

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

**CHAPTER 72**  
**HOUSE BILL 2147**

AN ACT

AMENDING SECTIONS 42-5063, 42-5064, 42-5069 AND 42-5071, ARIZONA REVISED STATUTES; AMENDING SECTION 42-5075, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 11; AMENDING SECTION 42-6004, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 4, SECTION 13; RELATING TO TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 42-5063, Arizona Revised Statutes, is amended to  
3 read:  
4 42-5063. Utilities classification; definitions  
5 A. The utilities classification is comprised of the business of:  
6 1. Producing and furnishing or furnishing to consumers natural or  
7 artificial gas and water.  
8 2. Providing to retail electric customers ancillary services, electric  
9 distribution services, electric generation services, electric transmission  
10 services and other services related to providing electricity.  
11 B. The utilities classification does not include:  
12 1. Sales of ancillary services, electric distribution services,  
13 electric generation services, electric transmission services and other  
14 services related to providing electricity, gas or water to a person who  
15 resells the services.  
16 2. Sales of natural gas or liquefied petroleum gas used to propel a  
17 motor vehicle.  
18 3. Sales of alternative fuel, as defined in section 1-215, to a used  
19 oil fuel burner who has received a permit to burn used oil or used oil fuel  
20 under section 49-426 or 49-480.  
21 4. Sales of ancillary services, electric distribution services,  
22 electric generation services, electric transmission services and other  
23 services that are related to providing electricity to a retail electric  
24 customer who is located outside this state for use outside this state if the  
25 electricity is delivered to a point of sale outside this state.  
26 5. Sales or other transfers of renewable energy credits or any other  
27 unit created to track energy derived from renewable energy resources. For  
28 the purposes of this paragraph, "renewable energy credit" means a unit  
29 created administratively by the corporation commission or governing body of a  
30 public power utility to track kilowatt hours of electricity derived from a  
31 renewable energy resource or the kilowatt hour equivalent of conventional  
32 energy resources displaced by distributed renewable energy resources.  
33 6. THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS TO UTILITY  
34 POLES AS FOLLOWS:  
35 (a) BY A PERSON THAT IS ENGAGED IN BUSINESS UNDER THIS SECTION.  
36 (b) TO A PERSON THAT IS ENGAGED IN BUSINESS UNDER THIS SECTION OR  
37 SECTION 42-5064 OR THAT IS A CABLE OPERATOR.  
38 C. The tax base for the utilities classification is the gross proceeds  
39 of sales or gross income derived from the business, but the following shall  
40 be deducted from the tax base:  
41 1. Revenues received by a municipally owned utility in the form of  
42 fees charged to persons constructing residential, commercial or industrial  
43 developments or connecting residential, commercial or industrial developments  
44 to a municipal utility system or systems if the fees are segregated and used  
45 only for capital expansion, system enlargement or debt service of the utility  
46 system or systems.

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

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

8           (a) Qualifying hospitals as defined in section 42-5001.

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

12           4. The portion of gross proceeds of sales or gross income that is  
13 derived from sales to a qualified environmental technology manufacturer,  
14 producer or processor as defined in section 41-1514.02 of a utility product  
15 and that is used directly in environmental technology manufacturing,  
16 producing or processing. 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 a qualified  
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           5. The portion of gross proceeds of sales or gross income attributable  
23 to transfers of electricity by any retail electric customer owning a solar  
24 photovoltaic energy generating system to an electric distribution system, if  
25 the electricity transferred is generated by the customer's system.

26           6. Gross proceeds of sales or gross income derived from sales of  
27 electricity or natural gas to a business that is principally engaged in  
28 manufacturing or smelting operations and that uses at least fifty-one ~~per~~  
29 ~~cent~~ PERCENT of the electricity or natural gas in the manufacturing or  
30 smelting operations. This paragraph does not apply to gas transportation  
31 services. For the purposes of this paragraph:

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

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

42           (c) "Principally engaged" means at least fifty-one ~~per-cent~~ PERCENT of  
43 the business is a manufacturing or smelting operation.

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

46           D. For the purposes of this section:

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

6           2. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 9-505.

7           ~~2-~~ 3. "Electric distribution service" means distributing electricity  
8 to retail electric customers through the use of electric distribution  
9 facilities.

10          ~~3-~~ 4. "Electric generation service" means providing electricity for  
11 sale to retail electric customers but excluding electric distribution or  
12 transmission services.

13          ~~4-~~ 5. "Electric transmission service" means transmitting electricity  
14 to retail electric customers or to electric distribution facilities so  
15 classified by the federal energy regulatory commission or, to the extent  
16 permitted by law, so classified by the Arizona corporation commission.

17          ~~5-~~ 6. "Other services" includes metering, meter reading services,  
18 billing and collecting services.

