

REFERENCE TITLE: TPT; digital goods and services

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

## **SB 1460**

Introduced by  
Senator Ugenti-Rita

### AN ACT

AMENDING SECTIONS 42-5002, 42-5010 AND 42-5040, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 104, SECTION 15 AND CHAPTER 249, SECTION 1; AMENDING SECTION 42-5061, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2018, CHAPTER 104, SECTION 15, CHAPTER 249, SECTION 1 AND CHAPTER 263, SECTION 1; AMENDING SECTIONS 42-5071 AND 42-5075, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5077; AMENDING SECTION 42-5151, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5155.01; AMENDING SECTION 42-5167, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-6017; RELATING TO STATE AND LOCAL TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5002, Arizona Revised Statutes, is amended to  
3 read:

4 42-5002. Exclusions from gross income, receipts or proceeds

5 A. For the ~~purpose~~ PURPOSES of this article, the total amount of  
6 gross income, gross receipts or gross proceeds of sales ~~shall be~~ IS deemed  
7 to be the amount received, exclusive of:

8 1. The taxes imposed by this chapter and chapter 6, article 3 of  
9 this title, sales or transaction privilege taxes imposed by municipalities  
10 in this state and sales or transaction privilege taxes imposed in this  
11 state by Indian tribes, if the Indian tribal tax is imposed with respect  
12 to sales by non-Indian or nonaffiliated Indian vendors to nonmembers of  
13 the tribe. A person who imposes an added charge ~~to cover~~ THAT COVERS the  
14 tax levied by this article or ~~which~~ THAT is identified as being imposed to  
15 cover transaction privilege tax shall not remit less than the amount so  
16 collected to the department.

17 2. Freight costs billed to and collected from a purchaser by a  
18 retailer for tangible personal property ~~which~~ THAT, ~~upon~~ ON the order of  
19 the retailer, is shipped directly from a manufacturer or wholesaler to the  
20 purchaser.

21 B. For the purposes of this article, the total amount of gross  
22 income, gross receipts or gross proceeds of sales for nuclear fuel ~~shall~~  
23 ~~be~~ IS deemed to be the value of the purchase price of uranium oxide used  
24 in producing the fuel. The tax imposed by this article may be imposed  
25 only once for any one quantity or batch of nuclear fuel regardless of the  
26 number of transactions or financing arrangements ~~which~~ THAT may occur with  
27 respect to that nuclear fuel.

28 C. FOR THE PURPOSES OF ARTICLES 2 AND 4 OF THIS CHAPTER AND CHAPTER  
29 6 OF THIS TITLE:

30 1. THE GROSS INCOME, GROSS RECEIPTS, GROSS PROCEEDS, PURCHASE PRICE  
31 OR SALES PRICE FROM SELLING, LEASING, LICENSING, PURCHASING OR USING  
32 DIGITAL SERVICES, AS DEFINED IN SECTION 42-5077, IS EXCLUDED FROM TAX.  
33 THE FOLLOWING DO NOT CHANGE THE CHARACTERIZATION OF ANY DIGITAL SERVICE AS  
34 BEING EXCLUDED FROM TAX:

35 (a) THE ABILITY TO RECEIVE, VIEW, SAVE, LISTEN TO OR PRINT THE  
36 OUTPUT OF A DIGITAL SERVICE.

37 (b) THE TRANSFER OF ANY TRANSITORY OR TEMPORARY DOWNLOADED FILES  
38 SUCH AS CACHE FILES OR USER GUIDES.

39 (c) THE TRANSFER OF ANY TRANSITORY OR AUXILIARY APPLICATION,  
40 INCLUDING APPLETS, COOKIES OR PLUG-INS.

41 2. SPECIFIED DIGITAL GOODS AND PREWRITTEN COMPUTER SOFTWARE MAY BE  
42 TAXED ONLY AS PROVIDED BY SECTIONS 42-5077, 42-5155.01 AND 42-6017.

43 3. PARAGRAPH 1 OF THIS SUBSECTION DOES NOT APPLY TO SERVICES  
44 PROVIDED BY A PERSON THAT IS SUBJECT TO TAX UNDER THE ONLINE LODGING  
45 MARKETPLACE CLASSIFICATION PURSUANT TO SECTIONS 42-5076 AND 42-6009.

1           Sec. 2. Section 42-5010, Arizona Revised Statutes, is amended to  
2 read:

3           42-5010. Rates; distribution base

4           A. The tax imposed by this article is levied and shall be collected  
5 at the following rates:

6           1. Five percent of the tax base as computed for the business of  
7 every person engaging or continuing in this state in the following  
8 business classifications described in article 2 of this chapter:

9           (a) Transporting classification.

10           (b) Utilities classification.

11           (c) Telecommunications classification.

12           (d) Pipeline classification.

13           (e) Private car line classification.

14           (f) Publication classification.

15           (g) Job printing classification.

16           (h) Prime contracting classification.

17           (i) Amusement classification.

18           (j) Restaurant classification.

19           (k) Personal property rental classification.

20           (l) Retail classification and amounts equal to retail transaction  
21 privilege tax due pursuant to section 42-5008.01.

22           (m) DIGITAL GOODS CLASSIFICATION.

23           2. Five and one-half percent of the tax base as computed for the  
24 business of every person engaging or continuing in this state in:

25           (a) The transient lodging classification described in section  
26 42-5070.

27           (b) The online lodging marketplace classification described in  
28 section 42-5076 who has entered into an agreement with the department to  
29 register for, or has otherwise obtained from the department, a license to  
30 collect tax pursuant to section 42-5005, subsection L.

31           3. Three and one-eighth percent of the tax base as computed for the  
32 business of every person engaging or continuing in this state in the  
33 mining classification described in section 42-5072.

34           4. Zero percent of the tax base as computed for the business of  
35 every person engaging or continuing in this state in the commercial lease  
36 classification described in section 42-5069.

37           B. Except as provided by subsection J of this section, twenty  
38 percent of the tax revenues collected at the rate prescribed by subsection  
39 A, paragraph 1 of this section from persons on account of engaging in  
40 business under the business classifications listed in subsection A,  
41 paragraph 1, subdivisions (a) through (h) of this section is designated as  
42 distribution base for purposes of section 42-5029.

43           C. Forty percent of the tax revenues collected at the rate  
44 prescribed by subsection A, paragraph 1 of this section from persons on  
45 account of engaging in business under the business classifications listed

1 in subsection A, paragraph 1, subdivisions (i) through (l) of this section  
2 is designated as distribution base for purposes of section 42-5029.

3 D. Thirty-two percent of the tax revenues collected from persons on  
4 account of engaging in business under the business classification listed  
5 in subsection A, paragraph 3 of this section is designated as distribution  
6 base for purposes of section 42-5029.

7 E. Fifty-three and one-third percent of the tax revenues collected  
8 from persons on account of engaging in business under the business  
9 classification listed in subsection A, paragraph 4 of this section is  
10 designated as distribution base for purposes of section 42-5029.

11 F. Fifty percent of the tax revenues collected from persons on  
12 account of engaging in business under the business classification listed  
13 in subsection A, paragraph 2 of this section is designated as distribution  
14 base for purposes of section 42-5029.

15 G. In addition to the rates prescribed by subsection A of this  
16 section, if approved by the qualified electors voting at a statewide  
17 general election, an additional rate increment is imposed and shall be  
18 collected through June 30, 2021. The taxpayer shall pay taxes pursuant to  
19 this subsection at the same time and in the same manner as under  
20 subsection A of this section. The department shall separately account for  
21 the revenues collected with respect to the rates imposed pursuant to this  
22 subsection and the state treasurer shall distribute all of those revenues  
23 in the manner prescribed by section 42-5029, subsection E. The rates  
24 imposed pursuant to this subsection shall not be considered local revenues  
25 for purposes of article IX, section 21, Constitution of Arizona. The  
26 additional tax rate increment is levied at the rate of six-tenths of one  
27 per cent of the tax base of every person engaging or continuing in this  
28 state in a business classification listed in subsection A, paragraph 1 of  
29 this section.

30 H. Any increase in the rate of tax that is imposed by this chapter  
31 and that is enacted by the legislature or by a vote of the people does not  
32 apply with respect to contracts entered into by prime contractors or  
33 pursuant to written bids made by prime contractors on or before the  
34 effective date of the legislation or the date of the election enacting the  
35 increase. To qualify for the exemption under this subsection, the prime  
36 contractor must maintain sufficient documentation, in a manner and form  
37 prescribed by the department, to verify the date of the contract or  
38 written bid.

39 I. For taxpayers taxable under this chapter other than prime  
40 contractors taxable pursuant to section 42-5075:

41 1. Any increase in the rate of tax that is levied by this article  
42 or article 2 of this chapter enacted by the legislature or by a vote of  
43 the people does not apply for a period of one hundred twenty days from the  
44 date of the tax rate increase to the gross proceeds of sales or gross  
45 income from the business of the taxpayer with respect to written contracts

1 entered into before the effective date of the tax rate increase unless the  
2 taxpayer has entered into a contract that contains a provision that  
3 entitles the taxpayer to recover from the purchaser the amount of the  
4 additional tax levied.

5 2. The provisions of this subsection apply without regard to the  
6 accounting method used by the taxpayer to report the taxes imposed under  
7 article 2 of this chapter.

8 3. The provisions of this subsection shall not be considered in  
9 determining the rate of tax imposed under chapter 6, article 3 of this  
10 title.

11 J. Zero percent of the tax revenues that are collected at the rate  
12 prescribed by subsection A, paragraph 1 of this section from persons on  
13 account of engaging in business under the business classification listed  
14 in subsection A, paragraph 1, subdivision (h) of this section, and that  
15 are subject to any distribution required by section 42-5032.02, is  
16 designated as distribution base for the purposes of section 42-5029 until  
17 the total amount subject to distribution pursuant to section 42-5032.02  
18 has reached the maximum amount prescribed by section 42-5032.02,  
19 subsection C. Thereafter, twenty percent of the remaining tax revenues is  
20 designated as distribution base for the purposes of section 42-5029 as  
21 provided by subsection B of this section.

22 Sec. 3. Section 42-5040, Arizona Revised Statutes, is amended to  
23 read:

24 42-5040. Sourcing of certain transactions involving tangible  
25 personal property, prewritten computer software  
26 and specified digital goods; definitions

27 A. Except as provided in section 42-5075, retail sales of tangible  
28 personal property shall be sourced as follows:

29 1. To the seller's business location if the seller receives the  
30 order at a business location in this state.

31 2. Except as provided in section 42-5008.01, to the purchaser's  
32 location in this state if the seller receives the order at a business  
33 location outside this state.

34 B. For the purposes of this section, an order is received when all  
35 of the information necessary to accept the order has been received by or  
36 on behalf of the seller, regardless of where the order is accepted or  
37 approved. The place of business or residence of the purchaser does not  
38 determine where the order is received.

39 C. The gross receipts from leasing or renting tangible personal  
40 property shall be sourced as follows:

41 1. To the lessor's business location if the lessor has a business  
42 location in this state.

