, viticultural or  
23 floricultural crops in this state. For the purposes of this paragraph,  
24 "propagative materials":

25 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,  
26 cuttings, soil and plant additives, agricultural minerals, auxiliary soil  
27 and plant substances, micronutrients, fertilizers, insecticides,  
28 herbicides, fungicides, soil fumigants, desiccants, rodenticides,  
29 adjuvants, plant nutrients and plant growth regulators.

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

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

38 35. Sales of natural gas or liquefied petroleum gas used to propel a  
39 motor vehicle.

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

43 37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
44 electricity sold to a qualified environmental technology manufacturer,  
45 producer or processor as defined in section 41-1514.02 and directly used or  
46 consumed in generating or providing on-site power or energy solely for  
47 environmental technology manufacturing, producing or processing or  
48 environmental protection. This paragraph applies for twenty full

1 consecutive calendar or fiscal years from the date the first paper  
2 manufacturing machine is placed in service. In the case of an  
3 environmental technology manufacturer, producer or processor that does not  
4 manufacture paper, the time period begins with the date the first  
5 manufacturing, processing or production equipment is placed in service.

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

19 39. Through December 31, 1994, personal property liquidation  
20 transactions, conducted by a personal property liquidator. From and after  
21 December 31, 1994, personal property liquidation transactions shall be  
22 taxable under this section provided that nothing in this subsection shall  
23 be construed to authorize the taxation of casual activities or transactions  
24 under this chapter. For the purposes of this paragraph:

25 (a) "Personal property liquidation transaction" means a sale of  
26 personal property made by a personal property liquidator acting solely on  
27 behalf of the owner of the personal property sold at the dwelling of the  
28 owner or on the death of any owner, on behalf of the surviving spouse, if  
29 any, any devisee or heir or the personal representative of the estate of  
30 the deceased, if one has been appointed.

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

33 40. Sales of food, drink and condiment for consumption within the  
34 premises of any prison, jail or other institution under the jurisdiction of  
35 the state department of corrections, the department of public safety, the  
36 department of juvenile corrections or a county sheriff.

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

42 42. Sales of:

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

45 (b) Livestock and poultry feed, salts, vitamins and other additives  
46 for livestock or poultry consumption that are sold to persons for use or  
47 consumption by their own livestock or poultry, for use or consumption in  
48 the businesses of farming, ranching and producing or feeding livestock,

1 poultry, or livestock or poultry products or for use or consumption in  
2 noncommercial boarding of livestock. For the purposes of this paragraph,  
3 "poultry" includes ratites.

4 43. Sales of implants used as growth promotants and injectable  
5 medicines, not already exempt under paragraph 8 of this subsection, for  
6 livestock or poultry owned by or in possession of persons that are engaged  
7 in producing livestock, poultry, or livestock or poultry products or that  
8 are engaged in feeding livestock or poultry commercially. For the purposes  
9 of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

37 49. Sales of alternative fuel vehicles if the vehicle was  
38 manufactured as a diesel fuel vehicle and converted to operate on  
39 alternative fuel and equipment that is installed in a conventional diesel  
40 fuel motor vehicle to convert the vehicle to operate on an alternative  
41 fuel, as defined in section 1-215.

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

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

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

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

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

12           (b) "Curriculum design or enhancement" means planning, implementing  
13 or reporting on courses of study, lessons, assignments or other learning  
14 activities.

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

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

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

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

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

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

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

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



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

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

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

11 61. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2027, THE  
12 FOLLOWING ITEMS THAT ARE INTENDED FOR HOME CONSUMPTION:

- 13 (a) NUTS.
- 14 (b) RICE.
- 15 (c) LEGUMES.
- 16 (d) BABY FORMULA.
- 17 (e) BABY FOOD.

18 62. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2027,  
19 SEEDS AND PLANTS FOR USE IN GARDENS TO PRODUCE FOOD ITEMS FOR PERSONAL  
20 CONSUMPTION.

21 63. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2027,  
22 VITAMINS.

23 64. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2027, BABY  
24 DIAPERS.

