Amendment explanation prepared by

5/23/2013
Fifty-first Legislature
First Regular Session

YARBROUGH FLOOR AMENDMENT

SENATE AMENDMENTS TO H.B. 2111
(Reference to APPROP amendment)

Page 1, strike lines 2 through 28
Strike pages 2 through 7
Page 8, strike lines 1 through 31
Renumber to conform
Page 11, strike lines 3 through 37
Strike pages 12 through 15
Page 16, strike lines 1 through 30, insert:

"Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:
1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.
2. A corporate taxpayer may be disclosed to any principal officer, any person designated by a principal officer or any person designated in a resolution by the corporate board of directors or other similar governing body.
3. A partnership may be disclosed to any partner of the partnership. This exception does not include disclosure of confidential information of a particular partner unless otherwise authorized.
4. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest which will be affected by the confidential information.
5. A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the department finds that the grantor or beneficiary has a material interest that will be affected by the confidential information."
6. Any taxpayer may be disclosed if the taxpayer has waived any rights to confidentiality either in writing or on the record in any administrative or judicial proceeding.

7. The name and taxpayer identification numbers of persons issued direct payment permits may be publicly disclosed.

B. Confidential information may be disclosed to:

1. Any employee of the department whose official duties involve tax administration.

2. The office of the attorney general solely for its use in preparation for, or in an investigation that may result in, any proceeding involving tax administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.

4. Other state tax officials whose official duties require the disclosure for proper tax administration purposes if the information is sought in connection with an investigation or any other proceeding conducted by the official. Any disclosure is limited to information of a taxpayer who is being investigated or who is a party to a proceeding conducted by the official.

5. The following agencies, officials and organizations, if they grant substantially similar privileges to the department for the type of information being sought, pursuant to statute and a written agreement between the department and the foreign country, agency, state, Indian tribe or organization:

   (a) The United States internal revenue service, alcohol and tobacco tax and trade bureau of the United States treasury, United States bureau of alcohol, tobacco, firearms and explosives of the United States department of justice, United States drug enforcement agency and federal bureau of investigation.

   (b) A state tax official of another state.

   (c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.
(d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.

(e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

6. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection D.

7. Any person to the extent necessary for effective tax administration in connection with:
   (a) The processing, storage, transmission, destruction and reproduction of the information.
   (b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.
   (c) The collection of the taxpayer's civil liability.

8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information:
   (a) Regarding income tax or withholding tax.
   (b) On any tax issue relating to information associated with the reporting of income tax or withholding tax.

9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal revenue code section 7213A (26 United States Code section 7213A), unauthorized inspection of returns or return information.

10. The financial management service of the United States treasury department for use in the treasury offset program.

11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.

12. The Arizona commerce authority for its use in:
   (a) Qualifying renewable energy operations for the tax incentives under sections 42-12006, 43-1083.01 and 43-1164.01.
   (b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.
   (c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.
13. A prosecutor for purposes of section 32-1164, subsection C.
14. The state fire marshal for use in determining compliance with and enforcing title 41, chapter 16, article 3.1.
15. The department of transportation for its use in administering taxes and surcharges prescribed by title 28.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:

1. One or more of the following circumstances must apply:
   (a) The taxpayer is a party to the proceeding.
   (b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.
   (c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.
   (d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

2. Confidential information may not be disclosed under this subsection if the disclosure is prohibited by section 42-2002, subsection C or D.

D. Identity information may be disclosed for purposes of notifying persons entitled to tax refunds if the department is unable to locate the persons after reasonable effort.

E. The department, on the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3201, subsection A.

F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information that is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.
G. If an organization is exempt from this state's income tax as provided in section 43-1201 for any taxable year, the name and address of the organization and the application filed by the organization on which the department made its determination for exemption together with any papers submitted in support of the application and any letter or document issued by the department concerning the application are open to public inspection.

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and any other tax collected by the department on behalf of the county or town ANY JURISDICTION may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by the county, city or town OR WHO MAY BE SUBJECT TO AUDIT BY THE DEPARTMENT PURSUANT TO SECTION 42-6002. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes, INCLUDING AUDITS.
2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality standards adopted by the department will result in the immediate suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

1. The state treasurer in order to comply with the requirements of section 42-5029, subsection A, paragraph 3.
2. The joint legislative income tax credit review committee and the joint legislative budget committee staff in order to comply with the requirements of section 43-221.

