

REFERENCE TITLE: TPT; prime contracting classification

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

## **SB 1721**

Introduced by  
Senator Fann

### **AN ACT**

AMENDING SECTIONS 41-1516, 41-1532, 42-5007, 42-5008.01 AND 42-5032.02, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 7 AND CHAPTER 288, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 273, SECTION 8 AND CHAPTER 288, SECTION 2; AMENDING SECTIONS 42-5075 AND 42-5159, ARIZONA REVISED STATUTES; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 163, SECTION 23 AND CHAPTER 189, SECTION 3; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 163, SECTION 24 AND CHAPTER 189, SECTION 4; AMENDING SECTION 49-290, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 41-1516, Arizona Revised Statutes, is amended to  
3 read:

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The Arizona commerce authority shall:

6 1. Implement a program to encourage counties, cities and towns to  
7 provide local incentives to economic enterprises that promote forest  
8 health in this state.

9 2. Identify and certify to the department of revenue the names of  
10 and relevant information relating to qualified businesses for the purposes  
11 of available state tax incentives for economic enterprises that promote  
12 forest health in this state.

13 B. To qualify for state tax incentives pursuant to this section, a  
14 business:

15 1. Must be primarily engaged in a qualifying project. The business  
16 shall submit to the authority evidence that it is engaged in a qualifying  
17 project as follows:

18 (a) The business operation must enhance or sustain forest health,  
19 sustain or recover watershed or improve public safety.

20 (b) If the qualifying forest product is on federal land, the  
21 business shall submit a letter from the federal agency administering the  
22 land, or official records or documents produced in connection with the  
23 project, stating that the business is primarily engaged in the business of  
24 harvesting or processing qualifying forest products for commercial use as  
25 follows:

26 (i) At least seventy percent of the harvested or processed  
27 products, measured by weight, must be qualifying forest products.

28 (ii) At least seventy-five percent of the qualifying forest  
29 products, measured by weight, must be harvested from sources in this  
30 state.

31 (c) If the qualifying forest product is not on federal land, the  
32 business shall submit a letter from the state forester stating that the  
33 business is primarily engaged in the business of harvesting or processing  
34 qualifying forest products for commercial use as follows:

35 (i) At least seventy percent of the harvested or processed products  
36 must be qualifying forest products.

37 (ii) At least seventy-five percent of the harvested or processed  
38 products must be from areas in this state.

39 (d) If the business is engaged in transporting qualifying forest  
40 products, it must submit a letter from the state forester or United States  
41 forest service, or official records or documents produced in connection  
42 with the project, stating that all of the qualifying forest products it  
43 transports are harvested from areas in this state. In addition, the  
44 business must submit evidence to the authority that at least seventy-five  
45 percent of the mileage traveled by its units each year are for

1 transporting qualifying forest products from or to qualifying projects  
2 described in subdivision (b) or (c) of this paragraph, unless a lower  
3 mileage is due to forest closures or weather conditions that are beyond  
4 the control of the business.

5 2. Must employ at least one permanent full-time employee.

6 3. Must agree to furnish to the authority information relating to  
7 the amount of state tax benefits that the business receives each year.

8 4. Must enter into a memorandum of understanding with the authority  
9 containing:

10 (a) Employment goals. Each year the business must report in  
11 writing to the authority its performance in achieving the goals.

12 (b) A commitment to continue in business and use the qualifying  
13 equipment primarily on qualifying projects in this state as described in  
14 paragraph 1 of this subsection, other than for reasons beyond the control  
15 of the business. The authority shall consult with the department of  
16 revenue in designing the memorandum of understanding to incorporate the  
17 legal qualifications for the available tax incentives and shall include  
18 the requirement that any qualifying equipment that is purchased or leased  
19 free of transaction privilege or use tax must continue to be used in this  
20 state for the term of the memorandum of understanding or the duration of  
21 its operational life, whichever is shorter.

22 (c) Provisions considered necessary by the authority to ensure the  
23 competency and responsibility of businesses that qualify under this  
24 section, including registration or other accreditation with trade and  
25 professional organizations and compliance with best management and  
26 operational practices used by governmental agencies in awarding forestry  
27 contracts.

28 (d) The authorization for the authority to terminate, adjust or  
29 recapture all or part of the tax benefits provided to the business on  
30 noncompliance with the law, noncompliance with the terms of the memorandum  
31 or violation of the terms of any contracts with the federal or state  
32 government relating to the qualifying project. The authority shall notify  
33 the department of revenue of the conditions of noncompliance. The  
34 department of revenue may also terminate the certification if it obtains  
35 information indicating a failure to qualify and comply. The department of  
36 revenue may require the business to file appropriate amended tax returns  
37 or to file appropriate use tax returns reflecting the recapture of the  
38 direct or indirect tax benefits.

39 5. Must submit a copy of the certification to the department of  
40 revenue for approval before using the certification for purposes of any  
41 tax incentive. The department of revenue shall review and approve the  
42 certification in a timely manner if the business is in good standing with  
43 the department and is not delinquent in the payment of any tax collected  
44 by the department. A failure to approve or deny the certification within

1 sixty days after the date the business submits it to the department  
2 constitutes approval of the certification.

3 C. For the purposes of section 42-5075, subsection ~~B~~ C, paragraph  
4 18, the authority shall certify prime contractors that contract for the  
5 construction of any building, or other structure, project, development or  
6 improvement owned by a qualified business for purposes of a qualifying  
7 project described in subsection B, paragraph 1 of this section.

8 D. To obtain and maintain certification under this section, a  
9 business must:

10 1. Apply to the authority.

11 2. Submit and retain copies of all required information, including  
12 information relating to the actual or projected number of employees in  
13 this state.

14 3. Allow inspections and audits to verify the qualification and  
15 accuracy of information submitted to the authority.

16 E. Certification under this section is valid for sixty calendar  
17 months from the date of issuance. A business must apply for  
18 recertification at least thirty days before the current certification  
19 expires. The application for recertification shall be in a form  
20 prescribed by the authority and shall confirm that the business is  
21 continuing in a qualifying project and is in compliance with all  
22 requirements prescribed for certification.

23 F. Within sixty days after receiving a complete and correct  
24 application and all required information as prescribed by this section,  
25 the authority shall grant or deny certification and give written notice by  
26 certified mail to the applicant. The applicant is certified as a  
27 qualified business on the date the notice of certification is delivered to  
28 the applicant. A failure to respond within sixty days after receiving a  
29 complete and correct application constitutes approval of the application.

30 G. The certification shall state an effective date with respect to  
31 each authorized tax incentive, which, in each case, must be at the start  
32 of a taxable year or taxable period.

33 H. On or before March 1 of each year, each qualifying business  
34 shall make a report to the authority on all business activity in the  
35 preceding calendar year. Business information contained in the reports is  
36 confidential and shall not be disclosed to the public except as provided  
37 by this section and except that a copy of the report shall be transmitted  
38 to the department of revenue. The report shall be in a form prescribed by  
39 the authority and include:

40 1. Information prescribed by the authority with respect to both  
41 qualifying projects and other projects and business activity that do not  
42 qualify for purposes of this section.

43 2. Employment information necessary to confirm eligibility for **THE**  
44 income tax credit as prescribed by section 43-1076.

1           3. The quantity, measured by weight, of qualifying forest products  
2 harvested, transported or processed.

3           I. On or before May 1 of each year, the authority shall report to  
4 the joint legislative budget committee:

5           1. The quantity, measured by weight, of qualifying forest products  
6 reported by harvesters, by transporters and by processors in the preceding  
7 calendar year.

8           2. The number of new full-time employees hired in qualified  
9 employment positions in this state in the preceding calendar year and  
10 reported for tax credit purposes.

11           3. The total number of all full-time employees employed in  
12 qualified employment positions in this state in the preceding calendar  
13 year and reported for tax credit purposes.

14           J. For the purposes of administering and ensuring compliance with  
15 this section, agents of the authority may enter, and a qualified business  
16 shall allow access to, a qualifying project site at reasonable times and  
17 on reasonable notice to:

18           1. Inspect the facilities at the site.

19           2. Obtain factual data and records pertinent to and required by law  
20 to be kept for purposes of tax incentives.

21           3. Otherwise ascertain compliance with law and the terms of the  
22 memorandum of understanding.

23           K. The authority shall revoke the business' certification and  
24 notify the department of revenue and county assessor if either:

25           1. Within thirty days after a formal request from the authority or  
26 the department of revenue, the business fails or refuses to provide the  
27 information or access for inspections required by this section.

28           2. The business no longer meets the terms and conditions required  
29 for qualification for the applicable tax incentives.

30           L. For the purposes of this section:

31           1. "Forest health" means the degree to which the integrity of the  
32 forest is sustained, including reducing the risk of catastrophic wildfire  
33 and destructive insect infestation, benefiting wildland habitats,  
34 watersheds and communities.

35           2. "Harvesting" means all operations relating to felling or  
36 otherwise removing trees and other forest plant growth and preparing them  
37 for transport for subsequent processing.

38           3. "Processing" means:

39           (a) Any change in the physical structure of qualifying forest  
40 products removed from a qualifying project into a marketable commercial  
41 product or component of a product that has commercial value to a consumer  
42 or purchaser and that is ready to be used with or without further altering  
43 its form.

44           (b) Burning qualifying forest products in the process of commercial  
45 electrical generation or commercial thermal energy production for heating

1 or cooling, regardless of the physical structure of the forest product  
2 before burning.

3 4. "Qualifying equipment" means equipment used directly in  
4 harvesting or processing qualifying forest products removed from a  
5 qualifying project. Qualifying equipment does not include self-propelled  
6 vehicles required to be licensed by this state, but may include other  
7 licensed vehicles as provided by this paragraph. Qualifying equipment  
8 includes:

9 (a) Forest thinning and residue removal equipment, including  
10 mulching and masticating equipment, feller-bunchers, skidders, log  
11 loaders, portable chippers and grinders, slash bundlers, delimbers, log  
12 trailers, chip trailers and other trailers that are uniquely designed for  
13 handling forest products and that are licensed for operation on public  
14 highways.

15 (b) Forest residue receiving and handling equipment, including  
16 truck dumpers, log unloaders, scales, log decking facilities and equipment  
17 and chip pile facilities.

18 (c) Sorting and processing equipment, including portable and  
19 stationary log loaders, front-end loaders, forklifts and cranes, chippers  
20 and grinders, screens, decks and debarkers, saws and sawmill equipment,  
21 firewood processing, wood residue baling and bagging equipment, kilns,  
22 planing and molding equipment and laminating and joining equipment.

23 (d) Forest waste and residue disposal and processing equipment,  
24 including:

25 (i) Processing and sizing equipment, hogs, chippers, screens,  
26 pelletizers and wood splitters.

27 (ii) Transporting and handling equipment, including loaders,  
28 conveyors, blowers, receiving hoppers, truck dumpers and dozers.

29 (iii) Waste use equipment, including fuel feed, storage bins,  
30 boilers and combustors.

31 (iv) Waste project use equipment, including generators, switchgear  
32 and substations and on-site distribution systems.

33 (v) Generated waste disposal equipment, including ash silos and  
34 wastewater treatment and disposal equipment.

35 (vi) Shop and maintenance equipment and major spares having a value  
36 of more than \$5,000 each.

37 5. "Qualifying forest products" means dead standing and fallen  
38 timber, and forest thinnings associated with the harvest of small diameter  
39 timber, slash, wood chips, peelings, brush and other woody vegetation,  
40 removed from federal, state and other public forest land and from private  
41 forest land.

42 6. "Qualifying project" means harvesting, transporting or processing  
43 qualifying forest products as required for certification pursuant to this  
44 section.

1           Sec. 2. Section 41-1532, Arizona Revised Statutes, is amended to  
2 read:

3           41-1532. Tax incentives; conditions

4           A. A prime contractor may qualify for an exemption from transaction  
5 privilege tax with respect to activities in a military reuse zone as  
6 provided, and subject to the terms and conditions prescribed, by section  
7 42-5075, subsection ~~B~~ C, paragraph 4.