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

29 1. Machinery, or equipment, used directly in manufacturing,  
30 processing, fabricating, job printing, refining or metallurgical  
31 operations. The terms "manufacturing", "processing", "fabricating", "job  
32 printing", "refining" and "metallurgical" as used in this paragraph refer  
33 to and include those operations commonly understood within their ordinary  
34 meaning. "Metallurgical operations" includes leaching, milling,  
35 precipitating, smelting and refining.

36 2. Mining machinery, or equipment, used directly in the process of  
37 extracting ores or minerals from the earth for commercial purposes,  
38 including equipment required to prepare the materials for extraction and  
39 handling, loading or transporting such extracted material to the surface.  
40 "Mining" includes underground, surface and open pit operations for  
41 extracting ores and minerals.

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

1           4. Machinery, equipment or transmission lines used directly in  
2 producing or transmitting electrical power, but not including  
3 distribution. Transformers and control equipment used at transmission  
4 substation sites constitute equipment used in producing or transmitting  
5 electrical power.

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

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

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

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

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

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

26           8. Aircraft, navigational and communication instruments and other  
27 accessories and related equipment sold to:

28           (a) A person:

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

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

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

42           (iv) Operating an aircraft to transport persons in any manner for  
43 compensation or hire, or for use in a fractional ownership program that  
44 meets the requirements of federal aviation administration regulations  
45 (14 Code of Federal Regulations part 91, subpart K), including as an air  
46 carrier, a foreign air carrier or a commercial operator or under a  
47 restricted category, within the meaning of 14 Code of Federal Regulations,  
48 regardless of whether the operation of aircraft is regulated or certified

1 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
2 of Federal Regulations.

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

8 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (a) Includes the integrated systems, fixtures, piping, movable  
46 partitions, lighting and all property that is necessary or adapted to  
47 reduce contamination or to control airflow, temperature, humidity, chemical  
48 purity or other environmental conditions or manufacturing tolerances, as

1 well as the production machinery and equipment operating in conjunction  
2 with the clean room environment.

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

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

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

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

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

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

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

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

44 22. Qualifying equipment that is purchased from and after June 30,  
45 2004 through December 31, 2026 by a qualified business under section  
46 41-1516 for harvesting or processing qualifying forest products removed  
47 from qualifying projects as defined in section 41-1516. To qualify for

1 this deduction, the qualified business at the time of purchase must present  
2 its certification approved by the department.

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

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

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

17 2. Janitorial equipment and hand tools.

18 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

- 18           2. Businesses classified under the:
- 19           (a) Transporting classification.
  - 20           (b) Utilities classification.
  - 21           (c) Telecommunications classification.
  - 22           (d) Pipeline classification.
  - 23           (e) Private car line classification.
  - 24           (f) Publication classification.
  - 25           (g) Job printing classification.
  - 26           (h) Prime contracting classification.
  - 27           (i) Restaurant classification.

28           I. The gross proceeds of sales or gross income derived from the  
29 following shall be deducted from the tax base for the retail  
30 classification:

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

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

37           3. Overhead materials or other tangible personal property that is  
38 used in performing a contract between the United States government and a  
39 manufacturer, modifier, assembler or repairer, including property used in  
40 performing a subcontract with a government contractor who is a  
41 manufacturer, modifier, assembler or repairer, to which title passes to the  
42 government under the terms of the contract or subcontract.

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

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

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

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

12 1. A manufacturer's cash rebate on the sales price of a motor  
13 vehicle if the buyer assigns the buyer's right in the rebate to the  
14 retailer.

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

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

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

28 O. For the purposes of this section, a sale of wireless  
29 telecommunications equipment to a person who holds the equipment for sale  
30 or transfer to a customer as an inducement to enter into or continue a  
31 contract for telecommunications services that are taxable under section  
32 42-5064 is considered to be a sale for resale in the regular course of  
33 business.

34 P. Retail sales of prepaid calling cards or prepaid authorization  
35 numbers for telecommunications services, including sales of reauthorization  
36 of a prepaid card or authorization number, are subject to tax under this  
37 section.