J. The department may disclose the aggregate amounts of any tax credit, tax deduction or tax exemption enacted after January 1, 1994. Information subject to disclosure under this subsection shall not be disclosed if a taxpayer demonstrates to the department that such information would give an unfair advantage to competitors.

K. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph 1, subdivision (a), item
(ii), may be disclosed to law enforcement agencies for law enforcement purposes.

L. The department may provide transaction privilege tax license information to property tax officials in a county for the purpose of identification and verification of the tax status of commercial property.

M. The department may provide transaction privilege tax, luxury tax, use tax, property tax and severance tax information to the ombudsman-citizens aide pursuant to title 41, chapter 8, article 5.

N. Except as provided in section 42-2002, subsection D, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only upon a showing of good cause and that the party seeking the information has made demand upon the taxpayer for the information.

O. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo licensee. Before disclosing the information the department shall obtain the name and address of the person requesting the information.

P. If the department is required or permitted to disclose confidential information, it may charge the person or agency requesting the information for the reasonable cost of its services.

Q. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service is authorized to disclose under section 6103(1)(6) of the internal revenue code.

R. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the courts and clerks of the court pursuant to section 42-1122.

S. To comply with the requirements of section 42-5031, the department may disclose to the state treasurer, to the county stadium district board of directors and to any city or town tax official that is part of the county stadium district confidential information attributable to a taxpayer's business activity conducted in the county stadium district.

T. The department shall release confidential information as requested by the attorney general for purposes of determining compliance with and enforcing section 44-7101, the master settlement agreement referred to therein and subsequent agreements to which the state is a party that amend or
implement the master settlement agreement. Information disclosed under this
subsection is limited to luxury tax information relating to tobacco
manufacturers, distributors, wholesalers and retailers and information
collected by the department pursuant to section 44-7101(2)(j).

U. For proceedings before the department, the office of administrative
hearings, the board of tax appeals or any state or federal court involving
penalties that were assessed against a return preparer, an electronic return
preparer or a payroll service company pursuant to section 42-1103.02,
42-1125.01 or 43-419, confidential information may be disclosed only before
the judge or administrative law judge adjudicating the proceeding, the
parties to the proceeding and the parties' representatives in the proceeding
prior to its introduction into evidence in the proceeding. The confidential
information may be introduced as evidence in the proceeding only if the
taxpayer's name, the names of any dependents listed on the return, all social
security numbers, the taxpayer's address, the taxpayer's signature and any
attachments containing any of the foregoing information are redacted and if
either:

1. The treatment of an item reflected on such return is or may be
related to the resolution of an issue in the proceeding.

2. Such return or return information relates or may relate to a
transactional relationship between a person who is a party to the proceeding
and the taxpayer which directly affects the resolution of an issue in the
proceeding.

3. The method of payment of the taxpayer's withholding tax liability
or the method of filing the taxpayer's withholding tax return is an issue for
the period.

V. The department may disclose to the attorney general confidential
information received under section 44-7111 and requested by the attorney
general for purposes of determining compliance with and enforcing section
44-7111. The department and attorney general shall share with each other the
information received under section 44-7111, and may share the information
with other federal, state or local agencies only for the purposes of
enforcement of section 36-798.06, 44-7101— OR 44-7111 or corresponding laws
of other states.

W. The department may provide the name and address of qualifying
hospitals and qualifying health care organizations, as defined in section
42-5001, to a business classified and reporting transaction privilege tax
under the utilities classification.
X. The department may disclose to the attorney general confidential information requested by the attorney general for the purposes of determining compliance with and enforcing section 36-798.06.

Y. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection F any information relating to amounts subject to distribution required by section 42-5032.02. Information disclosed by the department under this subsection:
1. May only be used by the city, town or county for internal purposes.
2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

Sec. 3. Section 42-2059, Arizona Revised Statutes, is amended to read:

42-2059. No additional audits or proposed assessments; exceptions

A. When the department completes an audit or the findings of a managed audit are accepted by the director or approved on appeal and a deficiency has been completely determined under section 42-1108 or chapter 1, article 6 of this title, the taxpayer's liability for the particular tax for the period subjected to the audit is fixed and determined, and no additional audit may be conducted except under the following circumstances:
1. If a taxpayer files a claim for refund under section 42-1251, subsection B or any other provision authorizing a claim for refund. Any departmental audit of the claim is limited to the issues presented on the claim for refund.
2. Changes or corrections required to be reported to the department by section 43-327. The department may audit any such reports or any periods for which a report was required notwithstanding this section and may determine a tax deficiency or a refund.
3. An audit of state transaction privilege or use tax does not preclude a subsequent audit for a city or town. An audit of transaction privilege or use tax for a city or town does not preclude a subsequent audit for this state.
4. 3. If the taxpayer failed to disclose material information during the audit, or has falsified books or records or otherwise engaged in an
action that prevented the department from conducting an accurate audit, the
applicability of this subsection may be part of a subsequent protest and may
be contested by the taxpayer pursuant to chapter 1, article 6 of this title.