43 2. To the lessee's address if the lessor does not have a business  
44 location in this state. The gross receipts are taxable when the property

1 is shipped, delivered or otherwise brought into this state for use in this  
2 state.

3 D. PREWRITTEN COMPUTER SOFTWARE AND SPECIFIED DIGITAL GOODS SHALL  
4 BE SOURCED AS FOLLOWS:

5 1. TO THE SELLER'S BUSINESS LOCATION IF THE SELLER RECEIVES THE  
6 ORDER AT A BUSINESS LOCATION IN THIS STATE AND THE ITEMS ARE TO BE USED IN  
7 THIS STATE.

8 2. TO THE PURCHASER'S LOCATION IN THIS STATE IF THE SELLER RECEIVES  
9 THE ORDER AT A BUSINESS LOCATION OUTSIDE THIS STATE BUT THE ITEMS ARE TO  
10 BE USED IN THIS STATE. IN THE ABSENCE OF A DELIVERY ADDRESS, THE  
11 PURCHASER'S BILLING ADDRESS MAY BE USED FOR THE PURPOSES OF THIS  
12 PARAGRAPH.

13 ~~D.~~ E. For the purposes of this section:

14 1. "Lessee's address" means the residential address of an  
15 individual lessee and the primary business address of any other lessee.

16 2. "Lessor's business location" means the business address that  
17 appears on the lessor's transaction privilege tax license.

18 Sec. 4. Section 42-5061, Arizona Revised Statutes, as amended by  
19 Laws 2018, chapter 104, section 15 and chapter 249, section 1, is amended  
20 to read:

21 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

44 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  
3 or veterinarian profession who is licensed by law to administer such  
4 substances.
- 5           9. Prosthetic appliances as defined in section 23-501 and as  
6 prescribed or recommended by a health professional who is licensed  
7 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 8           10. Insulin, insulin syringes and glucose test strips.
- 9           11. Prescription eyeglasses or contact lenses.
- 10          12. Hearing aids as defined in section 36-1901.
- 11          13. Durable medical equipment that has a centers for medicare and  
12 medicaid services common procedure code, is designated reimbursable by  
13 medicare, is prescribed by a person who is licensed under title 32,  
14 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is  
15 primarily and customarily used to serve a medical purpose, is generally  
16 not useful to a person in the absence of illness or injury and is  
17 appropriate for use in the home.
- 18          14. Sales of motor vehicles to nonresidents of this state for use  
19 outside this state if the motor vehicle dealer ships or delivers the motor  
20 vehicle to a destination out of this state.
- 21          15. Food, as provided in and subject to the conditions of article 3  
22 of this chapter and section 42-5074.
- 23          16. Items purchased with United States department of agriculture  
24 coupons issued under the supplemental nutrition assistance program  
25 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
26 7 United States Code sections 2011 through 2036b) by the United States  
27 department of agriculture food and nutrition service or food instruments  
28 issued under section 17 of the child nutrition act (P.L. 95-627; 92  
29 Stat. 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
30 section 1786).
- 31          17. Textbooks by any bookstore that are required by any state  
32 university or community college.
- 33          18. Food and drink to a person that is engaged in a business that  
34 is classified under the restaurant classification and that provides such  
35 food and drink without monetary charge to its employees for their own  
36 consumption on the premises during the employees' hours of employment.
- 37          19. Articles of food, drink or condiment and accessory tangible  
38 personal property to a school district or charter school if such articles  
39 and accessory tangible personal property are to be prepared and served to  
40 persons for consumption on the premises of a public school within the  
41 district or on the premises of the charter school during school hours.
- 42          20. Lottery tickets or shares pursuant to title 5, chapter 5.1,  
43 article 1.
- 44          21. The sale of cash equivalents and the sale of precious metal  
45 bullion and monetized bullion to the ultimate consumer, but the sale of

1 coins or other forms of money for manufacture into jewelry or works of art  
2 is subject to the tax and the gross proceeds of sales or gross income  
3 derived from the redemption of any cash equivalent by the holder as a  
4 means of payment for goods or services that are taxable under this article  
5 is subject to the tax. For the purposes of this paragraph:

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

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

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

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

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

28 22. Motor vehicle fuel and use fuel that are subject to a tax  
29 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
30 holder of a valid single trip use fuel tax permit issued under section  
31 28-5739, sales of aviation fuel that are subject to the tax imposed under  
32 section 28-8344 and sales of jet fuel that are subject to the tax imposed  
33 under article 8 of this chapter.

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

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

41 25. Tangible personal property sold to:

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

43 (b) A qualifying health care organization as defined in section  
44 42-5001 if the tangible personal property is used by the organization



1 solely to provide health and medical related educational and charitable  
2 services.

3 (c) A qualifying health care organization as defined in section  
4 42-5001 if the organization is dedicated to providing educational,  
5 therapeutic, rehabilitative and family medical education training for  
6 blind and visually impaired children and children with multiple  
7 disabilities from the time of birth to age twenty-one.

8 (d) A qualifying community health center as defined in section  
9 42-5001.

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

13 (f) For taxable periods beginning from and after June 30, 2001, a  
14 nonprofit charitable organization that has qualified under section  
15 501(c)(3) of the internal revenue code and that provides residential  
16 apartment housing for low income persons over sixty-two years of age in a  
17 facility that qualifies for a federal housing subsidy, if the tangible  
18 personal property is used by the organization solely to provide  
19 residential apartment housing for low income persons over sixty-two years  
20 of age in a facility that qualifies for a federal housing subsidy.

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

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

27 26. Magazines or other periodicals or other publications by this  
28 state to encourage tourist travel.

29 27. Tangible personal property sold to:

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

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

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

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

42 (b) A person that is not subject to tax under section 42-5075 and  
43 that has been provided a copy of a certificate under section 42-5009,  
44 subsection L, if the property so sold is incorporated or fabricated by the

1 person into the real property, structure, project, development or  
2 improvement described in the certificate.

3 28. The sale of a motor vehicle to:

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

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

11 29. Tangible personal property purchased in this state by a  
12 nonprofit charitable organization that has qualified under section  
13 501(c)(3) of the United States internal revenue code and that engages in  
14 and uses such property exclusively in programs for persons with mental or  
15 physical disabilities if the programs are exclusively for training, job  
16 placement, rehabilitation or testing.

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

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

35 32. Sales of tangible personal property by a nonprofit organization  
36 that is exempt from taxation under section 501(c)(3), 501(c)(4),  
37 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the  
38 organization sponsors or operates a rodeo featuring primarily farm and  
39 ranch animals and no part of the organization's net earnings inures to the  
40 benefit of any private shareholder or individual.

41 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
42 propagative material to persons who use those items to commercially  
43 produce agricultural, horticultural, viticultural or floricultural crops  
44 in this state.

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

6           35. Sales of natural gas or liquefied petroleum gas used to propel  
7 a motor vehicle.

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

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

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

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

41           (a) "Personal property liquidation transaction" means a sale of  
42 personal property made by a personal property liquidator acting solely on  
43 behalf of the owner of the personal property sold at the dwelling of the  
44 owner or on the death of any owner, on behalf of the surviving spouse, if

1 any, any devisee or heir or the personal representative of the estate of  
2 the deceased, if one has been appointed.

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

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

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

14 42. Sales of:

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

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

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

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

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

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

1           47. Sales of materials that are purchased by or for publicly funded  
2 libraries including school district libraries, charter school libraries,  
3 community college libraries, state university libraries or federal, state,  
4 county or 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           48. Tangible personal property sold to a commercial airline and  
8 consisting of food, beverages and condiments and accessories used for  
9 serving the food and beverages, if those items are to be provided without  
10 additional charge to passengers for consumption in flight. For the  
11 purposes of this paragraph, "commercial airline" means a person holding a  
12 federal certificate of public convenience and necessity or foreign air  
13 carrier permit for air transportation to transport persons, property or  
14 United States mail in intrastate, interstate or foreign commerce.

15           49. Sales of alternative fuel vehicles if the vehicle was  
16 manufactured as a diesel fuel vehicle and converted to operate on  
17 alternative fuel and equipment that is installed in a conventional diesel  
18 fuel motor vehicle to convert the vehicle to operate on an alternative  
19 fuel, as defined in section 1-215.

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

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

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

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

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

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

40           ~~54.~~ 53. Sales of motor vehicle fuel and use fuel to a qualified  
41 business under section 41-1516 for off-road use in harvesting, processing  
42 or transporting qualifying forest products removed from qualifying  
43 projects as defined in section 41-1516.

44           ~~55.~~ 54. Sales of repair parts installed in equipment used directly  
45 by a qualified business under section 41-1516 in harvesting, processing or

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

3 ~~56.~~ 55. Sales or other transfers of renewable energy credits or  
4 any other unit created to track energy derived from renewable energy  
5 resources. For the purposes of this paragraph, "renewable energy credit"  
6 means a unit created administratively by the corporation commission or  
7 governing body of a public power utility to track kilowatt hours of  
8 electricity derived from a renewable energy resource or the kilowatt hour  
9 equivalent of conventional energy resources displaced by distributed  
10 renewable energy resources.

11 ~~57.~~ 56. Computer data center equipment sold to the owner, operator  
12 or qualified colocation tenant of a computer data center that is certified  
13 by the Arizona commerce authority under section 41-1519 or an authorized  
14 agent of the owner, operator or qualified colocation tenant during the  
15 qualification period for use in the qualified computer data center. For  
16 the purposes of this paragraph, "computer data center", "computer data  
17 center equipment", "qualification period" and "qualified colocation  
18 tenant" have the same meanings prescribed in section 41-1519.

19 ~~58.~~ 57. Orthodontic devices dispensed by a dental professional who  
20 is licensed under title 32, chapter 11 to a patient as part of the  
21 practice of dentistry.

22 ~~59.~~ 58. Sales of tangible personal property incorporated or  
23 fabricated into a project described in section 42-5075, subsection 0, that  
24 is located within the exterior boundaries of an Indian reservation for  
25 which the owner, as defined in section 42-5075, of the project is an  
26 Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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

39 ~~60.~~ 59. Sales of works of fine art, as defined in section 44-1771,  
40 at an art auction or gallery in this state to nonresidents of this state  
41 for use outside this state if the vendor ships or delivers the work of  
42 fine art to a destination outside this state.

43 B. In addition to the deductions from the tax base prescribed by  
44 subsection A of this section, the gross proceeds of sales or gross income

1 derived from sales of the following categories of tangible personal  
2 property shall be deducted from the tax base:

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

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

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

24 4. Machinery, equipment or transmission lines used directly in  
25 producing or transmitting electrical power, but not including  
26 distribution. Transformers and control equipment used at transmission  
27 substation sites constitute equipment used in producing or transmitting  
28 electrical power.

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

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

37 7. Aircraft, navigational and communication instruments and other  
38 accessories and related equipment sold to:

39 (a) A person:

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

44 (ii) That is certificated or licensed under federal aviation  
45 administration regulations (14 Code of Federal Regulations part 121 or

1 135) as a scheduled or unscheduled carrier of persons for hire for use as  
2 or in conjunction with or becoming part of an aircraft to be used to  
3 transport persons for hire in intrastate, interstate or foreign commerce.

