

PROPOSED
SENATE AMENDMENTS TO H.B. 2704
(Reference to House engrossed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.

[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Section 28-2154.01, Arizona Revised Statutes, is amended
3 to read:

4 28-2154.01. Special ninety day nonresident registration
5 permits; procedures

6 A. A dealer or an authorized third party that issues a special
7 ninety day nonresident registration permit pursuant to section 28-2154
8 shall send an electronic record of the permit to the department through an
9 authorized third party or through the department's authorized third-party
10 electronic service provider.

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

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

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

17 (b) Completes an affidavit in a form prescribed by the director
18 pursuant to section 28-2154 or completes a form prescribed by section
19 42-5009, subsection H.

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

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

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

1 C. A person who issues a special ninety day nonresident
2 registration permit shall affix or insert, clearly and indelibly, on the
3 face of each permit the dates of issuance and expiration and the make and
4 vehicle identification number of the vehicle. The special ninety day
5 nonresident registration permit shall not bear the name or address of the
6 person who purchased the vehicle in a position that is legible from
7 outside of the vehicle.

8 D. A dealer or authorized third party who issues a special ninety
9 day nonresident registration permit shall maintain a record, in a form
10 prescribed by the director, of all special ninety day nonresident
11 registration permits issued by the dealer or authorized third party and a
12 record of other information pertaining to the issuance of special ninety
13 day nonresident registration permits that the department of transportation
14 or the department of revenue requires.

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

17 F. A dealer or authorized third party shall allow the director of
18 the department of transportation or the director of the department of
19 revenue full and free access to the records during regular business hours.

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

24 H. If a purchaser registers the vehicle in this state within three
25 hundred sixty-five days after the issuance of the special ninety day
26 nonresident registration permit, the purchaser is liable in an amount
27 equal to any tax, penalty and interest that the motor vehicle dealer or
28 authorized third party would have been required to pay under title 42,
29 chapter 5 and under articles IV and VI of the model city tax code as
30 defined in section 42-6051. At the time of issuing the special ninety day
31 nonresident registration permit, a motor vehicle dealer or authorized
32 third party shall inform the purchaser in writing of the purchaser's
33 liability described in this section. Subsequent registration or use of
34 the vehicle in this state does not create a cause of action against a
35 dealer or authorized third party that complies with section 28-2154,
36 subsection A, this section and section 42-5009, subsection H.

37 I. The department of transportation and the department of revenue
38 shall jointly develop and prescribe forms for the motor vehicle dealer,
39 the authorized third party and the purchaser to complete for the proper
40 administration and enforcement of this section.

41 J. Compliance with this section and section 28-2154 allows delivery
42 of the vehicle to a nonresident purchaser in this state and retains the
43 applicable deductions pursuant to section 42-5061, subsection A, paragraph
44 28 and subsection ~~U~~ V.

1 Sec. 2. Section 42-1116, Arizona Revised Statutes, is amended to
2 read:

3 42-1116. Disposition of tax revenues

4 A. The department of revenue shall promptly deposit, pursuant to
5 sections 35-146 and 35-147, all monies it collects from the taxes
6 administered pursuant to this article except the telecommunication
7 services excise tax, separately accounting for each type of tax and each
8 tax classification within each type of tax. At the same time the
9 department of revenue shall also furnish copies of the transmittal
10 schedules to the director of the department of administration.

11 B. Except as provided by ~~subsection~~ SUBSECTIONS C AND D of this
12 section, the department shall deposit all monies and remittances received
13 under this section to the credit of the following specific funds and
14 accounts:

15 1. Amounts sufficient to meet the requirements for tax refunds to
16 the tax refund account established by section 42-1117.

17 2. Amounts sufficient to meet the requirements of urban revenue
18 sharing to the urban revenue sharing fund established by section 43-206.

19 3. Amounts collected pursuant to chapter 5, articles 1 and 5 of
20 this title to the transaction privilege and severance tax clearing account
21 established by section 42-5029.

22 4. Amounts sufficient to meet the requirements of section 42-3104
23 to the corrections fund.

24 5. Amounts sufficient to meet the requirements of section 49-282,
25 subsection B relating to the water quality assurance revolving fund.

26 6. All remaining monies to the state general fund.

27 C. From the monies and remittances received under this section,
28 each month beginning July 2001 the state treasurer shall transmit to the
29 tourism and sports authority, established by title 5, chapter 8, for
30 deposit in its facility revenue clearing account established by section
31 5-834 one-twelfth of the amount reported by the department pursuant to
32 section 43-209.

33 D. FROM THE MONIES AND REMITTANCES RECEIVED UNDER THIS SECTION,
34 EACH [YEAR] [MONTH] BEGINNING JANUARY 1, 2026 [OR THE FIRST DAY OF THE
35 MONTH AFTER THE NOTICE IS PROVIDED PURSUANT TO SECTION 48-4238, SUBSECTION
36 A, WHICHEVER IS LATER.] THROUGH THE DATE OF THE NOTICE PROVIDED PURSUANT
37 TO SECTION 48-4238[, SUBSECTION C OR D] OR DECEMBER 31, 2056, WHICHEVER IS
38 [LATER] [EARLIER], THE STATE TREASURER SHALL TRANSMIT TO THE COUNTY
39 STADIUM DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 26 FOR DEPOSIT
40 IN THE COUNTY STADIUM DISTRICT FUND ESTABLISHED PURSUANT TO SECTION
41 48-4231 [ONE-TWELFTH OF] THE AMOUNT REPORTED BY THE DEPARTMENT PURSUANT TO
42 SECTION 43-209, SUBSECTION D FOR THE PRIOR TAXABLE YEAR.

1 Sec. 3. Section 42-5008.01, Arizona Revised Statutes, is amended to
2 read:

3 42-5008.01. Liability for amounts equal to retail transaction
4 privilege tax due

5 A. A person that is either a prime contractor subject to tax under
6 section 42-5075 or a subcontractor working under the control of such a
7 prime contractor, that purchases tangible personal property, the purchase
8 price of which was excluded from the tax base under the retail
9 classification under section 42-5061, subsection A, paragraph 27 or was
10 excluded from the use tax under section 42-5159, subsection A, paragraph
11 13, subdivision (g) at the time of purchase, and that incorporates or
12 fabricates the tangible personal property into a project described in
13 section 42-5075, subsection ~~⊖~~ P is liable for an amount equal to any tax
14 that a seller would have been required to pay under section 42-5061 and
15 this article as follows:

16 1. The amount of liability shall be calculated and reported based
17 on the location of the project and the taxes imposed under this chapter
18 and chapter 6 of this title.

19 2. All deductions, exemptions and exclusions for the cost of
20 tangible personal property provided in section 42-5075 apply to the
21 tangible personal property incorporated or fabricated into the project.

22 3. This subsection does not apply to tangible personal property
23 that is incorporated or fabricated into any project under a contract that
24 would otherwise be excluded from the tax base under section 42-5075,
25 without regard to section 42-5075, subsection ~~⊖~~ P.

26 4. The amount of liability shall be reported within the reporting
27 period that includes the month in which the person incorporates or
28 fabricates the tangible personal property into the project.

29 5. The person is not liable for the amount if the contractor who
30 hired the person executes and provides to the person a certificate stating
31 that the contractor providing the certificate is liable for any amount due
32 under this subsection. The department shall prescribe the form of the
33 certificate. If the person has reason to believe that the information
34 contained on the certificate is erroneous or incomplete, the department
35 may disregard the certificate. The contractor providing the certificate
36 is liable for the amount that otherwise would be due from the person under
37 this subsection.

38 B. A person that purchased tangible personal property, the purchase
39 price of which was excluded from the tax base under section 42-5061,
40 subsection A, paragraph 27 or was excluded from the use tax under section
41 42-5159, subsection A, paragraph 13, subdivision (g) at the time of
42 purchase, that subsequently cancels its transaction privilege tax license
43 and that uses, consumes, sells or discards the tangible personal property
44 is liable for an amount of tax determined under this subsection. For the
45 purposes of this subsection:

1 1. If the tangible personal property is incorporated or fabricated
2 into a project described in section 42-5075, subsection ~~⊕~~ P, or otherwise
3 used or consumed by the person, the amount of liability shall be
4 calculated and reported based on the person's purchase price of the
5 tangible personal property, the location of the project, use or
6 consumption and the taxes imposed under this chapter and chapter 6 of this
7 title.

8 2. If the tangible personal property is sold in a manner that is
9 not subject to tax under this chapter or is discarded, the amount shall be
10 calculated and reported based on the payment received by the person, the
11 location of the person's principal place of business in this state and the
12 taxes imposed under this chapter and chapter 6 of this title.

13 3. The person is not liable under this subsection for any amount if
14 the person discards the tangible personal property and does not receive
15 payment of any kind.

16 4. The amount of liability shall be reported on or before the
17 business day preceding the last business day of the month following the
18 month in which the person uses the tangible personal property in a manner
19 described in paragraph 1 or 2 of this subsection. No amount is due under
20 this subsection at any time that the person stores the tangible personal
21 property without using it in a manner described in paragraph 1 or 2 of
22 this subsection.

23 5. All deductions, exemptions and exclusions for the cost of
24 tangible personal property provided in section 42-5075 apply to the
25 tangible personal property incorporated or fabricated into a project
26 described in section 42-5075, subsection ~~⊕~~ P.

27 6. This subsection does not apply to tangible personal property
28 that is incorporated or fabricated into any project under a contract that
29 would otherwise be excluded from the tax base under section 42-5075,
30 without regard to section 42-5075, subsection ~~⊕~~ P.

31 7. The person is not liable for the amount if the contractor who
32 hired the person executes and provides to the person a certificate stating
33 that the contractor providing the certificate is liable for any amount due
34 under this subsection for tangible personal property incorporated or
35 fabricated into a project described in section 42-5075, subsection ~~⊕~~ P.
36 The department shall prescribe the form of the certificate. If the person
37 has reason to believe that the information contained on the certificate is
38 erroneous or incomplete, the department may disregard the certificate.
39 The contractor providing the certificate is liable for the amount that
40 otherwise would be due from the person under this subsection.

41 C. A person that fails to report or pay any amount due under
42 subsection A or B of this section is liable for interest in a manner
43 consistent with section 42-1123 and penalties in a manner consistent with
44 section 42-1125.

1 D. If a person has paid an amount described in this section on
2 tangible personal property that the person reasonably believed to be
3 described IN section 42-5075, subsection ~~⊖~~ P and a final determination is
4 made that section 42-5075, subsection ~~⊖~~ P does not apply, the person is
5 entitled to an offset for the amount paid under this section against the
6 amount of tax liability assessed under this chapter and chapter 6 of this
7 title.

8 Sec. 4. Section 42-5009, Arizona Revised Statutes, is amended to
9 read:

10 42-5009. Certificates establishing deductions: liability for
11 making false certificate; tax exclusion;
12 definitions

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

16 1. Marking the invoice for the transaction to indicate that the
17 gross proceeds of sales or gross income derived from the transaction was
18 deducted from the tax base.

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

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

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

39 D. If a seller is entitled to a deduction by complying with
40 subsection A of this section, the department may require the purchaser
41 that caused the execution of the certificate to establish the accuracy and
42 completeness of the information required to be contained in the
43 certificate that would entitle the seller to the deduction. If the
44 purchaser cannot establish the accuracy and completeness of the
45 information, the purchaser is liable in an amount equal to any tax,

1 penalty and interest that the seller would have been required to pay under
2 this article if the seller had not complied with subsection A of this
3 section. Payment of the amount under this subsection exempts the
4 purchaser from liability for any tax imposed under article 4 of this
5 chapter. The amount shall be treated as tax revenues collected from the
6 seller in order to designate the distribution base for purposes of section
7 42-5029.

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

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

38 G. If a seller claims a deduction under section 42-5061,
39 subsection A, paragraph 25 and establishes entitlement to the deduction
40 with an exemption letter that the purchaser received from the department
41 and the exemption letter was based on a contingent event, the department
42 may require the purchaser that received the exemption letter to establish
43 the satisfaction of the contingent event within a reasonable time. If the
44 purchaser cannot establish the satisfaction of the event, the purchaser is
45 liable in an amount equal to any tax, penalty and interest that the seller

1 would have been required to pay under this article if the seller had not
2 been furnished the exemption letter. Payment of the amount under this
3 subsection exempts the purchaser from liability for any tax imposed under
4 article 4 of this chapter. The amount shall be treated as tax revenues
5 collected from the seller in order to designate the distribution base for
6 purposes of section 42-5029. For the purposes of this subsection,
7 "reasonable time" means a time limitation that the department determines
8 and that does not exceed the time limitations pursuant to section 42-1104.

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

16 1. A valid certificate as prescribed by this subsection completed
17 by the purchaser and obtained before the issuance of the nonresident
18 registration permit authorized by section 28-2154.

19 2. For the purposes of the deductions provided by section 42-5061,
20 subsection A, paragraph 14, subdivision (b) and section 42-5061,
21 subsection ~~H~~ V, a copy of the nonresident registration permit authorized
22 by section 28-2154.

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

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

32 I. Notwithstanding subsection A, paragraph 2 of this section, if a
33 motor vehicle dealer has established entitlement to a deduction by
34 complying with subsection H of this section, the department may require
35 the purchaser who executed the certificate to establish the accuracy and
36 completeness of the information contained in the certificate that entitled
37 the motor vehicle dealer to the deduction. If the purchaser cannot
38 establish the accuracy and completeness of the information, the purchaser
39 is liable in an amount equal to any tax, penalty and interest that the
40 motor vehicle dealer would have been required to pay under this article
41 and under articles IV and V of the model city tax code as defined in
42 section 42-6051. Payment of the amount under this subsection exempts the
43 purchaser from liability for any tax imposed under article 4 of this
44 chapter and any tax imposed under article VI of the model city tax code as
45 defined in section 42-6051. The amount shall be treated as tax revenues

1 collected from the motor vehicle dealer in order to designate the
2 distribution base for purposes of section 42-5029.

