

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2213

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,  
3 is amended by adding section 41-1519, to read:

4 41-1519. Computer data center incentives; definitions

5 A. FROM AND AFTER AUGUST 31, 2013, TAX INCENTIVES ARE ALLOWED FOR THE  
6 OWNER, OPERATOR OR QUALIFIED COLOCATION TENANTS OF A COMPUTER DATA CENTER  
7 CERTIFIED PURSUANT TO SUBSECTION C OF THIS SECTION. ALL TAX INCENTIVES APPLY  
8 FROM THE DATE THAT THE AUTHORITY PURSUANT TO SUBSECTION C OF THIS SECTION  
9 CERTIFIES THE FACILITY THROUGH THE EXPIRATION OF THE CERTIFICATION PERIOD.

10 B. TO QUALIFY FOR THE TAX INCENTIVES, THE OWNER OR OPERATOR SHALL  
11 SUBMIT TO THE AUTHORITY A CERTIFICATION FORM PRESCRIBED BY THE AUTHORITY,  
12 THAT MUST INCLUDE ALL OF THE FOLLOWING:

13 1. THE OWNER'S OR OPERATOR'S NAME, ADDRESS AND TELEPHONE NUMBER.

14 2. THE ADDRESS OF THE SITE WHERE THE COMPUTER DATA CENTER IS OR WILL  
15 BE LOCATED, INCLUDING, IF APPLICABLE, INFORMATION SUFFICIENT TO IDENTIFY THE  
16 SPECIFIC BUILDING, CONDOMINIUM OR MODULAR UNIT COMPOSING THE COMPUTER DATA  
17 CENTER.

18 3. THE ANTICIPATED INVESTMENT AND JOB CREATION ASSOCIATED WITH THE  
19 COMPUTER DATA CENTER FOR WHICH THE TAX INCENTIVE IS BEING SOUGHT AND WHETHER  
20 THE COMPUTER DATA CENTER IS ANTICIPATED TO QUALIFY AS A SUSTAINABLE  
21 REDEVELOPMENT PROJECT.

22 4. AN AFFIRMATION, SIGNED BY AN AUTHORIZED EXECUTIVE REPRESENTING THE  
23 OWNER OR OPERATOR, THAT THE COMPUTER DATA CENTER IS EXPECTED TO SATISFY EACH  
24 OF THE CERTIFICATION REQUIREMENTS PRESCRIBED IN SUBSECTION E OF THIS SECTION.

25 C. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE AND CORRECT FORM, THE  
26 AUTHORITY SHALL REVIEW THE FORM AND EITHER CERTIFY THE FACILITY AS QUALIFYING  
27 FOR THE TAX INCENTIVES OR PROVIDE WRITTEN REASONS FOR ITS DENIAL. A FAILURE  
28 TO APPROVE OR DENY THE FORM WITHIN SIXTY DAYS AFTER THE DATE THE OWNER OR  
29 OPERATOR SUBMITS THE FORM TO THE AUTHORITY CONSTITUTES CERTIFICATION OF THE

1 COMPUTER DATA CENTER. THE AUTHORITY SHALL SEND A COPY OF THE CERTIFICATION  
2 TO THE DEPARTMENT OF REVENUE. THE CERTIFICATION EXPIRES AT THE END OF THE  
3 CERTIFICATION PERIOD. THE AUTHORITY SHALL NOT CERTIFY ANY NEW COMPUTER DATA  
4 CENTER FROM AND AFTER DECEMBER 31, 2023.

5 D. AT THE DISCRETION OF AN OWNER OR OPERATOR, ONE OR MORE OF THE  
6 BUILDINGS, CONDOMINIUMS OR MODULAR UNITS IN A FACILITY, BUT NOT ALL OF THE  
7 BUILDINGS, CONDOMINIUMS OR MODULAR UNITS AT A FACILITY, MAY BE CONSIDERED A  
8 SEPARATE COMPUTER DATA CENTER AND MAY RECEIVE A SEPARATE CERTIFICATION IF THE  
9 BUILDING OR UNIT INDIVIDUALLY MEETS THE REQUIREMENTS PRESCRIBED IN SUBSECTION  
10 E OF THIS SECTION. A BUILDING, UNIT OR ARTICLE OF COMPUTER DATA EQUIPMENT  
11 SHALL NOT BE DEEMED TO BE A PART OF MORE THAN ONE COMPUTER DATA CENTER.

12 E. TO QUALIFY FOR TAX INCENTIVES UNDER THIS SECTION, ON OR BEFORE THE  
13 FIFTH ANNIVERSARY OF THE CERTIFICATION OF THE COMPUTER DATA CENTER, THE  
14 COMPUTER DATA CENTER MUST CREATE A MINIMUM INVESTMENT OF AT LEAST:

15 1. TWENTY-FIVE MILLION DOLLARS INCLUDING COSTS OF LAND, BUILDINGS,  
16 MODULAR UNITS AND COMPUTER DATA CENTER EQUIPMENT, IF THE COMPUTER DATA CENTER  
17 IS LOCATED IN A COUNTY WITH A POPULATION OF FEWER THAN EIGHT HUNDRED THOUSAND  
18 PERSONS OR IN A MUNICIPALITY WITH A POPULATION OF FEWER THAN FIFTY THOUSAND  
19 PERSONS IN A COUNTY WITH A POPULATION OF AT LEAST EIGHT HUNDRED THOUSAND  
20 PERSONS.

21 2. FIFTY MILLION DOLLARS INCLUDING COSTS OF LAND, BUILDINGS, MODULAR  
22 UNITS AND COMPUTER DATA CENTER EQUIPMENT, IF THE COMPUTER DATA CENTER IS  
23 LOCATED ANY PLACE IN THIS STATE OTHER THAN AN AREA DESCRIBED IN PARAGRAPH 1  
24 OF THIS SUBSECTION.

25 F. ON OR BEFORE THE FIFTH ANNIVERSARY OF THE CERTIFICATION OF THE  
26 COMPUTER DATA CENTER, THE OWNER OR OPERATOR SHALL NOTIFY THE AUTHORITY IN  
27 WRITING THAT THE COMPUTER DATA CENTER FOR WHICH THE CERTIFICATION IS  
28 REQUESTED HAS OR HAS NOT SATISFIED THE REQUIREMENTS PRESCRIBED IN SUBSECTION  
29 E OF THIS SECTION AND, IF SO, THE DATE ON WHICH ALL OF THE REQUIREMENTS WERE  
30 SATISFIED.