4. If a managed audit is completed under the terms of a limited
managed audit agreement, the department may audit the issues not covered by
the limited managed audit agreement within the statute of limitations
prescribed by section 42-1104.

B. If the department issues a notice of proposed assessment of taxes
imposed by chapter 5, article 1 or 4 of this title or title 43, chapter 10,
the department may not increase the amount of the proposed assessment except
in one or more of the following circumstances:

1. The taxpayer has made a material misrepresentation of facts.
2. The taxpayer has failed to disclose a material fact to the auditor.
3. The department has requested information and the taxpayer fails to
provide that information to the department.

4. After issuing the notice of proposed assessment but before the
assessment becomes final the tax court, court of appeals or supreme court
issues a decision, the application of which causes the tax initially proposed
to increase.

C. Subsection B of this section does not apply to changes or
corrections that are required to be reported to the department by section
43-327.

Sec. 4. Section 42-2075, Arizona Revised Statutes, is amended to read:

42-2075. Audit duration; definition

A. An audit of a taxpayer's return or claim for refund shall not
exceed two years from the date of initial audit contact to the issuance of a
notice of proposed deficiency assessment or proposed overpayment, except:

1. An audit of a fraudulent tax return.
2. An audit delayed as the result of the taxpayer's bankruptcy
proceeding.
3. An audit in which the department has issued a letter to the
taxpayer or the taxpayer's representative citing the potential imposition of
the penalty described in section 42-1125, subsection C for the taxpayer's
failure or refusal to provide information pursuant to the department's
written request.
4. An audit involving proceedings concerning the enforcement or
validity of a subpoena or subpoena duces tecum issued pursuant to section
42-1006, subsection C.
5. An audit involving a proceeding under section 42-2056.
6. An audit where a taxpayer has filed a petition pursuant to section 43-1148, but only in relation to the effect of the petition request.
7. An audit in which the taxpayer provides a written request to extend the audit beyond the two-year period. A request for extension under this paragraph is not a substitute for a waiver of the statute of limitations pursuant to section 42-1104, subsection B, paragraph 9. However, a waiver of the statute of limitations is considered to be a written request to extend the audit beyond the two-year period under this paragraph.

B. This section applies to audits conducted by the department and to joint audits conducted by the department and cities and towns pursuant to section 42-6005.

C. For the purposes of this section, "initial audit contact" means:
1. For a field audit, the date of the first meeting between the taxpayer or the taxpayer's representative and a member of the department's audit staff.
2. For a desk or office audit, the date of the first letter to the taxpayer regarding the audit.

Renumber to conform

Page 20, strike lines 9 through 28, insert:

"K. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE USED BY A CONTRACTOR THAT IS NOT OTHERWISE SUBJECT TO TAX UNDER SECTION 42-5075 WHEN PURCHASING TANGIBLE PERSONAL PROPERTY TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO ANY REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT. THE CONTRACTOR SHALL OBTAIN A NEW CERTIFICATE FOR EACH PROJECT AND IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE CONTRACTOR IS NOT WORKING FOR THE OWNER OF THE REAL PROPERTY BUT IS WORKING ON A JOB THAT IS IN THE CONTROL OF A PRIME CONTRACTOR AND THAT THE PRIME CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH THE CONTRACTOR IS PAID.

2. THE CONTRACTOR MAY USE THE CERTIFICATE ISSUED PURSUANT TO THIS SUBSECTION ONLY WITH RESPECT TO MATERIALS THAT WILL BE INCORPORATED INTO A PROJECT THE GROSS RECEIPTS OF WHICH ARE SUBJECT TO TAX UNDER SECTION 42-5075.

3. THE DEPARTMENT SHALL ISSUE THE CERTIFICATE TO THE CONTRACTOR ON RECEIVING SUFFICIENT DOCUMENTATION TO ESTABLISH THAT THE CONTRACTOR MEETS THE REQUIREMENTS OF THIS SUBSECTION."
4. The department shall not issue a certificate to a contractor that has a delinquent tax balance owing the department under this title or title 43.