19          ~~6-~~ 7. "Retail electric customer" means a person who purchases  
20 electricity for that person's own use, including use in that person's trade  
21 or business and not for resale, redistribution or retransmission.

22          8. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR  
23 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED  
24 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

25          Sec. 2. Section 42-5064, Arizona Revised Statutes, is amended to read:  
26 ~~42-5064.~~ Telecommunications classification; definitions

27          A. The telecommunications classification is comprised of the business  
28 of providing intrastate telecommunications services. The telecommunications  
29 classification does not include:

30           1. Sales of intrastate telecommunications services by a cable  
31 ~~television system as defined in section 9-505~~ OPERATOR or by a microwave  
32 television transmission system that transmits television programming to  
33 multiple subscribers and that is operated pursuant to 47 Code of Federal  
34 Regulations parts 21 and 74.

35           2. Sales of internet access or application services to the person's  
36 subscribers and customers. For the purposes of this paragraph:

37           (a) "Application services" means software applications provided  
38 remotely using hypertext transfer protocol or another network protocol and  
39 purchased by or for any school district, charter school, community college or  
40 state university to assess or test student learning or to promote curriculum  
41 design or enhancement.

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

45           3. THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS TO UTILITY  
46 POLES AS FOLLOWS:

1 (a) BY A PERSON THAT IS ENGAGED IN BUSINESS UNDER THIS SECTION.

2 (b) TO A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR  
3 THIS SECTION OR THAT IS A CABLE OPERATOR.

4 B. The tax base for the telecommunications classification is the gross  
5 proceeds of sales or gross income derived from the business, including the  
6 gross income derived from tolls, subscriptions and services on behalf of  
7 subscribers or from the publication of a directory of the names of  
8 subscribers. However, the gross proceeds of sales or gross income derived  
9 from the following shall be deducted from the tax base:

10 1. Sales of intrastate telecommunications services to:

11 (a) Other persons engaged in businesses classified under the  
12 telecommunications classification for use in such business.

13 (b) A direct broadcast satellite television or data transmission  
14 service that operates pursuant to 47 Code of Federal Regulations part 25 for  
15 use in its direct broadcast satellite television or data transmission  
16 operation by a facility described in section 42-5061, subsection B, paragraph  
17 15, subdivision (b).

18 2. End user common line charges established by federal communications  
19 commission regulations (47 Code of Federal Regulations section 69.104(a)).

20 3. Carrier access charges established by federal communications  
21 commission regulations (47 Code of Federal Regulations sections 69.105(a)  
22 through 69.118).

23 4. Sales of direct broadcast satellite television services pursuant to  
24 47 Code of Federal Regulations part 25 by a direct broadcast satellite  
25 television service that operates pursuant to 47 Code of Federal Regulations  
26 part 25.

27 5. Telecommunications services purchased with a prepaid calling card,  
28 or a prepaid authorization number for telecommunications services, that is  
29 taxable under section 42-5061.

30 C. A person that is engaged in a transient lodging business subject to  
31 taxation under section 42-5070 and that provides telephone, fax or internet  
32 access services to its customers at an additional charge, which is separately  
33 stated on the customer invoice, is considered to be engaged in business  
34 subject to taxation under this section for the purposes of taxing the gross  
35 proceeds of sales or gross income derived from providing those services.

36 D. The gross proceeds of sales or gross income derived from a bundled  
37 transaction of services that are taxable pursuant to section 42-5023 are  
38 subject to the following:

39 1. A telecommunications service provider who can reasonably identify  
40 the portion of the sales price of the bundled transaction derived from  
41 charges for nontaxable services is subject to tax only on the gross proceeds  
42 of sales or gross income derived from the taxable services. For the purposes  
43 of this section, the telecommunications service provider may elect to  
44 reasonably identify the portion of the sales price of the bundled transaction  
45 derived from charges for nontaxable services by using allocation percentages  
46 derived from the telecommunications service provider's entire service area,

1 including territories outside of this state. On request, the department may  
2 require the telecommunications service provider to provide this allocation  
3 information. The reasonableness of the allocation is subject to audit by the  
4 department.

5 2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the  
6 telecommunications service provider shall waive the right to file a claim for  
7 a refund of taxes paid on the bundled transaction if the taxes paid are based  
8 on the allocation percentage the telecommunications service provider had  
9 determined to be reasonable at the beginning of the tax period at issue.

10 3. The burden of proof is on the telecommunications service provider  
11 to establish that the gross proceeds of sales or gross income is derived from  
12 charges for nontaxable services.

13 E. For the purposes of this section:

14 1. "Bundled transaction" means a sale of multiple services in which  
15 both of the following apply:

16 (a) The sale consists of both taxable and nontaxable services.