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

8 (iv) Operating an aircraft to transport persons in any manner for  
9 compensation or hire, or for use in a fractional ownership program that  
10 meets the requirements of federal aviation administration regulations (14  
11 Code of Federal Regulations part 91, subpart K), including as an air  
12 carrier, a foreign air carrier or a commercial operator or under a  
13 restricted category, within the meaning of 14 Code of Federal Regulations,  
14 regardless of whether the operation or aircraft is regulated or certified  
15 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
16 of Federal Regulations.

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

22 (b) Any foreign government.

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

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

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

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

39 11. Buses or other urban mass transit vehicles that are used  
40 directly to transport persons or property for hire or pursuant to a  
41 governmentally adopted and controlled urban mass transportation program  
42 and that are sold to bus companies holding a federal certificate of  
43 convenience and necessity or operated by any city, town or other  
44 governmental entity or by any person contracting with such governmental



1 entity as part of a governmentally adopted and controlled program to  
2 provide urban mass transportation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 19. Machinery and equipment that are sold to a person engaged in  
39 the commercial production of livestock, livestock products or  
40 agricultural, horticultural, viticultural or floricultural crops or  
41 products in this state, including a person representing or working on  
42 behalf of such a person in a manner described in section 42-5075,  
43 subsection 0, if the machinery and equipment are used directly and  
44 primarily to prevent, monitor, control or reduce air, water or land  
45 pollution.

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

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

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

13           (c) Any machinery or equipment purchased after the television  
14 station has ceased analog broadcasting, or purchased after November 1,  
15 2009, whichever occurs first.

16           21. Qualifying equipment that is purchased from and after June 30,  
17 2004 through June 30, 2024 by a qualified business under section 41-1516  
18 for harvesting or processing qualifying forest products removed from  
19 qualifying projects as defined in section 41-1516. To qualify for this  
20 deduction, the qualified business at the time of purchase must present its  
21 certification approved by the department.

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

24           1. Expendable materials. For the purposes of this paragraph,  
25 expendable materials do not include any of the categories of tangible  
26 personal property specified in subsection B of this section regardless of  
27 the cost or useful life of that property.

28           2. Janitorial equipment and hand tools.

29           3. Office equipment, furniture and supplies.

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

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

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

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

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

42           D. In addition to the deductions from the tax base prescribed by  
43 subsection A of this section, there shall be deducted from the tax base  
44 the gross proceeds of sales or gross income derived from sales of  
45 machinery, equipment, materials and other tangible personal property used

1 directly and predominantly to construct a qualified environmental  
2 technology manufacturing, producing or processing facility as described in  
3 section 41-1514.02. This subsection applies for ten full consecutive  
4 calendar or fiscal years after the start of initial construction.

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

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

15 G. If a person is engaged in the business of selling tangible  
16 personal property at both wholesale and retail, the tax under this section  
17 applies only to the gross proceeds of the sales made other than at  
18 wholesale if the person's books are kept so as to show separately the  
19 gross proceeds of sales of each class, and if the books are not so kept,  
20 the tax under this section applies to the gross proceeds of every sale so  
21 made.

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

29 1. Agricultural producers who are owners, proprietors or tenants of  
30 agricultural lands, orchards, farms or gardens where agricultural products  
31 are grown, raised or prepared for market and who are marketing their own  
32 agricultural products.

33 2. Businesses classified under the:

34 (a) Transporting classification.

35 (b) Utilities classification.

36 (c) Telecommunications classification.

37 (d) Pipeline classification.

38 (e) Private car line classification.

39 (f) Publication classification.

40 (g) Job printing classification.

41 (h) Prime contracting classification.

42 (i) Restaurant classification.

43 I. The gross proceeds of sales or gross income derived from the  
44 following shall be deducted from the tax base for the retail  
45 classification:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 V. For the purposes of this section:

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

27 2. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

29          Sec. 5. Section 42-5061, Arizona Revised Statutes, as amended by  
30 Laws 2018, chapter 104, section 15, chapter 249, section 1 and chapter  
31 263, section 1, is amended to read:

32           42-5061. Retail classification; definitions

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

38           1. Professional or personal service occupations or businesses that  
39 involve sales or transfers of tangible personal property only as  
40 inconsequential elements.

41           2. Services rendered in addition to selling tangible personal  
42 property at retail.

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



- 1           4. Sales of tangible personal property by any nonprofit  
2 organization organized and operated exclusively for charitable purposes  
3 and recognized by the United States internal revenue service under section  
4 501(c)(3) of the internal revenue code.
- 5           5. Sales to persons engaged in business classified under the  
6 restaurant classification of articles used by human beings for food, drink  
7 or condiment, whether simple, mixed or compounded.
- 8           6. Business activity that is properly included in any other  
9 business classification that is taxable under this article.
- 10          7. The sale of stocks and bonds.
- 11          8. Drugs and medical oxygen, including delivery hose, mask or tent,  
12 regulator and tank, on the prescription of a member of the medical, dental  
13 or veterinarian profession who is licensed by law to administer such  
14 substances.
- 15          9. Prosthetic appliances as defined in section 23-501 and as  
16 prescribed or recommended by a health professional who is licensed  
17 pursuant to title 32, chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 18          10. Insulin, insulin syringes and glucose test strips.
- 19          11. Prescription eyeglasses or contact lenses.
- 20          12. Hearing aids as defined in section 36-1901.
- 21          13. Durable medical equipment that has a centers for medicare and  
22 medicaid services common procedure code, is designated reimbursable by  
23 medicare, is prescribed by a person who is licensed under title 32,  
24 chapter 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is  
25 primarily and customarily used to serve a medical purpose, is generally  
26 not useful to a person in the absence of illness or injury and is  
27 appropriate for use in the home.
- 28          14. Sales of motor vehicles to nonresidents of this state for use  
29 outside this state if the motor vehicle dealer ships or delivers the motor  
30 vehicle to a destination out of this state.
- 31          15. Food, as provided in and subject to the conditions of article 3  
32 of this chapter and section 42-5074.
- 33          16. Items purchased with United States department of agriculture  
34 coupons issued under the supplemental nutrition assistance program  
35 pursuant to the food and nutrition act of 2008 (P.L. 88-525; 78 Stat. 703;  
36 7 United States Code sections 2011 through 2036b) by the United States  
37 department of agriculture food and nutrition service or food instruments  
38 issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat.  
39 3603; P.L. 99-661, section 4302; P.L. 111-296; 42 United States Code  
40 section 1786).
- 41          17. Textbooks by any bookstore that are required by any state  
42 university or community college.
- 43          18. Food and drink to a person that is engaged in a business that  
44 is classified under the restaurant classification and that provides such

1 food and drink without monetary charge to its employees for their own  
2 consumption on the premises during the employees' hours of employment.

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

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

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

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

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

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

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

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

39 22. Motor vehicle fuel and use fuel that are subject to a tax  
40 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
41 holder of a valid single trip use fuel tax permit issued under section  
42 28-5739, sales of aviation fuel that are subject to the tax imposed under  
43 section 28-8344 and sales of jet fuel that are subject to the tax imposed  
44 under article 8 of this chapter.

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

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

8           25. Tangible personal property sold to:

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

10           (b) A qualifying health care organization as defined in section  
11 42-5001 if the tangible personal property is used by the organization  
12 solely to provide health and medical related educational and charitable  
13 services.

14           (c) A qualifying health care organization as defined in section  
15 42-5001 if the organization is dedicated to providing educational,  
16 therapeutic, rehabilitative and family medical education training for  
17 blind and visually impaired children and children with multiple  
18 disabilities from the time of birth to age twenty-one.

19           (d) A qualifying community health center as defined in section  
20 42-5001.

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

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

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

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

38           26. Magazines or other periodicals or other publications by this  
39 state to encourage tourist travel.

40           27. Tangible personal property sold to:

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

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

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

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

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

13 28. The sale of a motor vehicle to:

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

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

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

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

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

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

7           33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
8 propagative material to persons who use those items to commercially  
9 produce agricultural, horticultural, viticultural or floricultural crops  
10 in this state.

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

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

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

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

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

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

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

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

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

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

24           42. Sales of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ~~54.~~ 53. Sales of motor vehicle fuel and use fuel to a qualified  
5 business under section 41-1516 for off-road use in harvesting, processing  
6 or transporting qualifying forest products removed from qualifying  
7 projects as defined in section 41-1516.

8 ~~55.~~ 54. Sales of repair parts installed in equipment used directly  
9 by a qualified business under section 41-1516 in harvesting, processing or  
10 transporting qualifying forest products removed from qualifying projects  
11 as defined in section 41-1516.

12 ~~56.~~ 55. Sales or other transfers of renewable energy credits or  
13 any other unit created to track energy derived from renewable energy  
14 resources. For the purposes of this paragraph, "renewable energy credit"  
15 means a unit created administratively by the corporation commission or  
16 governing body of a public power utility to track kilowatt hours of  
17 electricity derived from a renewable energy resource or the kilowatt hour  
18 equivalent of conventional energy resources displaced by distributed  
19 renewable energy resources.

20 ~~57.~~ 56. Computer data center equipment sold to the owner, operator  
21 or qualified colocation tenant of a computer data center that is certified  
22 by the Arizona commerce authority under section 41-1519 or an authorized  
23 agent of the owner, operator or qualified colocation tenant during the  
24 qualification period for use in the qualified computer data center. For  
25 the purposes of this paragraph, "computer data center", "computer data  
26 center equipment", "qualification period" and "qualified colocation  
27 tenant" have the same meanings prescribed in section 41-1519.

28 ~~58.~~ 57. Orthodontic devices dispensed by a dental professional who  
29 is licensed under title 32, chapter 11 to a patient as part of the  
30 practice of dentistry.

31 ~~59.~~ 58. Sales of tangible personal property incorporated or  
32 fabricated into a project described in section 42-5075, subsection 0, that  
33 is located within the exterior boundaries of an Indian reservation for  
34 which the owner, as defined in section 42-5075, of the project is an  
35 Indian tribe or an affiliated Indian. For the purposes of this paragraph:

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

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

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



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

3 ~~60.~~ 59. Sales of works of fine art, as defined in section 44-1771,  
4 at an art auction or gallery in this state to nonresidents of this state  
5 for use outside this state if the vendor ships or delivers the work of  
6 fine art to a destination outside this state.

7 ~~61.~~ 60. Sales of coal.

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

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

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

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

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

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

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

1           7. Aircraft, navigational and communication instruments and other  
2 accessories and related equipment sold to:

3           (a) A person:

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

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

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

17           (iv) Operating an aircraft to transport persons in any manner for  
18 compensation or hire, or for use in a fractional ownership program that  
19 meets the requirements of federal aviation administration regulations  
20 (14 Code of Federal Regulations part 91, subpart K), including as an air  
21 carrier, a foreign air carrier or a commercial operator or under a  
22 restricted category, within the meaning of 14 Code of Federal Regulations,  
23 regardless of whether the operation or aircraft is regulated or certified  
24 under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code  
25 of Federal Regulations.