3 J. To establish entitlement to the deduction described in section
4 42-5061, subsection A, paragraph 44, a public consignment auction dealer
5 as defined in section 28-4301 shall retain a copy of the certificate
6 prescribed by subsection H of this section for its records.

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

10 L. The department shall prescribe a form for a certificate to be
11 used by a person that is not subject to tax under section 42-5075 when the
12 person is engaged by a contractor that is subject to tax under section
13 42-5075 for a project that is taxable under section 42-5075. The
14 certificate permits the person purchasing tangible personal property to be
15 incorporated or fabricated by the person into any real property,
16 structure, project, development or improvement to provide documentation to
17 a retailer that the sale of tangible personal property qualifies for the
18 deduction under section 42-5061, subsection A, paragraph 27,
19 subdivision (b). A prime contractor shall obtain the certificate from the
20 department and shall provide a copy to any such person working on the
21 project. The prime contractor shall obtain a new certificate for each
22 project to which this subsection applies. For the purposes of this
23 subsection, the following apply:

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

28 2. The department shall issue the certificate to the prime
29 contractor on receiving sufficient documentation to establish that the
30 prime contractor meets the requirements of this subsection.

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

40 M. Notwithstanding any other law, compliance with subsection L of
41 this section by a person that is not subject to tax under section 42-5075
42 entitles the person to the exemption allowed by section 465,
43 subsection (k) of the model city tax code when purchasing tangible
44 personal property to be incorporated or fabricated by the person into any
45 real property, structure, project, development or improvement.

1 N. The requirements of subsections A and B of this section do not
2 apply to owners, proprietors or tenants of agricultural lands or farms who
3 sell livestock or poultry feed that is grown or raised on their lands to
4 any of the following:

5 1. Persons who feed their own livestock or poultry.

6 2. Persons who are engaged in the business of producing livestock
7 or poultry commercially.

8 3. Persons who are engaged in the business of feeding livestock or
9 poultry commercially or who board livestock noncommercially.

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

20 P. Notwithstanding any other law, an online lodging operator, as
21 defined in section 42-5076, shall be entitled to an exclusion from any
22 applicable taxes for any online lodging transaction, as defined in section
23 42-5076, facilitated by an online lodging marketplace, as defined in
24 section 42-5076, for which the online lodging operator has obtained from
25 the online lodging marketplace written notice that the online lodging
26 marketplace is registered with the department to collect applicable taxes
27 for all online lodging transactions facilitated by the online lodging
28 marketplace, and transaction history documenting tax collected by the
29 online lodging marketplace, pursuant to section 42-5005, subsection L.

30 Q. The department shall prescribe the form of a certificate to be
31 used by a person purchasing an aircraft to document eligibility for a
32 deduction pursuant to section 42-5061, subsection B, paragraph 8,
33 subdivision (a), item (v) or an exemption pursuant to section 42-5159,
34 subsection B, paragraph 8, subdivision (a), item (v), relating to
35 aircraft. The person must provide this certificate and documentation
36 confirming that the operational control of the aircraft has been
37 transferred or will be transferred immediately after the purchase to one
38 or more persons described in section 42-5061, subsection B, paragraph 8,
39 subdivision (a), item (i), (ii), (iii) or (iv) or section 42-5159,
40 subsection B, paragraph 8, subdivision (a), item (i), (ii), (iii) or (iv).
41 Operational control of the aircraft must be transferred for at least fifty
42 percent of the aircraft's flight hours. If such operational control is
43 not transferred for at least fifty percent of the aircraft's flight hours
44 during the recapture period, the owner of the aircraft is liable for an
45 amount equal to any tax that the seller or purchaser would have been

1 required to pay under this chapter at the time of the sale, plus penalty
2 and interest. The recapture period begins on the date that operational
3 control of the aircraft is first transferred and ends on the later of the
4 date the aircraft is fully depreciated for federal income tax purposes or
5 five years after operational control was first transferred. For the
6 purposes of this subsection, operational control of the aircraft must be
7 within the meaning of federal aviation administration operations
8 specification A008, or its successor, except that:

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

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

19 R. Notwithstanding any other law, a shared vehicle owner is
20 entitled to an exclusion from any applicable taxes for a shared vehicle
21 transaction that is facilitated by a peer-to-peer car sharing program and
22 for which the peer-to-peer car sharing program has collected and remitted
23 applicable taxes.

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

29 1. Apply to the department for the exemption letter and fully
30 answer any eligibility questions required by the department for the
31 purposes of the exemption letter. If the department approves the
32 exemption letter application, the exemption letter is valid until the
33 entity is no longer qualified for the exemption letter.

34 2. Notify the department in writing if the entity no longer
35 qualifies for the exemption letter. Regardless of whether the entity
36 notifies the department as required by this paragraph, if the entity no
37 longer qualifies for the exemption letter, the entity is liable in an
38 amount equal to any tax, penalty and interest that the seller would have
39 been required to pay under this article if the seller had not been
40 furnished the exemption letter. Payment of the amount under this
41 paragraph exempts the entity from liability for any tax imposed under
42 article 4 of this chapter. The amount shall be treated as tax revenues
43 collected from the seller in order to designate the distribution base for
44 the purposes of section 42-5029.

1 T. For the purposes of this section, "peer-to-peer car sharing
2 program", "shared vehicle owner" and "shared vehicle transaction" have the
3 same meanings prescribed in section 28-9601.

4 Sec. 5. Section 42-5029, Arizona Revised Statutes, is amended to
5 read:

6 42-5029. Remission and distribution of monies; withholding;
7 definition

8 A. The department shall deposit, pursuant to sections 35-146 and
9 35-147, all revenues collected under this article and articles 4, 5 and 8
10 of this chapter pursuant to section 42-1116, separately accounting for:

11 1. Payments of estimated tax under section 42-5014, subsection D.

12 2. Revenues collected pursuant to section 42-5070.

13 3. Revenues collected under this article and article 5 of this
14 chapter from and after June 30, 2000 from sources located on Indian
15 reservations in this state.

16 4. Revenues collected pursuant to section 42-5010, subsection G and
17 section 42-5155, subsection D.

18 5. Revenues collected pursuant to section 42-5010.01 and section
19 42-5155, subsection E.

20 6. Revenues collected pursuant to section 42-5061 from a remote
21 seller.

22 B. The department shall credit payments of estimated tax to an
23 estimated tax clearing account and each month shall transfer all monies in
24 the estimated tax clearing account to a fund designated as the transaction
25 privilege and severance tax clearing account. The department shall credit
26 all other payments to the transaction privilege and severance tax clearing
27 account, separately accounting for the monies designated as distribution
28 base under sections 42-5010, 42-5164 and 42-5205. Each month the
29 department shall report to the state treasurer the amount of monies
30 collected pursuant to this article and articles 4, 5 and 8 of this
31 chapter.

32 C. On notification by the department, the state treasurer shall
33 distribute the monies deposited in the transaction privilege and severance
34 tax clearing account in the manner prescribed by this section and by
35 sections 42-5164 and 42-5205, after deducting warrants drawn against the
36 account pursuant to sections 42-1118 and 42-1254.

37 D. Of the monies designated as distribution base, the department
38 shall:

39 1. Pay twenty-five percent to the various incorporated
40 municipalities in this state in proportion to their population to be used
41 by the municipalities for any municipal purpose, except a municipality
42 shall use monies paid from revenues separately accounted for pursuant to
43 subsection A, paragraph 6 of this section and paid pursuant to this
44 paragraph for public safety before any other municipal purpose.

1 2. Pay 38.08 percent to the counties in this state by averaging the
2 following proportions:

3 (a) The proportion that the population of each county bears to the
4 total state population.

5 (b) The proportion that the distribution base monies collected
6 during the calendar month in each county under this article, section
7 42-5164, subsection B and section 42-5205, subsection B bear to the total
8 distribution base monies collected under this article, section 42-5164,
9 subsection B and section 42-5205, subsection B throughout the state for
10 the calendar month.

11 3. Pay an additional 2.43 percent to the counties in this state as
12 follows:

13 (a) Average the following proportions:

14 (i) The proportion that the assessed valuation used to determine
15 secondary property taxes of each county, after deducting that part of the
16 assessed valuation that is exempt from taxation at the beginning of the
17 month for which the amount is to be paid, bears to the total assessed
18 valuations used to determine secondary property taxes of all the counties
19 after deducting that portion of the assessed valuations that is exempt
20 from taxation at the beginning of the month for which the amount is to be
21 paid. Property of a city or town that is not within or contiguous to the
22 municipal corporate boundaries and from which water is or may be withdrawn
23 or diverted and transported for use on other property is considered to be
24 taxable property in the county for purposes of determining assessed
25 valuation in the county under this item.

26 (ii) The proportion that the distribution base monies collected
27 during the calendar month in each county under this article, section
28 42-5164, subsection B and section 42-5205, subsection B bear to the total
29 distribution base monies collected under this article, section 42-5164,
30 subsection B and section 42-5205, subsection B throughout this state for
31 the calendar month.

32 (b) If the proportion computed under subdivision (a) of this
33 paragraph for any county is greater than the proportion computed under
34 paragraph 2 of this subsection, the department shall compute the
35 difference between the amount distributed to that county under paragraph 2
36 of this subsection and the amount that would have been distributed under
37 paragraph 2 of this subsection using the proportion computed under
38 subdivision (a) of this paragraph and shall pay that difference to the
39 county from the amount available for distribution under this paragraph.
40 Any monies remaining after all payments under this subdivision shall be
41 distributed among the counties according to the proportions computed under
42 paragraph 2 of this subsection.

43 4. After any distributions required by sections 42-5030,
44 42-5030.01, 42-5031, 42-5032, 42-5032.01, ~~and~~ 42-5032.02 AND 42-5032.03
45 and after making any transfer to the water quality assurance revolving

1 fund as required by section 49-282, subsection B, credit the remainder of
2 the monies designated as distribution base to the state general
3 fund. From this amount the legislature shall annually appropriate to:

4 (a) The department of revenue, sufficient monies to administer and
5 enforce this article and articles 5 and 8 of this chapter.

6 (b) The department of economic security, monies to be used for the
7 purposes stated in title 46, chapter 1.

8 (c) The firearms safety and ranges fund established by section
9 17-273, \$50,000 derived from the taxes collected from the retail
10 classification pursuant to section 42-5061 for the current fiscal year.

11 E. If approved by the qualified electors voting at a statewide
12 general election, all monies collected pursuant to section 42-5010,
13 subsection G and section 42-5155, subsection D shall be distributed each
14 fiscal year pursuant to this subsection. The monies distributed pursuant
15 to this subsection are in addition to any other appropriation, transfer or
16 other allocation of public or private monies from any other source and
17 shall not supplant, replace or cause a reduction in other school district,
18 charter school, university or community college funding sources. The
19 monies shall be distributed as follows:

20 1. If there are outstanding state school facilities revenue bonds
21 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
22 amount that is necessary to pay the fiscal year's debt service on
23 outstanding state school improvement revenue bonds for the current fiscal
24 year shall be transferred each month to the school improvement revenue
25 bond debt service fund established by section 15-2084. The total amount
26 of bonds for which these monies may be allocated for the payment of debt
27 service shall not exceed a principal amount of eight hundred million
28 dollars exclusive of refunding bonds and other refinancing obligations.

29 2. After any transfer of monies pursuant to paragraph 1 of this
30 subsection, twelve per cent of the remaining monies collected during the
31 preceding month shall be transferred to the technology and research
32 initiative fund established by section 15-1648 to be distributed among the
33 universities for the purpose of investment in technology and
34 research-based initiatives.

35 3. After the transfer of monies pursuant to paragraph 1 of this
36 subsection, three per cent of the remaining monies collected during the
37 preceding month shall be transferred to the workforce development account
38 established in each community college district pursuant to section 15-1472
39 for the purpose of investment in workforce development programs.

40 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of
41 this subsection, one-twelfth of the amount a community college that is
42 owned, operated or chartered by a qualifying Indian tribe on its own
43 Indian reservation would receive pursuant to section 15-1472, subsection
44 D, paragraph 2 if it were a community college district shall be
45 distributed each month to the treasurer or other designated depository of

1 a qualifying Indian tribe. Monies distributed pursuant to this paragraph
2 are for the exclusive purpose of providing support to one or more
3 community colleges owned, operated or chartered by a qualifying Indian
4 tribe and shall be used in a manner consistent with section 15-1472,
5 subsection B. For the purposes of this paragraph, "qualifying Indian
6 tribe" has the same meaning as defined in section 42-5031.01,
7 subsection D.

8 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of
9 this subsection, one-twelfth of the following amounts shall be transferred
10 each month to the department of education for the increased cost of basic
11 state aid under section 15-971 due to added school days and associated
12 teacher salary increases enacted in 2000:

13 (a) In fiscal year 2001-2002, \$15,305,900.

14 (b) In fiscal year 2002-2003, \$31,530,100.

15 (c) In fiscal year 2003-2004, \$48,727,700.

16 (d) In fiscal year 2004-2005, \$66,957,200.

17 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
18 \$86,280,500.