17 (b) The telecommunications service provider charges a customer one  
18 sales price for all services that are sold instead of separately charging for  
19 each individual service.

20 2. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED IN SECTION 9-505.

21 ~~2-~~ 3. "Internet" means the computer and telecommunications facilities  
22 that comprise the interconnected worldwide network of networks that employ  
23 the transmission control protocol or internet protocol, or any predecessor or  
24 successor protocol, to communicate information of all kinds by wire or radio.

25 ~~3-~~ 4. "Internet access" means a service that enables users to access  
26 content, information, electronic mail or other services over the internet.  
27 Internet access does not include telecommunications services provided by a  
28 common carrier.

29 ~~4-~~ 5. "Intrastate telecommunications services" means transmitting  
30 signs, signals, writings, images, sounds, messages, data or other information  
31 of any nature by wire, radio waves, light waves or other electromagnetic  
32 means if the information transmitted originates and terminates in this state.

33 6. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR  
34 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED  
35 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

36 Sec. 3. Section 42-5069, Arizona Revised Statutes, is amended to read:

37 42-5069. Commercial lease classification; definitions

38 A. The commercial lease classification is comprised of the business of  
39 leasing for a consideration the use or occupancy of real property.

40 B. A person who, as a lessor, leases or rents for a consideration  
41 under one or more leases or rental agreements the use or occupancy of real  
42 property that is used by the lessee for commercial purposes is deemed to be  
43 engaged in business and subject to the tax imposed by article 1 of this  
44 chapter, but this subsection does not include leases or rentals of real  
45 property used for residential or agricultural purposes.

46 C. The commercial lease classification does not include:

- 1           1. Any business activities that are classified under the transient  
2 lodging classification.
- 3           2. Activities engaged in by the Arizona exposition and state fair  
4 board or county fair commissions in connection with events sponsored by those  
5 entities.
- 6           3. Leasing real property to a lessee who subleases the property if the  
7 lessee is engaged in business classified under the commercial lease  
8 classification or the transient lodging classification.
- 9           4. Leasing real property pursuant to a written lease agreement entered  
10 into before December 1, 1967. This exclusion does not apply to the  
11 businesses of hotels, guest houses, dude ranches and resorts, rooming houses,  
12 apartment houses, office buildings, automobile storage garages, parking lots  
13 or tourist camps, or to the extension or renewal of any such written lease  
14 agreement.
- 15           5. Leasing real property between affiliated companies, businesses,  
16 persons or reciprocal insurers. For the purposes of this paragraph:
  - 17           (a) "Affiliated companies, businesses, persons or reciprocal insurers"  
18 means the lessor holds a controlling interest in the lessee, the lessee holds  
19 a controlling interest in the lessor, affiliated persons hold a controlling  
20 interest in both the lessor and the lessee, or an unrelated person holds a  
21 controlling interest in both the lessor and lessee.
  - 22           (b) "Affiliated persons" means members of an individual's family or  
23 persons who have ownership or control of a business entity.
  - 24           (c) "Controlling interest" means direct or indirect ownership of at  
25 least eighty ~~per-cent~~ PERCENT of the voting shares of a corporation or of the  
26 interests in a company, business or person other than a corporation.
  - 27           (d) "Members of an individual's family" means the individual's spouse  
28 and brothers and sisters, whether by whole or half blood, including adopted  
29 persons, ancestors and lineal descendants.
  - 30           (e) "Reciprocal insurers" has the same meaning prescribed in section  
31 20-762.
- 32           6. Leasing real property for boarding horses.
- 33           7. Leasing or renting real property or the right to use real property  
34 at exhibition events in this state sponsored, operated or conducted by a  
35 nonprofit organization that is exempt from taxation under section 501(c)(3),  
36 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is  
37 associated with major league baseball teams or a national touring  
38 professional golfing association and no part of the organization's net  
39 earnings inures to the benefit of any private shareholder or individual.
- 40           8. Leasing or renting real property or the right to use real property  
41 for use as a rodeo featuring primarily farm and ranch animals in this state  
42 sponsored, operated or conducted by a nonprofit organization that is exempt  
43 from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or  
44 501(c)(8) of the internal revenue code and no part of the organization's net  
45 earnings inures to the benefit of any private shareholder or individual.

1           9. Leasing or renting dwelling units, lodging facilities or trailer or  
2 mobile home spaces if the units, facilities or spaces are intended to serve  
3 as the principal or permanent place of residence for the lessee or renter or  
4 if the unit, facility or space is leased or rented to a single tenant thirty  
5 or more consecutive days.

6           10. Leasing or renting real property and improvements for use primarily  
7 for religious worship by a nonprofit organization that is exempt from  
8 taxation under section 501(c)(3) of the internal revenue code and no part of  
9 the organization's net earnings inures to the benefit of any private  
10 shareholder or individual.