31 G. BUSINESS INFORMATION CONTAINED IN THE CERTIFICATION FORM DESCRIBED  
32 IN SUBSECTION B OF THIS SECTION OR THE WRITTEN NOTICE UNDER SUBSECTION F OF  
33 THIS SECTION IS CONFIDENTIAL AND SHALL NOT BE DISCLOSED TO THE PUBLIC, EXCEPT  
34 THAT THE INFORMATION SHALL BE TRANSMITTED TO THE DEPARTMENT OF REVENUE.

35 H. IF THE DEPARTMENT OF REVENUE DETERMINES THAT THE REQUIREMENTS IN  
36 SUBSECTION E OF THIS SECTION HAVE NOT BEEN SATISFIED, THE DEPARTMENT MAY  
37 REVOKE THE CERTIFICATION OF A COMPUTER DATA CENTER AND THE OWNER OR OPERATOR

1 MAY APPEAL THE REVOCATION PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. THE  
2 AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL NOT REVOKE A CERTIFICATION IF A  
3 COMPUTER DATA CENTER SATISFIES THE REQUIREMENTS OF SUBSECTION E OF THIS  
4 SECTION. IF CERTIFICATION IS REVOKED PURSUANT TO THIS SUBSECTION, THE  
5 CERTIFICATION PERIOD EXPIRES AND THE DEPARTMENT OF REVENUE MAY RECAPTURE FROM  
6 THE OWNER OR OPERATOR ALL OR PART OF THE TAX INCENTIVES PROVIDED DIRECTLY TO  
7 THE OWNER OR OPERATOR. THE DEPARTMENT MAY GIVE SPECIAL CONSIDERATION OR ALLOW  
8 A TEMPORARY EXEMPTION FROM RECAPTURE OF THE TAX INCENTIVES, IF THERE IS  
9 EXTRAORDINARY HARDSHIP DUE TO FACTORS BEYOND THE CONTROL OF THE OWNER OR  
10 OPERATOR. THE DEPARTMENT OF REVENUE MAY REQUIRE THE OWNER OR OPERATOR TO  
11 FILE APPROPRIATE AMENDED TAX RETURNS TO REFLECT ANY RECAPTURE OF THE TAX  
12 INCENTIVES.

13 I. THE AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL ADOPT RULES AND  
14 PRESCRIBE FORMS AND PROCEDURES AS NECESSARY FOR THE PURPOSES OF THIS SECTION.  
15 THE AUTHORITY AND THE DEPARTMENT OF REVENUE SHALL COLLABORATE IN ADOPTING  
16 RULES AS NECESSARY TO AVOID DUPLICATION AND INCONSISTENCIES WHILE  
17 ACCOMPLISHING THE PURPOSES OF THIS SECTION.

18 J. THE OWNER OR OPERATOR SHALL PROVIDE THE AUTHORITY AND THE  
19 DEPARTMENT OF REVENUE A LIST OF QUALIFIED COLOCATION TENANTS AND SHALL NOTIFY  
20 THE AUTHORITY AND THE DEPARTMENT OF ANY CHANGES TO THE LIST.

21 K. FOR THE PURPOSES OF THIS SECTION:

22 1. "CERTIFICATION PERIOD" MEANS A PERIOD OF TIME BEGINNING ON THE DATE  
23 THAT THE AUTHORITY CERTIFIES THE COMPUTER DATA CENTER AND EXPIRING AT THE END  
24 OF THE TENTH CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE COMPUTER  
25 DATA CENTER SATISFIES ALL OF THE REQUIREMENTS PRESCRIBED IN SUBSECTION E OF  
26 THIS SECTION, EXCEPT IF A COMPUTER DATA CENTER IS A SUSTAINABLE REDEVELOPMENT  
27 PROJECT, CERTIFICATION PERIOD MEANS A PERIOD OF TIME BEGINNING ON THE DATE  
28 THAT THE AUTHORITY CERTIFIES THE COMPUTER DATA CENTER AND EXPIRING AT THE END  
29 OF THE TWENTIETH CALENDAR YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE  
30 COMPUTER DATA CENTER SATISFIES ALL OF THE REQUIREMENTS PRESCRIBED IN  
31 SUBSECTION E OF THIS SECTION.

32 2. "COMPUTER DATA CENTER" MEANS ALL OR PART OF A FACILITY THAT IS OR  
33 WILL BE COMPOSED OF ONE OR MORE BUILDINGS, CONDOMINIUM UNITS OR MODULAR  
34 UNITS, THAT MAY BE COMPOSED OF MULTIPLE BUSINESSES OR OWNERS, THAT IS OR WILL  
35 BE PREDOMINATELY USED TO HOUSE WORKING SERVERS AND THAT HAS UNINTERRUPTIBLE  
36 POWER SUPPLY OR GENERATOR BACKUP POWER, OR BOTH, FIRE SUPPRESSION AND

1 PREVENTION SYSTEMS, COOLING SYSTEMS, TOWERS AND OTHER TEMPERATURE CONTROL  
2 INFRASTRUCTURE.

3 3. "COMPUTER DATA CENTER EQUIPMENT" MEANS EQUIPMENT USED TO CONSTRUCT,  
4 REFURBISH, OUTFIT, OPERATE OR BENEFIT A COMPUTER DATA CENTER AND  
5 REFRESHMENTS, REPLACEMENTS AND UPGRADES TO THIS EQUIPMENT, WHETHER ANY OF THE  
6 PROPERTY IS AFFIXED TO OR INCORPORATED INTO REAL PROPERTY, INCLUDING:

7 (a) ALL EQUIPMENT NECESSARY FOR THE TRANSFORMATION, GENERATION,  
8 DISTRIBUTION OR MANAGEMENT OF ELECTRICITY THAT IS REQUIRED TO OPERATE  
9 COMPUTER SERVER EQUIPMENT, INCLUDING GENERATORS, UNINTERRUPTIBLE POWER  
10 SUPPLIES, CONDUIT, GASEOUS FUEL PIPING, CABLING, DUCT BANKS, SWITCHES,  
11 SWITCHBOARDS, BATTERIES AND TESTING EQUIPMENT.

12 (b) ALL EQUIPMENT NECESSARY TO COOL AND MAINTAIN A CONTROLLED  
13 ENVIRONMENT FOR THE OPERATION OF THE COMPUTER SERVER AND OTHER COMPONENTS OF  
14 THE DATA CENTER, INCLUDING MECHANICAL, GASEOUS FUEL PIPING, ADIABATIC AND  
15 FREE COOLING SYSTEMS, COOLING TOWERS, WATER SOFTENERS, AIR HANDLING UNITS,  
16 INDOOR DIRECT EXCHANGE UNITS, FANS, DUCTING AND FILTERS.