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

13           C. To qualify for a tax incentive described in subsection A or B of  
14 this section, the taxpayer shall provide to the authority information  
15 relating to the amount of tax benefits the taxpayer receives each year for  
16 each year in which the taxpayer claims the incentives on forms prescribed  
17 by the authority. If the taxpayer fails to provide the required  
18 information, the authority shall immediately revoke the taxpayer's  
19 certification of eligibility and notify the department of revenue.

20           D. Taxpayers who qualify for tax incentives under subsection B of  
21 this section shall be certified by the authority as eligible for a  
22 five-year period, subject to termination in the event of changed  
23 circumstances rendering the taxpayer no longer eligible.

24           Sec. 3. Section 42-5007, Arizona Revised Statutes, is amended to  
25 read:

26           42-5007. Taxpayer security; out-of-state prime contractors;  
27 definition

28           A. In lieu of the bond required under section 42-1102 or 42-5006, a  
29 person who is in the construction business, who does not have a principal  
30 place of business in this state and who enters into a prime construction  
31 contract to be performed in this state, at the time the contract is  
32 entered into, shall furnish to the director or the director's agent a  
33 surety bond or other acceptable security in an amount equal to the gross  
34 receipts to be paid under the contract multiplied by the aggregate rates  
35 of the applicable taxes imposed by this chapter to secure payment of the  
36 tax imposed by this chapter on the gross receipts from the contract and  
37 shall obtain a certificate from the director or the director's agent that  
38 the requirements of this section have been met.

39           B. If the total amount to be paid under the contract is changed by  
40 ten ~~per cent~~ PERCENT or more after the date the bond or other security is  
41 furnished, the person shall increase or decrease, as the case may be, the  
42 amount of the bond or security within fourteen days after the change.

43           C. If a person fails to comply with subsection A or B of this  
44 section, the director or the director's agent may:

1           1. Demand by certified mail or in person that the person  
2       comply. On the person's failure to comply within ten days after the date  
3       of the mailing of such demand, the director may institute a proceeding to  
4       enjoin the person's business as provided in section 42-1103.

5           2. When a serious and immediate risk exists that an amount of tax  
6       due or reasonably expected to become due from the person on gross receipts  
7       from a prime construction contract will not be paid, request the person to  
8       comply, and, on failure to comply immediately, the director may without  
9       further notice apply to tax court for an injunction under section 42-1103.

10          D. This section does not apply if the total gross receipts under  
11       the construction contract, including any change in such amount, are to be  
12       less than ~~fifty thousand dollars~~ \$100,000 PER RESIDENTIAL UNIT FOR A  
13       RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT.

14          E. A city, town or county or an agency of this state shall not  
15       issue a building or other construction permit to any person who is subject  
16       to the requirements of this section without having first been furnished by  
17       the construction contractor with the certificate from the director or the  
18       director's agent provided under subsection A of this section.

19          F. ~~in~~ FOR THE PURPOSES OF this section, "principal place of  
20       business" means a location where a person has continuously operated a  
21       facility with at least one full-time employee for the preceding twelve  
22       consecutive months.

23          Sec. 4. Section 42-5008.01, Arizona Revised Statutes, is amended to  
24       read:

25           42-5008.01. Liability for amounts equal to retail transaction  
26                                   privilege tax due

27          A. A person that is either a prime contractor subject to tax under  
28       section 42-5075 or a subcontractor working under the control of such a  
29       prime contractor, that purchases tangible personal property, the purchase  
30       price of which was excluded from the tax base under the retail  
31       classification under section 42-5061, subsection A, paragraph 27 or was  
32       excluded from the use tax under section 42-5159, subsection A, paragraph  
33       13, subdivision (g) at the time of purchase, and that incorporates or  
34       fabricates the tangible personal property into a project described in  
35       section 42-5075, subsection ~~A~~ B is liable for an amount equal to any tax  
36       that a seller would have been required to pay under section 42-5061 and  
37       this article as follows:

38           1. The amount of liability shall be calculated and reported based  
39       on the location of the project and the taxes imposed under this chapter  
40       and chapter 6 of this title.

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

44           3. This subsection does not apply to tangible personal property  
45       that is incorporated or fabricated into any project under a contract that



1 would otherwise be excluded from the tax base under section 42-5075,  
2 without regard to section 42-5075, subsection ~~⊖~~ B.

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

6 5. The person is not liable for the amount if the contractor who  
7 hired the person executes and provides to the person a certificate stating  
8 that the contractor providing the certificate is liable for any amount due  
9 under this subsection. The department shall prescribe the form of the  
10 certificate. If the person has reason to believe that the information  
11 contained on the certificate is erroneous or incomplete, the department  
12 may disregard the certificate. The contractor providing the certificate  
13 is liable for the amount that otherwise would be due from the person under  
14 this subsection.

15 B. A person that purchased tangible personal property, the purchase  
16 price of which was excluded from the tax base under section 42-5061,  
17 subsection A, paragraph 27 or was excluded from the use tax under section  
18 42-5159, subsection A, paragraph 13, subdivision (g) at the time of  
19 purchase, that subsequently cancels its transaction privilege tax license  
20 and that uses, consumes, sells or discards the tangible personal property  
21 is liable for an amount of tax determined under this subsection. For the  
22 purposes of this subsection:

23 1. If the tangible personal property is incorporated or fabricated  
24 into a project described in section 42-5075, subsection ~~⊖~~ B, or otherwise  
25 used or consumed by the person, the amount of liability shall be  
26 calculated and reported based on the person's purchase price of the  
27 tangible personal property, the location of the project, use or  
28 consumption and the taxes imposed under this chapter and chapter 6 of this  
29 title.

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

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

38 4. The amount of liability shall be reported on or before the  
39 business day preceding the last business day of the month following the  
40 month in which the person uses the tangible personal property in a manner  
41 described in paragraph 1 or 2 of this subsection. No amount is due under  
42 this subsection at any time that the person stores the tangible personal  
43 property without using it in a manner described in paragraph 1 or 2 of  
44 this subsection.

5. All deductions, exemptions and exclusions for the cost of tangible personal property provided in section 42-5075 ~~OR 42-5061~~ apply to the tangible personal property incorporated or fabricated into a project described in section 42-5075, subsection ~~⊖~~ B.

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

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

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

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

Sec. 5. Section 42-5032.02, Arizona Revised Statutes, is amended to read:

42-5032.02. Distribution of revenues for city, town or county infrastructure improvements related to manufacturing facilities; definitions

A. Subject to subsection B of this section, from and after September 30, 2013 through September 30, 2023, each month the state treasurer shall pay a city, town or county the amount determined under subsection C of this section for the purpose of funding up to eighty percent of the cost of public infrastructure improvements for the benefit of a manufacturing facility.

B. The state treasurer shall not make any payments under subsection C of this section until both of the following apply:

1. Ten percent of the qualifying capital investment that is certified under subsection D of this section and that constitutes

1 construction phase services, as defined in section 42-5075, has been made  
2 by the manufacturing facility.

3 2. From and after June 30, 2014.

4 C. The amount to be paid to a city, town or county under subsection  
5 A of this section is the total amount of state transaction privilege tax  
6 revenues collected under section 42-5010, subsection A from persons  
7 conducting business under section 42-5075 derived from contracts to  
8 construct buildings and associated improvements for the benefit of a  
9 manufacturing facility. The total amount paid to all cities, towns and  
10 counties under this subsection shall not exceed a maximum of ~~fifty million~~  
11 ~~dollars~~ \$50,000,000.

12 D. Within one hundred eighty days after the commencement of the  
13 construction of buildings and associated improvements for the benefit of a  
14 manufacturing facility that will require a city, town or county to make  
15 infrastructure improvements, the manufacturing facility shall file a sworn  
16 certification with the Arizona commerce authority and submit a copy of  
17 this sworn certification to the applicable city, town or county that the  
18 manufacturing facility agrees to either:

19 1. Make at least ~~five hundred million dollars~~ \$500,000,000 in  
20 capital investment if the manufacturing facility is located in a county  
21 that has a population of eight hundred thousand persons or more.

22 2. Make at least ~~fifty million dollars~~ \$50,000,000 in capital  
23 investment if the manufacturing facility is located in a county that has a  
24 population of less than eight hundred thousand persons.

25 E. The certification under subsection D of this section shall  
26 contain a sworn statement or certification, signed by an officer of the  
27 manufacturing facility under penalty of perjury, that the information  
28 contained is true and correct according to the best belief and knowledge  
29 of the person submitting the information after a reasonable investigation  
30 of the facts.

31 F. Before submitting the certification to the Arizona commerce  
32 authority, the manufacturing facility and the city, town or county must  
33 enter into a written agreement that:

34 1. Identifies and states the cost of the public infrastructure  
35 improvements that will be constructed.

36 2. Identifies the sources of monies, including monies received  
37 pursuant to this section, that will be used to pay for the public  
38 infrastructure improvements.

39 G. On receipt of the sworn certification from a manufacturing  
40 facility pursuant to subsection D of this section, the city, town or  
41 county shall enter into a written agreement with the department. This  
42 agreement and any amendments or changes to the agreement shall:

43 1. State the cost of the public infrastructure improvements and  
44 separately identify the particular improvements that will be made.

1           2. State that the monies received under this section will be used  
2 exclusively to pay for public infrastructure improvements that are  
3 necessary to support the activities of the manufacturing facility.

4           3. State that the city, town or county will commit all of its  
5 portion of the revenue received pursuant to section 42-5029, subsection D  
6 derived from contracts subject to section 42-5075 for the construction of  
7 buildings and associated improvements for the benefit of the manufacturing  
8 facility for public infrastructure improvements that benefit the  
9 manufacturing facility.

10          4. State that the city, town or county will immediately notify the  
11 department when monies received under this section exceed eighty percent  
12 of the cost of the infrastructure improvements and will return the amount  
13 of the excess to the state treasurer for deposit in the state general  
14 fund.

15          5. Stipulate the actual amount of the construction funding that  
16 will be derived from sources other than the state.

17          6. Identify the persons who will be prime contractors on the  
18 construction of buildings and associated improvements for the benefit of a  
19 manufacturing facility and state that each prime contractor has been  
20 notified as to which portion of the contractor's income shall be  
21 separately identified to the department pursuant to section 42-5075,  
22 subsection ~~H~~ I.

23          7. State that the city, town or county agrees that any amounts paid  
24 by the department to a prime contractor as identified under paragraph 6 of  
25 this subsection resulting from an audit adjustment or claim for credit or  
26 refund of taxes described in subsection C of this section shall be  
27 recovered by the department from the city, town or county by reducing the  
28 amount paid to the city, town or county under section 42-5029 from monies  
29 designated as distribution base in the month next succeeding the month in  
30 which the adjustment or claim is paid.

31          8. State that the city, town or county agrees that the department  
32 will use the amounts subject to any distribution required under subsection  
33 A of this section in calculating the maximum amount set by subsection C of  
34 this section.

35          9. State that the city, town or county agrees that if, on  
36 notification by the department, the state treasurer ceases payments  
37 because of the condition described in subsection H of this section, the  
38 city, town or county has no claim to additional payments if the department  
39 subsequently pays amounts to a prime contractor identified in an agreement  
40 with any city, town or county, as described in paragraph 6 of this  
41 subsection, due to an audit adjustment or claim for credit or refund of  
42 taxes described in subsection C of this section.

43          10. Provide any other information deemed necessary by the  
44 department.

1 H. On notification by the department, the state treasurer shall  
2 cease payments under subsection A of this section if either of the  
3 following occurs:

4 1. The city, town or county has received monies that meet or exceed  
5 eighty percent of the cost of the public infrastructure improvements that  
6 are necessary to support the activities related to the manufacturing  
7 facility as described in the written agreement pursuant to subsection G of  
8 this section.

9 2. The total amount subject to any distribution required under  
10 subsection A of this section has met the maximum amount set by subsection  
11 C of this section.