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

31           (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 18. Machinery or equipment, including related structural  
38 components, that is employed in connection with manufacturing, processing,  
39 fabricating, job printing, refining, mining, natural gas pipelines,  
40 metallurgical operations, telecommunications, producing or transmitting  
41 electricity or research and development and that is used directly to meet  
42 or exceed rules or regulations adopted by the federal energy regulatory  
43 commission, the United States environmental protection agency, the United  
44 States nuclear regulatory commission, the Arizona department of

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

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

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

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

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

23 (c) Any machinery or equipment purchased after the television  
24 station has ceased analog broadcasting, or purchased after November 1,  
25 2009, whichever occurs first.

26 21. Qualifying equipment that is purchased from and after June 30,  
27 2004 through June 30, 2024 by a qualified business under section 41-1516  
28 for harvesting or processing qualifying forest products removed from  
29 qualifying projects as defined in section 41-1516. To qualify for this  
30 deduction, the qualified business at the time of purchase must present its  
31 certification approved by the department.

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

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  
37 the cost or useful life of that property.

38 2. Janitorial equipment and hand tools.

39 3. Office equipment, furniture and supplies.

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

43 5. Motor vehicles required to be licensed by this state, except  
44 buses or other urban mass transit vehicles specifically exempted pursuant

1 to subsection B, paragraph 11 of this section, without regard to the use  
2 of such motor vehicles.

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

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

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

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

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

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

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

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

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

44 2. Businesses classified under the:

45 (a) Transporting classification.

- 1 (b) Utilities classification.
- 2 (c) Telecommunications classification.
- 3 (d) Pipeline classification.
- 4 (e) Private car line classification.
- 5 (f) Publication classification.
- 6 (g) Job printing classification.
- 7 (h) Prime contracting classification.
- 8 (i) Restaurant classification.

9 I. The gross proceeds of sales or gross income derived from the  
10 following shall be deducted from the tax base for the retail  
11 classification:

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

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

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

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

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

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

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

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

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

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

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

13 O. For the purposes of this section, a sale of wireless  
14 telecommunications equipment to a person who holds the equipment for sale  
15 or transfer to a customer as an inducement to enter into or continue a  
16 contract for telecommunications services that are taxable under section  
17 42-5064 is considered to be a sale for resale in the regular course of  
18 business.

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

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

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

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

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



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

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

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

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

23          U. For the purposes of this section:

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

27          2. "Aircraft" includes:

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

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

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

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

43          V. For the purposes of subsection I of this section:

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

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

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

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

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

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

29           Sec. 6. Section 42-5071, Arizona Revised Statutes, is amended to  
30 read:

31           42-5071. Personal property rental classification; definitions

32           A. The personal property rental classification is comprised of the  
33 business of leasing or renting tangible personal property for a  
34 consideration. The tax does not apply to:

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

38           2. Activities engaged in by the Arizona exposition and state fair  
39 board or county fair commissions in connection with events sponsored by  
40 such entities.

41           3. Leasing or renting tangible personal property by a parent  
42 corporation to a subsidiary corporation or by a subsidiary corporation to  
43 another subsidiary of the same parent corporation if taxes were paid under  
44 this chapter on the gross proceeds or gross income accruing from the  
45 initial sale of the tangible personal property. For the purposes of this

1 paragraph, "subsidiary" means a corporation of which at least eighty  
2 percent of the voting shares are owned by the parent corporation.

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

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

12 6. Leasing or renting aircraft, flight simulators or similar  
13 training equipment to students or staff by nonprofit, accredited  
14 educational institutions that offer associate or baccalaureate degrees in  
15 aviation or aerospace related fields.

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

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

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

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

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

29 10. Leasing or renting billboards that are designed, intended or  
30 used to advertise or inform and that are visible from any street, road or  
31 other highway.

32 B. The tax base for the personal property rental classification is  
33 the gross proceeds of sales or gross income derived from the business, but  
34 the gross proceeds of sales or gross income derived from the following  
35 shall be deducted from the tax base:

36 1. Reimbursements by the lessee to the lessor of a motor vehicle  
37 for payments by the lessor of the applicable fees and taxes imposed by  
38 sections 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter  
39 15, article 2 and article IX, section 11, Constitution of Arizona, to the  
40 extent such amounts are separately identified as such fees and taxes and  
41 are billed to the lessee.

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

1 (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25,  
2 ~~29,~~ OR 49 ~~or 53~~.

3 (b) Section 42-5061, subsection B, except that a lease or rental of  
4 new machinery or equipment is not exempt pursuant to section 42-5061,  
5 subsection B, paragraph 13 if the lease is for less than two years.

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

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

8 3. Motor vehicle fuel and use fuel that are subject to a tax  
9 imposed under title 28, chapter 16, article 1, sales of use fuel to a  
10 holder of a valid single trip use fuel tax permit issued under section  
11 28-5739 and sales of aviation fuel that are subject to the tax imposed  
12 under section 28-8344.

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

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

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

21 D. In computing the tax base, the gross proceeds of sales or gross  
22 income from the lease or rental of a motor vehicle does not include any  
23 amount attributable to the car rental surcharge under section 5-839,  
24 28-5810 or 48-4234.

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

33 F. For the purposes of this section:

34 1. "Cable operator" has the same meaning prescribed by IN section  
35 9-505.

36 2. "Utility pole" means any wooden, metal or other pole used for  
37 utility purposes and the pole's appurtenances that are attached or  
38 authorized for attachment by the person controlling the pole.

39 Sec. 7. Section 42-5075, Arizona Revised Statutes, is amended to  
40 read:

41 42-5075. Prime contracting classification; exemptions;  
42 definitions

43 A. The prime contracting classification is comprised of the  
44 business of prime contracting and the business of manufactured building  
45 dealer. Sales for resale to another manufactured building dealer are not

1 subject to tax. Sales for resale do not include sales to a lessor of  
2 manufactured buildings. The sale of a used manufactured building is not  
3 taxable under this chapter. The prime contracting classification does not  
4 include any work or operation performed by a person that is not required  
5 to be licensed by the registrar of contractors pursuant to section  
6 32-1121.

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

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

13 2. Sales and installation of groundwater measuring devices required  
14 under section 45-604 and groundwater monitoring wells required by law,  
15 including monitoring wells installed for acquiring information for a  
16 permit required by law.

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

22 4. The gross proceeds of sales or gross income received from a  
23 contract entered into for the modification of any building, highway, road,  
24 railroad, excavation, manufactured building or other structure, project,  
25 development or improvement located in a military reuse zone for providing  
26 aviation or aerospace services or for a manufacturer, assembler or  
27 fabricator of aviation or aerospace products within an active military  
28 reuse zone after the zone is initially established or renewed under  
29 section 41-1531. To be eligible to qualify for this deduction, before  
30 beginning work under the contract, the prime contractor must have applied  
31 for a letter of qualification from the department of revenue.

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

41 6. The gross proceeds of sales or gross income from a contract to  
42 provide for one or more of the following actions, or a contract for site  
43 preparation, constructing, furnishing or installing machinery, equipment  
44 or other tangible personal property, including structures necessary to  
45 protect exempt incorporated materials or installed machinery or equipment,

1 and tangible personal property incorporated into the project, to perform  
2 one or more of the following actions in response to a release or suspected  
3 release of a hazardous substance, pollutant or contaminant from a facility  
4 to the environment, unless the release was authorized by a permit issued  
5 by a governmental authority:

6 (a) Actions to monitor, assess and evaluate such a release or a  
7 suspected release.

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

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

13 (d) Pumping and treatment or in situ treatment of contaminated  
14 groundwater or surface water to reduce the concentration or toxicity of a  
15 contaminant.

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

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

25 7. The gross proceeds of sales or gross income that is derived from  
26 a contract for the installation, assembly, repair or maintenance of  
27 machinery, equipment or other tangible personal property that is either  
28 deducted from the tax base of the retail classification under section  
29 42-5061, subsection B or that is exempt from use tax under section  
30 42-5159, subsection B and that has independent functional utility,  
31 pursuant to the following provisions:

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

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

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

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

44 (b) The deduction provided in this paragraph does not include gross  
45 proceeds of sales or gross income from the portion of any contracting

1 activity that consists of the development of, or modification to, real  
2 property in order to facilitate the installation, assembly, repair,  
3 maintenance or removal of machinery, equipment or other tangible personal  
4 property that is either deducted from the tax base of the retail  
5 classification under section 42-5061, subsection B or exempt from use tax  
6 under section 42-5159, subsection B.

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

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

14 (i) Assembling the machinery, equipment or other tangible personal  
15 property.

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

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

21 (iv) Stabilizing or protecting the machinery, equipment or other  
22 tangible personal property during operation by bolting, burying or  
23 performing other similar nonpermanent connections to either real property  
24 or real property improvements.

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

28 (a) Section 42-5061, subsection A, paragraph 25, 29, ~~57~~ 56 or  
29 ~~59~~ 58.

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

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

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

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

38 10. The gross proceeds of sales or gross income that is derived  
39 from a contract entered into with a person who is engaged in the  
40 commercial production of livestock, livestock products or agricultural,  
41 horticultural, viticultural or floricultural crops or products in this  
42 state for the modification of any building, highway, road, excavation,  
43 manufactured building or other structure, project, development or  
44 improvement used directly and primarily to prevent, monitor, control or  
45 reduce air, water or land pollution.

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

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

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

19           14. The gross proceeds of sales or gross income derived from a  
20 contract entered into for the construction of a launch site, as defined in  
21 14 Code of Federal Regulations section 401.5.

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

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

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

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

44           19. Any amount of the gross proceeds of sales or gross income  
45 attributable to development fees that are incurred in relation to a



1 contract for construction, development or improvement of real property and  
2 that are paid by a prime contractor or subcontractor. For the purposes of  
3 this paragraph:

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

6 (b) The attributable amount is equal to the total amount of  
7 development fees paid by the prime contractor or subcontractor, and the  
8 total development fees credited in exchange for the construction of,  
9 contribution to or dedication of real property for providing public  
10 infrastructure, public safety or other public services necessary to the  
11 development. The real property must be the subject of the development  
12 fees.

13 (c) "Development fees" means fees imposed to offset capital costs  
14 of providing public infrastructure, public safety or other public services  
15 to a development and authorized pursuant to section 9-463.05, section  
16 11-1102 or title 48 regardless of the jurisdiction to which the fees are  
17 paid.

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

23 (a) "Mixed waste processing facility" means a solid waste facility  
24 that is owned, operated or used for the treatment, processing or disposal  
25 of solid waste, recyclable solid waste, conditionally exempt small  
26 quantity generator waste or household hazardous waste. For the purposes  
27 of this subdivision, "conditionally exempt small quantity generator  
28 waste", "household hazardous waste" and "solid waste facility" have the  
29 same meanings prescribed in section 49-701, except that solid waste  
30 facility does include a site that stores, treats or processes paper,  
31 glass, wood, cardboard, household textiles, scrap metal, plastic,  
32 vegetative waste, aluminum, steel or other recyclable material.

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

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

38 (d) "Renewable energy" has the same meaning prescribed in section  
39 41-1511.