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

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

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

46 R. For the purposes of this section, the transfer of title or  
47 possession of coal from an owner or operator of a power plant to a person



1 in the business of refining coal is not a sale of coal if both of the  
2 following apply:

3 1. The transfer of title or possession of the coal is for the  
4 purpose of refining the coal.

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

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

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

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

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

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

1 V. For the purposes of this section:

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

5 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

40 6. "Subcontract" means an agreement between a contractor and any  
41 person who is not an employee of the contractor for furnishing supplies or  
42 services that, in whole or in part, are necessary to perform one or more  
43 government contracts, or under which any portion of the contractor's  
44 obligation under one or more government contracts is performed, undertaken  
45 or assumed and that includes provisions causing title to overhead materials  
46 or other tangible personal property used in performing the subcontract to  
47 pass to the government or that includes provisions incorporating such title  
48 passing clauses in a government contract into the subcontract.

1           Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to  
2 read:

3           42-5159. Exemptions

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

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

10           2. Tangible personal property, the sale or use of which has already  
11 been subjected to an excise tax at a rate equal to or exceeding the tax  
12 imposed by this article under the laws of another state of the United  
13 States. If the excise tax imposed by the other state is at a rate less  
14 than the tax imposed by this article, the tax imposed by this article is  
15 reduced by the amount of the tax already imposed by the other state.

16           3. Tangible personal property, the storage, use or consumption of  
17 which the constitution or laws of the United States prohibit this state  
18 from taxing or to the extent that the rate or imposition of tax is  
19 unconstitutional under the laws of the United States.

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

24           5. Motor vehicle fuel and use fuel, the sales, distribution or use  
25 of which in this state is subject to the tax imposed under title 28,  
26 chapter 16, article 1, use fuel that is sold to or used by a person holding  
27 a valid single trip use fuel tax permit issued under section 28-5739,  
28 aviation fuel, the sales, distribution or use of which in this state is  
29 subject to the tax imposed under section 28-8344, and jet fuel, the sales,  
30 distribution or use of which in this state is subject to the tax imposed  
31 under article 8 of this chapter.

32           6. Tangible personal property brought into this state by an  
33 individual who was a nonresident at the time the property was purchased for  
34 storage, use or consumption by the individual if the first actual use or  
35 consumption of the property was outside this state, unless the property is  
36 used in conducting a business in this state.

37           7. Purchases of implants used as growth promotants and injectable  
38 medicines, not already exempt under paragraph 16 of this subsection, for  
39 livestock and poultry owned by, or in possession of, persons who are  
40 engaged in producing livestock, poultry, or livestock or poultry products,  
41 or who are engaged in feeding livestock or poultry commercially. For the  
42 purposes of this paragraph, "poultry" includes ratites.

43           8. Purchases of:

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

46           (b) Livestock and poultry feed, salts, vitamins and other additives  
47 sold to persons for use or consumption in the businesses of farming,  
48 ranching and producing or feeding livestock or poultry or for use or

1 consumption in noncommercial boarding of livestock. For the purposes of  
2 this paragraph, "poultry" includes ratites.

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

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

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

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

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

21 12. Materials that are purchased by or for publicly funded  
22 libraries, including school district libraries, charter school libraries,  
23 community college libraries, state university libraries or federal, state,  
24 county or municipal libraries, for use by the public as follows:

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

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

27 13. Tangible personal property purchased by:

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

31 (b) A hospital operated by this state or a political subdivision of  
32 this state.

33 (c) A licensed nursing care institution or a licensed residential  
34 care institution or a residential care facility operated in conjunction  
35 with a licensed nursing care institution or a licensed kidney dialysis  
36 center, which provides medical services, nursing services or health related  
37 services and is not used or held for profit.

38 (d) A qualifying health care organization, as defined in section  
39 42-5001, if the tangible personal property is used by the organization  
40 solely to provide health and medical related educational and charitable  
41 services.

42 (e) A qualifying health care organization as defined in section  
43 42-5001 if the organization is dedicated to providing educational,  
44 therapeutic, rehabilitative and family medical education training for blind  
45 and visually impaired children and children with multiple disabilities from  
46 the time of birth to age twenty-one.