5. If the department determines that the contractor has failed to meet any of the requirements of this subsection, any deductions from taxation from the use of the certificate are subject to recapture and payment by the contractor.

Page 21, line 6, strike "Prime contracting MANUFACTURED BUILDING DEALER" insert "Prime contracting"

Strike line 12

Line 26, strike "AND (m)"

Page 22, line 25, after "by" strike remainder of line, insert "prime"

Line 26, after "by" strike remainder of line

Line 27, strike "BRIDGE" insert "prime"

Line 29, strike "prime HIGHWAY, STREET OR BRIDGE" insert "prime"

Line 32, after "than" strike remainder of line

Line 33, strike "STREET OR BRIDGE" insert "prime": strike "42-5075 42-5078" insert "42-5075"

Page 23, line 18, strike "twenty FORTY" insert "twenty"

Between lines 20 and 21, insert:

"Sec. 7. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5015, to read:

42-5015. Online portal

On or before January 1, 2015, the online portal prescribed by section 42-6001 shall be modified so that a taxpayer who is required to pay any transaction privilege and affiliated excise taxes to this state or a county or municipality may report and pay the required tax through the online portal. The online portal shall be administered by the department of revenue. The costs of the online portal shall be paid by the cities and towns that did not have an intergovernmental contract or agreement in effect as of January 1, 2013 with the department to provide for unified or coordinated licensing, collection and auditing programs. The expanded online portal shall:

1. Include a single point for licensing, filing a single return and paying transaction privilege and affiliated excise taxes for all state, county and municipal taxing jurisdictions.

2. Consolidate data in a manner compatible with the data systems of the department of revenue.
3. CAPTURE DATA WITH SUFFICIENT SPECIFICITY TO MEET THE NEEDS OF THE TAXING JURISDICTIONS.

4. ALLOW FOR IDENTIFICATION OF THE CORRECT TAXING JURISDICTIONS AND TAX RATES BASED ON THE PLACE WHERE THE TRANSACTION IS SOURCED."

Renumber to conform

Page 23, line 33, strike "D-E" insert "D"

Page 24, line 14, after the period, insert "THE DEPARTMENT SHALL PAY AN ADDITIONAL DISTRIBUTION AMOUNT TO A QUALIFIED INCORPORATED MUNICIPALITY FOR DISTRIBUTION PAYMENTS MADE BETWEEN FEBRUARY 15, 2015 AND JANUARY 31, 2020. FOR THE PURPOSES OF THE ADDITIONAL DISTRIBUTION PAYMENTS:

(a) THE DEPARTMENT SHALL CALCULATE THE ADDITIONAL DISTRIBUTION PAYMENT FOR EACH QUALIFIED INCORPORATED MUNICIPALITY BY AVERAGING THE QUALIFIED INCORPORATED MUNICIPALITY'S ANNUAL PRIME CONTRACTING COLLECTIONS FOR FISCAL YEARS 2011-2012 THROUGH 2013-2014 AND DIVIDING THE AVERAGE BY TWELVE TO ESTABLISH A MONTHLY ADDITIONAL DISTRIBUTION. THE SUM OF THE ADDITIONAL DISTRIBUTION FROM ALL OF THE QUALIFIED INCORPORATED MUNICIPALITIES CONSTITUTES THE TOTAL ADDITIONAL DISTRIBUTION.


(c) A NONQUALIFIED INCORPORATED MUNICIPALITY'S DISTRIBUTION UNDER THIS PARAGRAPH SHALL BE REDUCED BY ITS PROPORTIONATE SHARE OF THE TOTAL MONTHLY ADDITIONAL DISTRIBUTION PAID TO THE QUALIFIED INCORPORATED MUNICIPALITIES. A NONQUALIFIED INCORPORATED MUNICIPALITY'S PROPORTIONAL SHARE IS BASED ON ITS POPULATION IN RELATION TO THE TOTAL POPULATION FOR ALL NONQUALIFIED INCORPORATED MUNICIPALITIES AS PRESCRIBED BY THIS PARAGRAPH.

(d) THE JOINT LEGISLATIVE BUDGET COMMITTEE MAY REVIEW THE INDIVIDUAL ADDITIONAL DISTRIBUTIONS FOR QUALIFIED INCORPORATED MUNICIPALITIES AND THE TOTAL OF THE ADDITIONAL DISTRIBUTIONS.