11           11. Leasing or renting real property used for agricultural purposes  
12 under either of the following circumstances:

13           (a) The lease or rental is between family members, trusts, estates,  
14 corporations, partnerships, joint venturers or similar entities, or any  
15 combination thereof, if the individuals or at least eighty ~~per-cent~~ PERCENT  
16 of the beneficiaries, shareholders, partners or joint venturers share a  
17 family relationship as parents or ancestors of parents, children or  
18 descendants of children, siblings, cousins of the first degree, aunts,  
19 uncles, nieces or nephews of the first degree, spouses of any of the listed  
20 relatives and listed relatives by the half-blood or by adoption.

21           (b) The lessor leases or rents real property used for agricultural  
22 purposes under no more than three leases or rental agreements.

23           12. Leasing, renting or granting the right to use real property to  
24 vendors or exhibitors by a trade or industry association that is a qualifying  
25 organization pursuant to section 513(d)(3)(C) of the internal revenue code  
26 for a period not to exceed twenty-one days in connection with an event that  
27 meets all of the following conditions:

28           (a) The majority of such vending or exhibition activities relate to  
29 the nature of the trade or business sponsoring the event.

30           (b) The event is held in conjunction with a formal business meeting of  
31 the trade or industry association.

32           (c) The event is organized by the persons engaged in the particular  
33 trade or industry.

34           13. Leasing, renting or granting the right to use real property for a  
35 period not to exceed twenty-one days by a coliseum, civic center, civic  
36 plaza, convention center, auditorium or arena owned by this state or any of  
37 its political subdivisions.

38           14. Leasing or subleasing real property used by a nursing care  
39 institution as defined in section 36-401 that is licensed pursuant to title  
40 36, chapter 4.

41           15. Leasing or renting an eligible facility as defined in section  
42 28-7701.

43           16. Granting or providing rights to real property that constitute a  
44 profit à prendre for the severance of minerals, including all rights to use  
45 the surface or subsurface of the property as is necessary or convenient to  
46 the right to sever the minerals. This paragraph does not exclude from the



1 commercial lease classification leasehold rights to the real property that  
2 are granted in addition to and not included within the right of profit à  
3 prendre, but the tax base for the grant of such a leasehold right, if the  
4 gross income derived from the grant is not separately stated from the gross  
5 income derived from the grant of the profit à prendre, shall not exceed the  
6 fair market value of the leasehold rights computed after excluding the value  
7 of all rights under the profit à prendre. For the purposes of this  
8 paragraph, "profit à prendre" means a right to use the land of another to  
9 mine minerals, and carries with it the right of entry and the right to remove  
10 and take the minerals from the land and also includes the right to use the  
11 surface of the land as is necessary and convenient for exercise of the  
12 profit.

13 17. THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS TO UTILITY  
14 POLES AS FOLLOWS:

15 (a) BY A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR  
16 42-5064 OR THAT IS A CABLE OPERATOR.

17 (b) TO A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR  
18 42-5064 OR THAT IS A CABLE OPERATOR.

19 D. The tax base for the commercial lease classification is the gross  
20 proceeds of sales or gross income derived from the business, but  
21 reimbursements to the lessor for utility service shall be deducted from the  
22 tax base.

23 E. Notwithstanding section 42-1104, subsection B, paragraph 1,  
24 subdivision (b) and paragraph 2, the failure to file tax returns for the  
25 commercial lease classification that report gross income derived from any  
26 agreement that constitutes, in whole or in part, a grant of a right of profit  
27 à prendre for the severance of minerals does not constitute an exception to  
28 the general rule for the statute of limitations.

29 F. For the purposes of this section:

30 1. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED BY SECTION 9-505.

31 ~~2.~~ 2. "Leasing" includes renting.

32 ~~3.~~ 3. "Real property" includes any improvements, rights or interest  
33 in such property.

34 4. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR  
35 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED  
36 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

37 Sec. 4. Section 42-5071, Arizona Revised Statutes, is amended to read:  
38 42-5071. Personal property rental classification; definitions

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

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

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

4           3. Leasing or renting tangible personal property by a parent  
5 corporation to a subsidiary corporation or by a subsidiary corporation to  
6 another subsidiary of the same parent corporation if taxes were paid under  
7 this chapter on the gross proceeds or gross income accruing from the initial  
8 sale of the tangible personal property. For the purposes of this paragraph,  
9 "subsidiary" means a corporation of which at least eighty ~~per cent~~ PERCENT of  
10 the voting shares are owned by the parent corporation.