47 (f) A nonprofit charitable organization that has qualified under  
48 section 501(c)(3) of the United States internal revenue code and that

1 engages in and uses such property exclusively in programs for persons with  
2 mental or physical disabilities if the programs are exclusively for  
3 training, job placement, rehabilitation or testing.

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

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

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

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

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

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

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

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

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

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

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

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

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

6           15. Tangible personal property sold by:

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

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

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

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

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

37           18. Prescription eyeglasses and contact lenses.

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

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

40           21. Durable medical equipment that has a centers for medicare and  
41 medicaid services common procedure code, is designated reimbursable by  
42 medicare, is prescribed by a person who is licensed under title 32, chapter  
43 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily  
44 used to serve a medical purpose, is generally not useful to a person in the  
45 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

20           27. Lottery tickets or shares purchased pursuant to title 5, chapter  
21 5.1, article 1.

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

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

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

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

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

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

44           (b) Public educational institutions.

45           (c) State universities or affiliated organizations of a state  
46 university if no part of the organization's net earnings inures to the  
47 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 in  
6 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 provided  
18 by this section. For the purposes of this paragraph, "printing" means a  
19 commercial printing operation and includes job printing, engraving,  
20 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 of  
23 the state department of corrections, the department of public safety, the  
24 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 motor vehicle sold to a  
27 motor carrier that is subject to a fee prescribed in title 28, chapter 16,  
28 article 4 and that is engaged in the business of leasing or renting such a  
29 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 the  
38 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 gross  
41 proceeds of sales or gross income derived from which would otherwise be  
42 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  
45 accounting principles and consistent with government contract accounting  
46 standards.

47           (b) "Subcontract" means an agreement between a contractor and any  
48 person who is not an employee of the contractor for furnishing of supplies



1 or services that, in whole or in part, are necessary to perform one or more  
2 government contracts, or under which any portion of the contractor's  
3 obligation under one or more government contracts is performed, undertaken  
4 or assumed, and that includes provisions causing title to overhead  
5 materials or other tangible personal property used in performing the  
6 subcontract to pass to the government or that includes provisions  
7 incorporating such title passing clauses in a government contract into the  
8 subcontract.

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

16 41. Wireless telecommunications equipment that is held for sale or  
17 transfer to a customer as an inducement to enter into or continue a  
18 contract for telecommunications services that are taxable under section  
19 42-5064.

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

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

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

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

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

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

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

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

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

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

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

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

17           (b) "Curriculum design or enhancement" means planning, implementing  
18 or reporting on courses of study, lessons, assignments or other learning  
19 activities.

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

24           52. Repair parts installed in equipment used directly by a qualified  
25 business under section 41-1516 in harvesting, processing or transporting  
26 qualifying forest products removed from qualifying projects as defined in  
27 section 41-1516.

28           53. Renewable energy credits or any other unit created to track  
29 energy derived from renewable energy resources. For the purposes of this  
30 paragraph, "renewable energy credit" means a unit created administratively  
31 by the corporation commission or governing body of a public power entity to  
32 track kilowatt hours of electricity derived from a renewable energy  
33 resource or the kilowatt hour equivalent of conventional energy resources  
34 displaced by distributed renewable energy resources.

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

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

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

46           55. Tangible personal property incorporated or fabricated into a  
47 project described in section 42-5075, subsection 0, that is located within  
48 the exterior boundaries of an Indian reservation for which the owner, as

1 defined in section 42-5075, of the project is an Indian tribe or an  
2 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 occupancy  
8 of an Indian tribe by treaty, law or executive order and that are  
9 recognized as Indian reservations by the United States department of the  
10 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 of  
14 the Indian tribe.

15 56. Cash equivalents, precious metal bullion and monetized bullion  
16 purchased by the ultimate consumer, but coins or other forms of money for  
17 manufacture into jewelry or works of art are subject to tax, and tangible  
18 personal property that is purchased through the redemption of any cash  
19 equivalent by the holder as a means of payment for goods that are subject  
20 to tax under this article is subject to tax. For the purposes of this  
21 paragraph:

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

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

31 (ii) Prepaid calling cards for telecommunications services.