(e) 'QUALIFIED INCORPORATED MUNICIPALITY' MEANS AN INCORPORATED MUNICIPALITY WITH A POPULATION OF FIVE THOUSAND OR FEWER PERSONS."

Page 25, line 34, strike "D-E" insert "D"

Page 28, line 13, after the period, strike remainder of line

Strike line 14

Line 15, strike "allocated costs required to be paid to the taxpayer."
Senate Amendments to H.B. 2111

1 Page 30, strike lines 20 through 26, insert:
2 "C. Each month the state treasurer shall pay, from the amount
designated as distribution base pursuant to section 42-5029, subsection D,
the total amount of state transaction privilege tax revenues received from
persons conducting business under the prime contracting classification at a
multipurpose facility that is owned or operated by the tourism and sports
authority pursuant to title 5, chapter 8 for deposit in the authority's
construction account established by section 5-833."

3 Line 27, strike "C. The department shall report the"; strike "AMOUNT under"
4 Line 28, strike "SUBSECTION B"; after "C" strike remainder of line
5 Strike line 29

6 Page 31, line 7, strike "construction phase"
7 Strike line 8, insert "construction phase services, as defined in section
8 42-5075, has been made"
9 Line 13, strike "from persons"
10 Strike line 14
11 Line 15, strike "USED IN" insert "from persons conducting business under section
12 42-5075 derived from"
13 Line 16, after the period strike remainder of line
14 Strike lines 17 and 18
15 Line 19, strike "MANUFACTURING FACILITY."
16 Strike lines 28 and 29
17 Line 30, strike "THE MANUFACTURING FACILITY AND TO"
18 Page 32, line 15, strike ", INCLUDING"
19 Strike line 16, insert a period
20 Strike lines 29 through 33, insert:
21 "6. Identify the persons who will be prime contractors on the
22 construction of buildings and associated improvements for the benefit of a
23 manufacturing facility and state that each prime contractor has been notified
24 as to which portion of the contractor's income shall be separately identified
25 to the department pursuant to section 42-5075, subsection H."
26 Renumber to conform
27 Line 35, after "a" strike remainder of line
28 Strike lines 36 and 37
29 Page 33, strike lines 1 and 2
30 Line 3, strike "IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING FACILITY"
31 insert "prime contractor as identified under paragraph 6 of this subsection
resulting from an audit adjustment or claim for credit or refund of taxes described in subsection C of this section

Page 33, strike lines 12 through 19, insert:

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

Renumber to conform

Strike lines 22 through 27

Reletter to conform

Page 35, strike lines 11, 12 and 13

Line 14, strike "1. WHERE THE ORDER IS RECEIVED." insert "B. FOR THE PURPOSES OF THIS SECTION."

Line 17, after "BUSINESS" insert "OR RESIDENCE"

Strike lines 19 through 24

Page 36, strike lines 1 through 6

Page 39, line 16, strike "prime contracting MANUFACTURED BUILDING DEALER" insert "prime contracting"

Line 17, after "—" strike remainder of line

Line 18, strike "CLASSIFICATION UNDER SECTION 42-5078"

Line 19, strike "prime HIGHWAY, STREET OR BRIDGE" insert "prime"

Line 22, strike "TO BE"; strike "A MANUFACTURED"

Strike lines 23 through 28, insert "any real property, structure, project, development or improvement as part of the business.

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

Page 43, line 25, after "of" strike remainder of line

Strike lines 26 through 37

Page 44, strike lines 1 through 15, insert "environmental response or remediation activities under section 42-5075, subsection B, paragraph 6."

Page 45, strike lines 12 through 17

Page 51, line 30, strike "prime contracting MANUFACTURED BUILDING DEALER" insert "Prime contracting"

Strike line 33
Page 54, strike lines 21 through 31
Reletter to conform
Page 58, strike lines 13 through 37
Strike pages 59 through 71
Page 72, strike lines 1 through 32, insert:

"Sec. 14.  Section 42-5075, Arizona Revised Statutes, is amended to read:

42-5075.  Prime contracting classification; exemptions; definitions
A.  The prime contracting classification is comprised of the business of prime contracting and dealership of manufactured buildings. Sales for resale to another dealership of manufactured buildings are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter. The proceeds from alteration and repairs to a used manufactured building are taxable under this section.