19 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of
20 this subsection, seven million eight hundred thousand dollars is
21 appropriated each fiscal year, to be paid in monthly installments, to the
22 department of education to be used for school safety as provided in
23 section 15-154 and two hundred thousand dollars is appropriated each
24 fiscal year, to be paid in monthly installments to the department of
25 education to be used for the character education matching grant program as
26 provided in section 15-154.01.

27 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of
28 this subsection, no more than seven million dollars may be appropriated by
29 the legislature each fiscal year to the department of education to be used
30 for accountability purposes as described in section 15-241 and title 15,
31 chapter 9, article 8.

32 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of
33 this subsection, one million five hundred thousand dollars is appropriated
34 each fiscal year, to be paid in monthly installments, to the failing
35 schools tutoring fund established by section 15-241.

36 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of
37 this subsection, twenty-five million dollars shall be transferred each
38 fiscal year to the state general fund to reimburse the general fund for
39 the cost of the income tax credit allowed by section 43-1072.01.

40 10. After the payment of monies pursuant to paragraphs 1 through 9
41 of this subsection, the remaining monies collected during the preceding
42 month shall be transferred to the classroom site fund established by
43 section 15-977. The monies shall be allocated as follows in the manner
44 prescribed by section 15-977:

1 (a) Forty per cent shall be allocated for teacher compensation
2 based on performance.

3 (b) Twenty per cent shall be allocated for increases in teacher
4 base compensation and employee related expenses.

5 (c) Forty per cent shall be allocated for maintenance and operation
6 purposes.

7 F. The department shall credit the remainder of the monies in the
8 transaction privilege and severance tax clearing account to the state
9 general fund, subject to any distribution required by section 42-5030.01.

10 G. Notwithstanding subsection D of this section, if a court of
11 competent jurisdiction finally determines that tax monies distributed
12 under this section were illegally collected under this article or articles
13 5 and 8 of this chapter and orders the monies to be refunded to the
14 taxpayer, the department shall compute the amount of such monies that was
15 distributed to each city, town and county under this section. Each
16 city's, town's and county's proportionate share of the costs shall be
17 based on the amount of the original tax payment each municipality and
18 county received. Each month the state treasurer shall reduce the amount
19 otherwise distributable to the city, town and county under this section by
20 1/36 of the total amount to be recovered from the city, town or county
21 until the total amount has been recovered, but the monthly reduction for
22 any city, town or county shall not exceed ten percent of the full monthly
23 distribution to that entity. The reduction shall begin for the first
24 calendar month after the final disposition of the case and shall continue
25 until the total amount, including interest and costs, has been recovered.

26 H. On receiving a certificate of default from the greater Arizona
27 development authority pursuant to section 41-2257 or 41-2258 and to the
28 extent not otherwise expressly prohibited by law, the state treasurer
29 shall withhold from the next succeeding distribution of monies pursuant to
30 this section due to the defaulting political subdivision the amount
31 specified in the certificate of default and immediately deposit the amount
32 withheld in the greater Arizona development authority revolving fund. The
33 state treasurer shall continue to withhold and deposit the monies until
34 the greater Arizona development authority certifies to the state treasurer
35 that the default has been cured. In no event may the state treasurer
36 withhold any amount that the defaulting political subdivision certifies to
37 the state treasurer and the authority as being necessary to make any
38 required deposits then due for the payment of principal and interest on
39 bonds of the political subdivision that were issued before the date of the
40 loan repayment agreement or bonds and that have been secured by a pledge
41 of distributions made pursuant to this section.

42 I. Except as provided by sections 42-5033 and 42-5033.01, the
43 population of a county, city or town as determined by the most recent
44 United States decennial census plus any revisions to the decennial census

1 certified by the United States bureau of the census shall be used as the
2 basis for apportioning monies pursuant to subsection D of this section.

3 J. Except as otherwise provided by this subsection, on notice from
4 the department of revenue pursuant to section 42-6010, subsection B, the
5 state treasurer shall withhold from the distribution of monies pursuant to
6 this section to the affected city or town the amount of the penalty for
7 business location municipal tax incentives provided by the city or town to
8 a business entity that locates a retail business facility in the city or
9 town. The state treasurer shall continue to withhold monies pursuant to
10 this subsection until the entire amount of the penalty has been withheld.
11 The state treasurer shall credit any monies withheld pursuant to this
12 subsection to the state general fund as provided by subsection D,
13 paragraph 4 of this section. The state treasurer shall not withhold any
14 amount that the city or town certifies to the department of revenue and
15 the state treasurer as being necessary to make any required deposits or
16 payments for debt service on bonds or other long-term obligations of the
17 city or town that were issued or incurred before the location incentives
18 provided by the city or town.

19 K. On notice from the auditor general pursuant to section 9-626,
20 subsection D, the state treasurer shall withhold from the distribution of
21 monies pursuant to this section to the affected city the amount computed
22 pursuant to section 9-626, subsection D. The state treasurer shall
23 continue to withhold monies pursuant to this subsection until the entire
24 amount specified in the notice has been withheld. The state treasurer
25 shall credit any monies withheld pursuant to this subsection to the state
26 general fund as provided by subsection D, paragraph 4 of this section.

27 L. Except as otherwise provided by this subsection, on notice from
28 the attorney general pursuant to section 41-194.01, subsection B,
29 paragraph 1 that an ordinance, regulation, order or other official action
30 adopted or taken by the governing body of a county, city or town violates
31 state law or the Constitution of Arizona, the state treasurer shall
32 withhold the distribution of monies pursuant to this section to the
33 affected county, city or town and shall continue to withhold monies
34 pursuant to this subsection until the attorney general certifies to the
35 state treasurer that the violation has been resolved. The state treasurer
36 shall redistribute the monies withheld pursuant to this subsection among
37 all other counties, cities and towns in proportion to their population as
38 provided by subsection D of this section. The state treasurer shall not
39 withhold any amount that the county, city or town certifies to the
40 attorney general and the state treasurer as being necessary to make any
41 required deposits or payments for debt service on bonds or other long-term
42 obligations of the county, city or town that were issued or incurred
43 before committing the violation.

44 M. For the purposes of this section, "community college district"
45 means a community college district that is established pursuant to

1 sections 15-1402 and 15-1403 and that is a political subdivision of this
2 state and, unless otherwise specified, includes a community college
3 tuition financing district established pursuant to section 15-1409.

4 Sec. 6. Title 42, chapter 5, article 1, Arizona Revised Statutes,
5 is amended by adding section 42-5032.03, to read:

6 42-5032.03. Distribution of revenue for county stadium
7 district

8 A. BEGINNING THE FIRST DAY OF THE MONTH FOLLOWING THE ~~[EFFECTIVE~~
9 ~~DATE OF THIS SECTION]~~ ~~[MONTH AFTER THE NOTICE IS PROVIDED PURSUANT TO~~
10 ~~SECTION 48-4238, SUBSECTION A]~~ AND EACH MONTH THEREAFTER THROUGH THE MONTH
11 OF THE NOTICE PROVIDED PURSUANT TO SECTION 48-4238~~[, SUBSECTION C OR D]~~ OR
12 DECEMBER 31, 2055, WHICHEVER IS ~~[LATER]~~ [EARLIER], THE STATE TREASURER
13 SHALL TRANSMIT, FROM THE AMOUNT DESIGNATED AS DISTRIBUTION BASE PURSUANT
14 TO SECTION 42-5029, SUBSECTION D, THE AMOUNT DETERMINED UNDER SUBSECTION B
15 OF THIS SECTION TO THE COUNTY STADIUM DISTRICT ESTABLISHED PURSUANT TO
16 TITLE 48, CHAPTER 26 FOR DEPOSIT IN THE COUNTY STADIUM DISTRICT FUND
17 ESTABLISHED PURSUANT TO SECTION 48-4231.

18 B. THE AMOUNT TO BE TRANSMITTED UNDER SUBSECTION A OF THIS SECTION
19 IS THE TOTAL AMOUNT OF STATE TRANSACTION PRIVILEGE TAX REVENUES RECEIVED
20 FROM PERSONS CONDUCTING BUSINESS UNDER THE RETAIL, AMUSEMENT, RESTAURANT
21 AND PRIME CONTRACTING CLASSIFICATIONS AT, OR WITH RESPECT TO EVENTS HELD
22 AT, A MAJOR LEAGUE BASEBALL FACILITY OR AN ADJACENT BUILDING THAT IS OWNED
23 BY A COUNTY STADIUM DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED
24 BY THE COUNTY STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE
25 ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT BUILDING.

26 Sec. 7. Section 42-5061, Arizona Revised Statutes, is amended to
27 read:

28 42-5061. Retail classification; definitions

29 A. The retail classification is comprised of the business of
30 selling tangible personal property at retail. The tax base for the retail
31 classification is the gross proceeds of sales or gross income derived from
32 the business. The tax imposed on the retail classification does not apply
33 to the gross proceeds of sales or gross income from:

34 1. Professional or personal service occupations or businesses that
35 involve sales or transfers of tangible personal property only as
36 inconsequential elements.

37 2. Services rendered in addition to selling tangible personal
38 property at retail.

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

42 4. Sales of tangible personal property by any nonprofit
43 organization organized and operated exclusively for charitable purposes
44 and recognized by the United States internal revenue service under section
45 501(c)(3) of the internal revenue code.

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

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

6 7. The sale of stocks and bonds.

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

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

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

15 11. Prescription eyeglasses or contact lenses.

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

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

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

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

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

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

35 16. Items purchased with United States department of agriculture
36 coupons issued under the supplemental nutrition assistance program
37 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;
38 7 United States Code sections 2011 through 2036b) by the United States
39 department of agriculture food and nutrition service or food instruments
40 issued under section 17 of the child nutrition act (P.L. 95-627;
41 92 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States
42 Code section 1786).

43 17. Textbooks by any bookstore that are required by any state
44 university or community college.

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

5 19. Articles of food, drink or condiment and accessory tangible
6 personal property to a school district or charter school if such articles
7 and accessory tangible personal property are to be prepared and served to
8 persons for consumption on the premises of a public school within the
9 district or on the premises of the charter school during school hours.

10 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
11 article 1.

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

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

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

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

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

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

41 22. Motor vehicle fuel and use fuel that are subject to a tax
42 imposed under title 28, chapter 16, article 1, sales of use fuel to a
43 holder of a valid single trip use fuel tax permit issued under section
44 28-5739, sales of aviation fuel that are subject to the tax imposed under

1 section 28-8344 and sales of jet fuel that are subject to the tax imposed
2 under article 8 of this chapter.

3 23. Tangible personal property sold to a person engaged in the
4 business of leasing or renting such property under the personal property
5 rental classification if such property is to be leased or rented by such
6 person.

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

10 25. Tangible personal property sold to:

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

12 (b) A qualifying health care organization as defined in section
13 42-5001 if the tangible personal property is used by the organization
14 solely to provide health and medical related educational and charitable
15 services.

16 (c) A qualifying health care organization as defined in section
17 42-5001 if the organization is dedicated to providing educational,
18 therapeutic, rehabilitative and family medical education training for
19 blind and visually impaired children and children with multiple
20 disabilities from the time of birth to age twenty-one.

21 (d) A qualifying community health center as defined in section
22 42-5001.

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

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

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

36 (h) Any person representing or working on behalf of another person
37 described in subdivisions (a) through (g) of this paragraph if the
38 tangible personal property is incorporated or fabricated into a project
39 described in section 42-5075, subsection ~~θ~~ P.

40 26. Magazines or other periodicals or other publications by this
41 state to encourage tourist travel.

42 27. Tangible personal property sold to:

43 (a) A person that is subject to tax under this article by reason of
44 being engaged in business classified under section 42-5075 or to a
45 subcontractor working under the control of a person engaged in business

1 classified under section 42-5075, if the property so sold is any of the
2 following:

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

6 (ii) Incorporated or fabricated by the person into any project
7 described in section 42-5075, subsection ~~Q~~ P.

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

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

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

20 29. Tangible personal property purchased in this state by a
21 nonprofit charitable organization that has qualified under section
22 501(c)(3) of the United States internal revenue code and that engages in
23 and uses such property exclusively in programs for persons with mental or
24 physical disabilities if the programs are exclusively for training, job
25 placement, rehabilitation or testing.

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

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

44 32. Sales of tangible personal property by a nonprofit organization
45 that is exempt from taxation under section 501(c)(3), 501(c)(4),

1 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the
2 organization sponsors or operates a rodeo featuring primarily farm and
3 ranch animals and no part of the organization's net earnings inures to the
4 benefit of any private shareholder or individual.

5 33. Sales of propagative materials to persons who use those items
6 to commercially produce agricultural, horticultural, viticultural or
7 floricultural crops in this state. For the purposes of this paragraph,
8 "propagative materials":

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

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

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

23 35. Sales of natural gas or liquefied petroleum gas used to propel
24 a motor vehicle.

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

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

39 38. Sales of liquid, solid or gaseous chemicals used in
40 manufacturing, processing, fabricating, mining, refining, metallurgical
41 operations, research and development and, beginning on January 1, 1999,
42 printing, if using or consuming the chemicals, alone or as part of an
43 integrated system of chemicals, involves direct contact with the materials
44 from which the product is produced for the purpose of causing or allowing
45 a chemical or physical change to occur in the materials as part of the

1 production process. This paragraph does not include chemicals that are
2 used or consumed in activities such as packaging, storage or
3 transportation but does not affect any deduction for such chemicals that
4 is otherwise provided by this section. For the purposes of this
5 paragraph, "printing" means a commercial printing operation and includes
6 job printing, engraving, embossing, copying and bookbinding.