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

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

39 57. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2027, THE  
40 FOLLOWING ITEMS THAT ARE INTENDED FOR HOME CONSUMPTION:

41 (a) NUTS.

42 (b) RICE.

43 (c) LEGUMES.

44 (d) BABY FORMULA.

45 (e) BABY FOOD.

46 58. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2027,  
47 SEEDS AND PLANTS FOR USE IN GARDENS TO PRODUCE FOOD ITEMS FOR PERSONAL  
48 CONSUMPTION.

1           59. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2027,  
2 VITAMINS.

3           60. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER JUNE 30, 2027, BABY  
4 DIAPERS.

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

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

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

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

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

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

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

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

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

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

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

5           8. Aircraft, navigational and communication instruments and other  
6 accessories and related equipment sold to:

7           (a) A person:

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

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

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

21           (iv) Operating an aircraft to transport persons in any manner for  
22 compensation or hire, or for use in a fractional ownership program that  
23 meets the requirements of federal aviation administration regulations  
24 (14 Code of Federal Regulations part 91, subpart K), including as an air  
25 carrier, a foreign air carrier or a commercial operator or under a  
26 restricted category, within the meaning of 14 Code of Federal Regulations,  
27 regardless of whether the operation or aircraft is regulated or certified  
28 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
29 of Federal Regulations.

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

35           (b) Any foreign government.

36           (c) Persons who are not residents of this state and who will not use  
37 such property in this state other than in removing such property from this  
38 state. This subdivision also applies to corporations that are not  
39 incorporated in this state, regardless of maintaining a place of business  
40 in this state, if the principal corporate office is located outside this  
41 state and the property will not be used in this state other than in  
42 removing the property from this state.

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

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

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

4           12. Buses or other urban mass transit vehicles that are used  
5 directly to transport persons or property for hire or pursuant to a  
6 governmentally adopted and controlled urban mass transportation program and  
7 that are sold to bus companies holding a federal certificate of convenience  
8 and necessity or operated by any city, town or other governmental entity or  
9 by any person contracting with such governmental entity as part of a  
10 governmentally adopted and controlled program to provide urban mass  
11 transportation.

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

13           14. Machinery and equipment consisting of agricultural aircraft,  
14 tractors, off-highway vehicles, tractor-drawn implements, self-powered  
15 implements, machinery and equipment necessary for extracting milk, and  
16 machinery and equipment necessary for cooling milk and livestock, and drip  
17 irrigation lines not already exempt under paragraph 7 of this subsection  
18 and that are used for commercially producing agricultural, horticultural,  
19 viticultural and floricultural crops and products in this state. For the  
20 purposes of this paragraph:

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

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

29           15. Machinery or equipment used in research and development. For  
30 the purposes of this paragraph, "research and development" means basic and  
31 applied research in the sciences and engineering, and designing, developing  
32 or testing prototypes, processes or new products, including research and  
33 development of computer software that is embedded in or an integral part of  
34 the prototype or new product or that is required for machinery or equipment  
35 otherwise exempt under this section to function effectively. Research and  
36 development do not include manufacturing quality control, routine consumer  
37 product testing, market research, sales promotion, sales service, research  
38 in social sciences or psychology, computer software research that is not  
39 included in the definition of research and development, or other  
40 nontechnological activities or technical services.

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

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

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

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

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

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

15 17. Clean rooms that are used for manufacturing, processing,  
16 fabrication or research and development, as defined in paragraph 15 of this  
17 subsection, of semiconductor products. For the purposes of this paragraph,  
18 "clean room" means all property that comprises or creates an environment  
19 where humidity, temperature, particulate matter and contamination are  
20 precisely controlled within specified parameters, without regard to whether  
21 the property is actually contained within that environment or whether any  
22 of the property is affixed to or incorporated into real property. Clean  
23 room:

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

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

32 18. Machinery and equipment that are used directly in feeding  
33 poultry, environmentally controlling housing for poultry, moving eggs  
34 within a production and packaging facility or sorting or cooling eggs.  
35 This exemption does not apply to vehicles used for transporting eggs.