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

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

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

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

4.  The gross proceeds of sales or gross income received from a contract entered into for the construction, alteration, repair, addition, subtraction, improvement, movement, wrecking or demolition of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement located in a military reuse zone for providing aviation or aerospace services or for a manufacturer, assembler or fabricator of aviation or aerospace products within an active military reuse zone.
military reuse zone after the zone is initially established or renewed under section 41-1531. To be eligible to qualify for this deduction, before beginning work under the contract, the prime contractor must have applied for a letter of qualification from the department of revenue.

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

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

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

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

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

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

(e) The installation of structures, such as cutoff walls or caps, to contain contaminants present in groundwater or soil and prevent them from reaching a location where they could threaten human health or welfare or the environment.
This paragraph does not include asbestos removal or the construction or use of ancillary structures such as maintenance sheds, offices or storage facilities for unattached equipment, pollution control equipment, facilities or other control items required or to be used by a person to prevent or control contamination before it reaches the environment.

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

(a) To be incorporated into real property.
(b) To become so affixed to real property that it becomes a part of the real property.
(c) To be so attached to real property that removal would cause substantial damage to the real property from which it is removed.

8. The gross proceeds of sales or gross income attributable to the purchase of machinery, equipment or other tangible personal property that is exempt from or deductible from transaction privilege and use tax under:
(a) Section 42-5061, subsection A, paragraph 25 or 29.
(b) Section 42-5061, subsection B.
(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), (i), (j) or (l).
(d) Section 42-5159, subsection B.
9. The gross proceeds of sales or gross income received from a contract for the construction of an environmentally controlled facility for the raising of poultry for the production of eggs and the sorting, cooling and packaging of eggs.

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

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

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

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

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

15. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a domestic violence shelter that is owned and operated by a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code.
16. The gross proceeds of sales or gross income derived from contracts
to perform postconstruction treatment of real property for termite and
general pest control, including wood destroying organisms.

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

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

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

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

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

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

20. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT
WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF
EXISTING PROPERTY IF THE CONTRACT DOES NOT INCLUDE MODIFICATION ACTIVITIES.
FOR THE PURPOSES OF THIS PARAGRAPH, EACH CONTRACT OR PROJECT IS INDEPENDENT
OF ANOTHER CONTRACT. A CONTRACTOR THAT HAS GROSS PROCEEDS OF SALES OR GROSS
INCOME DERIVED FROM A CONTRACT THAT IS NOT SUBJECT TO TAX UNDER THIS
PARAGRAPH IS SUBJECT TO TAX ON A CONTRACT THAT INCLUDES MODIFICATION
ACTIVITIES.

C. Entitlement to the deduction pursuant to subsection B, paragraph 7
of this section is subject to the following provisions:
1. A prime contractor may establish entitlement to the deduction by
both:
(a) Marking the invoice for the transaction to indicate that the gross
proceeds of sales or gross income derived from the transaction was deducted
from the base.
(b) Obtaining a certificate executed by the purchaser indicating the
name and address of the purchaser, the precise nature of the business of the
purchaser, the purpose for which the purchase was made, the necessary facts
to establish the deductibility of the property under section 42-5061,
subsection B, and a certification that the person executing the certificate
is authorized to do so on behalf of the purchaser. The certificate may be
disregarded if the prime contractor has reason to believe that the
information contained in the certificate is not accurate or complete.
2. A person who does not comply with paragraph 1 of this subsection
may establish entitlement to the deduction by presenting facts necessary to
support the entitlement, but the burden of proof is on that person.
3. The department may prescribe a form for the certificate described
in paragraph 1, subdivision (b) of this subsection. The department may also
adopt rules that describe the transactions with respect to which a person is
not entitled to rely solely on the information contained in the certificate
provided in paragraph 1, subdivision (b) of this subsection but must instead
obtain such additional information as required in order to be entitled to the
deduction.
4. If a prime contractor is entitled to a deduction by complying with
paragraph 1 of this subsection, the department may require the purchaser who
caused the execution of the certificate to establish the accuracy and
completeness of the information required to be contained in the certificate
that would entitle the prime contractor to the deduction. If the purchaser
cannot establish the accuracy and completeness of the information, the
purchaser is liable in an amount equal to any tax, penalty and interest that
the prime contractor would have been required to pay under article 1 of this
chapter if the prime contractor had not complied with paragraph 1 of this
subsection. Payment of the amount under this paragraph exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as a transaction privilege tax to the purchaser and as tax revenues collected from the prime contractor in order to designate the distribution base for purposes of section 42-5029.