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

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

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

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

25 41. 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
29 property.

30 42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 53. Application services that are designed to assess or test
45 student learning or to promote curriculum design or enhancement purchased

1 by or for any school district, charter school, community college or state
2 university. For the purposes of this paragraph:

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

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

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

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

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

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

27 58. Sales of tangible personal property incorporated or fabricated
28 into a project described in section 42-5075, subsection ~~6~~ P, that is
29 located within the exterior boundaries of an Indian reservation for which
30 the owner, as defined in section 42-5075, of the project is an Indian
31 tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

44 59. Sales of works of fine art, as defined in section 44-1771, at
45 an art auction or gallery in this state to nonresidents of this state for

1 use outside this state if the vendor ships or delivers the work of fine
2 art to a destination outside this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (a) A person:

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

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

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

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

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

43 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 22. Qualifying equipment that is purchased from and after June 30,
41 2004 through December 31, 2026 by a qualified business under section
42 41-1516 for harvesting or processing qualifying forest products removed
43 from qualifying projects as defined in section 41-1516. To qualify for
44 this deduction, the qualified business at the time of purchase must
45 present its certification approved by the department.

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

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

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

15 2. Janitorial equipment and hand tools.

16 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

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

21 2. Businesses classified under the:

22 (a) Transporting classification.

23 (b) Utilities classification.

24 (c) Telecommunications classification.

25 (d) Pipeline classification.

26 (e) Private car line classification.

27 (f) Publication classification.

28 (g) Job printing classification.

29 (h) Prime contracting classification.

30 (i) Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 U. FOR THE PURPOSES OF SECTION 42-5032.03, BEGINNING THE FIRST DAY
2 OF THE MONTH FOLLOWING THE ~~[EFFECTIVE DATE OF THIS SECTION]~~ [MONTH AFTER
3 THE NOTICE IS PROVIDED PURSUANT TO SECTION 48-4238, SUBSECTION A] THROUGH
4 THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION 48-4238[, SUBSECTION
5 C OR D] OR DECEMBER 31, 2055, WHICHEVER IS ~~[LATER]~~ [EARLIER], THE
6 DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE
7 RETAIL CLASSIFICATION FROM BUSINESSES SELLING TANGIBLE PERSONAL PROPERTY
8 AT RETAIL ON THE PREMISES OF A MAJOR LEAGUE BASEBALL FACILITY OR AN
9 ADJACENT BUILDING THAT IS OWNED BY A COUNTY STADIUM DISTRICT PURSUANT TO
10 TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM DISTRICT OR THE
11 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR
12 ADJACENT BUILDING.

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

26 ~~V.~~ W. For the purposes of this section:

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

30 2. "Aircraft" includes:

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

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

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

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

1 ~~W.~~ X. For the purposes of subsection I of this section:

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

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

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

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

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

20 6. "Subcontract" means an agreement between a contractor and any
21 person who is not an employee of the contractor for furnishing supplies or
22 services that, in whole or in part, are necessary to perform one or more
23 government contracts, or under which any portion of the contractor's
24 obligation under one or more government contracts is performed, undertaken
25 or assumed and that includes provisions causing title to overhead
26 materials or other tangible personal property used in performing the
27 subcontract to pass to the government or that includes provisions
28 incorporating such title passing clauses in a government contract into the
29 subcontract.

30 Sec. 8. Section 42-5073, Arizona Revised Statutes, is amended to
31 read:

32 42-5073. Amusement classification

33 A. The amusement classification is comprised of the business of
34 operating or conducting theaters, movies, operas, shows of any type or
35 nature, exhibitions, concerts, carnivals, circuses, amusement parks,
36 menageries, fairs, races, contests, games, billiard or pool parlors,
37 bowling alleys, public dances, dance halls, boxing and wrestling matches,
38 skating rinks, tennis courts, except as provided in subsection B of this
39 section, video games, pinball machines or sports events or any other
40 business charging admission or user fees for exhibition, amusement or
41 entertainment, including the operation or sponsorship of events by a
42 tourism and sports authority under title 5, chapter 8. For the purposes
43 of this section, admission or user fees include, but are not limited to,
44 any revenues derived from any form of contractual agreement for rights to

1 or use of premium or special seating facilities or arrangements. The
2 amusement classification does not include:

3 1. Activities or projects of bona fide religious or educational
4 institutions.

5 2. Private or group instructional activities. For the purposes of
6 this paragraph, "private or group instructional activities" includes, but
7 is not limited to, performing arts, martial arts, gymnastics and aerobic
8 instruction.

9 3. The operation or sponsorship of events by the Arizona exposition
10 and state fair board or county fair commissions.

11 4. A musical, dramatic or dance group or a botanical garden, museum
12 or zoo that is qualified as a nonprofit charitable organization under
13 section 501(c)(3) of the United States internal revenue code if no part of
14 its net income inures to the benefit of any private shareholder or
15 individual.

16 5. Exhibition events in this state sponsored, conducted or operated
17 by a nonprofit organization that is exempt from taxation under section
18 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
19 organization is associated with major league baseball teams or a national
20 touring professional golfing association and no part of the organization's
21 net earnings inures to the benefit of any private shareholder or
22 individual. This paragraph does not apply to an organization that is
23 owned, managed or controlled, in whole or in part, by a major league
24 baseball team, or its owners, officers, employees or agents, or by a major
25 league baseball association or professional golfing association, or its
26 owners, officers, employees or agents, unless the organization conducted
27 or operated exhibition events in this state before January 1, 2018 that
28 were exempt from taxation under this section.

29 6. Operating or sponsoring rodeos that feature primarily farm and
30 ranch animals in this state and that are sponsored, conducted or operated
31 by a nonprofit organization that is exempt from taxation under section
32 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
33 revenue code if no part of the organization's net earnings inures to the
34 benefit of any private shareholder or individual.

35 7. Sales of admissions to intercollegiate football contests if the
36 contests are both:

37 (a) Operated by a nonprofit organization that is exempt from
38 taxation under section 501(c)(3) of the internal revenue code and no part
39 of the organization's net earnings inures to the benefit of any private
40 shareholder or individual.

41 (b) Not held in a multipurpose facility that is owned or operated
42 by the tourism and sports authority pursuant to title 5, chapter 8.

43 8. Activities and events of, or fees and assessments received by, a
44 homeowners organization from persons who are members of the organization
45 or accompanied guests of members. For the purposes of this paragraph,

1 "homeowners organization" means a mandatory membership organization
2 comprised of owners of residential property within a specified residential
3 real estate subdivision development or similar area and established to own
4 property for the benefit of its members where both of the following apply:

5 (a) No part of the organization's net earnings inures to the
6 benefit of any private shareholder or individual.

7 (b) The primary purpose of the organization is to provide for the
8 acquisition, construction, management, maintenance or care of organization
9 property.

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

16 10. Arranging an amusement activity as a service to a person's
17 customers if that person is not otherwise engaged in the business of
18 operating or conducting an amusement personally or through others. This
19 exception does not apply to businesses that operate or conduct amusements
20 pursuant to customer orders and send the billings and receive the payments
21 associated with that activity, including when the amusement is performed
22 by third-party independent contractors. For the purposes of this
23 paragraph, "arranging" includes billing for or collecting amusement
24 charges from a person's customers on behalf of the persons providing the
25 amusement.

26 B. The tax base for the amusement classification is the gross
27 proceeds of sales or gross income derived from the business, except that
28 the following shall be deducted from the tax base:

29 1. The gross proceeds of sales or gross income derived from
30 memberships, including initiation fees, that provide for the right to use
31 a health or fitness establishment or a private recreational establishment,
32 or any portion of an establishment, including tennis and other racquet
33 courts at that establishment, for participatory purposes for twenty-eight
34 days or more and fees charged for use of the health or fitness
35 establishment or private recreational establishment by bona fide
36 accompanied guests of members, except that this paragraph does not include
37 additional fees, other than initiation fees, charged by a health or
38 fitness establishment or a private recreational establishment for purposes
39 other than memberships that provide for the right to use a health or
40 fitness establishment or private recreational establishment, or any
41 portion of an establishment, for participatory purposes for twenty-eight
42 days or more and accompanied guest use fees.

43 2. Amounts that are exempt under section 5-111, subsection G.

44 3. The gross proceeds of sales or gross income derived from
45 membership fees, including initiation fees, that provide for the right to

1 use a transient lodging recreational establishment, including golf courses
2 and tennis and other racquet courts at that establishment, for
3 participatory purposes for twenty-eight days or more, except that this
4 paragraph does not include additional fees, other than initiation fees,
5 that are charged by a transient lodging recreational establishment for
6 purposes other than memberships and that provide for the right to use a
7 transient lodging recreational establishment or any portion of the
8 establishment for participatory purposes for twenty-eight days or more.

9 4. The gross proceeds of sales or gross income derived from sales
10 to persons engaged in the business of transient lodging classified under
11 section 42-5070, if all of the following apply:

12 (a) The persons who are engaged in the transient lodging business
13 sell the amusement to another person for consideration.

14 (b) The consideration received by the transient lodging business is
15 equal to or greater than the amount to be deducted under this subsection.

16 (c) The transient lodging business has provided an exemption
17 certificate to the person engaging in business under this section.

18 5. The gross proceeds of sales or gross income derived from:

19 (a) Business activity that is properly included in any other
20 business classification under this article and that is taxable to the
21 person engaged in that classification, but the gross proceeds of sales or
22 gross income to be deducted shall not exceed the consideration paid to the
23 person conducting the activity.

24 (b) Business activity that is arranged by the person who is subject
25 to tax under this section and that is not taxable to the person conducting
26 the activity due to an exclusion, exemption or deduction under this
27 section or section 42-5062, but the gross proceeds of sales or gross
28 income to be deducted shall not exceed the consideration paid to the
29 person conducting the activity.

30 (c) Business activity that is arranged by a person who is subject
31 to tax under this section and that is taxable to another person under this
32 section who conducts the activity, but the gross proceeds of sales or
33 gross income to be deducted shall not exceed the consideration paid to the
34 person conducting the activity.

35 6. The gross proceeds of sales or gross income derived from entry
36 fees paid by participants for events that either:

37 (a) Until March 1, 2017, consist of a run, walk, swim or bicycle
38 ride or a similar event, or any combination of these events.

39 (b) Are operated or conducted by nonprofit organizations that are
40 exempt from taxation under section 501(c)(3) of the internal revenue code
41 and of which no part of the organization's net earnings inures to the
42 benefit of any private shareholder or individual, if the event consists of
43 a run, walk, swim or bicycle ride or a similar event, or any combination
44 of these events.

1 C. For the purposes of subsection B of this section:

2 1. "Health or fitness establishment" means a facility whose primary
3 purpose is to provide facilities, equipment, instruction or education to
4 promote the health and fitness of its members and at least eighty percent
5 of the monthly gross revenue of the facility is received through accounts
6 of memberships and accompanied guest use fees that provide for the right
7 to use the facility, or any portion of the facility, under the terms of
8 the membership agreement for participatory purposes for twenty-eight days
9 or more.

10 2. "Private recreational establishment" means a facility whose
11 primary purpose is to provide recreational facilities, such as tennis,
12 golf and swimming, for its members and where at least eighty percent of
13 the monthly gross revenue of the facility is received through accounts of
14 memberships and accompanied guest use fees that provide for the right to
15 use the facility, or any portion of the facility, for participatory
16 purposes for twenty-eight days or more.

17 3. "Transient lodging recreational establishment" means a facility
18 whose primary purpose is to provide facilities for transient lodging, that
19 is subject to taxation under this chapter and that also provides
20 recreational facilities, such as tennis, golf and swimming, for members
21 for a period of twenty-eight days or more.

22 D. Until December 31, 1988, the revenues from hayrides and other
23 animal-drawn amusement rides, from horseback riding and riding instruction
24 and from recreational tours using motor vehicles designed to operate on
25 and off public highways are exempt from the tax imposed by this section.
26 Beginning January 1, 1989, the gross proceeds or gross income from
27 hayrides and other animal-drawn amusement rides, from horseback riding and
28 from recreational tours using motor vehicles designed to operate on and
29 off public highways are subject to taxation under this section. Tax
30 liabilities, penalties and interest paid for taxable periods before
31 January 1, 1989 shall not be refunded unless the taxpayer requesting the
32 refund provides proof satisfactory to the department that the taxes will
33 be returned to the customer.

34 E. If a person is engaged in the business of offering both
35 exhibition, amusement or entertainment and private or group instructional
36 activities, the person's books shall be kept to show separately the gross
37 income from exhibition, amusement or entertainment and the gross income
38 from instructional activities. If the books do not provide this separate
39 accounting, the tax is imposed on the person's total gross income from the
40 business.

41 F. The department shall separately account for revenues collected
42 under the amusement classification for the purposes of section 42-5029,
43 subsection D, paragraph 4, subdivision (b).

1 G. For the purposes of section 42-5032.01, the department shall
2 separately account for revenues collected under the amusement
3 classification from sales of admissions to:

4 1. Events that are held in a multipurpose facility that is owned or
5 operated by the tourism and sports authority pursuant to title 5, chapter
6 8, including intercollegiate football contests that are operated by a
7 nonprofit organization that is exempt from taxation under section
8 501(c)(3) of the internal revenue code.

9 2. Professional football contests that are held in a stadium
10 located on the campus of an institution under the jurisdiction of the
11 Arizona board of regents.