36 19. Machinery or equipment, including related structural components  
37 and containment structures, that is employed in connection with  
38 manufacturing, processing, fabricating, job printing, refining, mining,  
39 natural gas pipelines, metallurgical operations, telecommunications,  
40 producing or transmitting electricity or research and development and that  
41 is used directly to meet or exceed rules or regulations adopted by the  
42 federal energy regulatory commission, the United States environmental  
43 protection agency, the United States nuclear regulatory commission, the  
44 Arizona department of environmental quality or a political subdivision of  
45 this state to prevent, monitor, control or reduce land, water or air  
46 pollution. For the purposes of this paragraph, "containment structure"  
47 means a structure that prevents, monitors, controls or reduces noxious or  
48 harmful discharge into the environment.

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

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

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

17           (b) Machinery or equipment purchased to replace machinery or  
18 equipment for which an exemption was previously claimed and taken under  
19 this paragraph.

20           (c) Any machinery or equipment purchased after the television  
21 station has ceased analog broadcasting, or purchased after November 1,  
22 2009, whichever occurs first.

23           22. Qualifying equipment that is purchased from and after June 30,  
24 2004 through December 31, 2026 by a qualified business under section  
25 41-1516 for harvesting or processing qualifying forest products removed  
26 from qualifying projects as defined in section 41-1516. To qualify for  
27 this exemption, the qualified business must obtain and present its  
28 certification from the Arizona commerce authority at the time of purchase.

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

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

43           C. The exemptions provided by subsection B of this section do not  
44 include:

45           1. Expendable materials. For the purposes of this paragraph,  
46 expendable materials do not include any of the categories of tangible  
47 personal property specified in subsection B of this section regardless of  
48 the cost or useful life of that property.



1           2. Janitorial equipment and hand tools.

2           3. Office equipment, furniture and supplies.

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

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

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

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

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

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

17           1. Revenues received from sales of ancillary services, electric  
18 distribution services, electric generation services, electric transmission  
19 services and other services related to providing electricity to a retail  
20 electric customer who is located outside this state for use outside this  
21 state if the electricity is delivered to a point of sale outside this  
22 state.

23           2. Revenues received from providing electricity, including ancillary  
24 services, electric distribution services, electric generation services,  
25 electric transmission services and other services related to providing  
26 electricity with respect to which the transaction privilege tax imposed  
27 under section 42-5063 has been paid.

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

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

33           1. Fees charged by a municipally owned utility to persons  
34 constructing residential, commercial or industrial developments or  
35 connecting residential, commercial or industrial developments to a  
36 municipal utility system or systems if the fees are segregated and used  
37 only for capital expansion, system enlargement or debt service of the  
38 utility system or systems.

39           2. Reimbursement or contribution compensation to any person or  
40 persons owning a utility system for property and equipment installed to  
41 provide utility access to, on or across the land of an actual utility  
42 consumer if the property and equipment become the property of the utility.  
43 This deduction shall not exceed the value of such property and equipment.

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

46           1. A qualified manufacturing or smelting business. A utility that  
47 claims this deduction shall report each month, on a form prescribed by the  
48 department, the name and address of each qualified manufacturing or

1 smelting business for which this deduction is taken. This paragraph  
2 applies to gas transportation services. For the purposes of this  
3 paragraph:

4 (a) "Gas transportation services" means the services of transporting  
5 natural gas to a natural gas customer or to a natural gas distribution  
6 facility if the natural gas was purchased from a supplier other than the  
7 utility.

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

14 (c) "Qualified manufacturing or smelting business" means one of the  
15 following:

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

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

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

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

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

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

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

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

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

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

1           2. "Aircraft" includes:

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

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

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

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

15           Sec. 3. Section 42-6015, Arizona Revised Statutes, is amended to  
16 read:

17           42-6015. Municipal transaction privilege tax; food; exemption

18           A. If a city, town or other taxing jurisdiction imposes a  
19 transaction privilege, sales, use, franchise or other similar tax or fee,  
20 however denominated, on:

21           1. **EXCEPT AS PROVIDED IN SUBSECTION B, PARAGRAPH 1 OF THIS SECTION,**  
22 the sale of food items intended for human consumption as defined by rule  
23 adopted pursuant to section 42-5106 or items prescribed by section 42-5106,  
24 subsection D for home consumption, the tax must be applied uniformly with  
25 respect to all food, and an additional tax or fee differential may not be  
26 assessed or applied with respect to any specific food item.