12 I. For the purposes of this section:

13 1. "Associated improvement" includes any public infrastructure  
14 improvement that is made for the benefit of the manufacturing facility  
15 outside of the parcel or parcels of real property where the manufacturing  
16 facility is located.

17 2. "Capital investment" means an expenditure to acquire, lease or  
18 improve property that is used for the benefit of a manufacturing facility,  
19 including land, buildings, machinery and fixtures.

20 3. "Manufacturing facility":

21 (a) Means an establishment that is engaged in the mechanical,  
22 physical or chemical transformation or fabrication of materials,  
23 substances or components into new products in this state, that is  
24 classified within sections 31 through 33 inclusive of the 2007 edition of  
25 the north American industry classification system as published by the  
26 national technical information service of the United States department of  
27 commerce and that agrees to either:

28 (i) Make at least ~~five hundred million dollars~~ \$500,000,000 in  
29 capital investment if the manufacturing facility is located in a county  
30 that has a population of eight hundred thousand persons or more.

31 (ii) Make at least ~~fifty million dollars~~ \$50,000,000 in capital  
32 investment if the manufacturing facility is located in a county that has a  
33 population of less than eight hundred thousand persons.

34 (b) Does not include mining, milling or smelting mineral ore or  
35 generating electricity.

36 4. "Population" means the population determined in the most recent  
37 United States decennial census or the most recent special census as  
38 provided in section 28-6532.

39 5. "Public infrastructure" means water production, delivery and  
40 disposal facilities, wastewater production, delivery and disposal  
41 facilities and roads that are necessary to support the activities of the  
42 manufacturing facility.

1           Sec. 6. Section 42-5061, Arizona Revised Statutes, as amended by  
2 Laws 2019, chapter 273, section 7 and chapter 288, section 1, is amended  
3 to read:

4           42-5061. Retail classification; definitions

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

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

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

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

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

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

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

27          7. The sale of stocks and bonds.

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

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

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

36          11. Prescription eyeglasses or contact lenses.

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

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

1           14. Sales of motor vehicles to nonresidents of this state for use  
2 outside this state if the motor vehicle dealer ships or delivers the motor  
3 vehicle to a destination out of this state.

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

6           16. Items purchased with United States department of agriculture  
7 coupons issued under the supplemental nutrition assistance program  
8 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
9 7 United States Code sections 2011 through 2036b) by the United States  
10 department of agriculture food and nutrition service or food instruments  
11 issued under section 17 of the child nutrition act (P.L. 95-627; 92  
12 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
13 section 1786).

14           17. Textbooks by any bookstore that are required by any state  
15 university or community college.

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

20           19. Articles of food, drink or condiment and accessory tangible  
21 personal property to a school district or charter school if such articles  
22 and accessory tangible personal property are to be prepared and served to  
23 persons for consumption on the premises of a public school within the  
24 district or on the premises of the charter school during school hours.

25           20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
26 article 1.

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

34           (a) "Cash equivalents" means items or intangibles, whether or not  
35 negotiable, that are sold to one or more persons, through which a value  
36 denominated in money is purchased in advance and may be redeemed in full  
37 or in part for tangible personal property, intangibles or services. Cash  
38 equivalents include gift cards, stored value cards, gift certificates,  
39 vouchers, traveler's checks, money orders or other instruments, orders or  
40 electronic mechanisms, such as an electronic code, personal identification  
41 number or digital payment mechanism, or any other prepaid intangible right  
42 to acquire tangible personal property, intangibles or services in the  
43 future, whether from the seller of the cash equivalent or from another  
44 person. Cash equivalents do not include either of the following:

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

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

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

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

12 22. Motor vehicle fuel and use fuel that are subject to a tax  
13 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
14 holder of a valid single trip use fuel tax permit issued under section  
15 28-5739, sales of aviation fuel that are subject to the tax imposed under  
16 section 28-8344 and sales of jet fuel that are subject to the tax imposed  
17 under article 8 of this chapter.

18 23. Tangible personal property sold to a person engaged in the  
19 business of leasing or renting such property under the personal property  
20 rental classification if such property is to be leased or rented by such  
21 person.

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

25 25. Tangible personal property sold to:

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

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

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

36 (d) A qualifying community health center as defined in section  
37 42-5001.

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

41 (f) For taxable periods beginning from and after June 30, 2001, a  
42 nonprofit charitable organization that has qualified under section  
43 501(c)(3) of the internal revenue code and that provides residential  
44 apartment housing for low income persons over sixty-two years of age in a  
45 facility that qualifies for a federal housing subsidy, if the tangible



1 personal property is used by the organization solely to provide  
2 residential apartment housing for low income persons over sixty-two years  
3 of age in a facility that qualifies for a federal housing subsidy.

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

6 (h) Any person representing or working on behalf of another person  
7 described in subdivisions (a) through (g) of this paragraph if the  
8 tangible personal property is incorporated or fabricated into a project  
9 described in section 42-5075, subsection ~~⊖~~ B.

10 26. Magazines or other periodicals or other publications by this  
11 state to encourage tourist travel.

12 27. Tangible personal property sold to:

13 (a) A person that is subject to tax under this article by reason of  
14 being engaged in business classified under section 42-5075 or to a  
15 subcontractor working under the control of a person engaged in business  
16 classified under section 42-5075, if the property so sold is any of the  
17 following:

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

21 (ii) Incorporated or fabricated by the person into any project  
22 described in section 42-5075, subsection ~~⊖~~ B.

23 (iii) Used in environmental response or remediation activities  
24 under section 42-5075, subsection ~~B~~ C, paragraph 6.

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

30 28. The sale of a motor vehicle to:

31 (a) A nonresident of this state if the purchaser's state of  
32 residence does not allow a corresponding use tax exemption to the tax  
33 imposed by article 1 of this chapter and if the nonresident has secured a  
34 special ninety day nonresident registration permit for the vehicle as  
35 prescribed by sections 28-2154 and 28-2154.01.

36 (b) An enrolled member of an Indian tribe who resides on the Indian  
37 reservation established for that tribe.

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

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

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

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

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

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

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

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

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

41 35. Sales of natural gas or liquefied petroleum gas used to propel  
42 a motor vehicle.

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

1           37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
2 electricity sold to a qualified environmental technology manufacturer,  
3 producer or processor as defined in section 41-1514.02 and directly used  
4 or consumed in the generation or provision of on-site power or energy  
5 solely for environmental technology manufacturing, producing or processing  
6 or environmental protection. This paragraph shall apply for twenty full  
7 consecutive calendar or fiscal years from the date the first paper  
8 manufacturing machine is placed in service. In the case of an  
9 environmental technology manufacturer, producer or processor who does not  
10 manufacture paper, the time period shall begin with the date the first  
11 manufacturing, processing or production equipment is placed in service.

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

25           39. Through December 31, 1994, personal property liquidation  
26 transactions, conducted by a personal property liquidator. From and after  
27 December 31, 1994, personal property liquidation transactions shall be  
28 taxable under this section provided that nothing in this subsection shall  
29 be construed to authorize the taxation of casual activities or  
30 transactions under this chapter. For the purposes of this paragraph:

31           (a) "Personal property liquidation transaction" means a sale of  
32 personal property made by a personal property liquidator acting solely on  
33 behalf of the owner of the personal property sold at the dwelling of the  
34 owner or on the death of any owner, on behalf of the surviving spouse, if  
35 any, any devisee or heir or the personal representative of the estate of  
36 the deceased, if one has been appointed.

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

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

43           41. A motor vehicle and any repair and replacement parts and  
44 tangible personal property becoming a part of such motor vehicle sold to a  
45 motor carrier who is subject to a fee prescribed in title 28, chapter 16,

1 article 4 and who is engaged in the business of leasing or renting such  
2 property.

3 42. Sales of:

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

6 (b) Livestock and poultry feed, salts, vitamins and other additives  
7 for livestock or poultry consumption that are sold to persons for use or  
8 consumption by their own livestock or poultry, for use or consumption in  
9 the businesses of farming, ranching and producing or feeding livestock,  
10 poultry, or livestock or poultry products or for use or consumption in  
11 noncommercial boarding of livestock. For the purposes of this paragraph,  
12 "poultry" includes ratites.

13 43. Sales of implants used as growth promotants and injectable  
14 medicines, not already exempt under paragraph 8 of this subsection, for  
15 livestock or poultry owned by or in possession of persons who are engaged  
16 in producing livestock, poultry, or livestock or poultry products or who  
17 are engaged in feeding livestock or poultry commercially. For the  
18 purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

38 48. Tangible personal property sold to a commercial airline and  
39 consisting of food, beverages and condiments and accessories used for  
40 serving the food and beverages, if those items are to be provided without  
41 additional charge to passengers for consumption in flight. For the  
42 purposes of this paragraph, "commercial airline" means a person holding a  
43 federal certificate of public convenience and necessity or foreign air  
44 carrier permit for air transportation to transport persons, property or  
45 United States mail in intrastate, interstate or foreign commerce.

1           49. Sales of alternative fuel vehicles if the vehicle was  
2 manufactured as a diesel fuel vehicle and converted to operate on  
3 alternative fuel and equipment that is installed in a conventional diesel  
4 fuel motor vehicle to convert the vehicle to operate on an alternative  
5 fuel, as defined in section 1-215.

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

9           51. Sales of tangible personal property to be incorporated or  
10 installed as part of environmental response or remediation activities  
11 under section 42-5075, subsection ~~B~~ C, paragraph 6.

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

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

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

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

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

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

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

42           57. Computer data center equipment sold to the owner, operator or  
43 qualified colocation tenant of a computer data center that is certified by  
44 the Arizona commerce authority under section 41-1519 or an authorized  
45 agent of the owner, operator or qualified colocation tenant during the

1 qualification period for use in the qualified computer data center. For  
 2 the purposes of this paragraph, "computer data center", "computer data  
 3 center equipment", "qualification period" and "qualified colocation  
 4 tenant" have the same meanings prescribed in section 41-1519.

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

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

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

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

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

25 60. Sales of works of fine art, as defined in section 44-1771, at  
 26 an art auction or gallery in this state to nonresidents of this state for  
 27 use outside this state if the vendor ships or delivers the work of fine  
 28 art to a destination outside this state.

29 61. Sales of tangible personal property by a marketplace seller  
 30 that are facilitated by a marketplace facilitator in which the marketplace  
 31 facilitator has remitted or will remit the applicable tax to the  
 32 department pursuant to section 42-5014.

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

37 1. Machinery, or equipment, used directly in manufacturing,  
 38 processing, fabricating, job printing, refining or metallurgical  
 39 operations. The terms "manufacturing", "processing", "fabricating", "job  
 40 printing", "refining" and "metallurgical" as used in this paragraph refer  
 41 to and include those operations commonly understood within their ordinary  
 42 meaning. "Metallurgical operations" includes leaching, milling,  
 43 precipitating, smelting and refining.

44 2. Mining machinery, or equipment, used directly in the process of  
 45 extracting ores or minerals from the earth for commercial purposes,

1 including equipment required to prepare the materials for extraction and  
2 handling, loading or transporting such extracted material to the surface.  
3 "Mining" includes underground, surface and open pit operations for  
4 extracting ores and minerals.

5 3. Tangible personal property sold to persons engaged in business  
6 classified under the telecommunications classification, including a person  
7 representing or working on behalf of such a person in a manner described  
8 in section 42-5075, subsection ~~A~~ B, and consisting of central office  
9 switching equipment, switchboards, private branch exchange equipment,  
10 microwave radio equipment and carrier equipment including optical fiber,  
11 coaxial cable and other transmission media that are components of carrier  
12 systems.

13 4. Machinery, equipment or transmission lines used directly in  
14 producing or transmitting electrical power, but not including  
15 distribution. Transformers and control equipment used at transmission  
16 substation sites constitute equipment used in producing or transmitting  
17 electrical power.