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

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

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

G. For the purposes of section 42-5032.01, the department shall separately account for revenues collected under the prime contracting classification from any prime contractor engaged in the preparation or construction of a multipurpose facility, and related infrastructure, that is owned, operated or leased by the tourism and sports authority pursuant to title 5, chapter 8.
H. For the purposes of section 42-5032.02, from and after September 30, 2013, the department shall separately account for revenues reported and collected under the prime contracting classification from any prime contractor engaged in the construction of any buildings and associated improvements that are for the benefit of a manufacturing facility. For the purposes of this subsection, "associated improvements" and "manufacturing facility" have the same meanings prescribed in section 42-5032.02.

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

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

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

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

M. The following apply to IN DETERMINING THE TAXABLE SITUS OF SALES OF manufactured buildings:
1. For sales in this state where the dealership of manufactured buildings BUILDING DEALER contracts to deliver the building to a setup site or to perform the setup in this state, the taxable situs is the setup site.

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

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

N. The gross proceeds of sales or gross income attributable to a separate, written CONTRACT FOR design phase services contract or professional services contract, executed before modification begins AND WITH TERMS, CONDITIONS AND PRICING OF ALL OF THESE SERVICES SEPARATELY STATED IN THE CONTRACT FROM THOSE FOR CONSTRUCTION PHASE SERVICES, is not subject to tax under this section, regardless of whether the services are provided sequential to or concurrent with prime contracting activities that are subject to tax under this section. This subsection does not include the gross proceeds of sales or gross income attributable to construction phase services. For the purposes of this subsection:

1. “Construction phase services” means services for the execution and completion of any modification, including the following:

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

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

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

      (i) The scope of a change in the modification work, contract for modification work or other contract documents.
(ii) The amount of an adjustment, if any, to the guaranteed maximum price as set in the contract for modification work. For the purposes of this item, "guaranteed maximum price" means the amount guaranteed to be the maximum amount due to a prime contractor for the performance of all modification work for the project.

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

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

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

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

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

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

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

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

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

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

(j) Administration or supervision of any other activities for which a prime contractor receives a certificate for payment or certificate for final payment based on the progress of modification work performed on the project.
2. "Design phase services" means services for developing and completing a design for a project that are not construction phase services, including the following:

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

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

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

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

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

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

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

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

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

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

      (vi) Any bond and insurance premiums.

      (vii) Any applicable taxes.

      (viii) Any contingency fees for the prime contractor that may be used before final completion of the project.
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(f) Reviewing and evaluating cost estimates and project documents to prepare recommendations on site use, site improvements, selection of materials, building systems and equipment, modification feasibility, availability of materials and labor, local modification activity as related to schedules and time requirements for modification work.

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

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

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

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

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

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

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

P. For the purposes of this section:

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

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

4—3. "Manufactured building" means a manufactured home, mobile home
or factory-built building, as defined in section 41-2142.

3—4. "Dealership of Manufactured buildings BUILDING DEALER" means a
dealer who either:

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

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

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

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

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

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

Renumber to conform

Strike pages 73 through 81

Page 82, strike lines 1 and 2

Renumber to conform

Page 84, line 18, strike "prime-contracting"

Line 19, strike "MANUFACTURED BUILDING DEALER" insert "prime contracting"; strike "-- OR THE"

Strike line 20

Line 21, strike "prime HIGHWAY, STREET OR"

Line 22, strike "BRIDGE" insert "prime"; strike "EITHER"

Line 24, strike "TO BE"; strike "by the contractor" insert "by the contractor"

Strike lines 25 through 30, insert "structure, project, development or improvement in fulfillment of a contract.

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

Page 89, line 6, strike "FOR THE"

Strike lines 7 and 8

Page 90, line 10, after "of" strike remainder of line

Strike lines 11 through 37, insert "environmental response or remediation activities under section 42-5075, subsection B, paragraph 6."

Page 91, strike lines 35, 36 and 37

Page 92, strike lines 1, 2 and 3

Line 13, after the period strike remainder of line

Strike line 14
Page 98, strike lines 11 through 28
Renumber to conform
Page 99, strike lines 4 through 12, insert:

"B. The director shall enter into agreements with cities and towns of this state that levy transaction privilege and affiliated excise taxes to provide for unified or coordinated licensing, collection and auditing programs for such taxes levied by cities and towns and taxes levied pursuant to chapter 5 of this title. Such cities and towns shall enter into agreements with the department to provide for unified or coordinated licensing, collection and auditing programs for such transaction privilege and affiliated excise taxes levied by such cities and towns and for taxes levied pursuant to chapter 5 of this title."