27           2. The sale of food items intended for human consumption as defined  
28 by rule adopted pursuant to section 42-5106 or items prescribed by section  
29 42-5106, subsection D for consumption on the premises, the tax must be  
30 applied uniformly with respect to all food items, and an additional tax or  
31 fee differential may not be assessed or applied with respect to any  
32 specific food item.

33           B. A city, town or other taxing jurisdiction may not levy a  
34 transaction privilege, sales, use, franchise or other similar tax or fee,  
35 however denominated, with respect to:

36           1. **FROM AND AFTER JUNE 30, 2027, THE SALE OF THE FOLLOWING FOOD**  
37 **ITEMS INTENDED FOR HUMAN CONSUMPTION AS DEFINED BY RULE ADOPTED PURSUANT TO**  
38 **SECTION 42-5106 OR ITEMS PRESCRIBED BY SECTION 42-5106, SUBSECTION D FOR**  
39 **HOME CONSUMPTION:**

- 40           (a) **BREAD AND FLOUR PRODUCTS.**  
41           (b) **CEREAL AND CEREAL PRODUCTS.**  
42           (c) **VEGETABLES AND VEGETABLE PRODUCTS.**  
43           (d) **FRUIT AND FRUIT PRODUCTS.**  
44           (e) **SUGAR AND SUGAR PRODUCTS, INCLUDING SUGAR SUBSTITUTES.**  
45           (f) **BUTTER, OLEOMARGARINE, SHORTENING AND COOKING OILS.**  
46           (g) **SPICES.**  
47           (h) **CONDIMENTS.**  
48           (i) **MILK AND MILK PRODUCTS.**

- 1 (j) EGGS AND EGG PRODUCTS.
- 2 (k) CHEESE AND CHEESE PRODUCTS.
- 3 (l) MEAT AND MEAT PRODUCTS.
- 4 (m) BOTTLED WATER, CARBONATED WATER, MINERAL WATER AND ICE CUBES.

5 ~~1.~~ 2. The manufacture, wholesale or distribution to or among any  
6 wholesalers, distributors or retailers, of food items intended for human  
7 consumption as defined by rule adopted pursuant to section 42-5106 or items  
8 prescribed by section 42-5106, subsection D for home consumption or for  
9 consumption on the premises.

10 ~~2.~~ 3. Any container or packaging used exclusively for transporting,  
11 protecting or consuming food items intended for human consumption as  
12 defined by rule adopted pursuant to section 42-5106 or items prescribed by  
13 section 42-5106, subsection D for home consumption or for consumption on  
14 the premises.

15 ~~3.~~ 4. The sale of food or other items purchased with United States  
16 department of agriculture food stamp coupons issued under the food stamp  
17 act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under  
18 section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603;  
19 P.L. 99-661, section 4302; 42 United States Code section 1786) but may  
20 impose such a tax consistent with this section on other sales of food.

21 ~~4.~~ 5. The sale of low or reduced-cost articles of food or drink to  
22 eligible elderly or homeless persons or persons with a disability by a  
23 business subject to tax under the restaurant classification pursuant to  
24 section 42-5074 that contracts with the department of economic security and  
25 that is approved by the food and nutrition service of the United States  
26 department of agriculture pursuant to the supplemental nutrition assistance  
27 program established by the food and nutrition act of 2008 (7 United States  
28 Code sections 2011 through 2036c); ~~if~~ if the purchases are made with the  
29 benefits issued pursuant to the supplemental nutrition assistance program.

30 Sec. 4. Exemption from rulemaking

31 Notwithstanding any other law, for the purposes of this act, the  
32 department of revenue is exempt from the rulemaking requirements of title  
33 41, chapter 6, Arizona Revised Statutes, for one year after the effective  
34 date of this act."

35 Amend title to conform

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