17 (c) ALL WATER CONSERVATION SYSTEMS, INCLUDING FACILITIES OR MECHANISMS  
18 THAT ARE DESIGNED TO COLLECT, CONSERVE AND REUSE WATER.

19 (d) ALL ENABLING SOFTWARE, COMPUTER SERVER EQUIPMENT, CHASSIS,  
20 NETWORKING EQUIPMENT, SWITCHES, RACKS, CABLING, TRAYS AND CONDUIT.

21 (e) ALL MONITORING EQUIPMENT AND SECURITY SYSTEMS.

22 (f) MODULAR UNITS AND PREASSEMBLED COMPONENTS OF ANY ITEM DESCRIBED IN  
23 THIS PARAGRAPH.

24 (g) OTHER TANGIBLE PERSONAL PROPERTY ESSENTIAL TO THE OPERATIONS OF A  
25 COMPUTER DATA CENTER.

26 4. "FACILITY" MEANS ONE OR MORE PARCELS OF LAND IN THIS STATE, AND ANY  
27 STRUCTURES AND PERSONAL PROPERTY CONTAINED ON THE LAND.

28 5. "MODULAR UNIT" MEANS A UNIT THAT GENERALLY CONSISTS OF  
29 UNINTERRUPTED ENERGY SUPPLY, POWER DISTRIBUTION, SERVER ENCLOSURES AND  
30 COOLING AND OTHER DATA CENTER COMPONENTS.

31 6. "QUALIFIED COLOCATION TENANT" MEANS A SINGLE TENANT THAT CONTRACTS  
32 WITH THE OWNER OR OPERATOR OF THE COMPUTER DATA CENTER FOR A MINIMUM OF FIVE  
33 HUNDRED KILOWATTS FOR A TERM OF TWO OR MORE YEARS.

34 7. "SUSTAINABLE REDEVELOPMENT PROJECT" MEANS A COMPUTER DATA CENTER  
35 THAT SATISFIES THE REQUIREMENTS IN SUBSECTION E OF THIS SECTION AND THAT IS  
36 INTENDED TO OCCUPY THE STRUCTURAL IMPROVEMENTS AT AN EXISTING FACILITY THAT  
37 EITHER:

1 (a) WAS AT LEAST FIFTY PER CENT VACANT FOR SIX OF THE TWELVE MONTHS  
2 BEFORE CERTIFICATION OF THE FACILITY.

3 (b) ATTAINS CERTIFICATION UNDER THE LEADERSHIP IN ENERGY AND  
4 ENVIRONMENTAL DESIGN GREEN BUILDING RATING STANDARD DEVELOPED BY THE UNITED  
5 STATES GREEN BUILDING COUNCIL OR AN EQUIVALENT GREEN BUILDING STANDARD AND  
6 WAS NOT PREVIOUSLY CERTIFIED UNDER THESE STANDARDS.

7 8. "TAX INCENTIVE" MEANS AN EXCLUSION FROM THE GROSS PROCEEDS OF SALE  
8 OR GROSS INCOME RELATED TO A COMPUTER DATA CENTER THAT IS CERTIFIED PURSUANT  
9 TO THIS SECTION AS PRESCRIBED IN SECTION 42-5061, 42-5063, 42-5075 OR  
10 42-5159.

11 Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:

12 42-5061. Retail classification; definitions

13 A. The retail classification is comprised of the business of selling  
14 tangible personal property at retail. The tax base for the retail  
15 classification is the gross proceeds of sales or gross income derived from  
16 the business. The tax imposed on the retail classification does not apply to  
17 the gross proceeds of sales or gross income from:

18 1. Professional or personal service occupations or businesses that  
19 involve sales or transfers of tangible personal property only as  
20 inconsequential elements.

21 2. Services rendered in addition to selling tangible personal property  
22 at retail.

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

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

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

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

35 7. The sale of stocks and bonds.

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

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

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

8           11. Prescription eyeglasses or contact lenses.

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

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

17          14. Sales to nonresidents of this state for use outside this state if  
18 the vendor ships or delivers the tangible personal property out of this  
19 state.

20          15. Food, as provided in and subject to the conditions of article 3 of  
21 this chapter and section 42-5074.

22          16. Items purchased with United States department of agriculture food  
23 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
24 958) or food instruments issued under section 17 of the child nutrition act  
25 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
26 section 1786).

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

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

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

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

3           21. The sale of precious metal bullion and monetized bullion to the  
4 ultimate consumer, but the sale of coins or other forms of money for  
5 manufacture into jewelry or works of art is subject to the tax. For the  
6 purposes of this paragraph:

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

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

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

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

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

26           25. Tangible personal property sold to:

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

28           (b) A qualifying health care organization as defined in section  
29 42-5001 if the tangible personal property is used by the organization solely  
30 to provide health and medical related educational and charitable 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 blind,  
34 visually impaired and multihandicapped children from the time of birth to age  
35 twenty-one.

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

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

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

12 26. Magazines or other periodicals or other publications by this state  
13 to encourage tourist travel.

14 27. Tangible personal property sold to a person that is subject to tax  
15 under this article by reason of being engaged in business classified under  
16 the prime contracting classification under section 42-5075, or to a  
17 subcontractor working under the control of a prime contractor that is subject  
18 to tax under article 1 of this chapter, if the property so sold is any of the  
19 following:

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

22 (b) Used in environmental response or remediation activities under  
23 section 42-5075, subsection B, paragraph 6.

24 28. The sale of a motor vehicle to:

25 (a) A nonresident of this state if the purchaser's state of residence  
26 does not allow a corresponding use tax exemption to the tax imposed by  
27 article 1 of this chapter and if the nonresident has secured a special ninety  
28 day nonresident registration permit for the vehicle as prescribed by sections  
29 28-2154 and 28-2154.01.

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

32 29. Tangible personal property purchased in this state by a nonprofit  
33 charitable organization that has qualified under section 501(c)(3) of the  
34 United States internal revenue code and that engages in and uses such  
35 property exclusively in programs for mentally or physically handicapped  
36 persons if the programs are exclusively for training, job placement,  
37 rehabilitation or testing.



1           30. Sales of tangible personal property by a nonprofit organization  
2 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)  
3 of the internal revenue code if the organization is associated with a major  
4 league baseball team or a national touring professional golfing association  
5 and no part of the organization's net earnings inures to the benefit of any  
6 private shareholder or individual.

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

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

18           33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
19 propagative material to persons who use those items to commercially produce  
20 agricultural, horticultural, viticultural or floricultural crops in this  
21 state.

22           34. Machinery, equipment, technology or related supplies that are only  
23 useful to assist a person who is physically disabled as defined in section  
24 46-191, has a developmental disability as defined in section 36-551 or has a  
25 head injury as defined in section 41-3201 to be more independent and  
26 functional.