40 C. Entitlement to the deduction pursuant to subsection B, paragraph  
41 7 of this section is subject to the following provisions:

42 1. A prime contractor may establish entitlement to the deduction by  
43 both:

1 (a) Marking the invoice for the transaction to indicate that the  
2 gross proceeds of sales or gross income derived from the transaction was  
3 deducted from the base.

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

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

16 3. The department may prescribe a form for the certificate  
17 described in paragraph 1, subdivision (b) of this subsection. The  
18 department may also adopt rules that describe the transactions with  
19 respect to which a person is not entitled to rely solely on the  
20 information contained in the certificate provided in paragraph 1,  
21 subdivision (b) of this subsection but must instead obtain such additional  
22 information as required in order to be entitled to the deduction.

23 4. If a prime contractor is entitled to a deduction by complying  
24 with paragraph 1 of this subsection, the department may require the  
25 purchaser who caused the execution of the certificate to establish the  
26 accuracy and completeness of the information required to be contained in  
27 the certificate that would entitle the prime contractor to the deduction.  
28 If the purchaser cannot establish the accuracy and completeness of the  
29 information, the purchaser is liable in an amount equal to any tax,  
30 penalty and interest that the prime contractor would have been required to  
31 pay under article 1 of this chapter if the prime contractor had not  
32 complied with paragraph 1 of this subsection. Payment of the amount under  
33 this paragraph exempts the purchaser from liability for any tax imposed  
34 under article 4 of this chapter. The amount shall be treated as a  
35 transaction privilege tax to the purchaser and as tax revenues collected  
36 from the prime contractor in order to designate the distribution base for  
37 purposes of section 42-5029.

38 D. Subcontractors or others who perform modification activities are  
39 not subject to tax if they can demonstrate that the job was within the  
40 control of a prime contractor or contractors or a dealership of  
41 manufactured buildings and that the prime contractor or dealership is  
42 liable for the tax on the gross income, gross proceeds of sales or gross  
43 receipts attributable to the job and from which the subcontractors or  
44 others were paid.

1 E. Amounts received by a contractor for a project are excluded from  
2 the contractor's gross proceeds of sales or gross income derived from the  
3 business if the person who hired the contractor executes and provides a  
4 certificate to the contractor stating that the person providing the  
5 certificate is a prime contractor and is liable for the tax under article  
6 1 of this chapter. The department shall prescribe the form of the  
7 certificate. If the contractor has reason to believe that the information  
8 contained on the certificate is erroneous or incomplete, the department  
9 may disregard the certificate. If the person who provides the certificate  
10 is not liable for the tax as a prime contractor, that person is  
11 nevertheless deemed to be the prime contractor in lieu of the contractor  
12 and is subject to the tax under this section on the gross receipts or  
13 gross proceeds received by the contractor.

14 F. Every person engaging or continuing in this state in the  
15 business of prime contracting or dealership of manufactured buildings  
16 shall present to the purchaser of such prime contracting or manufactured  
17 building a written receipt of the gross income or gross proceeds of sales  
18 from such activity and shall separately state the taxes to be paid  
19 pursuant to this section.

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

26 H. For the purposes of section 42-5032.02, from and after  
27 September 30, 2013, the department shall separately account for revenues  
28 reported and collected under the prime contracting classification from any  
29 prime contractor engaged in the construction of any buildings and  
30 associated improvements that are for the benefit of a manufacturing  
31 facility. For the purposes of this subsection, "associated improvements"  
32 and "manufacturing facility" have the same meanings prescribed in section  
33 42-5032.02.

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

44 J. Except as provided in subsection 0 of this section, the gross  
45 proceeds of sales or gross income derived from landscaping activities is

1 subject to tax under this section. Landscaping includes installing lawns,  
2 grading or leveling ground, installing gravel or boulders, planting trees  
3 and other plants, felling trees, removing or mulching tree stumps,  
4 removing other imbedded plants, building irrigation berms, installing  
5 railroad ties and installing underground sprinkler or watering systems.

6 K. The portion of gross proceeds of sales or gross income  
7 attributable to the actual direct costs of providing architectural or  
8 engineering services that are incorporated in a contract is not subject to  
9 tax under this section. For the purposes of this subsection, "direct  
10 costs" means the portion of the actual costs that are directly expended in  
11 providing architectural or engineering services.

12 L. Operating a landfill or a solid waste disposal facility is not  
13 subject to taxation under this section, including filling, compacting and  
14 creating vehicle access to and from cell sites within the landfill.  
15 Constructing roads to a landfill or solid waste disposal facility and  
16 constructing cells within a landfill or solid waste disposal facility may  
17 be deemed prime contracting under this section.

18 M. The following apply in determining the taxable situs of sales of  
19 manufactured buildings:

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

23 2. For sales in this state where the manufactured building dealer  
24 does not contract to deliver the building to a setup site or does not  
25 perform the setup, the taxable situs is the location of the dealership  
26 where the building is delivered to the buyer.

27 3. For sales in this state where the manufactured building dealer  
28 contracts to deliver the building to a setup site that is outside this  
29 state, the situs is outside this state and the transaction is excluded  
30 from tax.

31 N. The gross proceeds of sales or gross income attributable to a  
32 written contract for design phase services or professional services,  
33 executed before modification begins and with terms, conditions and pricing  
34 of all of these services separately stated in the contract from those for  
35 construction phase services, is not subject to tax under this section,  
36 regardless of whether the services are provided sequential to or  
37 concurrent with prime contracting activities that are subject to tax under  
38 this section. This subsection does not include the gross proceeds of  
39 sales or gross income attributable to construction phase services. For  
40 the purposes of this subsection:

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

43 (a) Administration or supervision of any modification performed on  
44 the project, including team management and coordination, scheduling, cost

1 controls, submittal process management, field management, safety program,  
2 close-out process and warranty period services.

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

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

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

13 (ii) The amount of an adjustment, if any, to the guaranteed maximum  
14 price as set in the contract for modification work. For the purposes of  
15 this item, "guaranteed maximum price" means the amount guaranteed to be  
16 the maximum amount due to a prime contractor for the performance of all  
17 modification work for the project.

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

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

25 (e) Inspection to determine the dates of substantial completion or  
26 final completion.

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

33 (g) Preparation of status reports after modification work has begun  
34 detailing the progress of work performed, including preparation of any of  
35 the following:

36 (i) Master schedule updates.

37 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

7 2. "Design phase services" means services for developing and  
8 completing a design for a project that are not construction phase  
9 services, including the following:

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

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

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

20 (d) Preparing an initial schedule for the project, excluding the  
21 preparation of updates to the master schedule after modification work has  
22 begun.

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

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

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

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

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

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

41 (vi) Any bond and insurance premiums.

42 (vii) Any applicable taxes.

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

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

6 (g) Preparing the plan and procedures for selection of  
7 subcontractors, including any prequalification of subcontractor  
8 candidates.

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

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

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

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

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

43 1. Community facilities districts, fire districts, county  
44 television improvement districts, community park maintenance districts,  
45 cotton pest control districts, hospital districts, pest abatement

1 districts, health service districts, agricultural improvement districts,  
2 county free library districts, county jail districts, county stadium  
3 districts, special health care districts, public health services  
4 districts, theme park districts or revitalization districts.

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

9 Q. Notwithstanding subsection R, paragraph 10 of this section, a  
10 person owning real property who enters into a contract for sale of the  
11 real property, who is responsible to the new owner of the property for  
12 modifications made to the property in the period subsequent to the  
13 transfer of title and who receives a consideration for the modifications  
14 is considered a prime contractor solely for purposes of taxing the gross  
15 proceeds of sale or gross income received for the modifications made  
16 subsequent to the transfer of title. The original owner's gross proceeds  
17 of sale or gross income received for the modifications shall be determined  
18 according to the following methodology:

19 1. If any part of the contract for sale of the property specifies  
20 amounts to be paid to the original owner for the modifications to be made  
21 in the period subsequent to the transfer of title, the amounts are  
22 included in the original owner's gross proceeds of sale or gross income  
23 under this section. Proceeds from the sale of the property that are  
24 received after transfer of title and that are unrelated to the  
25 modifications made subsequent to the transfer of title are not considered  
26 gross proceeds of sale or gross income from the modifications.

27 2. If the original owner enters into an agreement separate from the  
28 contract for sale of the real property providing for amounts to be paid to  
29 the original owner for the modifications to be made in the period  
30 subsequent to the transfer of title to the property, the amounts are  
31 included in the original owner's gross proceeds of sale or gross income  
32 received for the modifications made subsequent to the transfer of title.

33 3. If the original owner is responsible to the new owner for  
34 modifications made to the property in the period subsequent to the  
35 transfer of title and derives any gross proceeds of sale or gross income  
36 from the project subsequent to the transfer of title other than a delayed  
37 disbursement from escrow unrelated to the modifications, it is presumed  
38 that the amounts are received for the modifications made subsequent to the  
39 transfer of title unless the contrary is established by the owner through  
40 its books, records and papers kept in the regular course of business.

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

43 R. For the purposes of this section:

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



1 (a) For existing property that is properly classified as class two  
2 property under section 42-12002, paragraph 1, subdivision (c) or paragraph  
3 2, subdivision (c) and that is used for residential purposes, class three  
4 property under section 42-12003 or class four property under section  
5 42-12004, this paragraph does not apply if the contract amount is more  
6 than twenty-five percent of the most recent full cash value established  
7 under chapter 13, article 2 of this title as of the date of any bid for  
8 the work or the date of the contract, whichever value is higher.

9 (b) For all existing property other than existing property  
10 described in subdivision (a) of this paragraph, this paragraph does not  
11 apply if the contract amount is more than ~~seven hundred fifty thousand~~  
12 ~~dollars~~ \$750,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 7. "Modify" means to make a modification or cause a modification to  
16 be made.

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

25 9. "Prime contracting" means engaging in business as a prime  
26 contractor.

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

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

1 12. "Sale of a used manufactured building" does not include a lease  
2 of a used manufactured building.

3 Sec. 8. Title 42, chapter 5, article 2, Arizona Revised Statutes,  
4 is amended by adding section 42-5077, to read:

5 42-5077. Digital goods classification; exemptions;  
6 definitions

7 A. THE DIGITAL GOODS CLASSIFICATION IS COMPRISED OF THE BUSINESS OF  
8 SELLING, LEASING OR LICENSING THE USE OF PREWRITTEN COMPUTER SOFTWARE OR  
9 PROVIDING SPECIFIED DIGITAL GOODS. THE TAX BASE FOR THE DIGITAL GOODS  
10 CLASSIFICATION IS THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM  
11 THE BUSINESS. THE TAX IMPOSED ON THE DIGITAL GOODS CLASSIFICATION DOES  
12 NOT APPLY TO PROCEEDS OF SALES OR GROSS INCOME FROM:

13 1. PROVIDING DIGITAL SERVICES.

14 2. TRANSACTIONS INVOLVING SALES, LEASES OR LICENSES OF PREWRITTEN  
15 COMPUTER SOFTWARE OR PROVIDING SPECIFIED DIGITAL GOODS TO PERSONS ENGAGED  
16 IN BUSINESS UNDER THE DIGITAL GOODS CLASSIFICATION IF THE PERSON ACQUIRES  
17 THE ITEMS TO SELL, LEASE, LICENSE OR PROVIDE TO ANOTHER PERSON AS PART OF  
18 SUCH A BUSINESS.