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

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

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

28 (a) A person:

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

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

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

42 (iv) Operating an aircraft to transport persons in any manner for  
43 compensation or hire, or for use in a fractional ownership program that  
44 meets the requirements of federal aviation administration regulations (14  
45 Code of Federal Regulations part 91, subpart K), including as an air

1 carrier, a foreign air carrier or a commercial operator or under a  
2 restricted category, within the meaning of 14 Code of Federal Regulations,  
3 regardless of whether the operation or aircraft is regulated or certified  
4 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
5 of Federal Regulations.

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

11 (b) Any foreign government.

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

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

23 9. Railroad rolling stock, rails, ties and signal control equipment  
24 used directly to transport persons or property.

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

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

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

37 13. New machinery and equipment consisting of agricultural  
38 aircraft, tractors, tractor-drawn implements, self-powered implements,  
39 machinery and equipment necessary for extracting milk, and machinery and  
40 equipment necessary for cooling milk and livestock, and drip irrigation  
41 lines not already exempt under paragraph 6 of this subsection and that are  
42 used for commercial production of agricultural, horticultural,  
43 viticultural and floricultural crops and products in this state. For the  
44 purposes of this paragraph:



1 (a) "New machinery and equipment" means machinery and equipment  
2 that have never been sold at retail except pursuant to leases or rentals  
3 that do not total two years or more.

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

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

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

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

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

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

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

40 16. Clean rooms that are used for manufacturing, processing,  
41 fabrication or research and development, as defined in paragraph 14 of  
42 this subsection, of semiconductor products. For the purposes of this  
43 paragraph, "clean room" means all property that comprises or creates an  
44 environment where humidity, temperature, particulate matter and  
45 contamination are precisely controlled within specified parameters,

1 without regard to whether the property is actually contained within that  
2 environment or whether any of the property is affixed to or incorporated  
3 into real property. Clean room:

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

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

12 17. Machinery and equipment used directly in the feeding of  
13 poultry, the environmental control of housing for poultry, the movement of  
14 eggs within a production and packaging facility or the sorting or cooling  
15 of eggs. This exemption does not apply to vehicles used for transporting  
16 eggs.

17 18. Machinery or equipment, including related structural  
18 components, that is employed in connection with manufacturing, processing,  
19 fabricating, job printing, refining, mining, natural gas pipelines,  
20 metallurgical operations, telecommunications, producing or transmitting  
21 electricity or research and development and that is used directly to meet  
22 or exceed rules or regulations adopted by the federal energy regulatory  
23 commission, the United States environmental protection agency, the United  
24 States nuclear regulatory commission, the Arizona department of  
25 environmental quality or a political subdivision of this state to prevent,  
26 monitor, control or reduce land, water or air pollution.

27 19. Machinery and equipment that are sold to a person engaged in  
28 the commercial production of livestock, livestock products or  
29 agricultural, horticultural, viticultural or floricultural crops or  
30 products in this state, including a person representing or working on  
31 behalf of such a person in a manner described in section 42-5075,  
32 subsection ~~A~~ B, if the machinery and equipment are used directly and  
33 primarily to prevent, monitor, control or reduce air, water or land  
34 pollution.

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

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

1 (b) Machinery or equipment purchased to replace machinery or  
2 equipment for which an exemption was previously claimed and taken under  
3 this paragraph.

4 (c) Any machinery or equipment purchased after the television  
5 station has ceased analog broadcasting, or purchased after November 1,  
6 2009, whichever occurs first.

7 21. Qualifying equipment that is purchased from and after June 30,  
8 2004 through June 30, 2024 by a qualified business under section 41-1516  
9 for harvesting or processing qualifying forest products removed from  
10 qualifying projects as defined in section 41-1516. To qualify for this  
11 deduction, the qualified business at the time of purchase must present its  
12 certification approved by the department.

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

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

19 2. Janitorial equipment and hand tools.

20 3. Office equipment, furniture and supplies.

21 4. Tangible personal property used in selling or distributing  
22 activities, other than the telecommunications transmissions described in  
23 subsection B, paragraph 15 of this section.

24 5. Motor vehicles required to be licensed by this state, except  
25 buses or other urban mass transit vehicles specifically exempted pursuant  
26 to subsection B, paragraph 11 of this section, without regard to the use  
27 of such motor vehicles.

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

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

31 8. Machinery and equipment or other tangible personal property used  
32 by a contractor in the performance of a contract.

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

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

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

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

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

21 1. Agricultural producers who are owners, proprietors or tenants of  
22 agricultural lands, orchards, farms or gardens where agricultural products  
23 are grown, raised or prepared for market and who are marketing their own  
24 agricultural products.

25 2. Businesses classified under the:

26 (a) Transporting classification.

27 (b) Utilities classification.

28 (c) Telecommunications classification.

29 (d) Pipeline classification.

30 (e) Private car line classification.

31 (f) Publication classification.

32 (g) Job printing classification.

33 (h) Prime contracting classification.

34 (i) Restaurant classification.

35 I. The gross proceeds of sales or gross income derived from the  
36 following shall be deducted from the tax base for the retail  
37 classification:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17           V. For the purposes of this section:

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

21           2. "Aircraft" includes:

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

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

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

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

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

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

41           2. "Manufacturer" means a person who is principally engaged in the  
42 fabrication, production or manufacture of products, wares or articles for  
43 use from raw or prepared materials, imparting to those materials new  
44 forms, qualities, properties and combinations.

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

3           4. "Overhead materials" means tangible personal property, the gross  
4 proceeds of sales or gross income derived from that would otherwise be  
5 included in the retail classification, and that are used or consumed in  
6 the performance of a contract, the cost of which is charged to an overhead  
7 expense account and allocated to various contracts based on generally  
8 accepted accounting principles and consistent with government contract  
9 accounting standards.

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

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

22          Sec. 7. Section 42-5061, Arizona Revised Statutes, as amended by  
23 Laws 2019, chapter 273, section 8 and chapter 288, section 2, is amended  
24 to read:

25           42-5061. Retail classification; definitions

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

31           1. Professional or personal service occupations or businesses that  
32 involve sales or transfers of tangible personal property only as  
33 inconsequential elements.

34           2. Services rendered in addition to selling tangible personal  
35 property at retail.

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

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

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



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

3           7. The sale of stocks and bonds.

4           8. Drugs and medical oxygen, including delivery hose, mask or tent,  
5 regulator and tank, on the prescription of a member of the medical, dental  
6 or veterinarian profession who is licensed by law to administer such  
7 substances.

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

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

12          11. Prescription eyeglasses or contact lenses.

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

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

21          14. Sales of motor vehicles to nonresidents of this state for use  
22 outside this state if the motor vehicle dealer ships or delivers the motor  
23 vehicle to a destination out of this state.

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

26          16. Items purchased with United States department of agriculture  
27 coupons issued under the supplemental nutrition assistance program  
28 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
29 7 United States Code sections 2011 through 2036b) by the United States  
30 department of agriculture food and nutrition service or food instruments  
31 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.  
32 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
33 section 1786).

34          17. Textbooks by any bookstore that are required by any state  
35 university or community college.

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

40          19. Articles of food, drink or condiment and accessory tangible  
41 personal property to a school district or charter school if such articles  
42 and accessory tangible personal property are to be prepared and served to  
43 persons for consumption on the premises of a public school within the  
44 district or on the premises of the charter school during school hours.

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

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

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

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

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

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

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

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

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

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

1           25. Tangible personal property sold to:

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

3           (b) A qualifying health care organization as defined in section  
4 42-5001 if the tangible personal property is used by the organization  
5 solely to provide health and medical related educational and charitable  
6 services.

7           (c) A qualifying health care organization as defined in section  
8 42-5001 if the organization is dedicated to providing educational,  
9 therapeutic, rehabilitative and family medical education training for  
10 blind and visually impaired children and children with multiple  
11 disabilities from the time of birth to age twenty-one.

12           (d) A qualifying community health center as defined in section  
13 42-5001.

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

17           (f) For taxable periods beginning from and after June 30, 2001, a  
18 nonprofit charitable organization that has qualified under section  
19 501(c)(3) of the internal revenue code and that provides residential  
20 apartment housing for low income persons over sixty-two years of age in a  
21 facility that qualifies for a federal housing subsidy, if the tangible  
22 personal property is used by the organization solely to provide  
23 residential apartment housing for low income persons over sixty-two years  
24 of age in a facility that qualifies for a federal housing subsidy.

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

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

31           26. Magazines or other periodicals or other publications by this  
32 state to encourage tourist travel.

33           27. Tangible personal property sold to:

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

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

42           (ii) Incorporated or fabricated by the person into any project  
43 described in section 42-5075, subsection ~~ⓐ~~ B.

44           (iii) Used in environmental response or remediation activities  
45 under section 42-5075, subsection ~~B~~ C, paragraph 6.

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

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by article 1 of this chapter and if the nonresident has secured a special ninety day nonresident registration permit for the vehicle as prescribed by sections 28-2154 and 28-2154.01.

(b) An enrolled member of an Indian tribe who resides on the Indian reservation established for that tribe.

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

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

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

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

33. Sales of propagative materials to persons who use those items to commercially produce agricultural, horticultural, viticultural or

1 floricultural crops in this state. For the purposes of this paragraph,  
2 "propagative materials":

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

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

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

17 35. Sales of natural gas or liquefied petroleum gas used to propel  
18 a motor vehicle.

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

22 37. Petroleum, coke, natural gas, virgin fuel oil and electricity  
23 sold to a qualified environmental technology manufacturer, producer or  
24 processor as defined in section 41-1514.02 and directly used or consumed  
25 in the generation or provision of on-site power or energy solely for  
26 environmental technology manufacturing, producing or processing or  
27 environmental protection. This paragraph shall apply for twenty full  
28 consecutive calendar or fiscal years from the date the first paper  
29 manufacturing machine is placed in service. In the case of an  
30 environmental technology manufacturer, producer or processor who does not  
31 manufacture paper, the time period shall begin with the date the first  
32 manufacturing, processing or production equipment is placed in service.

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

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

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

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

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

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

42. Sales of:

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

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

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

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

45. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the

1 tangible personal property is a personal hygiene item or articles used by  
2 human beings for food, drink or condiment, except alcoholic beverages,  
3 that are furnished without additional charge to and intended to be  
4 consumed by the transient during the transient's occupancy.

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

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

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

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

30 51. Sales of tangible personal property to be incorporated or  
31 installed as part of environmental response or remediation activities  
32 under section 42-5075, subsection ~~B~~ C, paragraph 6.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

7 61. Sales of coal.

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

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

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

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

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

37 4. Machinery, equipment or transmission lines used directly in  
38 producing or transmitting electrical power, but not including  
39 distribution. Transformers and control equipment used at transmission  
40 substation sites constitute equipment used in producing or transmitting  
41 electrical power.

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

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

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

7           (a) A person:

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

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

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

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

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

35           (b) Any foreign government.

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

43           8. Machinery, tools, equipment and related supplies used or  
44 consumed directly in repairing, remodeling or maintaining aircraft,

1 aircraft engines or aircraft component parts by or on behalf of a  
2 certificated or licensed carrier of persons or property.

3 9. Railroad rolling stock, rails, ties and signal control equipment  
4 used directly to transport persons or property.

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

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

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

17 13. New machinery and equipment consisting of agricultural  
18 aircraft, tractors, tractor-drawn implements, self-powered implements,  
19 machinery and equipment necessary for extracting milk, and machinery and  
20 equipment necessary for cooling milk and livestock, and drip irrigation  
21 lines not already exempt under paragraph 6 of this subsection and that are  
22 used for commercial production of agricultural, horticultural,  
23 viticultural and floricultural crops and products in this state. For the  
24 purposes of this paragraph:

25 (a) "New machinery and equipment" means machinery and equipment  
26 that have never been sold at retail except pursuant to leases or rentals  
27 that do not total two years or more.