Reletter to conform
Strike lines 21 through 36
Page 100, strike lines 1, 2 and 3, insert:

"E. D. A taxpayer who is required to pay any municipal transaction privilege and affiliated excise taxes to a city or town that did not entered into an intergovernmental contract or agreement with the department of revenue under subsection B of this section in effect as of January 1, 2013 to provide a coordinated method of collecting municipal transaction privilege and affiliated excise taxes may instead report and pay the required tax to that city or town through an online portal. The online portal shall be procured by the department of administration pursuant to a public-private partnership entered into pursuant to section 41-2559, shall include access to a single point of filing and paying the tax and shall provide security measures to protect taxpayer information. The taxpayer may be charged a fee to use the online portal. The Department of Revenue shall administer the portal.

E. A taxpayer that does not report and pay the required tax to a city or town through the portal shall file and pay the tax to the Department of Revenue."

Strike line 18
Line 19, strike "1. Employ auditors"
Line 22, strike "2. Enter into contracts with a third party, other than this state"
Line 23, after "state" strike remainder of line
Strike line 24
Line 25, strike "town."
B. AN INTERGOVERNMENTAL CONTRACT OR AGREEMENT ENTERED INTO PURSUANT TO SECTION 42-6001, SUBSECTION A SHALL INCLUDE THE FOLLOWING ENFORCEMENT PROVISIONS:

1. ALL AUDITS SHALL BE CONDUCTED IN ACCORDANCE WITH STANDARD AUDIT PROCEDURES DEFINED IN THE DEPARTMENT OF REVENUE AUDIT MANUAL.

2. THE AUDIT OF A TAXPAYER THAT HAS LOCATIONS IN TWO OR MORE CITIES OR TOWNS SHALL BE CONDUCTED BY THE DEPARTMENT.

3. ALL AUDITS SHALL INCLUDE ALL TAXING JURISDICTIONS IN THIS STATE REGARDLESS OF WHICH JURISDICTION CONDUCTS THE AUDIT. A CITY OR TOWN MAY CONDUCT AN AUDIT OF ANY TAXPAYER THAT IS ENGAGED IN BUSINESS IN ONLY ONE CITY OR TOWN OR THAT IS ENGAGED IN THE ACTIVITY OF RESIDENTIAL RENTAL OR LOCAL ADVERTISING LEVIED PURSUANT TO THE MODEL CITY TAX CODE.

4. THE DEPARTMENT SHALL ISSUE ALL AUDIT ASSESSMENTS ON BEHALF OF ALL TAXING JURISDICTIONS IN A SINGLE NOTICE TO THE TAXPAYER.

5. APPEALS OF AUDIT ASSESSMENTS SHALL BE DIRECTED TO THE DEPARTMENT.

6. THE DEPARTMENT SHALL NOTIFY ALL AFFECTED CITIES AND TOWNS BEFORE ENTERING INTO ANY COMPROMISE, CLOSING, SETTLEMENT OR OTHER AGREEMENT WITH A PERSON RELATED TO THE TAX LEVIED AND IMPOSED BY THE CITIES AND TOWNS."

13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT WITH THE OWNER OF REAL PROPERTY FOR THE MAINTENANCE, REPAIR OR REPLACEMENT OF EXISTING PROPERTY IS NOT SUBJECT TO TAX IF THE CONTRACT DOES NOT INCLUDE MODIFICATION ACTIVITIES. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) EACH CONTRACT OR PROJECT IS INDEPENDENT OF ANOTHER CONTRACT.

(b) "MODIFICATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5075."

6. Any amount attributable to development fees that are incurred in relation to the construction, development or improvement of real property and paid by the taxpayer as defined in the model city tax code or by a contractor providing services to the taxpayer. For the purposes of this paragraph:

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

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

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

Page 104, line 36, strike the second "The"

Strike line 37

Page 105, strike lines 1 through 4

Line 5, strike "business."

Line 13, strike "C. A taxpayer that conducts business in more than one jurisdiction"

Line 14, after "joint" strike remainder of line

Reletter to conform

Strike lines 23 through 37

Strike pages 106 through 121

Page 122, strike lines 1 through 11

Renumber to conform

Page 125, strike lines 10 through 37

Strike pages 126 through 133

Page 134, strike lines 1 through 25

Renumber to conform

Page 135, strike lines 1 through 4

Line 5, strike "dates" insert "date"

Strike lines 6 through 14

Line 15, strike "Statutes, as amended by this act, are" insert "This act is"

Amend title to conform

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