12 H. FOR THE PURPOSES OF SECTION 42-5032.03, BEGINNING THE FIRST DAY
13 OF THE MONTH FOLLOWING THE ~~[EFFECTIVE DATE OF THIS SECTION]~~ [MONTH AFTER
14 THE NOTICE IS PROVIDED PURSUANT TO SECTION 48-4238, SUBSECTION A] THROUGH
15 THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION 48-4238[, SUBSECTION
16 C OR D] OR DECEMBER 31, 2055, WHICHEVER IS ~~[LATER]~~ [EARLIER], THE
17 DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE
18 AMUSEMENT CLASSIFICATION FROM THE SALES OF ADMISSIONS TO A MAJOR LEAGUE
19 BASEBALL FACILITY THAT IS OWNED BY A COUNTY STADIUM DISTRICT PURSUANT TO
20 TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM DISTRICT OR THE
21 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR
22 ADJACENT BUILDING.

23 Sec. 9. Section 42-5074, Arizona Revised Statutes, is amended to
24 read:

25 ~~42-5074.~~ Restaurant classification

26 A. The restaurant classification is comprised of the business of
27 operating restaurants, dining cars, dining rooms, lunchrooms, mobile food
28 units, lunch stands, soda fountains, catering services or similar
29 establishments where articles of food or drink are sold for consumption on
30 or off the premises.

31 B. The tax base for the restaurant classification is the gross
32 proceeds of sales or gross income derived from the business. The gross
33 proceeds of sales or gross income derived from the following shall be
34 deducted from the tax base:

35 1. Sales to a person engaged in business classified under the
36 restaurant classification if the items sold are to be resold in the
37 regular course of the business.

38 2. Sales by a congressionally chartered veterans organization of
39 food or drink prepared for consumption on the premises leased, owned or
40 maintained by the organization.

41 3. Sales by churches, fraternal benefit societies and other
42 nonprofit organizations, as these organizations are defined in the federal
43 internal revenue code (26 United States Code section 501), that do not
44 regularly engage or continue in the restaurant business for the purpose of
45 fund-raising.

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

13 5. Sales at a rodeo featuring primarily farm and ranch animals in
14 this state by a nonprofit organization that is exempt from taxation under
15 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
16 internal revenue code if no part of the organization's net earnings inures
17 to the benefit of any private shareholder or individual.

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

22 7. Sales to qualifying hospitals as defined in section 42-5001.

23 8. Sales to a qualifying health care organization as defined in
24 section 42-5001 if the tangible personal property is used by the
25 organization solely to provide health and medical related educational and
26 charitable services.

27 9. Sales of food, drink and condiment for consumption within the
28 premises of any prison, jail or other institution under the jurisdiction
29 of the state department of corrections, the department of public safety,
30 the department of juvenile corrections or a county sheriff.

31 10. Sales of articles of prepared or unprepared food, drink or
32 condiment and accessory tangible personal property to a school district or
33 charter school if the articles and accessory tangible personal property
34 are served to persons for consumption on the premises of a public school
35 in the school district or charter school during school hours.

36 11. Prepared food, drink or condiment donated by a restaurant to a
37 nonprofit charitable organization that has qualified under section
38 501(c)(3) of the internal revenue code and that regularly serves meals to
39 the needy and indigent on a continuing basis at no cost.

40 12. Sales of articles of food and drink at low or reduced prices to
41 eligible elderly or homeless persons or persons with a disability by a
42 restaurant that contracts with the department of economic security and
43 that is approved by the food and nutrition services of the United States
44 department of agriculture pursuant to the supplemental nutrition
45 assistance program established by the food and nutrition act of 2008

1 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through
2 2036a), if the purchases of the articles of food and drink are made with
3 the benefits issued pursuant to the supplemental nutrition assistance
4 program.

5 C. The tax imposed on the restaurant classification pursuant to
6 this section does not apply to the gross proceeds of sales or gross income
7 from tangible personal property sold to a commercial airline consisting of
8 food, beverages and condiments and accessories used for serving the food
9 and beverages, if those items are to be provided without additional charge
10 to passengers for consumption in flight. For the purposes of this
11 subsection, "commercial airline" means a person holding a federal
12 certificate of public convenience and necessity or foreign air carrier
13 permit for air transportation to transport persons, property or United
14 States mail in intrastate, interstate or foreign commerce.

15 D. The department shall separately account for revenues collected
16 under the restaurant classification for the purposes of section 42-5029,
17 subsection D, paragraph 4, subdivision (b).

18 E. For the purposes of section 42-5032.01, the department shall
19 separately account for revenues collected under the restaurant
20 classification from businesses operating restaurants, dining rooms,
21 lunchrooms, lunch stands, soda fountains, catering services or similar
22 establishments:

23 1. On the premises of a multipurpose facility that is owned or
24 operated by the tourism and sports authority pursuant to title 5, chapter
25 8 for consumption on or off the premises.

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

29 F. FOR THE PURPOSES OF SECTION 42-5032.03, BEGINNING THE FIRST DAY
30 OF THE MONTH FOLLOWING THE ~~[EFFECTIVE DATE OF THIS SECTION]~~ [MONTH AFTER
31 THE NOTICE IS PROVIDED PURSUANT TO SECTION 48-4238, SUBSECTION A] THROUGH
32 THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION 48-4238[, SUBSECTION
33 C OR D] OR DECEMBER 31, 2055, WHICHEVER IS ~~[LATER]~~ [EARLIER], THE
34 DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED UNDER THE
35 RESTAURANT CLASSIFICATION FROM BUSINESSES OPERATING RESTAURANTS, DINING
36 ROOMS, LUNCHROOMS, LUNCH STANDS, SODA FOUNTAINS, CATERING SERVICES OR
37 SIMILAR ESTABLISHMENTS ON THE PREMISES OF A MAJOR LEAGUE BASEBALL FACILITY
38 OR AN ADJACENT BUILDING THAT IS OWNED BY A COUNTY STADIUM DISTRICT
39 PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM
40 DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES
41 THE FACILITY OR ADJACENT BUILDING.

1 Sec. 10. Section 42-5075, Arizona Revised Statutes, is amended to
2 read:

3 42-5075. Prime contracting classification; exemptions;
4 definitions

5 A. The prime contracting classification is comprised of the
6 business of prime contracting and the business of manufactured building
7 dealer. Sales for resale to another manufactured building dealer are not
8 subject to tax. Sales for resale do not include sales to a lessor of
9 manufactured buildings. The sale of a used manufactured building is not
10 taxable under this chapter. The prime contracting classification does not
11 include any work or operation performed by a person that is not required
12 to be licensed by the registrar of contractors pursuant to section
13 32-1121.

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

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

20 2. Sales and installation of groundwater measuring devices required
21 under section 45-604 and groundwater monitoring wells required by law,
22 including monitoring wells installed for acquiring information for a
23 permit required by law.

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

29 4. The gross proceeds of sales or gross income received from a
30 contract entered into for the modification of any building, highway, road,
31 railroad, excavation, manufactured building or other structure, project,
32 development or improvement located in a military reuse zone for providing
33 aviation or aerospace services or for a manufacturer, assembler or
34 fabricator of aviation or aerospace products within an active military
35 reuse zone after the zone is initially established or renewed under
36 section 42-1301. To be eligible to qualify for this deduction, before
37 beginning work under the contract, the prime contractor must have applied
38 for a letter of qualification from the department of revenue.

39 5. The gross proceeds of sales or gross income derived from a
40 contract to construct a qualified environmental technology manufacturing,
41 producing or processing facility, as described in section 41-1514.02, and
42 from subsequent construction and installation contracts that begin within
43 ten years after the start of initial construction. To qualify for this
44 deduction, before beginning work under the contract, the prime contractor
45 must obtain a letter of qualification from the department of revenue. This

1 paragraph shall apply for ten full consecutive calendar or fiscal years
2 after the start of initial construction.

3 6. The gross proceeds of sales or gross income from a contract to
4 provide for one or more of the following actions, or a contract for site
5 preparation, constructing, furnishing or installing machinery, equipment
6 or other tangible personal property, including structures necessary to
7 protect exempt incorporated materials or installed machinery or equipment,
8 and tangible personal property incorporated into the project, to perform
9 one or more of the following actions in response to a release or suspected
10 release of a hazardous substance, pollutant or contaminant from a facility
11 to the environment, unless the release was authorized by a permit issued
12 by a governmental authority:

13 (a) Actions to monitor, assess and evaluate such a release or a
14 suspected release.

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

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

20 (d) Pumping and treatment or in situ treatment of contaminated
21 groundwater or surface water to reduce the concentration or toxicity of a
22 contaminant.

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

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

32 7. The gross proceeds of sales or gross income that is derived from
33 a contract for the installation, assembly, repair or maintenance of
34 machinery, equipment or other tangible personal property that is either
35 deducted from the tax base of the retail classification under section
36 42-5061, subsection B or that is exempt from use tax under section
37 42-5159, subsection B and that has independent functional utility,
38 pursuant to the following provisions:

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

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

43 (ii) Any activity performed on any tangible personal property
44 relating to machinery, equipment or other tangible personal property with

1 independent functional utility in furtherance of any of the purposes
2 provided for under subdivision (d) of this paragraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 10. The gross proceeds of sales or gross income that is derived
2 from a contract entered into with a person who is engaged in the
3 commercial production of livestock, livestock products or agricultural,
4 horticultural, viticultural or floricultural crops or products in this
5 state for the modification of any building, highway, road, excavation,
6 manufactured building or other structure, project, development or
7 improvement used directly and primarily to prevent, monitor, control or
8 reduce air, water or land pollution.

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

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

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

27 14. The gross proceeds of sales or gross income derived from a
28 contract entered into for the construction of a launch site, as defined in
29 14 Code of Federal Regulations section 401.5.

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

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

37 17. The gross proceeds of sales or gross income received from
38 contracts entered into before July 1, 2006 for constructing a state
39 university research infrastructure project if the project has been
40 reviewed by the joint committee on capital review before the university
41 enters into the construction contract for the project. For the purposes
42 of this paragraph, "research infrastructure" has the same meaning
43 prescribed in section 15-1670.

44 18. The gross proceeds of sales or gross income received from a
45 contract for the construction of any building, or other structure,

1 project, development or improvement owned by a qualified business under
2 section 41-1516 for harvesting or processing qualifying forest products
3 removed from qualifying projects as defined in section 41-1516 if actual
4 construction begins before January 1, 2024. To qualify for this
5 deduction, the prime contractor must obtain a letter of qualification from
6 the Arizona commerce authority before beginning work under the contract.

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

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

14 (b) The attributable amount is equal to the total amount of
15 development fees paid by the prime contractor or subcontractor, and the
16 total development fees credited in exchange for the construction of,
17 contribution to or dedication of real property for providing public
18 infrastructure, public safety or other public services necessary to the
19 development. The real property must be the subject of the development
20 fees.

21 (c) "Development fees" means fees imposed to offset capital costs
22 of providing public infrastructure, public safety or other public services
23 to a development and authorized pursuant to section 9-463.05, section
24 11-1102 or title 48 regardless of the jurisdiction to which the fees are
25 paid.

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

31 (a) "Mixed waste processing facility" means a solid waste facility
32 that is owned, operated or used for the treatment, processing or disposal
33 of solid waste, recyclable solid waste, very small quantity generator
34 waste or household hazardous waste. For the purposes of this subdivision,
35 "very small quantity generator waste", "household hazardous waste" and
36 "solid waste facility" have the same meanings prescribed in section
37 49-701, except that solid waste facility does include a site that stores,
38 treats or processes paper, glass, wood, cardboard, household textiles,
39 scrap metal, plastic, vegetative waste, aluminum, steel or other
40 recyclable material.

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

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

1 (d) "Renewable energy" means usable energy, including electricity,
2 fuels, gas and heat, produced through the conversion of energy provided by
3 sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or
4 another nonfossil renewable resource.

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

10 C. Entitlement to the deduction pursuant to subsection B, paragraph
11 7 of this section is subject to the following provisions:

12 1. A prime contractor may establish entitlement to the deduction by
13 both:

14 (a) Marking the invoice for the transaction to indicate that the
15 gross proceeds of sales or gross income derived from the transaction was
16 deducted from the base.

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

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

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

36 4. If a prime contractor is entitled to a deduction by complying
37 with paragraph 1 of this subsection, the department may require the
38 purchaser who caused the execution of the certificate to establish the
39 accuracy and completeness of the information required to be contained in
40 the certificate that would entitle the prime contractor to the deduction.
41 If the purchaser cannot establish the accuracy and completeness of the
42 information, the purchaser is liable in an amount equal to any tax,
43 penalty and interest that the prime contractor would have been required to
44 pay under article 1 of this chapter if the prime contractor had not
45 complied with paragraph 1 of this subsection. Payment of the amount under

1 this paragraph exempts the purchaser from liability for any tax imposed
2 under article 4 of this chapter. The amount shall be treated as a
3 transaction privilege tax to the purchaser and as tax revenues collected
4 from the prime contractor in order to designate the distribution base for
5 purposes of section 42-5029.

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

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

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

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

38 H. For the purposes of section 42-5032.02, from and after
39 September 30, 2013, the department shall separately account for revenues
40 reported and collected under the prime contracting classification from any
41 prime contractor engaged in the construction of any buildings and
42 associated improvements that are for the benefit of a manufacturing
43 facility. For the purposes of this subsection, "associated improvements"
44 and "manufacturing facility" have the same meanings prescribed in section
45 42-5032.02.