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

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

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

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

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

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

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

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

19 16. Clean rooms that are used for manufacturing, processing,  
20 fabrication or research and development, as defined in paragraph 14 of  
21 this subsection, of semiconductor products. For the purposes of this  
22 paragraph, "clean room" means all property that comprises or creates an  
23 environment where humidity, temperature, particulate matter and  
24 contamination are precisely controlled within specified parameters,  
25 without regard to whether the property is actually contained within that  
26 environment or whether any of the property is affixed to or incorporated  
27 into real property. Clean room:

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

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

36 17. Machinery and equipment used directly in the feeding of  
37 poultry, the environmental control of housing for poultry, the movement of  
38 eggs within a production and packaging facility or the sorting or cooling  
39 of eggs. This exemption does not apply to vehicles used for transporting  
40 eggs.

41 18. Machinery or equipment, including related structural  
42 components, that is employed in connection with manufacturing, processing,  
43 fabricating, job printing, refining, mining, natural gas pipelines,  
44 metallurgical operations, telecommunications, producing or transmitting  
45 electricity or research and development and that is used directly to meet

1 or exceed rules or regulations adopted by the federal energy regulatory  
2 commission, the United States environmental protection agency, the United  
3 States nuclear regulatory commission, the Arizona department of  
4 environmental quality or a political subdivision of this state to prevent,  
5 monitor, control or reduce land, water or air pollution.

6 19. Machinery and equipment that are sold to a person engaged in  
7 the commercial production of livestock, livestock products or  
8 agricultural, horticultural, viticultural or floricultural crops or  
9 products in this state, including a person representing or working on  
10 behalf of such a person in a manner described in section 42-5075,  
11 subsection ~~A~~ B, if the machinery and equipment are used directly and  
12 primarily to prevent, monitor, control or reduce air, water or land  
13 pollution.

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

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

23 (b) Machinery or equipment purchased to replace machinery or  
24 equipment for which an exemption was previously claimed and taken under  
25 this paragraph.

26 (c) Any machinery or equipment purchased after the television  
27 station has ceased analog broadcasting, or purchased after November 1,  
28 2009, whichever occurs first.

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

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

37 1. Expendable materials. For the purposes of this paragraph,  
38 expendable materials do not include any of the categories of tangible  
39 personal property specified in subsection B of this section regardless of  
40 the cost or useful life of that property.

41 2. Janitorial equipment and hand tools.

42 3. Office equipment, furniture and supplies.

43 4. Tangible personal property used in selling or distributing  
44 activities, other than the telecommunications transmissions described in  
45 subsection B, paragraph 15 of this section.

1           5. Motor vehicles required to be licensed by this state, except  
2 buses or other urban mass transit vehicles specifically exempted pursuant  
3 to subsection B, paragraph 11 of this section, without regard to the use  
4 of such motor vehicles.

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

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

8           8. Machinery and equipment or other tangible personal property used  
9 by a contractor in the performance of a contract.

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

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

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

28          G. If a person is engaged in the business of selling tangible  
29 personal property at both wholesale and retail, the tax under this section  
30 applies only to the gross proceeds of the sales made other than at  
31 wholesale if the person's books are kept so as to show separately the  
32 gross proceeds of sales of each class, and if the books are not so kept,  
33 the tax under this section applies to the gross proceeds of every sale so  
34 made.

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

42           1. Agricultural producers who are owners, proprietors or tenants of  
43 agricultural lands, orchards, farms or gardens where agricultural products  
44 are grown, raised or prepared for market and who are marketing their own  
45 agricultural products.

1           2. Businesses classified under the:  
2           (a) Transporting classification.  
3           (b) Utilities classification.  
4           (c) Telecommunications classification.  
5           (d) Pipeline classification.  
6           (e) Private car line classification.  
7           (f) Publication classification.  
8           (g) Job printing classification.  
9           (h) Prime contracting classification.  
10          (i) Restaurant classification.  
11          I. The gross proceeds of sales or gross income derived from the  
12 following shall be deducted from the tax base for the retail  
13 classification:  
14          1. Sales made directly to the United States government or its  
15 departments or agencies by a manufacturer, modifier, assembler or  
16 repairer.  
17          2. Sales made directly to a manufacturer, modifier, assembler or  
18 repairer if such sales are of any ingredient or component part of products  
19 sold directly to the United States government or its departments or  
20 agencies by the manufacturer, modifier, assembler or repairer.  
21          3. Overhead materials or other tangible personal property that is  
22 used in performing a contract between the United States government and a  
23 manufacturer, modifier, assembler or repairer, including property used in  
24 performing a subcontract with a government contractor who is a  
25 manufacturer, modifier, assembler or repairer, to which title passes to  
26 the government under the terms of the contract or subcontract.  
27          4. Sales of overhead materials or other tangible personal property  
28 to a manufacturer, modifier, assembler or repairer if the gross proceeds  
29 of sales or gross income derived from the property by the manufacturer,  
30 modifier, assembler or repairer will be exempt under paragraph 3 of this  
31 subsection.  
32          J. There shall be deducted from the tax base fifty percent of the  
33 gross proceeds or gross income from any sale of tangible personal property  
34 made directly to the United States government or its departments or  
35 agencies that is not deducted under subsection I of this section.  
36          K. The department shall require every person claiming a deduction  
37 provided by subsection I or J of this section to file on forms prescribed  
38 by the department at such times as the department directs a sworn  
39 statement disclosing the name of the purchaser and the exact amount of  
40 sales on which the exclusion or deduction is claimed.  
41          L. In computing the tax base, gross proceeds of sales or gross  
42 income does not include:  
43          1. A manufacturer's cash rebate on the sales price of a motor  
44 vehicle if the buyer assigns the buyer's right in the rebate to the  
45 retailer.

1           2. The waste tire disposal fee imposed pursuant to section 44-1302.  
2           M. There shall be deducted from the tax base the amount received  
3 from sales of solar energy devices. The retailer shall register with the  
4 department as a solar energy retailer. By registering, the retailer  
5 acknowledges that it will make its books and records relating to sales of  
6 solar energy devices available to the department for examination.  
7           N. In computing the tax base in the case of the sale or transfer of  
8 wireless telecommunications equipment as an inducement to a customer to  
9 enter into or continue a contract for telecommunications services that are  
10 taxable under section 42-5064, gross proceeds of sales or gross income  
11 does not include any sales commissions or other compensation received by  
12 the retailer as a result of the customer entering into or continuing a  
13 contract for the telecommunications services.  
14           O. For the purposes of this section, a sale of wireless  
15 telecommunications equipment to a person who holds the equipment for sale  
16 or transfer to a customer as an inducement to enter into or continue a  
17 contract for telecommunications services that are taxable under section  
18 42-5064 is considered to be a sale for resale in the regular course of  
19 business.  
20           P. Retail sales of prepaid calling cards or prepaid authorization  
21 numbers for telecommunications services, including sales of  
22 reauthorization of a prepaid card or authorization number, are subject to  
23 tax under this section.  
24           Q. For the purposes of this section, the diversion of gas from a  
25 pipeline by a person engaged in the business of:  
26           1. Operating a natural or artificial gas pipeline, for the sole  
27 purpose of fueling compressor equipment to pressurize the pipeline, is not  
28 a sale of the gas to the operator of the pipeline.  
29           2. Converting natural gas into liquefied natural gas, for the sole  
30 purpose of fueling compressor equipment used in the conversion process, is  
31 not a sale of gas to the operator of the compressor equipment.  
32           R. If a seller is entitled to a deduction pursuant to subsection B,  
33 paragraph 15, subdivision (b) of this section, the department may require  
34 the purchaser to establish that the requirements of subsection B,  
35 paragraph 15, subdivision (b) of this section have been satisfied. If the  
36 purchaser cannot establish that the requirements of subsection B,  
37 paragraph 15, subdivision (b) of this section have been satisfied, the  
38 purchaser is liable in an amount equal to any tax, penalty and interest  
39 that the seller would have been required to pay under article 1 of this  
40 chapter if the seller had not made a deduction pursuant to subsection B,  
41 paragraph 15, subdivision (b) of this section. Payment of the amount  
42 under this subsection exempts the purchaser from liability for any tax  
43 imposed under article 4 of this chapter and related to the tangible  
44 personal property purchased. The amount shall be treated as transaction



1 privilege tax to the purchaser and as tax revenues collected from the  
2 seller to designate the distribution base pursuant to section 42-5029.

3 S. For the purposes of section 42-5032.01, the department shall  
4 separately account for revenues collected under the retail classification  
5 from businesses selling tangible personal property at retail:

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

9 2. At 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 T. In computing the tax base for the sale of a motor vehicle to a  
13 nonresident of this state, if the purchaser's state of residence allows a  
14 corresponding use tax exemption to the tax imposed by article 1 of this  
15 chapter and the rate of the tax in the purchaser's state of residence is  
16 lower than the rate prescribed in article 1 of this chapter or if the  
17 purchaser's state of residence does not impose an excise tax, and 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 there shall be deducted from the tax base a portion of the gross proceeds  
21 or gross income from the sale so that the amount of transaction privilege  
22 tax that is paid in this state is equal to the excise tax that is imposed  
23 by the purchaser's state of residence on the nonexempt sale or use of the  
24 motor vehicle.

25 U. For the purposes of this section:

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

29 2. "Aircraft" includes:

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

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

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

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

1 V. 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 the  
6 fabrication, production or manufacture of 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 the performance of a contract, the cost of which is charged to an overhead  
15 expense account and allocated to various contracts based on generally  
16 accepted accounting principles and consistent with government contract  
17 accounting 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 of supplies  
22 or services that, in whole or in part, are necessary to the performance of  
23 one or more government contracts, or under which any portion of the  
24 contractor's obligation under one or more government contracts is  
25 performed, undertaken or assumed and that includes provisions causing  
26 title to overhead materials or other tangible personal property used in  
27 the performance of the subcontract to pass to the government or that  
28 includes provisions incorporating such title passing clauses in a  
29 government contract into the subcontract.

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

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

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

43 B. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A  
44 CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS  
45 TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL

1 PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT IS NOT SUBJECT TO TAX  
2 UNDER THIS SECTION. FOR THE PURPOSES OF THIS SUBSECTION:

3 1. ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A  
4 CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS SUBSECTION WITH NO  
5 SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR  
6 EXEMPTIONS ALLOWED UNDER THIS SECTION.

7 2. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED  
8 INTO A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT  
9 PRESCRIBED IN SECTION 42-5008.01.

10 3. PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A  
11 CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS  
12 SUBSECTION. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS  
13 HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

14 4. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT  
15 ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE  
16 ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER  
17 THIS CHAPTER IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE  
18 APPLICABLE THRESHOLD DESCRIBED IN THIS SUBSECTION BY MORE THAN TWENTY-FIVE  
19 PERCENT. IF A CHANGE ORDER DIRECTLY RELATES TO THE SCOPE OF WORK OF THE  
20 ORIGINAL CONTRACT AND THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE  
21 APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL  
22 CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX UNDER  
23 THIS SECTION. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF  
24 WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW  
25 CONTRACT.

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

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

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

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

41 4. The gross proceeds of sales or gross income received from a  
42 contract entered into for the modification of any building, highway, road,  
43 railroad, excavation, manufactured building or other structure, project,  
44 development or improvement located in a military reuse zone for providing  
45 aviation or aerospace services or for a manufacturer, assembler or

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

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

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

25 (a) Actions to monitor, assess and evaluate such a release or a  
26 suspected release.

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

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

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

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

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

44 7. The gross proceeds of sales or gross income that is derived from  
45 a contract for the installation, assembly, repair or maintenance of

1 machinery, equipment or other tangible personal property that is either  
2 deducted from the tax base of the retail classification under section  
3 42-5061, subsection B or that is exempt from use tax under section  
4 42-5159, subsection B and that has independent functional utility,  
5 pursuant to the following provisions:

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

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

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

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

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

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

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

33 (i) Assembling the machinery, equipment or other tangible personal  
34 property.

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

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

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

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

4           (a) Section 42-5061, subsection A, paragraph 25, 29, 57 or 59.

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

6           (c) Section 42-5159, subsection A, paragraph 13, subdivision (a),  
7 (b), (c), (d), (e), (f), (j), (k), (m) or (n) or paragraph 54 or 56.