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

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

19           6. Leasing or renting aircraft, flight simulators or similar training  
20 equipment to students or staff by nonprofit, accredited educational  
21 institutions that offer associate or baccalaureate degrees in aviation or  
22 aerospace related fields.

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

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

30           9. THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS TO UTILITY  
31 POLES, AS FOLLOWS:

32           (a) BY A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR  
33 42-5064 OR THAT IS A CABLE OPERATOR.

34           (b) TO A PERSON THAT IS ENGAGED IN BUSINESS UNDER SECTION 42-5063 OR  
35 42-5064 OR THAT IS A CABLE OPERATOR.

36           B. The tax base for the personal property rental classification is the  
37 gross proceeds of sales or gross income derived from the business, but the  
38 gross proceeds of sales or gross income derived from the following shall be  
39 deducted from the tax base:

40           1. Reimbursements by the lessee to the lessor of a motor vehicle for  
41 payments by the lessor of the applicable fees and taxes imposed by sections  
42 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
43 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
44 such amounts are separately identified as such fees and taxes and are billed  
45 to the lessee.

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

4           (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, 49  
5           or 54.

6           (b) Section 42-5061, subsection B, except that a lease or rental of  
7           new machinery or equipment is not exempt pursuant to:

8           (i) Section 42-5061, subsection B, paragraph 13 if the lease is for  
9           less than two years.

10          (ii) Section 42-5061, subsection B, paragraph 21.

11          (c) Section 42-5061, subsection J, paragraph 1.

12          (d) Section 42-5061, subsection N.

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

17          4. Leasing or renting a motor vehicle subject to and ~~upon~~ ON which the  
18          fee has been paid under title 28, chapter 16, article 4.

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

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

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

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

37          F. FOR THE PURPOSES OF THIS SECTION:

38           1. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED BY SECTION 9-505.

39           2. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR  
40           UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED  
41           FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

42          Sec. 5. Section 42-5075, Arizona Revised Statutes, as amended by Laws  
43          2015, chapter 4, section 11, is amended to read:

44           42-5075. Prime contracting classification; exemptions;  
45           definitions

1           A. The prime contracting classification is comprised of the business  
2 of prime contracting and the business of manufactured building dealer. Sales  
3 for resale to another manufactured building dealer are not subject to  
4 tax. Sales for resale do not include sales to a lessor of manufactured  
5 buildings. The sale of a used manufactured building is not taxable under  
6 this chapter.

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

17           3. The sales price of furniture, furnishings, fixtures, appliances and  
18 attachments that are not incorporated as component parts of or attached to a  
19 manufactured building or the setup site. The sale of such items may be  
20 subject to the taxes imposed by article 1 of this chapter separately and  
21 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 fabricator  
27 of aviation or aerospace products within an active military reuse zone after  
28 the zone is initially established or renewed under section 41-1531. To be  
29 eligible to qualify for this deduction, before beginning work under the  
30 contract, the prime contractor must have applied for a letter of  
31 qualification from the department of revenue.

32           5. The gross proceeds of sales or gross income derived from a contract  
33 to construct a qualified environmental technology manufacturing, producing or  
34 processing facility, as described in section 41-1514.02, and from subsequent  
35 construction and installation contracts that begin within ten years after the  
36 start of initial construction. To qualify for this deduction, before  
37 beginning work under the contract, the prime contractor must obtain a letter  
38 of qualification from the department of revenue. This paragraph shall apply  
39 for ten full consecutive calendar or fiscal years after the start of initial  
40 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 or  
44 other tangible personal property, including structures necessary to protect  
45 exempt incorporated materials or installed machinery or equipment, and  
46 tangible personal property incorporated into the project, to perform one or

1 more of the following actions in response to a release or suspected release  
2 of a hazardous substance, pollutant or contaminant from a facility to the  
3 environment, unless the release was authorized by a permit issued by a  
4 governmental authority:

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

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

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

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

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

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

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

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

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

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

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

41 (b) The deduction provided in this paragraph does not include gross  
42 proceeds of sales or gross income from the portion of any contracting  
43 activity that consists of the development of, or modification to, real  
44 property in order to facilitate the installation, assembly, repair,  
45 maintenance or removal of machinery, equipment or other tangible personal  
46 property that is either deducted from the tax base of the retail

1 classification under section 42-5061, subsection B or exempt from use tax  
2 under section 42-5159, subsection B.

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

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

10 (i) Assembling the machinery, equipment or other tangible personal  
11 property.

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

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

17 (iv) Stabilizing or protecting the machinery, equipment or other  
18 tangible personal property during operation by bolting, burying or performing  
19 other similar nonpermanent connections to either real property or real  
20 property improvements.