1 I. FOR THE PURPOSES OF SECTION 42-5032.02, BEGINNING THE FIRST DAY
2 OF THE MONTH FOLLOWING THE ~~[EFFECTIVE DATE OF THIS SECTION]~~ [MONTH AFTER
3 THE NOTICE IS PROVIDED PURSUANT TO SECTION 48-4238, SUBSECTION A] THROUGH
4 THE MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION 48-4238~~[, SUBSECTION~~
5 C OR D] OR DECEMBER 31, 2055, WHICHEVER IS ~~[LATER]~~ [EARLIER], THE
6 DEPARTMENT SHALL SEPARATELY ACCOUNT FOR REVENUES REPORTED AND COLLECTED
7 UNDER THE PRIME CONTRACTING CLASSIFICATION FROM ANY PRIME CONTRACTOR
8 ENGAGED IN THE CONSTRUCTION OF ANY BUILDINGS AND ASSOCIATED IMPROVEMENTS
9 THAT ARE FOR THE BENEFIT OF A MAJOR LEAGUE BASEBALL FACILITY OR AN
10 ADJACENT BUILDING THAT IS OWNED BY A COUNTY STADIUM DISTRICT PURSUANT TO
11 TITLE 48, CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM DISTRICT OR THE
12 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR
13 ADJACENT BUILDING.

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

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

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

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

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

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

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

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

12 ~~N.~~ 0. The gross proceeds of sales or gross income attributable to
13 a written contract for design phase services or professional services,
14 executed before modification begins and with terms, conditions and pricing
15 of all of these services separately stated in the contract from those for
16 construction phase services, is not subject to tax under this section,
17 regardless of whether the services are provided sequential to or
18 concurrent with prime contracting activities that are subject to tax under
19 this section. This subsection does not include the gross proceeds of
20 sales or gross income attributable to construction phase services. For
21 the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

17 (i) Master schedule updates.

18 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (vi) Any bond and insurance premiums.

23 (vii) Any applicable taxes.

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

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

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

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

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

1 amount of modification activity does not subject the contract or any part
2 of the contract to tax under this section. For the purposes of this
3 subsection:

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

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

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

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

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

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

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

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

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

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

25 ~~R.~~ S. For the purposes of this section:

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

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

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

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

43 (d) If a project for which the owner and the person performing the
44 work reasonably believed, at the inception of the contract, would be
45 treated as an alteration under this paragraph and, on completion of the

1 project, the project exceeded the applicable threshold described in either
2 subdivision (a) or (b) of this paragraph by not more than twenty-five
3 percent of the applicable threshold for any reason, the work performed
4 under the contract qualifies as an alteration.

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

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

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

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

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

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

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

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

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

33 (a) Any project described in subsection ~~Ⓟ~~ P of this section.

34 (b) Any wreckage or demolition of existing property, or any other
35 activity that is a necessary component of a project described in
36 subsection ~~Ⓟ~~ P of this section.

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

41 7. "Modify" means to make a modification or cause a modification to
42 be made.

43 8. "Owner" means the person that holds title to the real property
44 or improvements to real property that is the subject of the work, as well
45 as an agent of the title holder and any person with the authority to

1 perform or authorize work on the real property or improvements, including
2 a tenant and a property manager. For the purposes of subsection ~~P~~ P of
3 this section, a person who is hired by a general contractor that is hired
4 by an owner, or a subcontractor of a general contractor that is hired by
5 an owner, is considered to be hired by the owner.

6 9. "Prime contracting" means engaging in business as a prime
7 contractor.

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

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

27 12. "Sale of a used manufactured building" does not include a lease
28 of a used manufactured building.

29 Sec. 11. Section 42-5159, Arizona Revised Statutes, is amended to
30 read:

31 42-5159. Exemptions

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

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

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

44 3. Tangible personal property, the storage, use or consumption of
45 which the constitution or laws of the United States prohibit this state

1 from taxing or to the extent that the rate or imposition of tax is
2 unconstitutional under the laws of the United States.

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

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

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

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

26 8. Purchases of:

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

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

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

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

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

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

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

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

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

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

14 13. Tangible personal property purchased by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 15. Tangible personal property sold by:

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

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

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

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

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

32 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (b) Public educational institutions.

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

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

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

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

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

25 37. A motor vehicle and any repair and replacement parts and
26 tangible personal property becoming a part of such 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
38 the government under the terms of the contract or subcontract. For the
39 purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (ii) Prepaid calling cards for telecommunications services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (a) A person:

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

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

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

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

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

41 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 22. Qualifying equipment that is purchased from and after June 30,
39 2004 through December 31, 2026 by a qualified business under section
40 41-1516 for harvesting or processing qualifying forest products removed
41 from qualifying projects as defined in section 41-1516. To qualify for
42 this exemption, the qualified business must obtain and present its
43 certification from the Arizona commerce authority at the time of purchase.

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

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

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

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

21 2. Janitorial equipment and hand tools.

22 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

1 2. Revenues received from providing electricity, including
2 ancillary services, electric distribution services, electric generation
3 services, electric transmission services and other services related to
4 providing electricity with respect to which the transaction privilege tax
5 imposed under section 42-5063 has been paid.

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

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

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

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

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

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

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

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

41 (c) "Qualified manufacturing or smelting business" means one of the
42 following:

43 (i) A business that manufactures or smelts tangible products in
44 this state, of which at least fifty-one percent of the manufactured or

1 smelted products will be exported out of state for incorporation into
2 another product or sold out of state for a final sale.

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

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

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

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

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

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

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

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

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

32 2. "Aircraft" includes:

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

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

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

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

1 Sec. 12. Title 42, chapter 6, article 1, Arizona Revised Statutes,
2 is amended by adding section 42-6018, to read:

3 42-6018. Distribution of revenue for county stadium district
4 from city or town; notice

5 A. [SUBJECT TO SUBSECTION D OF THIS SECTION.] BEGINNING THE FIRST
6 DAY OF THE MONTH FOLLOWING THE [EFFECTIVE DATE OF THIS SECTION] [MONTH
7 AFTER THE NOTICE IS PROVIDED PURSUANT TO SECTION 48-4238, SUBSECTION A]
8 AND EACH MONTH THEREAFTER THROUGH THE MONTH OF THE NOTICE PROVIDED
9 PURSUANT TO SECTION 48-4238[, SUBSECTION C OR D] OR DECEMBER 31, 2055,
10 WHICHEVER IS [LATER] [EARLIER], A CITY OR TOWN SHALL TRANSMIT THE AMOUNT
11 DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE COUNTY STADIUM
12 DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 26 FOR DEPOSIT IN THE
13 COUNTY STADIUM DISTRICT FUND ESTABLISHED PURSUANT TO SECTION 48-4231. THE
14 DEPARTMENT SHALL NOTIFY THE CITY OR TOWN OF THE AMOUNT DETERMINED PURSUANT
15 TO SUBSECTION B OF THIS SECTION EACH MONTH, AND THE CITY OR TOWN SHALL
16 TRANSMIT THE MONIES WITHIN THIRTY DAYS OF RECEIVING THE NOTICE.

17 B. THE AMOUNT TO BE TRANSMITTED UNDER SUBSECTION A OF THIS SECTION
18 IS THE AMOUNT DETERMINED BY THE DEPARTMENT TO BE THE FIRST TWO PERCENT OF
19 THE RATE OF TRANSACTION PRIVILEGE, SALES, USE, FRANCHISE OR OTHER SIMILAR
20 TAX OR FEES COLLECTED ON BEHALF OF THE CITY OR TOWN FROM PERSONS ENGAGED
21 IN THE FOLLOWING BUSINESS ACTIVITIES AT, OR WITH RESPECT TO EVENTS HELD
22 AT, A MAJOR LEAGUE BASEBALL FACILITY OR AN ADJACENT BUILDING THAT IS OWNED
23 BY A COUNTY STADIUM DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED
24 BY THE COUNTY STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE
25 ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT BUILDING:

26 1. SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL.

27 2. OPERATING OR CONDUCTING THEATERS, MOVIES, OPERAS, SHOWS OF ANY
28 TYPE OR NATURE, EXHIBITIONS, CONCERTS, CARNIVALS, CIRCUSES, AMUSEMENT
29 PARKS, MENAGERIES, FAIRS, RACES, CONTESTS, GAMES, BILLIARD OR POOL
30 PARLORS, BOWLING ALLEYS, PUBLIC DANCES, DANCE HALLS, BOXING AND WRESTLING
31 MATCHES, SKATING RINKS, TENNIS COURTS, VIDEO GAMES, PINBALL MACHINES OR
32 SPORTS EVENTS OR ANY OTHER BUSINESS CHARGING ADMISSION OR USER FEES FOR
33 EXHIBITION, AMUSEMENT OR ENTERTAINMENT.

34 3. OPERATING A RESTAURANT, DINING CAR, DINING ROOM, LUNCHROOM,
35 MOBILE FOOD UNIT, LUNCH STAND, SODA FOUNTAIN, CATERING SERVICE OR SIMILAR
36 ESTABLISHMENT WHERE ARTICLES OF FOOD OR DRINK ARE SOLD FOR CONSUMPTION ON
37 OR OFF THE PREMISES.

38 4. PRIME CONTRACTING.

39 C. FOR THE PURPOSES OF THIS SECTION, BEGINNING THE FIRST DAY OF THE
40 MONTH FOLLOWING THE [EFFECTIVE DATE OF THIS SECTION] [MONTH AFTER THE
41 NOTICE IS PROVIDED PURSUANT TO SECTION 48-4238, SUBSECTION A] THROUGH THE
42 MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION 48-4238[, SUBSECTION C
43 OR D] OR DECEMBER 31, 2055, WHICHEVER IS [LATER] [EARLIER], THE DEPARTMENT
44 SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED FROM THE BUSINESSES
45 PRESCRIBED IN SUBSECTION B OF THIS SECTION ON THE PREMISES OF A MAJOR

1 LEAGUE BASEBALL FACILITY OR AN ADJACENT BUILDING THAT IS OWNED BY A COUNTY
2 STADIUM DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED BY THE
3 COUNTY STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE
4 ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT BUILDING.

5 [D. THE TOTAL AMOUNT TRANSMITTED UNDER THIS SECTION MAY NOT EXCEED
6 \$100,000,000. IF THE LIMIT PRESCRIBED BY THIS SUBSECTION IS MET, THE CITY
7 OR TOWN SHALL STOP TRANSMITTING MONIES PURSUANT TO THIS SECTION AND THE
8 DEPARTMENT OF REVENUE SHALL STOP SEPARATELY ACCOUNTING FOR THE REVENUES
9 SUBJECT TO THE TRANSMISSION.]

10 Sec. 13. Delayed repeal

11 Section 42-6018, Arizona Revised Statutes, as added by this act, is
12 repealed from and after December 31, 2055.

13 Sec. 14. Title 42, chapter 6, article 3, Arizona Revised Statutes,
14 is amended by adding section 42-6113, to read:

15 42-6113. Distribution of revenue for county stadium district
16 from county excise taxes

17 A. BEGINNING THE FIRST DAY OF THE MONTH FOLLOWING THE [EFFECTIVE
18 DATE OF THIS SECTION] [MONTH AFTER THE NOTICE IS PROVIDED PURSUANT TO
19 SECTION 48-4238, SUBSECTION A] AND EACH MONTH THEREAFTER THROUGH THE MONTH
20 OF THE NOTICE PROVIDED PURSUANT TO SECTION 48-4238~~[, SUBSECTION C OR D]~~ OR
21 DECEMBER 31, 2055, WHICHEVER IS [LATER] [EARLIER], [A COUNTY] [THE STATE
22 TREASURER] SHALL TRANSMIT FROM THE AMOUNT COLLECTED PURSUANT TO THIS
23 ARTICLE THE AMOUNT DETERMINED UNDER SUBSECTION B OF THIS SECTION TO THE
24 COUNTY STADIUM DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 26 FOR
25 DEPOSIT IN THE COUNTY STADIUM DISTRICT FUND ESTABLISHED PURSUANT TO
26 SECTION 48-4231.

27 B. THE AMOUNT TO BE TRANSMITTED UNDER SUBSECTION A OF THIS SECTION
28 IS THE TOTAL AMOUNT OF COUNTY EXCISE TAXES COLLECTED PURSUANT TO SECTION
29 42-6105.01 ON BEHALF OF THE COUNTY FROM PERSONS ENGAGED IN THE FOLLOWING
30 BUSINESS ACTIVITIES AT, OR WITH RESPECT TO EVENTS HELD AT, A MAJOR LEAGUE
31 BASEBALL FACILITY OR AN ADJACENT BUILDING THAT IS OWNED BY A COUNTY
32 STADIUM DISTRICT PURSUANT TO TITLE 48, CHAPTER 26 AND OPERATED BY THE
33 COUNTY STADIUM DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE
34 ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT BUILDING:

35 1. SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL.

36 2. OPERATING OR CONDUCTING THEATERS, MOVIES, OPERAS, SHOWS OF ANY
37 TYPE OR NATURE, EXHIBITIONS, CONCERTS, CARNIVALS, CIRCUSES, AMUSEMENT
38 PARKS, MENAGERIES, FAIRS, RACES, CONTESTS, GAMES, BILLIARD OR POOL
39 PARLORS, BOWLING ALLEYS, PUBLIC DANCES, DANCE HALLS, BOXING AND WRESTLING
40 MATCHES, SKATING RINKS, TENNIS COURTS, VIDEO GAMES, PINBALL MACHINES OR
41 SPORTS EVENTS OR ANY OTHER BUSINESS CHARGING ADMISSION OR USER FEES FOR
42 EXHIBITION, AMUSEMENT OR ENTERTAINMENT.