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

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

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

21           11. The gross proceeds of sales or gross income that is derived  
22 from the installation, assembly, repair or maintenance of clean rooms that  
23 are deducted from the tax base of the retail classification pursuant to  
24 section 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (d) "Renewable energy" has the same meaning prescribed in section  
14 41-1511.

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

17 1. A prime contractor may establish entitlement to the deduction by  
18 both:

19 (a) Marking the invoice for the transaction to indicate that the  
20 gross proceeds of sales or gross income derived from the transaction was  
21 deducted from the base.

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

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

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

41 4. If a prime contractor is entitled to a deduction by complying  
42 with paragraph 1 of this subsection, the department may require the  
43 purchaser who caused the execution of the certificate to establish the  
44 accuracy and completeness of the information required to be contained in  
45 the certificate that would entitle the prime contractor to the deduction.



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

11 ~~D.~~ E. Subcontractors or others who perform modification activities  
12 are not subject to tax if they can demonstrate ACCEPTANCE OF AN ARIZONA  
13 FORM 5005 OR AN EQUIVALENT SUCCESSOR FORM DESIGNATED BY THE DEPARTMENT  
14 INDICATING that the job was within the control of a prime contractor or  
15 contractors or a dealership of manufactured buildings and that the prime  
16 contractor or dealership is liable for the tax on the gross income, gross  
17 proceeds of sales or gross receipts attributable to the job and from which  
18 the subcontractors or others were paid.

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

32 ~~F. Every person engaging or continuing in this state in the~~  
33 ~~business of prime contracting or dealership of manufactured buildings~~  
34 ~~shall present to the purchaser of such prime contracting or manufactured~~  
35 ~~building a written receipt of the gross income or gross proceeds of sales~~  
36 ~~from such activity and shall separately state the taxes to be paid~~  
37 ~~pursuant to this section.~~

38 G. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A CONTRACT THAT  
39 PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR  
40 SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL,  
41 RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR,  
42 REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY  
43 GENERATING OR DISTRIBUTION FACILITY, IS NOT SUBJECT TO TAX UNDER THIS  
44 SECTION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (e) Inspection to determine the dates of substantial completion or  
9 final completion.

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

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

19 (i) Master schedule updates.

20 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

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

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

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

1 (c) Preparing drawings and specifications for architectural program  
2 documents, schematic design documents, design development documents,  
3 modification work documents or documents that identify the scope of or  
4 materials for the project.

5 (d) Preparing an initial schedule for the project, excluding the  
6 preparation of updates to the master schedule after modification work has  
7 begun.

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

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

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

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

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

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

26 (vi) Any bond and insurance premiums.

27 (vii) Any applicable taxes.

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

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

35 (g) Preparing the plan and procedures for selection of  
36 subcontractors, including any prequalification of subcontractor  
37 candidates.

38 3. "Professional services" means architect services, engineer  
39 services, geologist services, land surveying services or landscape  
40 architect services that are within the scope of those services as provided  
41 in title 32, chapter 1 and for which gross proceeds of sales or gross  
42 income has not otherwise been deducted under subsection ~~4~~ L of this  
43 section.

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

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

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

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

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

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

~~Q. P.~~ Notwithstanding subsection ~~R~~ **Q**, paragraph ~~10~~ **9** of this section **AND SUBJECT TO SUBSECTION B OF THIS SECTION**, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who

1 receives a consideration for the modifications is considered a prime  
2 contractor solely for purposes of taxing the gross proceeds of sale or  
3 gross income received for the modifications made subsequent to the  
4 transfer of title. The original owner's gross proceeds of sale or gross  
5 income received for the modifications shall be determined according to the  
6 following methodology:

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

15 2. If the original owner enters into an agreement separate from the  
16 contract for sale of the real property providing for amounts to be paid to  
17 the original owner for the modifications to be made in the period  
18 subsequent to the transfer of title to the property, the amounts are  
19 included in the original owner's gross proceeds of sale or gross income  
20 received for the modifications made subsequent to the transfer of title.

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

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

31 ~~R.~~ Q. For the purposes of this section:

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

34 ~~(a) For existing property that is properly classified as class two~~  
35 ~~property under section 42-12002, paragraph 1, subdivision (c) or paragraph~~  
36 ~~2, subdivision (c) and that is used for residential purposes, class three~~  
37 ~~property under section 42-12003 or class four property under section~~  
38 ~~42-12004, this paragraph does not apply if the contract amount is more~~  
39 ~~than twenty-five percent of the most recent full cash value established~~  
40 ~~under chapter 13, article 2 of this title as of the date of any bid for~~  
41 ~~the work or the date of the contract, whichever value is higher.~~

42 ~~(b) For all existing property other than existing property~~  
43 ~~described in subdivision (a) of this paragraph, this paragraph does not~~  
44 ~~apply if the contract amount is more than seven hundred fifty thousand~~  
45 ~~dollars.~~

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

~~(d) If a project for which the owner and the person performing the work reasonably believed, at the inception of the contract, would be treated as an alteration under this paragraph and, on completion of the project, the project exceeded the applicable threshold described in either subdivision (a) or (b) of this paragraph by no more than twenty-five percent of the applicable threshold for any reason, the work performed under the contract qualifies as an alteration.~~

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

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

~~2.~~ 1. "Contracting" means engaging in business as a contractor.

~~3.~~ 2. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such a contractor is acting in fulfillment of a contract.

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

~~5.~~ 4. "Manufactured building dealer" means a dealer who either:

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

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

~~6.~~ 5. "Modification":

(a) Means construction, grading and leveling ground, wreckage or demolition. ~~Modification~~

(b) Does not include:

~~(a)~~ any project described in subsection ~~0~~ B of this section.

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



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

~~7.~~ 6. "Modify" means to make a modification or cause a modification to be made.

~~8.~~ 7. "Owner" means the person that holds title to the real property or improvements to real property that is the subject of the work, as well as an agent of the title holder and any person with the authority to perform or authorize work on the real property or improvements, including a tenant and a property manager. For the purposes of subsection ~~0~~ B of this section, a person who is hired by a general contractor that is hired by an owner, or a subcontractor of a general contractor that is hired by an owner, is considered to be hired by the owner.

~~9.~~ 8. "Prime contracting" means engaging in business as a prime contractor.

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

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

10. "RESIDENTIAL PROJECT":

(a) MEANS THE VERTICAL CONSTRUCTION OF A NEW HOME, APARTMENT OR OTHER DWELLING UNIT WHERE AN INDIVIDUAL CAN REGULARLY RESIDE, OTHER THAN A HOTEL OR MANUFACTURED HOME, AND THE MAINTENANCE, REPAIR OR ALTERATION OF AN EXISTING DWELLING UNIT.

(b) DOES NOT INCLUDE RELATED OFF-SITE CONSTRUCTION, LANDSCAPING OR GRADING OR OTHER SITE PREPARATION ACTIVITIES.

~~12.~~ 11. ~~"Sale of a used manufactured building"~~ does not include a lease of a used manufactured building.

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

3           42-5159. Exemptions

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

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

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

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

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

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

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

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

43          8. Purchases of:

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

1 (b) Livestock and poultry feed, salts, vitamins and other additives  
2 sold to persons for use or consumption in the businesses of farming,  
3 ranching and producing or feeding livestock or poultry or for use or  
4 consumption in noncommercial boarding of livestock. For the purposes of  
5 this paragraph, "poultry" includes ratites.

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

10 (a) Includes seeds, seedlings, roots, bulbs, liners, transplants,  
11 cuttings, soil and plant additives, agricultural minerals, auxiliary soil  
12 and plant substances, micronutrients, fertilizers, insecticides,  
13 herbicides, fungicides, soil fumigants, desiccants, rodenticides,  
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 10. Tangible personal property not exceeding \$200 in any one month  
19 purchased by an individual at retail outside the continental limits of the  
20 United States for the individual's own personal use and enjoyment.

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

25 12. Materials that are purchased by or for publicly funded  
26 libraries including school district libraries, charter school libraries,  
27 community college libraries, state university libraries or federal, state,  
28 county or municipal libraries for use by the public as follows:

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

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

31 13. Tangible personal property purchased by:

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

35 (b) A hospital operated by this state or a political subdivision of  
36 this state.

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

42 (d) A qualifying health care organization, as defined in section  
43 42-5001, if the tangible personal property is used by the organization  
44 solely to provide health and medical related educational and charitable  
45 services.

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

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

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

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

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

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

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

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

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

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

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

(m) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible

personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

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

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

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

15. Tangible personal property sold by:

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

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

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

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise

1 professionally credentialed as a physician, dentist, podiatrist,  
2 chiropractor, naturopath, homeopath, nurse or optometrist.

3 18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

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

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

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

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

43 31. Coal, petroleum, coke, natural gas, virgin fuel oil and  
44 electricity purchased by a qualified environmental technology  
45 manufacturer, producer or processor as defined in section 41-1514.02 and

1 directly used or consumed in the generation or provision of on-site power  
 2 or energy solely for environmental technology manufacturing, producing or  
 3 processing or environmental protection. This paragraph shall apply for  
 4 twenty full consecutive calendar or fiscal years from the date the first  
 5 paper manufacturing machine is placed in service. In the case of an  
 6 environmental technology manufacturer, producer or processor who does not  
 7 manufacture paper, the time period shall begin with the date the first  
 8 manufacturing, processing or production equipment is placed in service.

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

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

13 (b) Public educational institutions.

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

17 33. Natural gas or liquefied petroleum gas used to propel a motor  
 18 vehicle.

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

24 35. Liquid, solid or gaseous chemicals used in manufacturing,  
 25 processing, fabricating, mining, refining, metallurgical operations,  
 26 research and development and, beginning on January 1, 1999, printing, if  
 27 using or consuming the chemicals, alone or as part of an integrated system  
 28 of chemicals, involves direct contact with the materials from which the  
 29 product is produced for the purpose of causing or permitting a chemical or  
 30 physical change to occur in the materials as part of the production  
 31 process. This paragraph does not include chemicals that are used or  
 32 consumed in activities such as packaging, storage or transportation but  
 33 does not affect any exemption for such chemicals that is otherwise  
 34 provided by this section. For the purposes of this paragraph, "printing"  
 35 means a commercial printing operation and includes job printing,  
 36 engraving, embossing, copying and bookbinding.

37 36. Food, drink and condiment purchased for consumption within the  
 38 premises of any prison, jail or other institution under the jurisdiction  
 39 of the state department of corrections, the department of public safety,  
 40 the department of juvenile corrections or a county sheriff.

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

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

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

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

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

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

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

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

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the



purposes of this paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

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

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

1           52. Repair parts installed in equipment used directly by a  
2 qualified business under section 41-1516 in harvesting, processing or  
3 transporting qualifying forest products removed from qualifying projects  
4 as defined in section 41-1516.

5           53. Renewable energy credits or any other unit created to track  
6 energy derived from renewable energy resources. For the purposes of this  
7 paragraph, "renewable energy credit" means a unit created administratively  
8 by the corporation commission or governing body of a public power entity  
9 to track kilowatt hours of electricity derived from a renewable energy  
10 resource or the kilowatt hour equivalent of conventional energy resources  
11 displaced by distributed renewable energy resources.

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

20           55. Coal acquired from an owner or operator of a power plant by a  
21 person who is responsible for refining coal if both of the following  
22 apply:

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

25           (b) The title or possession of the coal is transferred back to the  
26 owner or operator of the power plant after completion of the coal refining  
27 process. For the purposes of this subdivision, "coal refining process"  
28 means the application of a coal additive system that aids the reduction of  
29 power plant emissions during the combustion of coal and the treatment of  
30 flue gas.

31           56. Tangible personal property incorporated or fabricated into a  
32 project described in section 42-5075, subsection ~~Ⓟ~~ B, that is located  
33 within the exterior boundaries of an Indian reservation for which the  
34 owner, as defined in section 42-5075, of the project is an Indian tribe or  
35 an affiliated Indian. For the purposes of this paragraph:

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

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

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

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

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

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

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

(ii) Prepaid calling cards for telecommunications services.