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

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

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

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

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

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

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

41 11. The gross proceeds of sales or gross income that is derived from  
42 the installation, assembly, repair or maintenance of clean rooms that are  
43 deducted from the tax base of the retail classification pursuant to section  
44 42-5061, subsection B, paragraph 16.

45 12. For taxable periods beginning from and after June 30, 2001, the  
46 gross proceeds of sales or gross income derived from a contract entered into

1 for the construction of a residential apartment housing facility that  
2 qualifies for a federal housing subsidy for low income persons over sixty-two  
3 years of age and that is owned by a nonprofit charitable organization that  
4 has qualified under section 501(c)(3) of the internal revenue code.

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

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

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

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

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

28 18. The gross proceeds of sales or gross income received from a  
29 contract for the construction of any building, or other structure, project,  
30 development or improvement owned by a qualified business under section  
31 41-1516 for harvesting or processing qualifying forest products removed from  
32 qualifying projects as defined in section 41-1516 if actual construction  
33 begins before January 1, 2024. To qualify for this deduction, the prime  
34 contractor must obtain a letter of qualification from the Arizona commerce  
35 authority before beginning work under the contract.

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

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

43 (b) The attributable amount is equal to the total amount of  
44 development fees paid by the prime contractor or subcontractor, and the total  
45 development fees credited in exchange for the construction of, contribution  
46 to or dedication of real property for providing public infrastructure, public

1 safety or other public services necessary to the development. The real  
2 property must be the subject of the development fees.

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

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

12 (a) "Mixed waste processing facility" means a solid waste facility  
13 that is owned, operated or used for the treatment, processing or disposal of  
14 solid waste, recyclable solid waste, conditionally exempt small quantity  
15 generator waste or household hazardous waste. For the purposes of  
16 this subdivision, "conditionally exempt small quantity generator waste",  
17 "household hazardous waste" and "solid waste facility" have the same meanings  
18 prescribed in section 49-701, except that solid waste facility does include a  
19 site that stores, treats or processes paper, glass, wood, cardboard,  
20 household textiles, scrap metal, plastic, vegetative waste, aluminum, steel  
21 or other recyclable material.

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

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

27 (d) "Renewable energy" has the same meaning prescribed in section  
28 41-1511.

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

31 1. A prime contractor may establish entitlement to the deduction by  
32 both:

33 (a) Marking the invoice for the transaction to indicate that the gross  
34 proceeds of sales or gross income derived from the transaction was deducted  
35 from the base.

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

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



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

8           4. If a prime contractor is entitled to a deduction by complying with  
9 paragraph 1 of this subsection, the department may require the purchaser who  
10 caused the execution of the certificate to establish the accuracy and  
11 completeness of the information required to be contained in the certificate  
12 that would entitle the prime contractor to the deduction. If the purchaser  
13 cannot establish the accuracy and completeness of the information, the  
14 purchaser is liable in an amount equal to any tax, penalty and interest that  
15 the prime contractor would have been required to pay under article 1 of this  
16 chapter if the prime contractor had not complied with paragraph 1 of this  
17 subsection. Payment of the amount under this paragraph exempts the purchaser  
18 from liability for any tax imposed under article 4 of this chapter. The  
19 amount shall be treated as a transaction privilege tax to the purchaser and  
20 as tax revenues collected from the prime contractor in order to designate the  
21 distribution base for purposes of section 42-5029.

22           D. Subcontractors or others who perform modification activities are  
23 not subject to tax if they can demonstrate that the job was within the  
24 control of a prime contractor or contractors or a dealership of manufactured  
25 buildings and that the prime contractor or dealership is liable for the tax  
26 on the gross income, gross proceeds of sales or gross receipts attributable  
27 to the job and from which the subcontractors or others were paid.

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

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

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

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

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

24 J. Except as provided in subsection 0 of this section, the gross  
25 proceeds of sales or gross income derived from landscaping activities are  
26 subject to tax under this section. Landscaping includes installing lawns,  
27 grading or leveling ground, installing gravel or boulders, planting trees and  
28 other plants, felling trees, removing or mulching tree stumps, removing other  
29 imbedded plants, building irrigation berms, installing railroad ties and  
30 installing underground sprinkler or watering systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44           (d) Administration or supervision of any modification performed  
45 pursuant to change directives. For the purposes of this subdivision, "change  
46 directive" means a written order directing a change in modification work

1 before agreement on an adjustment of the guaranteed maximum price or contract  
2 time.

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

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

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

14 (i) Master schedule updates.

15 (ii) Modification work cash flow projection updates.

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

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

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

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

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

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

28 2. "Design phase services" means services for developing and  
29 completing a design for a project that are not construction phase services,  
30 including the following:

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

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

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

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

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

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

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

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

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

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

14 (vi) Any bond and insurance premiums.

15 (vii) Any applicable taxes.