27           35. Sales of tangible personal property that is shipped or delivered  
28 directly to a destination outside the United States for use in that foreign  
29 country.

30           36. Sales of natural gas or liquefied petroleum gas used to propel a  
31 motor vehicle.

32           37. Paper machine clothing, such as forming fabrics and dryer felts,  
33 sold to a paper manufacturer and directly used or consumed in paper  
34 manufacturing.

35           38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
36 sold to a qualified environmental technology manufacturer, producer or  
37 processor as defined in section 41-1514.02 and directly used or consumed in

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

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

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

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

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

36 41. Sales of food, drink and condiment for consumption within the  
37 premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the  
2 department of juvenile corrections or a county sheriff.

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

7 43. Livestock and poultry feed, salts, vitamins and other additives for  
8 livestock or poultry consumption that are sold to persons who are engaged in  
9 producing livestock, poultry, or livestock or poultry products or who are  
10 engaged in feeding livestock or poultry commercially. For the purposes of  
11 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

1           49. Tangible personal property sold to a commercial airline and  
2     consisting of food, beverages and condiments and accessories used for serving  
3     the food and beverages, if those items are to be provided without additional  
4     charge to passengers for consumption in flight. For the purposes of this  
5     paragraph, "commercial airline" means a person holding a federal certificate  
6     of public convenience and necessity or foreign air carrier permit for air  
7     transportation to transport persons, property or United States mail in  
8     intrastate, interstate or foreign commerce.

9           50. Sales of alternative fuel vehicles if the vehicle was manufactured  
10    as a diesel fuel vehicle and converted to operate on alternative fuel and  
11    equipment that is installed in a conventional diesel fuel motor vehicle to  
12    convert the vehicle to operate on an alternative fuel, as defined in section  
13    1-215.

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

17          52. Sales of tangible personal property to be incorporated or installed  
18    as part of environmental response or remediation activities under section  
19    42-5075, subsection B, paragraph 6.

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

25          54. Through August 31, 2014, sales of Arizona centennial medallions by  
26    the historical advisory commission.

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

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

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

36          56. Sales of motor vehicle fuel and use fuel to a qualified business  
37    under section 41-1516 for off-road use in harvesting, processing or

1 transporting qualifying forest products removed from qualifying projects as  
2 defined in section 41-1516.

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

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

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

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

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

31 3. Tangible personal property sold to persons engaged in business  
32 classified under the telecommunications classification and consisting of  
33 central office switching equipment, switchboards, private branch exchange  
34 equipment, microwave radio equipment and carrier equipment including optical  
35 fiber, coaxial cable and other transmission media which are components of  
36 carrier systems.

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

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

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

12          7. Aircraft, navigational and communication instruments and other  
13    accessories and related equipment sold to:

14           (a) A person holding a federal certificate of public convenience and  
15    necessity, a supplemental air carrier certificate under federal aviation  
16    regulations (14 Code of Federal Regulations part 121) or a foreign air  
17    carrier permit for air transportation for use as or in conjunction with or  
18    becoming a part of aircraft to be used to transport persons, property or  
19    United States mail in intrastate, interstate or foreign commerce.

20           (b) Any foreign government.

21           (c) Persons who are not residents of this state and who will not use  
22    such property in this state other than in removing such property from this  
23    state. This subdivision also applies to corporations that are not  
24    incorporated in this state, regardless of maintaining a place of business in  
25    this state, if the principal corporate office is located outside this state  
26    and the property will not be used in this state other than in removing the  
27    property from this state.

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

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

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

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

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

9           13. New machinery and equipment consisting of tractors, tractor-drawn  
10 implements, self-powered implements, machinery and equipment necessary for  
11 extracting milk, and machinery and equipment necessary for cooling milk and  
12 livestock, and drip irrigation lines not already exempt under paragraph 6 of  
13 this subsection and that are used for commercial production of agricultural,  
14 horticultural, viticultural and floricultural crops and products in this  
15 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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



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

11          19. Machinery and equipment that are sold to a person engaged in the  
12          commercial production of livestock, livestock products or agricultural,  
13          horticultural, viticultural or floricultural crops or products in this state  
14          and that are used directly and primarily to prevent, monitor, control or  
15          reduce air, water or land pollution.

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

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

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

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

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

36          22. COMPUTER DATA CENTER EQUIPMENT AS DEFINED IN SECTION 41-1519 THAT  
37          IS USED IN A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE

1       AUTHORITY UNDER SECTION 41-1519 BY OR ON BEHALF OF THE OWNER, OPERATOR OR  
2       QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER.

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

5           1. Expendable materials. For the purposes of this paragraph,  
6       expendable materials do not include any of the categories of tangible  
7       personal property specified in subsection B of this section regardless of the  
8       cost or useful life of that property.

9           2. Janitorial equipment and hand tools.

10          3. Office equipment, furniture and supplies.

11          4. Tangible personal property used in selling or distributing  
12       activities, other than the telecommunications transmissions described in  
13       subsection B, paragraph ~~16~~ 15 of this section.

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

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

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

21       D. In addition to the deductions from the tax base prescribed by  
22       subsection A of this section, there shall be deducted from the tax base the  
23       gross proceeds of sales or gross income derived from sales of machinery,  
24       equipment, materials and other tangible personal property used directly and  
25       predominantly to construct a qualified environmental technology  
26       manufacturing, producing or processing facility as described in section  
27       41-1514.02. This subsection applies for ten full consecutive calendar or  
28       fiscal years after the start of initial construction.

29       E. In computing the tax base, gross proceeds of sales or gross income  
30       from retail sales of heavy trucks and trailers does not include any amount  
31       attributable to federal excise taxes imposed by 26 United States Code section  
32       4051.

33       F. In computing the tax base, gross proceeds of sales or gross income  
34       from the sale of use fuel, as defined in section 28-5601, does not include  
35       any amount attributable to federal excise taxes imposed by 26 United States  
36       Code section 4091.

1           G. 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 as  
3 to show separately the gross proceeds of sales of tangible personal property  
4 and the gross income from sales of services, and if not so kept the tax shall  
5 be imposed on the total of the person's gross proceeds of sales of tangible  
6 personal property and gross income from services.

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

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

- 21           1. Transporting classification.
- 22           2. Utilities classification.
- 23           3. Telecommunications classification.
- 24           4. Pipeline classification.
- 25           5. Private car line classification.
- 26           6. Publication classification.
- 27           7. Job printing classification.
- 28           8. Prime contracting classification.
- 29           9. Owner builder sales classification.
- 30           10. Restaurant classification.