19 3. BUSINESSES THAT PROVIDE PREWRITTEN COMPUTER SOFTWARE OR  
20 SPECIFIED DIGITAL GOODS ONLY AS INCONSEQUENTIAL ELEMENTS.

21 4. SERVICES RENDERED IN ADDITION TO PROVIDING PREWRITTEN COMPUTER  
22 SOFTWARE OR DIGITAL GOODS WHEN THE SERVICES ARE OPTIONAL AND COULD BE  
23 PROVIDED BY A THIRD PARTY.

24 5. APPLICATION SERVICES THAT ARE DESIGNED TO ASSESS OR TEST STUDENT  
25 LEARNING OR TO PROMOTE CURRICULUM DESIGN OR ENHANCEMENT PURCHASED BY OR  
26 FOR ANY SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE OR STATE  
27 UNIVERSITY. FOR THE PURPOSES OF THIS PARAGRAPH:

28 (a) "APPLICATION SERVICES" MEANS SOFTWARE APPLICATIONS PROVIDED  
29 REMOTELY USING HYPERTEXT TRANSFER PROTOCOL OR ANOTHER NETWORK PROTOCOL.

30 (b) "CURRICULUM DESIGN OR ENHANCEMENT" MEANS PLANNING, IMPLEMENTING  
31 OR REPORTING ON COURSES OF STUDY, LESSONS, ASSIGNMENTS OR OTHER LEARNING  
32 ACTIVITIES.

33 6. TRANSACTIONS INVOLVING PREWRITTEN SOFTWARE OR SPECIFIED DIGITAL  
34 GOODS THAT, IF THEY HAD BEEN PURCHASED AT RETAIL AND CLASSIFIED AS  
35 TANGIBLE PERSONAL PROPERTY, WOULD HAVE BEEN EXEMPT UNDER THE FOLLOWING:

36 (a) SECTION 42-5061, SUBSECTION A, PARAGRAPH 24, 25, 29, 47 OR 56.

37 (b) SECTION 42-5061, SUBSECTION B, PARAGRAPH 1 THROUGH 4 OR 14.

38 (c) SECTION 42-5061, SUBSECTION I.

39 (d) SECTION 42-5061, SUBSECTION J, EXCEPT THE PROCEEDS OF SALES OR  
40 GROSS INCOME OF SUCH TRANSACTIONS ARE ONLY FIFTY PERCENT EXEMPT.

41 7. TRANSACTIONS INVOLVING OVER-THE-TOP SERVICES CONSISTING OF AUDIO  
42 OR VIDEO PROGRAMMING SERVICES RECEIVED BY THE END-USER CUSTOMER BY MEANS  
43 OF AN INTERNET CONNECTION, REGARDLESS OF THE TECHNOLOGY USED, THAT INCLUDE  
44 LINEAR OR LIVE PROGRAMMING THAT IS GENERALLY CONSIDERED COMPARABLE TO  
45 PROGRAMMING PROVIDED BY A RADIO OR TELEVISION BROADCAST STATION REGARDLESS

1 OF WHETHER THE SERVICES ARE PROVIDED INDEPENDENTLY OR PACKAGED WITH OTHER  
2 AUDIO OR VIDEO PROGRAMMING. OVER-THE-TOP SERVICES DO NOT INCLUDE  
3 PAY-PER-VIEW AUDIO AND VIDEO PROGRAMMING SERVICES CONSISTING OF A SYSTEM  
4 REQUIRING A CUSTOMER TO PAY SEPARATELY FOR EACH PROGRAM VIEWED REGARDLESS  
5 OF THE MANNER IN WHICH THE PROGRAM MAY BE VIEWED OR WHETHER THE PROGRAM IS  
6 LIVE, SCHEDULED OR AVAILABLE ON DEMAND.

7 B. IF A PERSON IS ENGAGED IN AN OCCUPATION OR BUSINESS TO WHICH  
8 SUBSECTION A OF THIS SECTION APPLIES, THE PERSON'S BOOKS SHALL BE KEPT TO  
9 SHOW SEPARATELY THE GROSS PROCEEDS OF SALES AND GROSS INCOME FROM  
10 PREWRITTEN SOFTWARE AND SPECIFIED DIGITAL GOODS AND THE GROSS INCOME FROM  
11 SALES OF SERVICES AND, IF NOT SO KEPT, THE TAX SHALL BE IMPOSED ON THE  
12 TOTAL OF THE PERSON'S GROSS PROCEEDS OF SALES AND GROSS INCOME FROM  
13 PREWRITTEN SOFTWARE AND SPECIFIED DIGITAL GOODS AND GROSS INCOME FROM  
14 SERVICES.

15 C. FOR THE PURPOSES OF THIS SECTION:

16 1. "COMPUTER" MEANS AN ELECTRONIC DEVICE THAT ACCEPTS INFORMATION  
17 IN A DIGITAL OR SIMILAR FORM AND MANIPULATES IT FOR A RESULT BASED ON A  
18 SEQUENCE OF INSTRUCTIONS.

19 2. "COMPUTER SOFTWARE" MEANS A PERPETUAL OR SUBSCRIPTION LICENSE TO  
20 A SET OF CODED INSTRUCTIONS DESIGNED TO CAUSE A COMPUTER OR AUTOMATIC DATA  
21 PROCESSING EQUIPMENT TO PERFORM A TASK.

22 3. "COMPUTER SOFTWARE MAINTENANCE CONTRACT" MEANS A CONTRACT THAT  
23 OBLIGATES A COMPUTER SOFTWARE VENDOR TO PROVIDE CUSTOMERS WITH FUTURE  
24 UPDATES OR UPGRADES TO COMPUTER SOFTWARE.

25 4. "DIGITAL SERVICES" MEANS CLOUD-BASED OR REMOTELY ACCESSED  
26 SOFTWARE AND OTHER SERVICES THAT ARE PROVIDED ELECTRONICALLY AND THAT ARE  
27 NOT SPECIFICALLY IDENTIFIED AS TAXABLE TRANSACTIONS IN THIS ARTICLE.

28 5. "PREWRITTEN COMPUTER SOFTWARE":

29 (a) MEANS COMPUTER SOFTWARE THAT IS NOT DESIGNED AND DEVELOPED BY  
30 THE AUTHOR OR OTHER CREATOR TO THE SPECIFICATIONS OF A SPECIFIC PURCHASER  
31 TO A SALE.

32 (b) INCLUDES:

33 (i) RELATED COMPUTER SOFTWARE MAINTENANCE CONTRACTS, WHETHER SOLD  
34 TOGETHER WITH OR SEPARATELY FROM THE COMPUTER SOFTWARE.

35 (ii) COMBINATIONS OF TWO OR MORE PREWRITTEN COMPUTER SOFTWARE  
36 PROGRAMS OR PREWRITTEN PORTIONS OF COMPUTER SOFTWARE PROGRAMS.

37 (iii) SOFTWARE DESIGNED AND DEVELOPED BY THE AUTHOR OR OTHER  
38 CREATOR TO THE SPECIFICATIONS OF A SPECIFIC PURCHASER IF IT IS  
39 SUBSEQUENTLY SOLD TO A PERSON OTHER THAN THE ORIGINAL PURCHASER.

40 (iv) PREWRITTEN COMPUTER SOFTWARE, OR A PORTION OF PREWRITTEN  
41 COMPUTER SOFTWARE, THAT IS MODIFIED OR ENHANCED TO ANY DEGREE, IF THE  
42 MODIFICATION OR ENHANCEMENT IS DESIGNED AND DEVELOPED TO THE  
43 SPECIFICATIONS OF A SPECIFIC PURCHASER, BUT FOR WHICH THE SELLER'S,  
44 LESSOR'S OR LICENSOR'S BOOKS ARE NOT KEPT TO SHOW SEPARATELY THE GROSS

1 PROCEEDS OF SALES OR GROSS INCOME DERIVE FROM THE MODIFICATION OR  
2 ENHANCEMENT.

3 (c) DOES NOT INCLUDE A PORTION OF COMPUTER SOFTWARE THAT IS  
4 MODIFIED OR ENHANCED TO ANY DEGREE, IF THE MODIFICATION OR ENHANCEMENT IS  
5 DESIGNED AND DEVELOPED TO THE SPECIFICATIONS OF A SPECIFIC PURCHASER, AND  
6 FOR WHICH THE SELLER'S, LESSOR'S OR LICENSOR'S BOOKS ARE KEPT TO SHOW  
7 SEPARATELY THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE  
8 MODIFICATION OR ENHANCEMENT.

9 6. "SPECIFIED DIGITAL GOODS":

10 (a) MEANS:

11 (i) DIGITAL AUDIOVISUAL WORKS, WHICH MEAN A SERIES OF RELATED  
12 DIGITAL IMAGES THAT, WHEN SHOWN IN SUCCESSION, IMPART AN IMPRESSION OF  
13 MOTION, TOGETHER WITH ACCOMPANYING SOUNDS, IF ANY.

14 (ii) DIGITAL AUDIO WORKS, WHICH MEAN WORKS THAT RESULT FROM THE  
15 FIXATION OF A SERIES OF MUSICAL, SPOKEN OR OTHER DIGITAL SOUNDS, INCLUDING  
16 RINGTONES. FOR THE PURPOSES OF THIS SUBDIVISION, "RINGTONES" MEANS  
17 DIGITIZED SOUND FILES THAT ARE DOWNLOADED ONTO A DEVICE AND THAT MAY BE  
18 USED TO ALERT THE CUSTOMER WITH RESPECT TO A COMMUNICATION.

19 (iii) DIGITAL BOOKS, ARTICLES, PERIODICALS AND OTHER PREWRITTEN  
20 WORKS, WHICH MEAN DIGITAL WORKS THAT ARE GENERALLY RECOGNIZED IN THE  
21 ORDINARY AND USUAL SENSE AS BOOKS, ARTICLES OR PERIODICALS.

22 (iv) DIGITAL VISUAL WORKS, WHICH MEAN DIGITAL IMAGES THAT CAN BE  
23 VIEWED AS STILL IMAGES.

24 (b) DOES NOT INCLUDE:

25 (i) VIDEO SERVICE AS PRESCRIBED IN SECTION 9-1401, PROVIDED BY A  
26 CABLE OPERATOR. FOR THE PURPOSES OF THIS ITEM, "CABLE OPERATOR" HAS THE  
27 SAME MEANING PRESCRIBED IN SECTION 9-505 AND INCLUDES A VIDEO SERVICE  
28 PROVIDER AS PRESCRIBED IN SECTION 9-1401.

29 (ii) DIGITAL SERVICES.

30 Sec. 9. Section 42-5151, Arizona Revised Statutes, is amended to  
31 read:

32 42-5151. Definitions

33 In this article, unless the context otherwise requires:

34 1. "Ancillary services" means those services so designated in  
35 federal energy regulatory commission order 888 adopted in 1996 that  
36 include the services necessary to support the transmission of electricity  
37 from resources to loads while maintaining reliable operation of the  
38 transmission system according to good utility practice.