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

18 (f) Reviewing and evaluating cost estimates and project documents to  
19 prepare recommendations on site use, site improvements, selection of  
20 materials, building systems and equipment, modification feasibility,  
21 availability of materials and labor, local modification activity as related  
22 to schedules and time requirements for modification work.

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

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

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

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

41 2. Each contract is independent of any other contract, except that any  
42 change order that directly relates to the scope of work of the original  
43 contract shall be treated the same as the original contract under this  
44 chapter, regardless of the amount of modification activities included in the  
45 change order. If a change order does not directly relate to the scope of  
46 work of the original contract, the change order shall be treated as a new

1 contract, with the tax treatment of any subsequent change order to follow the  
2 tax treatment of the contract to which the scope of work of the subsequent  
3 change order directly relates.

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

12 1. Community facilities districts, fire districts, county television  
13 improvement districts, community park maintenance districts, cotton pest  
14 control districts, hospital districts, pest abatement districts, health  
15 service districts, agricultural improvement districts, county free library  
16 districts, county jail districts, county stadium districts, special health  
17 care districts, public health services districts, theme park districts,  
18 regional attraction districts or revitalization districts.

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

23 Q. Notwithstanding subsection R, paragraph 10 of this section, a  
24 person owning real property who enters into a contract for sale of the real  
25 property, who is responsible to the new owner of the property for  
26 modifications made to the property in the period subsequent to the transfer  
27 of title and who receives a consideration for the modifications is considered  
28 a prime contractor solely for purposes of taxing the gross proceeds of sale  
29 or gross income received for the modifications made subsequent to the  
30 transfer of title. The original owner's gross proceeds of sale or gross  
31 income received for the modifications shall be determined according to the  
32 following methodology:

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

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

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

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

11           R. For the purposes of this section:

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

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

22           (b) For all existing property other than existing property described  
23 in subdivision (a) of this paragraph, this paragraph does not apply if any of  
24 the following is true:

25           (i) The contract amount is more than seven hundred fifty thousand  
26 dollars.

27           (ii) The scope of work directly relates to more than forty percent of  
28 the existing square footage of the existing property.

29           (iii) The scope of work involves expanding the square footage of more  
30 than ten percent of the existing property.

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

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

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

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

- 1           2. "Contracting" means engaging in business as a contractor.
- 2           3. "Contractor" is synonymous with the term "builder" and means any  
3 person or organization that undertakes to or offers to undertake to, or  
4 purports to have the capacity to undertake to, or submits a bid to, or does  
5 personally or by or through others, modify any building, highway, road,  
6 railroad, excavation, manufactured building or other structure, project,  
7 development or improvement, or to do any part of such a project, including  
8 the erection of scaffolding or other structure or works in connection with  
9 such a project, and includes subcontractors and specialty contractors. For  
10 all purposes of taxation or deduction, this definition shall govern without  
11 regard to whether or not such contractor is acting in fulfillment of a  
12 contract.
- 13           4. "Manufactured building" means a manufactured home, mobile home or  
14 factory-built building, as defined in section 41-2142.
- 15           5. "Manufactured building dealer" means a dealer who either:
- 16           (a) Is licensed pursuant to title 41, chapter 16 and who sells  
17 manufactured buildings to the final consumer.
- 18           (b) Supervises, performs or coordinates the excavation and completion  
19 of site improvements or the setup or moving of a manufactured building  
20 including the contracting, if any, with any subcontractor or specialty  
21 contractor for the completion of the contract.
- 22           6. "Modification" means construction, grading and leveling ground,  
23 wreckage or demolition. Modification does not include:
- 24           (a) Any project described in subsection 0 of this section.
- 25           (b) Any wreckage or demolition of existing property, or any other  
26 activity that is a necessary component of a project described in subsection 0  
27 of this section.
- 28           (c) Any mobilization or demobilization related to a project described  
29 in subsection 0 of this section, such as the erection or removal of temporary  
30 facilities to be used by those persons working on the project.
- 31           7. "Modify" means to make a modification or cause a modification to be  
32 made.
- 33           8. "Owner" means the person that holds title to the real property or  
34 improvements to real property that is the subject of the work, as well as an  
35 agent of the title holder and any person with the authority to perform or  
36 authorize work on the real property or improvements, including a tenant and a  
37 property manager. For the purposes of subsection 0 of this section, a person  
38 who is hired by a general contractor that is hired by an owner, or a  
39 subcontractor of a general contractor that is hired by an owner, is  
40 considered to be hired by the owner.
- 41           9. "Prime contracting" means engaging in business as a prime  
42 contractor.
- 43           10. "Prime contractor" means a contractor who supervises, performs or  
44 coordinates the modification of any building, highway, road, railroad,  
45 excavation, manufactured building or other structure, project, development or  
46 improvement including the contracting, if any, with any subcontractors or



1 specialty contractors and who is responsible for the completion of the  
2 contract. Except as provided in subsections E and Q of this section, a  
3 person who owns real property, who engages one or more contractors to modify  
4 that real property and who does not itself modify that real property is not a  
5 prime contractor within the meaning of this paragraph regardless of the  
6 existence of a contract for sale or the subsequent sale of that real  
7 property.