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

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

1 sold directly to the United States government or its departments or agencies  
2 by the manufacturer, modifier, assembler or repairer.

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

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

14 K. There shall be deducted from the tax base fifty per cent of the  
15 gross proceeds or gross income from any sale of tangible personal property  
16 made directly to the United States government or its departments or agencies,  
17 which is not deducted under subsection J of this section.

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

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

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

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

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

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

1 as a result of the customer entering into or continuing a contract for the  
2 telecommunications services.

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

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

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

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

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

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

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

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

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

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

18           V. For the purposes of this section:

19           1. "Aircraft" includes:

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

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

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

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

34           W. For the purposes of subsection J of this section:

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

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

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

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

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

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

25          Sec. 3. Section 42-5063, Arizona Revised Statutes, is amended to read:

26          42-5063. Utilities classification; definitions

27          A. The utilities classification is comprised of the business of:

28           1. Producing and furnishing or furnishing to consumers natural or  
29    artificial gas and water.

30           2. Providing to retail electric customers ancillary services, electric  
31    distribution services, electric generation services, electric transmission  
32    services and other services related to providing electricity.

33          B. The utilities classification does not include:

34           1. Sales of ancillary services, electric distribution services,  
35    electric generation services, electric transmission services and other  
36    services related to providing electricity, gas or water to a person who  
37    resells the services.

1           2. Sales of natural gas or liquefied petroleum gas used to propel a  
2 motor vehicle.

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

6           4. Sales of ancillary services, electric distribution services,  
7 electric generation services, electric transmission services and other  
8 services that are related to providing electricity to a retail electric  
9 customer who is located outside this state for use outside this state if the  
10 electricity is delivered to a point of sale outside this state.

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

18           6. THE PORTION OF GROSS PROCEEDS OF SALE OR GROSS INCOME THAT IS  
19 DERIVED FROM SALES TO THE OWNER, OPERATOR OR COLOCATION TENANT OF A COMPUTER  
20 DATA CENTER AS DEFINED IN SECTION 41-1519 AND THAT IS DIRECTLY USED IN A  
21 COMPUTER DATA CENTER THAT IS CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY  
22 UNDER SECTION 41-1519.

23           C. The tax base for the utilities classification is the gross proceeds  
24 of sales or gross income derived from the business, but the following shall  
25 be deducted from the tax base:

26           1. Revenues received by a municipally owned utility in the form of  
27 fees charged to persons constructing residential, commercial or industrial  
28 developments or connecting residential, commercial or industrial developments  
29 to a municipal utility system or systems if the fees are segregated and used  
30 only for capital expansion, system enlargement or debt service of the utility  
31 system or systems.

32           2. Revenues received by any person or persons owning a utility system  
33 in the form of reimbursement or contribution compensation for property and  
34 equipment installed to provide utility access to, on or across the land of an  
35 actual utility consumer if the property and equipment become the property of  
36 the utility. This deduction shall not exceed the value of such property and  
37 equipment.



1           3. Gross proceeds of sales or gross income derived from sales to:

2           (a) Qualifying hospitals 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 solely  
5 to provide health and medical related educational and charitable services.

6           4. The portion of gross proceeds of sales or gross income that is  
7 derived from sales to a qualified environmental technology manufacturer,  
8 producer or processor as defined in section 41-1514.02 of a utility product  
9 and that is used directly in environmental technology manufacturing,  
10 producing or processing. This paragraph shall apply for twenty full  
11 consecutive calendar or fiscal years from the date the first paper  
12 manufacturing machine is placed in service. In the case of a qualified  
13 environmental technology manufacturer, producer or processor who does not  
14 manufacture paper, the time period shall begin with the date the first  
15 manufacturing, processing or production equipment is placed in service.

16           5. The portion of gross proceeds of sales or gross income attributable  
17 to transfers of electricity by any retail electric customer owning a solar  
18 photovoltaic energy generating system to an electric distribution system, if  
19 the electricity transferred is generated by the customer's system.

20           D. For the purposes of this section:

21           1. "Ancillary services" means those services so designated in federal  
22 energy regulatory commission order 888 adopted in 1996 that include the  
23 services necessary to support the transmission of electricity from resources  
24 to loads while maintaining reliable operation of the transmission system  
25 according to good utility practice.

26           2. "Electric distribution service" means distributing electricity to  
27 retail electric customers through the use of electric distribution  
28 facilities.

29           3. "Electric generation service" means providing electricity for sale  
30 to retail electric customers but excluding electric distribution or  
31 transmission services.

32           4. "Electric transmission service" means transmitting electricity to  
33 retail electric customers or to electric distribution facilities so  
34 classified by the federal energy regulatory commission or, to the extent  
35 permitted by law, so classified by the Arizona corporation commission.

36           5. "Other services" includes metering, meter reading services, billing  
37 and collecting services.

1           6. "Retail electric customer" means a person who purchases electricity  
2 for that person's own use, including use in that person's trade or business  
3 and not for resale, redistribution or retransmission.

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

5           42-5075. Prime contracting classification; exemptions;  
6                               definitions

7           A. The prime contracting classification is comprised of the business  
8 of prime contracting and dealership of manufactured buildings. Sales for  
9 resale to another dealership of manufactured buildings are not subject to  
10 tax. Sales for resale do not include sales to a lessor of manufactured  
11 buildings. The sale of a used manufactured building is not taxable under  
12 this chapter. The proceeds from alteration and repairs to a used  
13 manufactured building are taxable under this section.

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

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

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

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

29           4. The gross proceeds of sales or gross income received from a  
30 contract entered into for the construction, alteration, repair, addition,  
31 subtraction, improvement, movement, wrecking or demolition of any building,  
32 highway, road, railroad, excavation, manufactured building or other  
33 structure, project, development or improvement located in a military reuse  
34 zone for providing aviation or aerospace services or for a manufacturer,  
35 assembler or fabricator of aviation or aerospace products within an active  
36 military reuse zone after the zone is initially established or renewed under  
37 section 41-1531. To be eligible to qualify for this deduction, before

1 beginning work under the contract, the prime contractor must have applied for  
2 a letter of qualification from the department of revenue.

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

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

22 (a) Actions to monitor, assess and evaluate such a release or a  
23 suspected release.

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

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

29 (d) Pumping and treatment or in situ treatment of contaminated  
30 groundwater or surface water to reduce the concentration or toxicity of a  
31 contaminant.

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

36 This paragraph does not include asbestos removal or the construction or use  
37 of ancillary structures such as maintenance sheds, offices or storage

1 facilities for unattached equipment, pollution control equipment, facilities  
2 or other control items required or to be used by a person to prevent or  
3 control contamination before it reaches the environment.