39 2. "DIGITAL SERVICES" HAS THE SAME MEANING PRESCRIBED IN SECTION  
40 42-5077.

41 ~~2.~~ 3. "Electric distribution service" means distributing  
42 electricity to retail electric customers through the use of electric  
43 distribution facilities.

1           ~~3.~~ 4. "Electric generation service" means providing electricity  
2 for sale to retail electric customers but excluding electric distribution  
3 or transmission services.

4           ~~6.~~ 5. "Electricity" means electric energy, electric capacity or  
5 electric capacity and energy.

6           ~~7.~~ 6. "Electricity supplier" means a person, whether acting in a  
7 principal, agent or other capacity, that offers to sell electricity to a  
8 retail electric customer in this state.

9           ~~4.~~ 7. "Electric transmission service" means transmitting  
10 electricity to retail electric customers or to electric distribution  
11 facilities so classified by the federal energy regulatory commission or,  
12 to the extent permitted by law, so classified by the Arizona corporation  
13 commission.

14           ~~5.~~ 8. "Electric utility services" means the business of providing  
15 electric ancillary services, electric distribution services, electric  
16 generation services, electric transmission services and other services  
17 related to providing electricity.

18           ~~8.~~ 9. "Natural gas" means natural or artificial gas, and includes  
19 methane and propane gas, the natural gas commodity, natural gas pipeline  
20 capacity or natural gas commodity and pipeline capacity.

21           ~~9.~~ 10. "Natural gas utility services" means the business of  
22 selling natural gas or providing natural gas transportation services or  
23 other services related to providing natural gas.

24           ~~10.~~ 11. "Notice" means written notice served personally or by  
25 certified mail and addressed to the last known address of the person to  
26 whom such notice is given.

27           ~~11.~~ 12. "Other services" includes metering, meter reading services,  
28 billing and collecting services.

29           ~~12.~~ 13. "Person" means an individual, firm, partnership, joint  
30 venture, association, corporation, estate, trust, receiver or syndicate,  
31 this state or a county, city, municipality, district or other political  
32 subdivision or agency thereof.

33           14. "PREWRITTEN COMPUTER SOFTWARE" HAS THE SAME MEANING PRESCRIBED  
34 IN SECTION 42-5077.

35           ~~13.~~ 15. "Purchase" means any transfer, exchange or barter,  
36 conditional or otherwise, in any manner or by any means, of tangible  
37 personal property for a consideration, including transactions by which the  
38 possession of property is transferred but the seller retains the title as  
39 security for payment.

40           ~~14.~~ 16. "Purchase price" or "sales price" means the total amount  
41 for which tangible personal property is sold, including any services that  
42 are a part of the sale, valued in money, whether paid in money or  
43 otherwise, and any amount for which credit is given to the purchaser by  
44 the seller without any deduction on account of the cost of the property

1 sold, materials used, labor or services performed, interest charged,  
2 losses or other expenses, but does not include:

3 (a) Discounts allowed and taken.

4 (b) Charges for labor or services in installing, remodeling or  
5 repairing.

6 (c) Freight costs billed to and collected from a purchaser by a  
7 retailer for tangible personal property ~~which~~ THAT, on the order of the  
8 retailer, is shipped directly from a manufacturer or wholesaler to the  
9 purchaser.

10 (d) Amounts attributable to federal excise taxes imposed by 26  
11 United States Code section 4001, 4051 or 4081 on sales of heavy trucks and  
12 trailers and automobiles or on sales of use fuel, as defined in section  
13 28-5601.

14 (e) The value of merchandise that is traded in on the purchase of  
15 new or pre-owned merchandise when the trade-in allowance is deducted from  
16 the sales price of the new or pre-owned merchandise before the completion  
17 of the sale.

18 ~~15.~~ 17. "Retail electric customer" means a person who purchases  
19 electricity for that person's own use, including use in that person's  
20 trade or business, and not for resale, redistribution or retransmission.

21 ~~17.~~ 18. "Retailer" includes:

22 (a) Every person engaged in the business of making sales of  
23 tangible personal property for storage, use or other consumption or in the  
24 business of making sales at auction of tangible personal property owned by  
25 that person or others for storage, use or other consumption. If in the  
26 opinion of the department it is necessary for the efficient administration  
27 of this article to regard any salesmen, representatives, peddlers or  
28 canvassers as the agents of the dealers, distributors, supervisors or  
29 employers under whom they operate or from whom they obtain the tangible  
30 personal property sold by them, regardless of whether they are making  
31 sales on their own behalf or on behalf of such dealers, distributors,  
32 supervisors or employers, the department may so regard them and may regard  
33 the dealers, distributors, supervisors or employers as retailers for  
34 purposes of this article.

35 (b) A person who solicits orders for tangible personal property by  
36 mail if the solicitations are substantial and recurring or if the retailer  
37 benefits from any banking, financing, debt collection, telecommunication,  
38 television shopping system, cable, optic, microwave or other communication  
39 system or marketing activities occurring in this state or benefits from  
40 the location in this state of authorized installation, servicing or repair  
41 facilities.

42 ~~16.~~ 19. "Retail natural gas customer" means a person who purchases  
43 natural gas for that person's own use, including use in that person's  
44 trade or business, and not for resale, redistribution or retransmission.

1       ~~18:~~ 20. "Solar daylighting" means a device that is specifically  
2 designed to capture and redirect the visible portion of the solar beam,  
3 while controlling the infrared portion, for use in illuminating interior  
4 building spaces in lieu of artificial lighting.

5       ~~19:~~ 21. "Solar energy device" means a system or series of  
6 mechanisms designed primarily to provide heating, to provide cooling, to  
7 produce electrical power, to produce mechanical power, to provide solar  
8 daylighting or to provide any combination of the foregoing by means of  
9 collecting and transferring solar generated energy into such uses by  
10 either active or passive means, including wind generator systems that  
11 produce electricity. Solar energy systems may also have the capability of  
12 storing solar energy for future use. Passive systems shall clearly be  
13 designed as a solar energy device, such as a trombe wall, and not merely  
14 as a part of a normal structure, such as a window.

15       22. "SPECIFIED DIGITAL GOODS" HAS THE SAME MEANING PRESCRIBED IN  
16 SECTION 42-5077.

17       ~~20:~~ 23. "Storage" means keeping or retaining tangible personal  
18 property purchased from a retailer for any purpose except sale in the  
19 regular course of business or subsequent use solely outside this state.  
20 For the purposes of this paragraph, sale in the regular course of business  
21 does not include the transfer of title or possession of coal back and  
22 forth between an owner or operator of a power plant and a person who is  
23 responsible for refining coal if both of the following apply:

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

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

32       ~~21:~~ 24. "Taxpayer" means:

33       (a) Any retailer or person storing, using or consuming tangible  
34 personal property **OF WHICH** the storage, use or consumption ~~of which~~ is  
35 subject to the tax imposed by this article ~~when such~~ **IF THE** tax was not  
36 paid to a retailer.

37       **(b) ANY VENDOR OF PREWRITTEN COMPUTER SOFTWARE OR SPECIFIED DIGITAL**  
38 **GOODS OR PERSON USING SUCH ITEMS OF WHICH THE USE IS SUBJECT TO THE TAX**  
39 **IMPOSED BY THIS ARTICLE IF THE TAX WAS NOT PAID TO A VENDOR.**

40       ~~22:~~ 25. "Use or consumption" means the exercise of any right or  
41 power over tangible personal property, **PREWRITTEN COMPUTER SOFTWARE OR**  
42 **SPECIFIED DIGITAL GOODS**, incidental to owning the property except holding  
43 for sale or selling the property in the regular course of business. For  
44 the purposes of this paragraph, selling the property in the regular course  
45 of business does not include the transfer of title or possession of coal



1 back and forth between an owner or operator of a power plant and a person  
2 who is responsible for refining coal if both of the following apply:

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

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

11 ~~23.~~ 26. "Utility business" means a person that is engaged in the  
12 business of providing electric utility services to retail electric  
13 customers or natural gas utility services to retail natural gas customers.

14 Sec. 10. Title 42, chapter 5, article 4, Arizona Revised Statutes,  
15 is amended by adding section 42-5155.01, to read:

16 42-5155.01. Levy of tax; prewritten computer software and  
17 specified digital goods; rate; purchaser's  
18 liability

19 A. AN EXCISE TAX IS LEVIED AND IMPOSED ON USING OR CONSUMING  
20 PREWRITTEN COMPUTER SOFTWARE AND SPECIFIED DIGITAL GOODS IN THIS STATE AS  
21 A PERCENTAGE OF THE ACQUISITION PRICE.

22 B. THE TAX IMPOSED BY THIS SECTION APPLIES TO ANY PURCHASER THAT  
23 PURCHASES PREWRITTEN COMPUTER SOFTWARE OR SPECIFIED DIGITAL GOODS FOR  
24 RESALE BUT THAT SUBSEQUENTLY USES OR CONSUMES THE ITEMS. THIS SECTION  
25 DOES NOT APPLY TO ANY PURCHASE OF PREWRITTEN COMPUTER SOFTWARE OR  
26 SPECIFIED DIGITAL GOODS IF THE VENDOR IS SUBJECT TO TRANSACTION PRIVILEGE  
27 TAX UNDER ARTICLES 1 AND 2 OF THIS CHAPTER ON THE GROSS RECEIPTS FROM THE  
28 SALE, LEASE OR LICENSING FOR USE.

29 C. THE TAX RATE IS THE RATE OF TAX PRESCRIBED PURSUANT TO SECTION  
30 42-5010, SUBSECTION A AS APPLIED TO THE DIGITAL GOODS CLASSIFICATION.

31 D. IN ADDITION TO THE RATE PRESCRIBED BY SUBSECTION C OF THIS  
32 SECTION, AN ADDITIONAL RATE INCREMENT OF SIX-TENTHS OF ONE PERCENT IS  
33 IMPOSED AND SHALL BE COLLECTED THROUGH JUNE 30, 2041. THE TAXPAYER SHALL  
34 PAY TAXES PURSUANT TO THIS SUBSECTION AT THE SAME TIME AND IN THE SAME  
35 MANNER AS UNDER SUBSECTION C OF THIS SECTION. THE DEPARTMENT SHALL  
36 SEPARATELY ACCOUNT FOR THE REVENUES COLLECTED WITH RESPECT TO THE RATE  
37 IMPOSED PURSUANT TO THIS SUBSECTION, AND THE STATE TREASURER SHALL PAY ALL  
38 OF THOSE REVENUES IN THE MANNER PRESCRIBED BY SECTION 42-5029,  
39 SUBSECTION E.

40 E. EACH PERSON USING OR CONSUMING PREWRITTEN COMPUTER SOFTWARE OR  
41 SPECIFIED DIGITAL GOODS IN THIS STATE IS LIABLE FOR THE TAX. THE PERSON'S  
42 LIABILITY IS NOT EXTINGUISHED UNTIL THE TAX HAS BEEN PAID TO THIS STATE.