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

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

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

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, including a person representing or working on behalf of such a

1 person in a manner described in section 42-5075, subsection ~~B~~ B, and  
 2 consisting of central office switching equipment, switchboards, private  
 3 branch exchange equipment, microwave radio equipment and carrier equipment  
 4 including optical fiber, coaxial cable and other transmission media that  
 5 are components of carrier systems.

6 4. Machinery, equipment or transmission lines used directly in  
 7 producing or transmitting electrical power, but not including  
 8 distribution. Transformers and control equipment used at transmission  
 9 substation sites constitute equipment used in producing or transmitting  
 10 electrical power.

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

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

19 7. Aircraft, navigational and communication instruments and other  
 20 accessories and related equipment sold to:

21 (a) A person:

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

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

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

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

44 (v) That will lease or otherwise transfer operational control,  
 45 within the meaning of federal aviation administration operations

1 specification A008, or its successor, of the aircraft, instruments or  
2 accessories to one or more persons described in item (i), (ii), (iii) or  
3 (iv) of this subdivision, subject to section 42-5009, subsection Q.

4 (b) Any foreign government.

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

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

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

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

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

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

30 13. New machinery and equipment consisting of agricultural  
31 aircraft, tractors, tractor-drawn implements, self-powered implements,  
32 machinery and equipment necessary for extracting milk, and machinery and  
33 equipment necessary for cooling milk and livestock, and drip irrigation  
34 lines not already exempt under paragraph 6 of this subsection and that are  
35 used for commercial production of agricultural, horticultural,  
36 viticultural and floricultural crops and products in this state. For the  
37 purposes of this paragraph:

38 (a) "New machinery and equipment" means machinery or equipment that  
39 has never been sold at retail except pursuant to leases or rentals that do  
40 not total two years or more.

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

43 14. Machinery or equipment used in research and development. For  
44 the purposes of this paragraph, "research and development" means basic and  
45 applied research in the sciences and engineering, and designing,

1 developing or testing prototypes, processes or new products, including  
 2 research and development of computer software that is embedded in or an  
 3 integral part of the prototype or new product or that is required for  
 4 machinery or equipment otherwise exempt under this section to function  
 5 effectively. Research and development do not include manufacturing  
 6 quality control, routine consumer product testing, market research, sales  
 7 promotion, sales service, research in social sciences or psychology,  
 8 computer software research that is not included in the definition of  
 9 research and development, or other nontechnological activities or  
 10 technical services.

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

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

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

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

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

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

32 16. Clean rooms that are used for manufacturing, processing,  
 33 fabrication or research and development, as defined in paragraph 14 of  
 34 this subsection, of semiconductor products. For the purposes of this  
 35 paragraph, "clean room" means all property that comprises or creates an  
 36 environment where humidity, temperature, particulate matter and  
 37 contamination are precisely controlled within specified parameters,  
 38 without regard to whether the property is actually contained within that  
 39 environment or whether any of the property is affixed to or incorporated  
 40 into real property. Clean room:

41 (a) Includes the integrated systems, fixtures, piping, movable  
 42 partitions, lighting and all property that is necessary or adapted to  
 43 reduce contamination or to control airflow, temperature, humidity,  
 44 chemical purity or other environmental conditions or manufacturing

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

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

5 17. Machinery and equipment that are used directly in the feeding  
6 of poultry, the environmental control of housing for poultry, the movement  
7 of eggs within a production and packaging facility or the sorting or  
8 cooling of eggs. This exemption does not apply to vehicles used for  
9 transporting eggs.

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

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

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

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

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

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

42 21. Qualifying equipment that is purchased from and after June 30,  
43 2004 through June 30, 2024 by a qualified business under section 41-1516  
44 for harvesting or processing qualifying forest products removed from  
45 qualifying projects as defined in section 41-1516. To qualify for this

1 exemption, the qualified business must obtain and present its  
2 certification from the Arizona commerce authority at the time of purchase.

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

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

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 15 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 11 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 tangible personal property used by a  
28 contractor in the performance of a contract.

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

31 1. Revenues received from sales of ancillary services, electric  
32 distribution services, electric generation services, electric transmission  
33 services and other services related to providing electricity to a retail  
34 electric customer who is located outside this state for use outside this  
35 state if the electricity is delivered to a point of sale outside this  
36 state.

37 2. Revenues received from providing electricity, including  
38 ancillary services, electric distribution services, electric generation  
39 services, electric transmission services and other services related to  
40 providing electricity with respect to which the transaction privilege tax  
41 imposed under section 42-5063 has been paid.

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



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

3 1. Fees charged by a municipally owned utility to persons  
4 constructing residential, commercial or industrial developments or  
5 connecting residential, commercial or industrial developments to a  
6 municipal utility system or systems if the fees are segregated and used  
7 only for capital expansion, system enlargement or debt service of the  
8 utility system or systems.

9 2. Reimbursement or contribution compensation to any person or  
10 persons owning a utility system for property and equipment installed to  
11 provide utility access to, on or across the land of an actual utility  
12 consumer if the property and equipment become the property of the utility.  
13 This deduction shall not exceed the value of such property and equipment.

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

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

22 (a) "Gas transportation services" means the services of  
23 transporting natural gas to a natural gas customer or to a natural gas  
24 distribution facility if the natural gas was purchased from a supplier  
25 other than the utility.

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

33 (c) "Qualified manufacturing or smelting business" means one of the  
34 following:

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

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

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

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

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

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

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

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

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

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

24 2. "Aircraft" includes:

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

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

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

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

38 Sec. 10. Section 42-6004, Arizona Revised Statutes, as amended by  
39 Laws 2019, chapter 163, section 23 and chapter 189, section 3, is amended  
40 to read:

41 42-6004. Exemption from municipal tax; definitions

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

44 1. Exhibition events in this state sponsored, conducted or operated  
45 by a nonprofit organization that is exempt from taxation under section

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

12 2. Interstate telecommunications services, which include that  
13 portion of telecommunications services, such as subscriber line service,  
14 allocable by federal law to interstate telecommunications service.

15 3. Sales of warranty or service contracts.

16 4. Sales of motor vehicles to nonresidents of this state for use  
17 outside this state if the motor vehicle dealer ships or delivers the motor  
18 vehicle to a destination outside this state.

19 5. Interest on finance contracts.

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

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

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

26 (a) "Internet" means the computer and telecommunications facilities  
27 that comprise the interconnected worldwide network of networks that employ  
28 the transmission control protocol or internet protocol, or any predecessor  
29 or successor protocol, to communicate information of all kinds by wire or  
30 radio.

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

35 9. The gross proceeds of sales or gross income retained by the  
36 Arizona exposition and state fair board from ride ticket sales at the  
37 annual Arizona state fair.

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

40 (a) "Affiliated companies, businesses, persons or reciprocal  
41 insurers" means the lessor holds a controlling interest in the lessee, the  
42 lessee holds a controlling interest in the lessor, affiliated persons hold  
43 a controlling interest in both the lessor and the lessee, or an unrelated  
44 person holds a controlling interest in both the lessor and lessee.

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

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

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

9 (e) "Reciprocal insurer" has the same meaning prescribed in section  
10 20-762.

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

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

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

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

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

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

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

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

41 (i) Assembling the machinery, equipment or other tangible personal  
42 property.

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

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

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

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

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

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

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

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

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

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

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

14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS PARAGRAPH WITH NO SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR EXEMPTIONS ALLOWED UNDER SECTION 42-5075.

(b) TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS PARAGRAPH MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 42-5008.01.

(c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS PARAGRAPH. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

(d) EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS PARAGRAPH IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE APPLICABLE THRESHOLD DESCRIBED IN THIS PARAGRAPH BY MORE THAN TWENTY-FIVE PERCENT. IF THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX ON CONTRACTING. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT.

15. A CONTRACT THAT PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL, RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY GENERATING OR DISTRIBUTION FACILITY.

~~15.~~ 16. Monitoring services relating to an alarm system as defined in section 32-101.

1       ~~16.~~ 17. Tangible personal property, job printing or publications  
2 sold to or purchased by, or tangible personal property leased, rented or  
3 licensed for use to or by, a qualifying health sciences educational  
4 institution as defined in section 42-5001.

5       ~~17.~~ 18. The transfer of title or possession of coal back and forth  
6 between an owner or operator of a power plant and a person who is  
7 responsible for refining coal if both of the following apply:

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

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

16       ~~18.~~ 19. Tangible personal property incorporated or fabricated into  
17 a project described in paragraph 14 of this subsection, that is located  
18 within the exterior boundaries of an Indian reservation for which the  
19 owner, as defined in section 42-5075, of the project is an Indian tribe or  
20 an affiliated Indian. For the purposes of this paragraph:

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

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

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

33       ~~19.~~ 20. The charges for the leasing or renting of space to make  
34 attachments to utility poles as follows:

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

38       (b) To a person that is engaged in the business of providing or  
39 furnishing electrical services or telecommunication services or that is a  
40 cable operator.

41       ~~20.~~ 21. Until March 1, 2017, the gross proceeds of sales or gross  
42 income derived from entry fees paid by participants for events that  
43 consist of a run, walk, swim or bicycle ride or a similar event, or any  
44 combination of these events.

~~21.~~ 22. The gross proceeds of sales or gross income derived from entry fees paid by participants for events that are operated or conducted by nonprofit organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code and of which no part of the organization's net earnings inures to the benefit of any private shareholder or individual, if the event consists of a run, walk, swim or bicycle ride or a similar event, or any combination of these events.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

45 H. For the purposes of this section:

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

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

6           3. "RESIDENTIAL PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
7 42-5075.

8           ~~3.~~ 4. "Telecommunication services" means transmitting or relaying  
9 sound, visual image, data, information, images or material over lines,  
10 wires or cables by radio signal, light beam, telephone, telegraph or other  
11 electromagnetic means.

12           ~~4.~~ 5. "Utility pole" means any wooden, metal or other pole used  
13 for utility purposes and the pole's appurtenances that are attached or  
14 authorized for attachment by the person controlling the pole.

15           Sec. 11. Section 42-6004, Arizona Revised Statutes, as amended by  
16 Laws 2019, chapter 163, section 24 and chapter 189, section 4, is amended  
17 to read:

18           42-6004. Exemption from municipal tax; definitions

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

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

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

37           3. Sales of warranty or service contracts.

38           4. Sales of motor vehicles to nonresidents of this state for use  
39 outside this state if the motor vehicle dealer ships or delivers the motor  
40 vehicle to a destination outside this state.

41           5. Interest on finance contracts.

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

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

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

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

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

12           9. The gross proceeds of sales or gross income retained by the  
13 Arizona exposition and state fair board from ride ticket sales at the  
14 annual Arizona state fair.

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

17           (a) "Affiliated companies, businesses, persons or reciprocal  
18 insurers" means the lessor holds a controlling interest in the lessee, the  
19 lessee holds a controlling interest in the lessor, affiliated persons hold  
20 a controlling interest in both the lessor and the lessee, or an unrelated  
21 person holds a controlling interest in both the lessor and lessee.

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

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

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

30           (e) "Reciprocal insurer" has the same meaning prescribed in section  
31 20-762.

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

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

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

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

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

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

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

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

18 (i) Assembling the machinery, equipment or other tangible personal  
19 property.

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

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

25 (iv) Stabilizing or protecting the machinery, equipment or other  
26 tangible personal property during operation by bolting, burying or  
27 performing other dissimilar nonpermanent connections to either real  
28 property or real property improvements.