4 7. The gross proceeds of sales or gross income that is derived from a  
5 contract entered into for the installation, assembly, repair or maintenance  
6 of machinery, equipment or other tangible personal property that is deducted  
7 from the tax base of the retail classification pursuant to section 42-5061,  
8 subsection B, or that is exempt from use tax pursuant to section 42-5159,  
9 subsection B, and that does not become a permanent attachment to a building,  
10 highway, road, railroad, excavation or manufactured building or other  
11 structure, project, development or improvement. If the ownership of the  
12 realty is separate from the ownership of the machinery, equipment or tangible  
13 personal property, the determination as to permanent attachment shall be made  
14 as if the ownership were the same. The deduction provided in this paragraph  
15 does not include gross proceeds of sales or gross income from that portion of  
16 any contracting activity that consists of the development of, or modification  
17 to, real property in order to facilitate the installation, assembly, repair,  
18 maintenance or removal of machinery, equipment or other tangible personal  
19 property that is deducted from the tax base of the retail classification  
20 pursuant to section 42-5061, subsection B or that is exempt from use tax  
21 pursuant to section 42-5159, subsection B. For the purposes of this  
22 paragraph, "permanent attachment" means at least one of the following:

23 (a) To be incorporated into real property.

24 (b) To become so affixed to real property that it becomes a part of  
25 the real property.

26 (c) To be so attached to real property that removal would cause  
27 substantial damage to the real property from which it is removed.

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

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

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

33 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),  
34 (c), (d), (e), (f), (i), (j) or (l).

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

36 9. The gross proceeds of sales or gross income received from a  
37 contract for the construction of an environmentally controlled facility for

1 the raising of poultry for the production of eggs and the sorting, cooling  
2 and packaging of eggs.

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

12 11. The gross proceeds of sales or gross income that is derived from  
13 the installation, assembly, repair or maintenance of clean rooms that are  
14 deducted from the tax base of the retail classification pursuant to section  
15 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

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

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

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

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

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

35           20. THE GROSS PROCEEDS OF SALE OR GROSS INCOME DERIVED FROM A CONTRACT  
36 ENTERED INTO FOR THE CONSTRUCTION, MODIFICATION, REPAIR, IMPROVEMENT OR  
37 ADDITION TO ALL OR ANY PART OF A COMPUTER DATA CENTER THAT IS CERTIFIED BY

1 THE ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519, INCLUDING THE  
2 INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE OF ANY COMPUTER DATA CENTER  
3 EQUIPMENT THAT IS DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION  
4 PURSUANT TO SECTION 42-5061, SUBSECTION B, PARAGRAPH 22.

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

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

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

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

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

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

30 4. If a prime contractor is entitled to a deduction by complying with  
31 paragraph 1 of this subsection, the department may require the purchaser who  
32 caused the execution of the certificate to establish the accuracy and  
33 completeness of the information required to be contained in the certificate  
34 that would entitle the prime contractor to the deduction. If the purchaser  
35 cannot establish the accuracy and completeness of the information, the  
36 purchaser is liable in an amount equal to any tax, penalty and interest that  
37 the prime contractor would have been required to pay under article 1 of this

1 chapter if the prime contractor had not complied with paragraph 1 of this  
2 subsection. Payment of the amount under this paragraph exempts the purchaser  
3 from liability for any tax imposed under article 4 of this chapter. The  
4 amount shall be treated as a transaction privilege tax to the purchaser and  
5 as tax revenues collected from the prime contractor in order to designate the  
6 distribution base for purposes of section 42-5029.

7 D. Subcontractors or others who perform services in respect to any  
8 improvement, building, highway, road, railroad, excavation, manufactured  
9 building or other structure, project, development or improvement are not  
10 subject to tax if they can demonstrate that the job was within the control of  
11 a prime contractor or contractors or a dealership of manufactured buildings  
12 and that the prime contractor or dealership is liable for the tax on the  
13 gross income, gross proceeds of sales or gross receipts attributable to the  
14 job and from which the subcontractors or others were paid.

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

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

33 G. For the purposes of section 42-5032.01, the department shall  
34 separately account for revenues collected under the prime contracting  
35 classification from any prime contractor engaged in the preparation or  
36 construction of a multipurpose facility, and related infrastructure, that is



1 owned, operated or leased by the tourism and sports authority pursuant to  
2 title 5, chapter 8.

3 H. For the purposes of section 42-5032.02, from and after September  
4 30, 2013, the department shall separately account for revenues reported and  
5 collected under the prime contracting classification from any prime  
6 contractor engaged in the construction of any buildings and associated  
7 improvements that are for the benefit of a manufacturing facility. For the  
8 purposes of this subsection, "associated improvements" and "manufacturing  
9 facility" have the same meanings prescribed in section 42-5032.02.

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

20 J. The gross proceeds of sales or gross income derived from  
21 landscaping activities are subject to tax under this section. Landscaping  
22 includes installing lawns, grading or leveling ground, installing gravel or  
23 boulders, planting trees and other plants, felling trees, removing or  
24 mulching tree stumps, removing other imbedded plants, building or modifying  
25 irrigation berms, repairing sprinkler or watering systems, installing  
26 railroad ties and installing underground sprinkler or watering systems.

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

33 L. Operating a landfill or a solid waste disposal facility is not  
34 subject to taxation under this section, including filling, compacting and  
35 creating vehicle access to and from cell sites within the landfill.  
36 Constructing roads to a landfill or solid waste disposal facility and

1 constructing cells within a landfill or solid waste disposal facility may be  
2 deemed prime contracting under this section.

3 M. The following apply to manufactured buildings:

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

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

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

15 N. The gross proceeds of sales or gross income attributable to a  
16 separate, written design phase services contract or professional services  
17 contract, executed before modification begins, is not subject to tax under  
18 this section, regardless of whether the services are provided sequential to  
19 or concurrent with prime contracting activities that are subject to tax under  
20 this section. This subsection does not include the gross proceeds of sales  
21 or gross income attributable to construction phase services. For the  
22 purposes of this subsection:

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

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

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

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

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

3 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
4 price as set in the contract for modification work. For the purposes of this  
5 item, "guaranteed maximum price" means the amount guaranteed to be the  
6 maximum amount due to a prime contractor for the performance of all  
7 modification work for the project.

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

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

15 (e) Inspection to determine the dates of substantial completion or  
16 final completion.

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

23 (g) Preparation of status reports after modification work has begun  
24 detailing the progress of work performed, including preparation of any of the  
25 following:

26 (i) Master schedule updates.