1 F. A RECEIPT GIVEN TO THE PURCHASER FROM A VENDOR THAT MAINTAINS A  
2 PLACE OF BUSINESS IN THIS STATE OR FROM A VENDOR THAT IS AUTHORIZED BY THE  
3 DEPARTMENT TO COLLECT THE TAX, UNDER RULES ADOPTED BY THE DEPARTMENT, AND  
4 THAT FOR THE PURPOSES OF THIS ARTICLE IS REGARDED AS A VENDOR MAINTAINING  
5 A PLACE OF BUSINESS IN THIS STATE IS SUFFICIENT TO RELIEVE THE PURCHASER  
6 FROM FURTHER LIABILITY FOR THE TAX TO WHICH THE RECEIPT REFERS.

7 G. ALL EXEMPTIONS UNDER SECTION 42-5077 APPLY TO THE TAX UNDER THIS  
8 SECTION.

9 H. A PERSON WHO USES OR CONSUMES PREWRITTEN COMPUTER SOFTWARE OR  
10 SPECIFIED DIGITAL GOODS ON WHICH A TAX IS IMPOSED BY THIS ARTICLE AND ON  
11 WHICH THE TAX HAS NOT BEEN COLLECTED BY A REGISTERED VENDOR SHALL PAY THE  
12 TAX AS PROVIDED BY THIS ARTICLE, BUT EACH VENDOR MAINTAINING A PLACE OF  
13 BUSINESS IN THIS STATE AND MAKING SALES OF PREWRITTEN COMPUTER SOFTWARE OR  
14 SPECIFIED DIGITAL GOODS FOR USE OR CONSUMPTION IN THIS STATE SHALL COLLECT  
15 THE TAX FROM THE PURCHASER OR USER UNLESS THE PROPERTY IS EXEMPT UNDER  
16 THIS ARTICLE OR THE PURCHASER OR USER PAYS THE TAX DIRECTLY TO THE  
17 DEPARTMENT AS PROVIDED BY SECTION 42-5167.

18 I. EACH VENDOR ENGAGED IN THE BUSINESS OF SELLING, LEASING OR  
19 LICENSING THE USE OF PREWRITTEN COMPUTER SOFTWARE OR SPECIFIED DIGITAL  
20 GOODS OF WHICH THE USE OR CONSUMPTION IS SUBJECT TO THE TAX IMPOSED BY  
21 THIS ARTICLE, AND EACH PERSON WHO ACQUIRES ANY SUCH PROPERTY FOR USE OR  
22 CONSUMPTION IN THIS STATE, AND FOR WHICH THE TAX IS NOT PAID TO THE  
23 VENDOR, SHALL FILE A RETURN WITH THE DEPARTMENT ON OR BEFORE THE TWENTIETH  
24 DAY OF THE MONTH NEXT SUCCEEDING THE MONTH IN WHICH THE PROPERTY IS  
25 BROUGHT INTO THIS STATE FOR USE OR CONSUMPTION. THE RETURN SHALL BE ON A  
26 FORM PRESCRIBED BY THE DEPARTMENT AND SHALL SHOW THE AMOUNT OF PROPERTY  
27 SOLD, LEASED OR LICENSED FOR USE OR CONSUMPTION OR ACQUIRED FOR USE OR  
28 CONSUMPTION IN THIS STATE DURING THE PRECEDING MONTH. THE RETURN SHALL BE  
29 VERIFIED BY OATH OR AFFIRMATION OF THE VENDOR OR PERSON MAKING THE REPORT,  
30 OR THE PERSON'S AGENT, AND SHALL BE ACCOMPANIED BY PAYMENT OF THE TAX  
31 SHOWN TO BE DUE. THE RETURN AND TAX ARE DELINQUENT IF NOT RECEIVED BY THE  
32 DEPARTMENT ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY  
33 OF THE MONTH WHEN DUE.

34 J. NOTWITHSTANDING SUBSECTION I OF THIS SECTION, A PERSON WHO IS  
35 REQUIRED TO FILE A RETURN UNDER ARTICLE 1 OF THIS CHAPTER MAY REPORT AND  
36 PAY THE TAX LIABILITY UNDER THIS ARTICLE ON THE SAME RETURN AND FILING  
37 BASIS AS THE TAXES REPORTED UNDER ARTICLE 1 OF THIS CHAPTER.

38 K. FOR GOOD CAUSE THE DEPARTMENT MAY EXTEND THE TIME FOR MAKING A  
39 RETURN AND PAYING THE TAX, BUT THE TIME FOR FILING THE RETURN MAY NOT BE  
40 EXTENDED BEYOND THE FIRST DAY OF THE THIRD MONTH NEXT SUCCEEDING THE  
41 REGULAR DUE DATE OF THE RETURN.

1 Sec. 11. Section 42-5167, Arizona Revised Statutes, is amended to  
 2 read:

3 42-5167. Use tax; direct payments; application; permits;  
 4 certificates

5 A. A person may elect to pay use taxes directly to the department  
 6 under this article if the person:

7 1. Applies to the department for a use tax direct payment permit.  
 8 The application must be on a form prescribed by the department setting  
 9 forth the name under which the applicant transacts or intends to transact  
 10 business, the location of the place or places of business where the  
 11 applicant intends to make direct payment of use taxes and any other  
 12 information that the department may require. The application must be  
 13 signed, in the case of:

- 14 (a) A natural person, by the owner.
- 15 (b) An association or partnership, by a member or partner.
- 16 (c) A corporation, by an executive officer or another person  
 17 specifically authorized by the corporation to sign the application.

18 2. Agrees to self-assess and pay directly to the department any use  
 19 tax liability incurred under this article.

20 3. Certifies to the department that the person purchased for the  
 21 person's own use ANY COMBINATION OF tangible personal property, PREWRITTEN  
 22 COMPUTER SOFTWARE OR SPECIFIED DIGITAL GOODS at a cost of ~~five hundred~~  
 23 ~~thousand dollars~~ \$500,000 or more, in the aggregate, during the  
 24 immediately preceding calendar year.

25 B. The department shall issue a use tax direct payment permit to  
 26 any applicant that meets the requirements of subsection A of this section.

27 C. If the department deems it necessary to protect the revenues to  
 28 be collected under this section, it may require a person to file a bond to  
 29 secure the payment of such amounts pursuant to section 42-1102.

30 D. A person ~~who~~ THAT holds a valid use tax direct payment permit  
 31 shall:

- 32 1. Self-assess and pay directly to the department use taxes due  
 33 under this article for all tangible personal property, PREWRITTEN COMPUTER  
 34 SOFTWARE AND SPECIFIED DIGITAL GOODS THAT ARE subject to use tax.
- 35 2. Report the tax on a tax return prescribed by the department.

36 E. A holder of a use tax direct payment ~~certificate~~ PERMIT may  
 37 issue a use tax direct payment certificate to any retailer or seller,  
 38 subject to all of the following:

39 1. The certificate shall be in a form prescribed by the department  
 40 and must be signed by and bear the name, address and permit number of the  
 41 holder of the use tax direct payment permit.

42 2. The certificate is effective until the permit holder revises or  
 43 withdraws the certificate or until the retailer or seller receives actual  
 44 notice that the department has revoked the permit.

1           3. The certificate relieves the retailer or seller of the duty to  
2 collect use tax only if taken in good faith from a person ~~who~~ THAT holds a  
3 use tax direct payment permit. The department may periodically publish on  
4 its ~~web-site~~ WEBSITE a list of taxpayers by name with tax identification  
5 numbers ~~who~~ THAT have been issued direct payment permits. A purchaser  
6 holding a direct payment permit ~~who~~ THAT issues a use tax direct payment  
7 certificate that is accepted in good faith by a retailer or seller of  
8 tangible personal property ~~shall be~~ OR A VENDOR OF PREWRITTEN COMPUTER  
9 SOFTWARE OR SPECIFIED DIGITAL GOODS IS liable for use tax and related  
10 interest and penalties with respect to any transaction that the department  
11 subsequently determines properly subjects the vendor to the transaction  
12 privilege tax and not use tax. The vendor ~~shall be~~ IS relieved of the  
13 duty to pay transaction privilege tax on such transactions.

14           4. In addition to any use tax liabilities, a holder of a use tax  
15 direct payment permit that gives a use tax direct payment certificate to a  
16 retailer or seller is subject to the same penalty provisions that apply to  
17 a retailer or seller.

18           Sec. 12. Title 42, chapter 6, article 1, Arizona Revised Statutes,  
19 is amended by adding section 42-6017, to read:

20           42-6017. Municipal tax on prewritten computer software,  
21 specified digital goods and digital services:  
22 definitions

23           A. A CITY OR TOWN THAT IMPOSES A TRANSACTION PRIVILEGE TAX SHALL  
24 IMPOSE THE TAX ON PROCEEDS FROM SELLING, LEASING OR LICENSING THE USE OF  
25 PREWRITTEN COMPUTER SOFTWARE AND PROVIDING SPECIFIED DIGITAL GOODS BUT  
26 ONLY BY ADOPTING THE SAME TERMS AND CONDITIONS PROVIDED IN SECTION  
27 42-5077. ALL TAXES ON PREWRITTEN COMPUTER SOFTWARE AND SPECIFIED DIGITAL  
28 GOODS SHALL BE SOURCED AS PROVIDED IN SECTION 42-5040.

29           B. A CITY, TOWN OR OTHER TAXING JURISDICTION MAY NOT LEVY A  
30 TRANSACTION PRIVILEGE, SALES, USE OR OTHER SIMILAR TAX, HOWEVER  
31 DENOMINATED, ON DIGITAL SERVICES OR SPECIFIED DIGITAL GOODS THAT ARE  
32 EXPRESSLY EXCLUDED FROM TAXATION UNDER SECTION 42-5002, SUBSECTION C.

33           C. THIS SECTION DOES NOT APPLY WITH RESPECT TO SERVICES PROVIDED BY  
34 A PERSON THAT IS SUBJECT TO TAX UNDER THE ONLINE LODGING MARKETPLACE  
35 CLASSIFICATION PURSUANT TO SECTIONS 42-5076 AND 42-6009.

36           D. FOR THE PURPOSES OF THIS SECTION, "DIGITAL SERVICES",  
37 "PREWRITTEN COMPUTER SOFTWARE" AND "SPECIFIED DIGITAL GOODS" HAVE THE SAME  
38 MEANINGS PRESCRIBED IN SECTION 42-5077.

39           Sec. 13. Legislative intent

40           The legislature intends that:

41           1. Proceeds from sales, leases and licenses for using prewritten  
42 computer software and providing specified digital goods be subject to  
43 transaction privilege and use tax as provided by law from and after the  
44 effective date of this act.

1           2. Proceeds from providing digital services not be subject to state  
2 and local transaction privilege and use taxes.

3           Sec. 14. Applicability

4           This act applies to taxable periods beginning on or after the first  
5 day of the month following the general effective date.

6           Sec. 15. Conditional enactment

7           Section 42-5061, Arizona Revised Statutes, as amended by Laws 2018,  
8 chapter 104, section 15, chapter 249, section 1 and chapter 263, section 1  
9 and this act, becomes effective on the date prescribed by Laws 2018,  
10 chapter 263, section 5 but only on the occurrence of the condition  
11 prescribed by Laws 2018, chapter 263, section 5.