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

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

41 ~~14. The gross proceeds of sales or gross income derived from a~~  
42 ~~contract with the owner of real property or improvements to real property~~  
43 ~~for the maintenance, repair, replacement or alteration of existing~~  
44 ~~property, except as specified in this paragraph. The gross proceeds of~~  
45 ~~sales or gross income derived from a de minimis amount of modification~~

~~activity does not subject the contract or any part of the contract to tax. For the purposes of this paragraph:~~

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

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

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

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

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

14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONSTRUCTION CONTRACT WITH AN OWNER OF REAL PROPERTY OR THE IMPROVEMENTS TO REAL PROPERTY THAT DOES NOT EXCEED \$100,000 PER UNIT FOR A RESIDENTIAL PROJECT OR \$1,000,000 FOR A NONRESIDENTIAL PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) ONLY THE CONTRACT PRICE SHALL BE USED TO DETERMINE WHETHER A CONTRACT EXCEEDS THE THRESHOLD AMOUNT DESCRIBED IN THIS PARAGRAPH WITH NO SUBTRACTIONS FOR AMOUNTS PAID TO SUBCONTRACTORS OR ANY DEDUCTIONS OR EXEMPTIONS ALLOWED UNDER SECTION 42-5075.

(b) TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS PARAGRAPH MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 42-5008.01.

(c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT TO CAUSE A PROJECT TO QUALIFY FOR THE EXEMPTION UNDER THIS PARAGRAPH. THE DEPARTMENT HAS THE BURDEN OF PROVING THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

(d) EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS PARAGRAPH IF THE RESULTING TOTAL CONTRACT AMOUNT DOES NOT EXCEED THE APPLICABLE THRESHOLD DESCRIBED IN THIS PARAGRAPH BY MORE THAN TWENTY-FIVE PERCENT. IF THE RESULTING TOTAL CONTRACT PRICE EXCEEDS THE APPLICABLE THRESHOLD BY MORE THAN TWENTY-FIVE PERCENT, THE ORIGINAL CONTRACT AND ALL SUBSEQUENT CHANGE ORDERS ARE SUBJECT TO THE TAX ON CONTRACTING. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT.

15. A CONTRACT THAT PRIMARILY INVOLVES CONSTRUCTION OF ANY ELECTRICITY GENERATING FACILITY OR SYSTEM INCLUDING RENEWABLE ENERGY SYSTEMS INSTALLED ON ANY COMMERCIAL, RESIDENTIAL OR GOVERNMENTAL PROPERTY, INCLUDING THE MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF EXISTING IMPROVEMENTS OF AN ELECTRICITY GENERATING OR DISTRIBUTION FACILITY.

~~15.~~ 16. Monitoring services relating to an alarm system as defined in section 32-101.

~~16.~~ 17. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

~~17.~~ 18. The sale of coal.

~~18.~~ 19. Tangible personal property incorporated or fabricated into a project described in paragraph 14 of this subsection, that is located within the exterior boundaries of an Indian reservation for which the owner, as defined in section 42-5075, of the project is an Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

~~19.~~ 20. The charges for the leasing or renting of space to make attachments to utility poles as follows:

1 (a) By a person that is engaged in the business of providing or  
2 furnishing electrical services or telecommunication services or that is a  
3 cable operator.

4 (b) To a person that is engaged in the business of providing or  
5 furnishing electrical services or telecommunication services or that is a  
6 cable operator.

7 ~~20.~~ 21. Until March 1, 2017, the gross proceeds of sales or gross  
8 income derived from entry fees paid by participants for events that  
9 consist of a run, walk, swim or bicycle ride or a similar event, or any  
10 combination of these events.

11 ~~21.~~ 22. The gross proceeds of sales or gross income derived from  
12 entry fees paid by participants for events that are operated or conducted  
13 by nonprofit organizations that are exempt from taxation under section  
14 501(c)(3) of the internal revenue code and of which no part of the  
15 organization's net earnings inures to the benefit of any private  
16 shareholder or individual, if the event consists of a run, walk, swim or  
17 bicycle ride or a similar event, or any combination of these events.

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

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

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

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

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

36 4. Incarcerating or detaining in a privately operated prison, jail  
37 or detention facility prisoners who are under the jurisdiction of the  
38 United States, this state or any other state or a political subdivision of  
39 this state or of any other state.

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

42 6. Any amount attributable to development fees that are incurred in  
43 relation to the construction, development or improvement of real property  
44 and paid by the taxpayer as defined in the model city tax code or by a

1 contractor providing services to the taxpayer. For the purposes of this  
2 paragraph:

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

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

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

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

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

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

24 10. Transporting for hire persons by vehicle for hire drivers on  
25 transactions involving vehicle for hire services as defined in section  
26 28-9501.

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

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

37 1. A manufacturer's cash rebate on the sales price of a motor  
38 vehicle if the buyer assigns the buyer's right in the rebate to the  
39 retailer.

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

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

44 G. A city, town or taxing jurisdiction shall not levy a transaction  
45 privilege, sales, gross receipts, use, franchise or other similar tax or



1 fee, however denominated, on gross proceeds of sales or gross income  
 2 derived from over-the-top services. For the purposes of this subsection,  
 3 "over-the-top services" means audio or video programming services that are  
 4 received by the purchaser by means of an internet connection, regardless  
 5 of the technology used, that include linear or live programming and that  
 6 are generally considered comparable to programming provided by a radio or  
 7 television broadcast station and includes related on-demand programming  
 8 that is provided at no additional charge, regardless of whether the  
 9 services are provided independently or packaged with other audio or video  
 10 programming.

11 H. For the purposes of this section:

12 1. "Cable operator" has the same meaning prescribed in section  
 13 9-505 and includes a video service provider.

14 2. "Electrical services" means transmitting or distributing  
 15 electricity, electric lights, current or power over lines, wires or  
 16 cables.

17 3. "RESIDENTIAL PROJECT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
 18 42-5075.

19 ~~3.~~ 4. "Telecommunication services" means transmitting or relaying  
 20 sound, visual image, data, information, images or material over lines,  
 21 wires or cables by radio signal, light beam, telephone, telegraph or other  
 22 electromagnetic means.

23 ~~4.~~ 5. "Utility pole" means any wooden, metal or other pole used  
 24 for utility purposes and the pole's appurtenances that are attached or  
 25 authorized for attachment by the person controlling the pole.

26 Sec. 12. Section 49-290, Arizona Revised Statutes, is amended to  
 27 read:

28 49-290. Exemption from permit requirements; definition

29 A. Notwithstanding any other statute, a person who performs a  
 30 remedial action or a portion of a remedial action that has been approved  
 31 by the department if that action or portion is conducted in compliance  
 32 with this article is not subject to any requirement to obtain any permit  
 33 or approval that may otherwise be required by the department.

34 B. Except as prescribed in subsection D of this section, a person  
 35 who conducts a portion of a remedial action, where that portion is  
 36 entirely on site and is conducted in compliance with this article, may be  
 37 exempted from a requirement to obtain any other state or local permit or  
 38 approval, other than any requirement of title 45, at the written request  
 39 of the person conducting the remedial action. The written request shall  
 40 identify the specific permit to be exempted and the reasons the exemption  
 41 is requested. The permit may be exempted if the director finds both of  
 42 the following:

43 1. The requirement does not arise out of any permit or regulatory  
 44 program that is required pursuant to the laws of the United States.

1           2. The requirement presents a substantial impediment to effective  
2 performance of the remedial action selected by the department.

3           C. The director may waive any regulatory requirement adopted  
4 pursuant to this title with respect to a site or portion of a site as part  
5 of a record of decision adopted pursuant to section 49-287.04 for that  
6 site or portion of a site if the regulatory requirement conflicts with the  
7 implementation of the selected remedy, provided that the waiver does not  
8 result in adverse impacts to public health or the environment. No waiver  
9 may be granted under this subsection if it is prohibited by federal law or  
10 if the waiver would jeopardize the continued delegation to the state of  
11 authority to implement a federal environmental program.

12           D. Discharge of wastewater to off-site publicly owned treatment  
13 works and sewer systems does not constitute an activity conducted entirely  
14 on site for purposes of subsection B of this section.

15           E. The director shall give written notice of any request for  
16 exemption made pursuant to subsection B of this section to the remedial  
17 action coordinator designated pursuant to subsection G of this section by  
18 the governmental entity whose permit requirements are the subject of the  
19 request. Before making any finding pursuant to subsection B of this  
20 section, the director or the director's designee shall meet and confer  
21 with the remedial action coordinator and the person conducting the  
22 remedial action to identify alternatives to exemption.

23           F. Any finding made by the director pursuant to subsection B of  
24 this section shall be in writing. The governmental entity whose permit  
25 requirement is preempted as a result of such finding is not liable for  
26 property damage, personal injury damage or violations of state or local  
27 law resulting from the exemption. The director shall notify the affected  
28 governmental entity of any finding made pursuant to subsection B of this  
29 section. A finding of the director made pursuant to subsection B of this  
30 section is a final administrative decision as defined in section 41-1092  
31 and is subject to judicial review pursuant to title 12, chapter 7,  
32 article 6.

33           G. Each city, town and county shall designate a remedial action  
34 coordinator who shall have responsibility for monitoring and facilitating  
35 any remedial actions conducted within its jurisdiction. The designated  
36 remedial action coordinator shall:

37           1. Regularly consult, as needed, with the department and the person  
38 conducting a remedial action throughout the duration of the remedial  
39 action.

40           2. Expedite the processing and issuance of permits, approvals or  
41 other authorizations required by the governmental entity represented by  
42 the remedial action coordinator, to facilitate the prompt conduct of a  
43 remedial action.

1           3. Provide information to the department and the person conducting  
2 the remedial action regarding applicable requirements of the governmental  
3 entity represented by the remedial action coordinator and the potential  
4 for waiver of such requirements.

5           H. In order to encourage remediation activities under this article  
6 and to conserve the fund, neither this state nor any county that imposes  
7 an excise or similar tax that is levied at a rate applied as a percentage  
8 of the rates on each business class subject to the tax imposed by title  
9 42, chapter 5, article 1 may impose a tax on the sale or purchase of  
10 tangible personal property incorporated or fabricated into any real  
11 property, structure, project, development or improvement under a contract  
12 specified in section 42-5075, subsection ~~B~~ C, paragraph 6.

13           I. For purposes of this section, "on site" means the areal extent  
14 of contamination and all suitable areas in close proximity to the  
15 contamination that are reasonably necessary for implementation of the  
16 remedial action.

17           Sec. 13. Retroactivity; applicability

18           A. This act applies retroactively to contracts entered into from  
19 and after June 30, 2021.

20           B. For contracts that were bid or entered into, or for any other  
21 binding obligation executed, from and after December 31, 2014 and before  
22 July 1, 2021:

23           1. A person may treat the contract as a contract that is taxable  
24 under 42-5075, Arizona Revised Statutes, in effect before the effective  
25 date of this act, and model city tax code section 415 or 417.

26           2. A person shall be held harmless from any additional tax, penalty  
27 and interest if the department of revenue determines under audit that the  
28 person's treatment of the contract as either subject to tax under section  
29 42-5075, Arizona Revised Statutes, in effect before the effective date of  
30 this act, or excludable from tax under section 42-5075, subsection B or G,  
31 as added by this act, or section 42-5075, subsection O or P, Arizona  
32 Revised Statutes, in effect before the effective date of this act, was  
33 incorrect. This paragraph applies to determinations under the model city  
34 tax code sections 415 and 417.

35           3. A claim for a refund is not allowed for any tax paid under  
36 section 42-5075, Arizona Revised Statutes, in effect before the effective  
37 date of this act, and model city tax code sections 415 and 417 or  
38 excludable from tax under section 42-5075, subsection B or G, as added by  
39 this act, or section 42-5075, subsection O or P, Arizona Revised Statutes,  
40 in effect before the effective date of this act, or model city tax code  
41 section 415 or 416.

1           Sec. 14. Conditional enactment

2           Section 42-5061, Arizona Revised Statutes, as amended by Laws 2019,  
3 chapter 273, section 8 and chapter 288, section 2 and this act, and  
4 section 42-6004, Arizona Revised Statutes, as amended by Laws 2019,  
5 chapter 163, section 24 and chapter 189, section 4 and this act, become  
6 effective on the date prescribed by Laws 2018, chapter 263, section 5 but  
7 only on the occurrence of the condition prescribed by Laws 2018, chapter  
8 265, section 5.