27 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

4           2. "Design phase services" means services for developing and  
5 completing a design for a project that are not construction phase services,  
6 including the following:

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

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

13          (c) Preparing drawings and specifications for architectural program  
14 documents, schematic design documents, design development documents,  
15 modification work documents or documents that identify the scope of or  
16 materials for the project.

17          (d) Preparing an initial schedule for the project, excluding the  
18 preparation of updates to the master schedule after modification work has  
19 begun.

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

23           (i) Labor, materials, machinery and equipment, tools, water, heat,  
24 utilities, transportation and other facilities and services used in the  
25 execution and completion of modification work, regardless of whether they are  
26 temporary or permanent or whether they are incorporated in the  
27 modifications.

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

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

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

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

37           (vi) Any bond and insurance premiums.

1 (vii) Any applicable taxes.

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

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

9 (g) Preparing the plan and procedures for selection of subcontractors,  
10 including any prequalification of subcontractor candidates.

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

16 0. Notwithstanding subsection P, paragraph 8 of this section, a person  
17 owning real property who enters into a contract for sale of the real  
18 property, who is responsible to the new owner of the property for  
19 modifications made to the property in the period subsequent to the transfer  
20 of title and who receives a consideration for the modifications is considered  
21 a prime contractor solely for purposes of taxing the gross proceeds of sale  
22 or gross income received for the modifications made subsequent to the  
23 transfer of title. The original owner's gross proceeds of sale or gross  
24 income received for the modifications shall be determined according to the  
25 following methodology:

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

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

1 original owner's gross proceeds of sale or gross income received for the  
2 modifications made subsequent to the transfer of title.

3 3. If the original owner is responsible to the new owner for  
4 modifications made to the property in the period subsequent to the transfer  
5 of title and derives any gross proceeds of sale or gross income from the  
6 project subsequent to the transfer of title other than a delayed disbursement  
7 from escrow unrelated to the modifications, it is presumed that the amounts  
8 are received for the modifications made subsequent to the transfer of title  
9 unless the contrary is established by the owner through its books, records  
10 and papers kept in the regular course of business.

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

13 P. For the purposes of this section:

14 1. "Contracting" means engaging in business as a contractor.

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

26 3. "Dealership of manufactured buildings" means a dealer who either:

27 (a) Is licensed pursuant to title 41, chapter 16 and who sells  
28 manufactured buildings to the final consumer.

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

33 4. "Manufactured building" means a manufactured home, mobile home or  
34 factory-built building, as defined in section 41-2142.

35 5. "Modification" means construction, alteration, repair, addition,  
36 subtraction, improvement, movement, wreckage or demolition.

1           6. "Modify" means to construct, alter, repair, add to, subtract from,  
2 improve, move, wreck or demolish.

3           7. "Prime contracting" means engaging in business as a prime  
4 contractor.

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

16           9. "Sale of a used manufactured building" does not include a lease of  
17 a used manufactured building.

18           Sec. 5. Section 42-5159, Arizona Revised Statutes, is amended to read:

19           42-5159. Exemptions

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

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

26           2. Tangible personal property the sale or use of which has already  
27 been subjected to an excise tax at a rate equal to or exceeding the tax  
28 imposed by this article under the laws of another state of the United States.  
29 If the excise tax imposed by the other state is at a rate less than the tax  
30 imposed by this article, the tax imposed by this article is reduced by the  
31 amount of the tax already imposed by the other state.

32           3. Tangible personal property, the storage, use or consumption of  
33 which the constitution or laws of the United States prohibit this state from  
34 taxing or to the extent that the rate or imposition of tax is  
35 unconstitutional under the laws of the United States.

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

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

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

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

23           8. Livestock, poultry, supplies, feed, salts, vitamins and other  
24 additives for use or consumption in the businesses of farming, ranching and  
25 feeding livestock or poultry, not including fertilizers, herbicides and  
26 insecticides. For the purposes of this paragraph, "poultry" includes  
27 ratites.

28           9. Seeds, seedlings, roots, bulbs, cuttings and other propagative  
29 material for use in commercially producing agricultural, horticultural,  
30 viticultural or floricultural crops in this state.

31           10. Tangible personal property not exceeding two hundred dollars in any  
32 one month purchased by an individual at retail outside the continental limits  
33 of the United States for the individual's own personal use and enjoyment.

34           11. Advertising supplements which are intended for sale with newspapers  
35 published in this state and which have already been subjected to an excise  
36 tax under the laws of another state in the United States which equals or  
37 exceeds the tax imposed by this article.



1           12. Materials that are purchased by or for publicly funded libraries  
2 including school district libraries, charter school libraries, community  
3 college libraries, state university libraries or federal, state, county or  
4 municipal libraries for use by the public as follows:

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

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

7           13. Tangible personal property purchased by:

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

11           (b) A hospital operated by this state or a political subdivision of  
12 this state.

13           (c) A licensed nursing care institution or a licensed residential care  
14 institution or a residential care facility operated in conjunction with a  
15 licensed nursing care institution or a licensed kidney dialysis center, which  
16 provides medical services, nursing services or health related services and is  
17 not used or held for profit.

18           (d) A qualifying health care organization, as defined in section  
19 42-5001, if the tangible personal property is used by the organization solely  
20 to provide health and medical related educational and charitable services.

21           (e) A qualifying health care organization as defined in section  
22 42-5001 if the organization is dedicated to providing educational,  
23 therapeutic, rehabilitative and family medical education training for blind,  
24 visually impaired and multihandicapped children from the time of birth to age  
25 twenty-one.

26           (f) A nonprofit charitable organization that has qualified under  
27 section 501(c)(3) of the United States internal revenue code and that engages  
28 in and uses such property exclusively in programs for mentally or physically  
29 handicapped persons if the programs are exclusively for training, job  
30 placement, rehabilitation or testing.

31           (g) A person that is subject to tax under article 1 of this chapter by  
32 reason of being engaged in business classified under the prime contracting  
33 classification under section 42-5075, or a subcontractor working under the  
34 control of a prime contractor, if the tangible personal property is any of  
35 the following:

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

1 (ii) Used in environmental response or remediation activities under  
2 section 42-5075, subsection B, paragraph 6.

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

7 (i) A qualifying community health center as defined in section  
8 42-5001.

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

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

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

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

30 15. Tangible personal property sold by:

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

34 (b) A nonprofit organization that is exempt from taxation under  
35 section 501(c)(3) or 501(c)(6) of the internal revenue code if the  
36 organization is associated with a major league baseball team or a national

1        touring professional golfing association and no part of the organization's  
2        net earnings inures to the benefit of any private shareholder or individual.