1 3. OPERATING A RESTAURANT, DINING CAR, DINING ROOM, LUNCHROOM,
2 MOBILE FOOD UNIT, LUNCH STAND, SODA FOUNTAIN, CATERING SERVICE OR SIMILAR
3 ESTABLISHMENT WHERE ARTICLES OF FOOD OR DRINK ARE SOLD FOR CONSUMPTION ON
4 OR OFF THE PREMISES.

5 4. PRIME CONTRACTING.

6 C. FOR THE PURPOSES OF THIS SECTION, BEGINNING THE FIRST DAY OF THE
7 MONTH FOLLOWING THE ~~[EFFECTIVE DATE OF THIS SECTION]~~ [MONTH AFTER THE
8 NOTICE IS PROVIDED PURSUANT TO SECTION 48-4238, SUBSECTION A] THROUGH THE
9 MONTH OF THE NOTICE PROVIDED PURSUANT TO SECTION 48-4238[, SUBSECTION C
10 OR D] OR DECEMBER 31, 2055, WHICHEVER IS ~~[LATER]~~ [EARLIER], THE DEPARTMENT
11 SHALL SEPARATELY ACCOUNT FOR REVENUES COLLECTED PURSUANT TO SECTION
12 42-6105.01 FROM THE BUSINESSES PRESCRIBED IN SUBSECTION B OF THIS SECTION
13 ON THE PREMISES OF A MAJOR LEAGUE BASEBALL FACILITY OR AN ADJACENT
14 BUILDING THAT IS OWNED BY A COUNTY STADIUM DISTRICT PURSUANT TO TITLE 48,
15 CHAPTER 26 AND OPERATED BY THE COUNTY STADIUM DISTRICT OR THE PROFESSIONAL
16 BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT
17 BUILDING.

18 Sec. 15. Delayed repeal

19 Section 42-6113, Arizona Revised Statutes, as added by this act, is
20 repealed from and after December 31, 2055.

21 Sec. 16. Section 43-206, Arizona Revised Statutes, is amended to
22 read:

23 43-206. Urban revenue sharing fund; allocation; distribution;
24 withholding

25 A. The urban revenue sharing fund is established. Through fiscal
26 year 2022-2023, the fund consists of an amount equal to fifteen percent of
27 the net proceeds of the state income taxes for the fiscal year two years
28 preceding the current fiscal year. Beginning in fiscal year 2023-2024,
29 the fund consists of an amount equal to eighteen percent of the net
30 proceeds of the state income taxes for the fiscal year two years preceding
31 the current fiscal year. The fund shall be distributed to incorporated
32 cities and towns as provided in this section, except that a city or town
33 shall receive at least an amount equal to what a city or town with a
34 population of fifteen hundred or more persons would receive. The transfer
35 of net proceeds prescribed by section 49-282, subsection B does not affect
36 the calculation of net proceeds prescribed by this subsection.

37 B. Each city or town shall share in the urban revenue sharing fund
38 in the proportion that the population of each bears to the population of
39 all. Except as provided by sections 42-5033 and 42-5033.01, the
40 population of a city or town as determined by the most recent United
41 States decennial census plus any revisions to the decennial census
42 certified by the United States CENSUS bureau ~~of the census~~ shall be used
43 as the basis for apportioning monies pursuant to this subsection.

1 C. The treasurer, on instruction from the department, shall
2 transmit, not later than the tenth day of each month, to each city or town
3 an amount equal to one-twelfth of that city's or town's total entitlement
4 for the current fiscal year from the urban revenue sharing fund as
5 determined by the department.

6 D. A newly incorporated city or town shall share in the urban
7 revenue sharing fund beginning the first month of the first full fiscal
8 year following incorporation.

9 E. On receipt of a certificate of default from the greater Arizona
10 development authority pursuant to section 41-2257 or 41-2258, the state
11 treasurer, to the extent not otherwise expressly prohibited by law, shall
12 withhold from the next succeeding distribution of monies pursuant to this
13 section due to the city or town the amount specified in the certificate of
14 default and immediately deposit the amount withheld in the greater Arizona
15 development authority revolving fund. The state treasurer shall continue
16 to withhold and deposit the monies until the authority certifies to the
17 state treasurer that the default has been cured. The state treasurer may
18 not withhold any amount that is necessary, as certified by the defaulting
19 political subdivision to the state treasurer and the authority, to make
20 any required deposits then due for the payment of principal and interest
21 on bonds of the political subdivision that were issued before the date of
22 the loan repayment agreement or bonds and that have been secured by a
23 pledge of distributions made pursuant to this section.

24 F. Except as otherwise provided by this subsection, on notice from
25 the attorney general pursuant to section 41-194.01, subsection B,
26 paragraph 1 that an ordinance, regulation, order or other official action
27 adopted or taken by the governing body of a city or town violates state
28 law or the Constitution of Arizona, the state treasurer shall withhold the
29 distribution of monies pursuant to this section to the affected city or
30 town and shall continue to withhold monies pursuant to this subsection
31 until the attorney general certifies to the state treasurer that the
32 violation has been resolved. The state treasurer shall redistribute the
33 monies withheld pursuant to this subsection among all other cities and
34 towns in proportion to their population as provided by subsection B of
35 this section. The state treasurer shall not withhold any amount that the
36 city or town certifies to the attorney general and the state treasurer as
37 being necessary to make any required deposits or payments for debt service
38 on bonds or other long-term obligations of the city or town that were
39 issued or incurred before committing the violation.

40 G. THE AMOUNT REPORTED TO THE DEPARTMENT PURSUANT TO SECTION
41 43-209, SUBSECTION D FOR A TAXABLE YEAR SHALL BE INCLUDED WHEN DETERMINING
42 THE NET PROCEEDS OF THE STATE INCOME TAXES FOR THE FISCAL YEAR FOR THE
43 PURPOSES OF THE DISTRIBUTION REQUIRED BY SUBSECTION A OF THIS SECTION.

1 Sec. 17. Section 43-209, Arizona Revised Statutes, is amended to
2 read:

3 43-209. Collection of tax on income of professional athletes
4 earned in this state; separate accounting for tax
5 revenue from professional football and baseball;
6 definitions

7 A. The department shall adopt and enforce rules for the collection
8 of tax under this title on the income earned for services rendered in this
9 state by professional athletes and employees of professional sport
10 franchise organizations.

11 B. On or before December 31 of each year each professional football
12 franchise organization AND PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION
13 that is domiciled in this state shall provide to the department the
14 federal taxpayer identification number, assigned pursuant to section 6109
15 of the internal revenue code, for each resident and nonresident employee
16 of the organization who rendered services in this state for the
17 organization during the calendar year. Unless due to reasonable cause and
18 not due to wilful neglect, a professional football franchise organization
19 OR PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION that fails to provide
20 taxpayer identification numbers pursuant to this subsection shall pay a
21 civil penalty of ~~five dollars~~ \$5 for each such number.

22 C. For purposes of section 42-1116, subsection C, on or before
23 March 31 of each year, the department shall separately account for and
24 report to the state treasurer as a single aggregate amount the total net
25 revenues collected during the preceding calendar year from the imposition
26 of tax under this title on the income from all sources of:

27 1. Any professional football franchise organization that is
28 domiciled in this state.

29 2. Resident and nonresident employees of any professional football
30 franchise organization that is domiciled in this state. For reporting
31 purposes under this subsection, the department shall include all income
32 reported on joint returns, regardless of the spouse to whom it is
33 attributable, and the income of an employee's spouse that is reported on a
34 separate return.

35 D. FOR THE PURPOSES OF SECTION 42-1116, SUBSECTION D, ON OR BEFORE
36 MARCH 31 OF EACH YEAR THROUGH THE DATE OF THE NOTICE PROVIDED PURSUANT TO
37 SECTION 48-4238[, SUBSECTION C OR D] OR DECEMBER 31, 2056, WHICHEVER IS
38 [LATER] [EARLIER], THE DEPARTMENT SHALL SEPARATELY ACCOUNT FOR AND REPORT
39 TO THE STATE TREASURER AS A SINGLE AGGREGATE AMOUNT THE TOTAL NET REVENUES
40 COLLECTED DURING THE PRECEDING CALENDAR YEAR FROM THE IMPOSITION OF TAX
41 UNDER THIS TITLE ON THE INCOME FROM ALL SOURCES OF:

42 1. ANY PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT IS
43 DOMICILED IN THIS STATE.

44 2. RESIDENT AND NONRESIDENT EMPLOYEES OF ANY PROFESSIONAL BASEBALL
45 FRANCHISE ORGANIZATION THAT IS DOMICILED IN THIS STATE. FOR REPORTING

1 PURPOSES UNDER THIS SUBSECTION, THE DEPARTMENT SHALL INCLUDE ALL INCOME
2 REPORTED ON JOINT RETURNS, REGARDLESS OF THE SPOUSE TO WHOM IT IS
3 ATTRIBUTABLE, AND THE INCOME OF AN EMPLOYEE'S SPOUSE THAT IS REPORTED ON A
4 SEPARATE RETURN.

5 ~~D.~~ E. For THE purposes of this section: ~~;~~

6 1. "PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION" MEANS AN
7 ORGANIZATION THAT HAS THE RIGHT TO FIELD A TEAM FOR PARTICIPATION IN
8 PROFESSIONAL BASEBALL CONTESTS SCHEDULED BY A NATIONWIDE LEAGUE DURING A
9 REGULAR SEASON HELD IN THE MONTHS OF MARCH THROUGH OCTOBER EACH YEAR AND
10 THAT IS DOMICILED IN THIS STATE ON OR BEFORE THE EFFECTIVE DATE OF THIS
11 AMENDMENT TO THIS SECTION.

12 2. "Professional football franchise organization" means an
13 organization that has the right to field a team for participation in
14 professional football contests scheduled by a nationwide league during a
15 regular season held in the months of September through December each year.

16 Sec. 18. Section 48-4203, Arizona Revised Statutes, is amended to
17 read:

18 48-4203. Powers and duties of board of directors; report;
19 conflict of interest

20 A. The board of directors, on behalf of the district, may:

21 1. Adopt and use a corporate seal.

22 2. Sue and be sued.

23 3. Enter into contracts, including intergovernmental agreements
24 under title 11, chapter 7, article 3, as necessary to carry out the
25 purposes and requirements of this chapter. The district may contract with
26 a county sports authority established under title 11, chapter 5 to carry
27 out any power of the district.

28 4. Adopt administrative rules as necessary to administer and
29 operate the district and any property under its jurisdiction.

30 5. Adopt rules that allow weighted voting by board members and
31 establish conditions for terminating the district.

32 6. Employ an executive director and administrative and clerical
33 employees, or contract for other management personnel, and prescribe the
34 terms and conditions of their employment as necessary to carry out the
35 purposes of the district.

36 7. Acquire by any lawful means and operate, maintain, encumber and
37 dispose of real and personal property and interests in property. A
38 district established under section 48-4202, subsection A may acquire real
39 property by eminent domain. A district established under section 48-4202,
40 subsection B shall not acquire real property by eminent domain. A
41 district established under section 48-4202, subsection C shall not acquire
42 or own real property or interests in real property.

43 8. Administer trusts declared or established for the district,
44 receive and hold in trust or otherwise property located in or out of this

1 state and, if not otherwise provided, dispose of the property for the
2 benefit of the district.

3 9. Retain legal counsel and other consultants as necessary to carry
4 out the purposes of the district.

5 B. The board of directors, on behalf of a district established
6 pursuant to section 48-4202, subsection B, may:

7 1. Use revenues paid to the district pursuant to section 42-5031
8 and other revenues the district may receive from other sources, for the
9 purposes set forth in section 48-4204, subsection B.

10 2. Enter into agreements with developers, contractors, tenants and
11 other users of all or part of a multipurpose facility as determined
12 appropriate.

13 3. Pledge all or part of the revenues described in section 42-5031,
14 subsection B to secure the district's bonds or other financial obligations
15 issued or incurred under this chapter for the construction of all or part
16 of a multipurpose facility.

17 C. The board of directors of a district established pursuant to
18 section 48-4202, subsection B shall provide public outreach and education
19 on the purpose and activities of the district, including:

20 1. Presentations to the governing bodies of the municipalities in
21 the county in which the district is located.

22 2. Presentations to community, civic and business organizations.

23 3. Printed or electronic materials that support the purposes of
24 this subsection.

25 D. The board of directors shall:

26 1. Appoint from among its members a ~~chairman~~ CHAIRPERSON, a
27 secretary and such other officers as may be necessary to conduct its
28 business. The board of directors may appoint the chief financial officer
29 of the county as the district treasurer of a countywide district
30 established under section 48-4202, subsection A. If the board does not
31 appoint the chief financial officer, the county treasurer is designated ex
32 officio as the treasurer. The board of directors of a district that is
33 established pursuant to section 48-4202, subsection B shall designate a
34 member of the board with financial management or accounting experience or
35 a person with whom the board has contracted for financial management as
36 treasurer of the district. The county treasurer is designated ex officio
37 as the treasurer of a district that is established pursuant to section
38 48-4202, subsection C.

39 2. Keep and maintain a complete and accurate record of all its
40 proceedings. All proceedings and records of the board shall be open to
41 the public as required by title 38, chapter 3, article 3.1 and title 39,
42 chapter 1.

43 3. Provide for the use, maintenance and operation of the properties
44 and interests controlled by the district.

1 E. The board of directors of a district that is established
2 pursuant to section 48-4202, subsection B shall:

3 1. Determine by agreement the distribution of revenues from
4 operating and using the multipurpose facilities among the municipalities
5 and any participating Indian tribe or community.

6 2. Report to the legislature by October 1 of each year regarding
7 the activities, operations, revenues and expenditures of the district for
8 the immediately preceding fiscal year. The board shall submit the annual
9 report to the president of the senate and the speaker of the house of
10 representatives and provide a copy of the report to the secretary of
11 state. At the discretion of the chairpersons of the senate finance
12 committee and the house of representatives ways and means committee, or
13 their successor committees, the committees may hold separate or joint
14 hearings to consider the annual report prepared by the district.

15 3. Present to the joint legislative committee on capital review
16 each project for the construction or reconstruction of any facility,
17 structure, infrastructure or other improvement to real property of any
18 kind in an amount exceeding ~~five hundred thousand dollars~~ \$500,000.

19 F. ON OR BEFORE NOVEMBER 1 OF EACH YEAR THROUGH 2055, THE BOARD OF
20 DIRECTORS OF A DISTRICT THAT IS ESTABLISHED PURSUANT TO SECTION 48-4202,
21 SUBSECTION A SHALL REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE AND
22 THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING REGARDING ALL
23 NEW PROJECTS FOR RECONSTRUCTING, EQUIPPING, REPAIRING, MAINTAINING OR
24 IMPROVING A MAJOR LEAGUE BASEBALL FACILITY OR ADJACENT BUILDINGS THAT ARE
25 PAID FOR BY THE DISTRICT FROM THE COUNTY STADIUM DISTRICT FUND ESTABLISHED
26 PURSUANT TO SECTION 48-4231. THE REPORT SHALL INDICATE WHICH PROJECTS THE
27 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION CONTRIBUTED MONIES TOWARD AND
28 THE AMOUNT OF THE CONTRIBUTION.

29 ~~F.~~ G. The directors, officers and employees of the district are
30 subject to title 38, chapter 3, article 8 relating to conflicts of
31 interest.

32 ~~G.~~ H. This state and political subdivisions of this state other
33 than the district are not liable for any financial or other obligations of
34 the district and the financial or other obligations do not constitute a
35 debt or liability of this state or any political subdivision of this
36 state, other than the district.

37 Sec. 19. Section 48-4231, Arizona Revised Statutes, is amended to
38 read:

39 ~~48-4231.~~ County stadium district fund

40 A. The district treasurer shall maintain a county stadium district
41 fund consisting of all monies received by the district, including:

42 1. Payments received from leasing, subleasing or renting property
43 owned, leased or controlled by the district.

1 2. Revenues received by the district from admissions and
2 concessions and other proceeds from events held at a stadium owned or
3 leased by the district.

4 3. Monies received from issuing and selling bonds under article 3
5 of this chapter.

6 4. MONIES TRANSMITTED PURSUANT TO SECTION 42-1116, SUBSECTION D AND
7 SECTIONS 42-5032.03, 42-6018 AND 42-6113. ANY INDIVIDUAL, INCLUDING AN
8 EMPLOYEE OF A PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION, IS SUBJECT TO
9 TITLE 38, CHAPTER 3, ARTICLE 8 RELATING TO CONFLICTS OF INTEREST FOR THE
10 PURPOSES OF SPENDING THE MONIES DESCRIBED IN THIS PARAGRAPH.

11 [5. CONTRIBUTIONS FROM A PROFESSIONAL BASEBALL FRANCHISE
12 ORGANIZATION THAT OCCUPIES THE MAJOR LEAGUE BASEBALL FACILITY OWNED BY THE
13 DISTRICT AND OPERATED BY THE DISTRICT OR THE PROFESSIONAL BASEBALL
14 FRANCHISE ORGANIZATION.]

15 ~~4.~~ ~~[5.]~~ ~~[6.]~~ Interest and other income received from investing
16 monies in the fund.

17 ~~5.~~ ~~[6.]~~ ~~[7.]~~ Gifts, grants and donations received for that
18 purpose from any public or private source.

19 B. Monies in the fund may be used for any lawful purpose of the
20 district, INCLUDING RECONSTRUCTING, EQUIPPING, REPAIRING, MAINTAINING OR
21 IMPROVING A MAJOR LEAGUE BASEBALL FACILITY OR THE ADJACENT BUILDINGS THAT
22 ARE OWNED BY THE DISTRICT AND OPERATED BY THE DISTRICT OR THE PROFESSIONAL
23 BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE FACILITY OR ADJACENT
24 BUILDINGS.

25 C. The district treasurer may invest any unexpended monies in the
26 fund as provided in title 35, chapter 2. Notwithstanding section 35-323,
27 the district treasurer may invest and reinvest monies in the fund, other
28 than operating fund monies, in eligible investments with a maturity of
29 greater than five years. Interest and other income from investments shall
30 be credited to the fund. The district treasurer shall invest the monies
31 so as to mature at the times when the fund assets will be required for the
32 purposes of this article. If the liquid assets in the fund become
33 insufficient to meet the district's obligations, the board of directors
34 shall direct the district treasurer to liquidate sufficient securities to
35 meet all of the current obligations and immediately notify the auditor
36 general of the insufficiency, and the auditor general shall investigate
37 and audit the circumstances surrounding the depletion of the fund and
38 report the auditor general's findings to the board.

39 D. Except as provided by section 48-4231.01, the board of directors
40 shall cause an annual audit to be conducted of the fund by an independent
41 certified public accountant within one hundred twenty days after the end
42 of the fiscal year. The board shall immediately file a certified copy of
43 the audit with the auditor general. The auditor general may make such
44 further audits and examinations as the auditor general deems necessary,
45 but if the auditor general takes no official action within thirty days

1 after the audit is filed, the audit is deemed sufficient. The board of
2 directors shall pay all fees and costs of the certified public accountant
3 and auditor general under this subsection from the fund.

4 Sec. 20. Title 48, chapter 26, article 2, Arizona Revised Statutes,
5 is amended by adding section 48-4238, to read:

6 48-4238. Contribution; transmission limit; notice; penalty;
7 revenue return; deposit and distribution of
8 penalty

9 [A. A PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES
10 THE MAJOR LEAGUE BASEBALL FACILITY OWNED BY THE DISTRICT AND OPERATED BY
11 THE DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION SHALL
12 MAKE A CONTRIBUTION TO THE COUNTY STADIUM DISTRICT FUND ESTABLISHED
13 PURSUANT TO SECTION 48-4231. IF THE PROFESSIONAL BASEBALL FRANCHISE
14 ORGANIZATION MAKES A CONTRIBUTION, THE DISTRICT TREASURER SHALL NOTIFY THE
15 STATE TREASURER, THE DEPARTMENT OF REVENUE AND THE CITY OR TOWN IN WHICH
16 THE FACILITY IS LOCATED OF THE AMOUNT OF THE CONTRIBUTION. BEGINNING ON
17 THE FIRST DAY OF THE MONTH FOLLOWING THE DATE OF THE NOTICE, THE STATE
18 TREASURER AND THE CITY OR TOWN IN WHICH THE FACILITY IS LOCATED SHALL
19 TRANSMIT MONIES PURSUANT TO SECTION 42-1116, SUBSECTION D AND SECTIONS
20 42-5032.03, 42-6018 AND 42-6113 ON A MONTHLY BASIS UNTIL THE AMOUNT
21 TRANSMITTED PURSUANT TO SECTION 42-1116, SUBSECTION D AND SECTIONS
22 42-5032.03, 42-6018 AND 42-6113 IS EQUAL TO THE AMOUNT THAT THE
23 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION CONTRIBUTED.]

24 B. THE TOTAL AMOUNT OF MONIES TRANSMITTED PURSUANT TO SECTION
25 42-1116, SUBSECTION D AND SECTIONS 42-5032.03, 42-6018 AND 42-6113 MAY NOT
26 EXCEED \$350,000,000.]

27 C. IF THE LIMIT PRESCRIBED IN SUBSECTION B OF THIS SECTION IS MET,
28 THE DISTRICT TREASURER SHALL:

29 1. NOTIFY THE STATE TREASURER, THE CITY OR TOWN IN WHICH THE MAJOR
30 LEAGUE BASEBALL FACILITY IS LOCATED AND THE DEPARTMENT OF REVENUE. ON
31 RECEIPT OF THE NOTICE:

32 (a) THE STATE TREASURER AND THE CITY OR TOWN IN WHICH THE MAJOR
33 LEAGUE BASEBALL FACILITY IS LOCATED MAY NOT CONTINUE TO TRANSMIT MONIES
34 PURSUANT TO SECTION 42-1116, SUBSECTION D AND SECTIONS 42-5032.03, 42-6018
35 AND 42-6113.]

36 (b) THE DEPARTMENT OF REVENUE SHALL STOP SEPARATELY ACCOUNTING FOR
37 THE REVENUES THAT WERE SUBJECT TO TRANSMISSION PURSUANT TO SECTION
38 42-1116, SUBSECTION D AND SECTIONS 42-5032.03, 42-6018 AND 42-6113.]

39 2. RETURN ANY MONIES TRANSMITTED PURSUANT TO SECTION 42-1116,
40 SUBSECTION D AND SECTIONS 42-5032.03, 42-6018 AND 42-6113 OVER THE LIMIT
41 PRESCRIBED IN SUBSECTION B OF THIS SECTION TO THE TAXING JURISDICTION FROM
42 WHICH THE MONIES WERE GENERATED.]

1 ~~[A.] [D.]~~ IF THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT
2 OCCUPIES THE MAJOR LEAGUE BASEBALL FACILITY OWNED BY THE DISTRICT AND
3 OPERATED BY THE DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE
4 ORGANIZATION ON OR BEFORE THE EFFECTIVE DATE OF THIS SECTION LEAVES THE
5 FACILITY, THE DISTRICT TREASURER SHALL:

6 1. NOTIFY THE STATE TREASURER AND THE DEPARTMENT OF REVENUE THAT
7 THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION THAT OCCUPIES THE MAJOR
8 LEAGUE BASEBALL FACILITY OWNED BY THE DISTRICT AND OPERATED BY THE
9 DISTRICT OR THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION LEFT THE
10 FACILITY~~[.]~~ ON RECEIVING THE NOTICE:

11 (a) THE STATE TREASURER ~~[AND THE CITY OR TOWN IN WHICH THE MAJOR~~
12 ~~LEAGUE BASEBALL FACILITY IS LOCATED]~~ MAY NOT CONTINUE TO TRANSMIT MONIES
13 PURSUANT TO SECTION 42-1116, SUBSECTION D AND SECTIONS 42-5032.03, 42-6018
14 AND ~~[42-6133] [42-6113]~~.

15 (b) THE STATE TREASURER SHALL ASSESS A PENALTY AGAINST THE
16 PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION IN THE FOLLOWING AMOUNTS:

17 (i) \$10,000,000 IF THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION
18 LEAVES THE FACILITY ON OR BEFORE OCTOBER 1, 2035.

19 (ii) \$5,000,000 IF THE PROFESSIONAL BASEBALL FRANCHISE ORGANIZATION
20 LEAVES THE FACILITY ON OR BEFORE OCTOBER 1, 2045.

21 (iii) \$1,000,000 IF THE PROFESSIONAL BASEBALL FRANCHISE
22 ORGANIZATION LEAVES THE FACILITY ON OR BEFORE OCTOBER 1, 2050.

23 (c) THE DEPARTMENT OF REVENUE SHALL STOP SEPARATELY ACCOUNTING FOR
24 THE REVENUES THAT WERE SUBJECT TO TRANSMISSION ~~[PURSUANT TO SECTION~~
25 ~~42-1116, SUBSECTION D AND SECTIONS 42-5032.03, 42-6018 AND 42-6113]~~.

26 2. RETURN ANY REMAINING MONIES TRANSMITTED PURSUANT TO SECTION
27 42-1116, SUBSECTION D AND SECTIONS 42-5032.03, 42-6018 AND 42-6113 THAT
28 ARE UNEXPENDED AND UNENCUMBERED TO THE TAXING JURISDICTION FROM WHICH THE
29 MONIES WERE GENERATED.

30 ~~[B.] [E.]~~ THE STATE TREASURER SHALL DEPOSIT, PURSUANT TO SECTIONS
31 35-146 AND 35-147, FIFTY PERCENT OF THE PENALTY ASSESSED PURSUANT TO
32 SUBSECTION ~~[A.] [D]~~, PARAGRAPH 1, SUBDIVISION (b) OF THIS SECTION IN THE
33 STATE GENERAL FUND AND DISTRIBUTE TWENTY-FIVE PERCENT OF THE PENALTY TO
34 THE COUNTY IN WHICH THE FACILITY IS LOCATED AND TWENTY-FIVE PERCENT OF THE
35 PENALTY TO THE CITY IN WHICH THE FACILITY IS LOCATED.

36 Sec. 21. Delayed repeal

37 Section 48-4238, as added by this act, is repealed from and after
38 December 31, 2055.

39 ~~<<Sec. 22. Legislative findings~~

40 ~~The legislature finds that the professional baseball franchise~~
41 ~~organization that occupies the major league baseball facility and adjacent~~
42 ~~buildings that are owned by the county stadium district pursuant to title~~
43 ~~48, chapter 26, Arizona Revised Statutes, and operated by the district or~~
44 ~~the professional baseball franchise organization will contribute at least~~
45 ~~\$250,000,000 of the professional baseball franchise organization's own~~

Senate Amendments to H.B. 2704

1 ~~monies for the purposes of reconstructing, equipping, repairing,~~
2 ~~maintaining or improving the major league baseball facility and the~~
3 ~~adjacent buildings.>>~~

4 Enroll and engross to conform

5 Amend title to conform

BRIAN FERNANDEZ

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