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

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

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

15       18. Prescription eyeglasses and contact lenses.

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

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

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

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

26       23. Items purchased with United States department of agriculture food  
27       stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.  
28       958) or food instruments issued under section 17 of the child nutrition act  
29       (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code  
30       section 1786).

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

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

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

6           27. Lottery tickets or shares purchased pursuant to title 5, chapter  
7 5.1, article 1.

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

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

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

15          31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity  
16 purchased by a qualified environmental technology manufacturer, producer or  
17 processor as defined in section 41-1514.02 and directly used or consumed in  
18 the generation or provision of on-site power or energy solely for  
19 environmental technology manufacturing, producing or processing or  
20 environmental protection. This paragraph shall apply for twenty full  
21 consecutive calendar or fiscal years from the date the first paper  
22 manufacturing machine is placed in service. In the case of an environmental  
23 technology manufacturer, producer or processor who does not manufacture  
24 paper, the time period shall begin with the date the first manufacturing,  
25 processing or production equipment is placed in service.

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

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

30           (b) Public educational institutions.

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

34          33. Natural gas or liquefied petroleum gas used to propel a motor  
35 vehicle.

36          34. Machinery, equipment, technology or related supplies that are only  
37 useful to assist a person who is physically disabled as defined in section

1 46-191, has a developmental disability as defined in section 36-551 or has a  
2 head injury as defined in section 41-3201 to be more independent and  
3 functional.

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

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

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

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

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

35 (a) "Overhead materials" means tangible personal property, the gross  
36 proceeds of sales or gross income derived from which would otherwise be  
37 included in the retail classification, and which are used or consumed in the

1 performance of a contract, the cost of which is charged to an overhead  
2 expense account and allocated to various contracts based upon generally  
3 accepted accounting principles and consistent with government contract  
4 accounting standards.

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

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

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

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

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

35 44. Alternative fuel vehicles if the vehicle was manufactured as a  
36 diesel fuel vehicle and converted to operate on alternative fuel and  
37 equipment that is installed in a conventional diesel fuel motor vehicle to

1 convert the vehicle to operate on an alternative fuel, as defined in section  
2 1-215.

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

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

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

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

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

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

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

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

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

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

35 51. Motor vehicle fuel and use fuel to a qualified business under  
36 section 41-1516 for off-road use in harvesting, processing or transporting

1       qualifying forest products removed from qualifying projects as defined in  
2       section 41-1516.

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

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

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

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

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

30              3. Tangible personal property sold to persons engaged in business  
31      classified under the telecommunications classification under section 42-5064  
32      and consisting of central office switching equipment, switchboards, private  
33      branch exchange equipment, microwave radio equipment and carrier equipment  
34      including optical fiber, coaxial cable and other transmission media which are  
35      components of carrier systems.

36              4. Machinery, equipment or transmission lines used directly in  
37      producing or transmitting electrical power, but not including distribution.



1 Transformers and control equipment used at transmission substation sites  
2 constitute equipment used in producing or transmitting electrical power.

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

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

10 7. Aircraft, navigational and communication instruments and other  
11 accessories and related equipment sold to:

12 (a) A person holding a federal certificate of public convenience and  
13 necessity, a supplemental air carrier certificate under federal aviation  
14 regulations (14 Code of Federal Regulations part 121) or a foreign air  
15 carrier permit for air transportation for use as or in conjunction with or  
16 becoming a part of aircraft to be used to transport persons, property or  
17 United States mail in intrastate, interstate or foreign commerce.

18 (b) Any foreign government, or sold to persons who are not residents  
19 of this state and who will not use such property in this state other than in  
20 removing such property from this state.

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

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

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

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

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

1           13. New machinery and equipment consisting of tractors, tractor-drawn  
2           implements, self-powered implements, machinery and equipment necessary for  
3           extracting milk, and machinery and equipment necessary for cooling milk and  
4           livestock, and drip irrigation lines not already exempt under paragraph 6 of  
5           this subsection and that are used for commercial production of agricultural,  
6           horticultural, viticultural and floricultural crops and products in this  
7           state. For the purposes of this paragraph:

8           (a) "New machinery and equipment" means machinery or equipment which  
9           has never been sold at retail except pursuant to leases or rentals which do  
10          not total two years or more.

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

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

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

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

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

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

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

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

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

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

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

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

30 18. Machinery or equipment, including related structural components,  
31 that is employed in connection with manufacturing, processing, fabricating,  
32 job printing, refining, mining, natural gas pipelines, metallurgical  
33 operations, telecommunications, producing or transmitting electricity or  
34 research and development and that is used directly to meet or exceed rules or  
35 regulations adopted by the federal energy regulatory commission, the United  
36 States environmental protection agency, the United States nuclear regulatory  
37 commission, the Arizona department of environmental quality or a political

1 subdivision of this state to prevent, monitor, control or reduce land, water  
2 or air pollution.

3 19. Machinery and equipment that are used in the commercial production  
4 of livestock, livestock products or agricultural, horticultural, viticultural  
5 or floricultural crops or products in this state and that are used directly  
6 and primarily to prevent, monitor, control or reduce air, water or land  
7 pollution.

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

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

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

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

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

28 22. COMPUTER DATA CENTER EQUIPMENT AS DEFINED IN SECTION 41-1519 THAT  
29 IS PURCHASED FOR USE IN A COMPUTER DATA CENTER THAT IS CERTIFIED BY THE  
30 ARIZONA COMMERCE AUTHORITY UNDER SECTION 41-1519 BY OR ON BEHALF OF THE  
31 OWNER, OPERATOR OR QUALIFIED COLOCATION TENANT OF THE COMPUTER DATA CENTER.

32 C. The exemptions provided by subsection B of this section do not  
33 include:

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

1           2. Janitorial equipment and hand tools.

2           3. Office equipment, furniture and supplies.

3           4. Tangible personal property used in selling or distributing  
4 activities, other than the telecommunications transmissions described in  
5 subsection B, paragraph ~~16~~ 15 of this section.

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

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

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

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

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

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

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

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

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

35           2. Reimbursement or contribution compensation to any person or persons  
36 owning a utility system for property and equipment installed to provide  
37 utility access to, on or across the land of an actual utility consumer if the

1 property and equipment become the property of the utility. This deduction  
2 shall not exceed the value of such property and equipment.

3 G. For the purposes of subsection B of this section:

4 1. "Aircraft" includes:

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

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

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

14 H. For the purposes of subsection D of this section, "ancillary  
15 services", "electric distribution service", "electric generation service",  
16 "electric transmission service" and "other services" have the same meanings  
17 prescribed in section 42-5063."

18 Amend title to conform

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