8 11. "Replacement" means the removal FROM SERVICE of one component or  
9 system of existing property or tangible personal property installed in  
10 existing property, including machinery or equipment, and the installation of  
11 a new component or system or new tangible personal property, including  
12 machinery or equipment, that provides ~~the same~~ SIMILAR or upgraded design or  
13 functionality, regardless of the contract amount AND REGARDLESS OF WHETHER  
14 THE EXISTING COMPONENT OR SYSTEM OR EXISTING TANGIBLE PERSONAL PROPERTY IS  
15 PHYSICALLY REMOVED FROM THE EXISTING PROPERTY.

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

18 Sec. 6. Section 42-6004, Arizona Revised Statutes, as amended by Laws  
19 2015, chapter 4, section 13, is amended to read:

20 42-6004. Exemption from municipal tax

21 A. A city, town or special taxing district shall not levy a  
22 transaction privilege, sales, use or other similar tax on:

23 1. Exhibition events in this state sponsored, conducted or operated by  
24 a nonprofit organization that is exempt from taxation under section  
25 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
26 organization is associated with a major league baseball team or a national  
27 touring professional golfing association and no part of the organization's  
28 net earnings inures to the benefit of any private shareholder or individual.

29 2. Interstate telecommunications services, which include that portion  
30 of telecommunications services, such as subscriber line service, allocable by  
31 federal law to interstate telecommunications service.

32 3. Sales of warranty or service contracts.

33 4. Sales of motor vehicles to nonresidents of this state for use  
34 outside this state if the motor vehicle dealer ships or delivers the motor  
35 vehicle to a destination outside this state.

36 5. Interest on finance contracts.

37 6. Dealer documentation fees on the sales of motor vehicles.

38 7. Sales of food or other items purchased with United States  
39 department of agriculture food stamp coupons issued under the food stamp act  
40 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
41 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
42 section 4302; 42 United States Code section 1786) but may impose such a tax  
43 on other sales of food. If a city, town or special taxing district exempts  
44 sales of food from its tax or imposes a different transaction privilege rate  
45 on the gross proceeds of sales or gross income from sales of food and nonfood

1 items, it shall use the definition of food prescribed by rule adopted by the  
2 department pursuant to section 42-5106.

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

6 9. Sales of internet access services to the person's subscribers and  
7 customers. For the purposes of this paragraph:

8 (a) "Internet" means the computer and telecommunications facilities  
9 that comprise the interconnected worldwide network of networks that employ  
10 the transmission control protocol or internet protocol, or any predecessor or  
11 successor protocol, to communicate information of all kinds by wire or radio.

12 (b) "Internet access" means a service that enables users to access  
13 content, information, electronic mail or other services over the internet.  
14 Internet access does not include telecommunication services provided by a  
15 common carrier.

16 10. The gross proceeds of sales or gross income retained by the Arizona  
17 exposition and state fair board from ride ticket sales at the annual Arizona  
18 state fair.

19 11. Through August 31, 2014, sales of Arizona centennial medallions by  
20 the historical advisory commission.

21 12. Leasing real property between affiliated companies, businesses,  
22 persons or reciprocal insurers. For the purposes of this paragraph:

23 (a) "Affiliated companies, businesses, persons or reciprocal insurers"  
24 means the lessor holds a controlling interest in the lessee, the lessee holds  
25 a controlling interest in the lessor, affiliated persons hold a controlling  
26 interest in both the lessor and the lessee, or an unrelated person holds a  
27 controlling interest in both the lessor and lessee.

28 (b) "Affiliated persons" means members of the individual's family or  
29 persons who have ownership or control of a business entity.

30 (c) "Controlling interest" means direct or indirect ownership of at  
31 least eighty percent of the voting shares of a corporation or of the  
32 interests in a company, business or person other than a corporation.

33 (d) "Members of the individual's family" means the individual's spouse  
34 and brothers and sisters, whether by whole or half blood, including adopted  
35 persons, ancestors and lineal descendants.

36 (e) "Reciprocal insurer" has the same meaning prescribed in section  
37 20-762.

38 13. The gross proceeds of sales or gross income derived from a contract  
39 for the installation, assembly, repair or maintenance of machinery, equipment  
40 or other tangible personal property that is described in section 42-5061,  
41 subsection B and that has independent functional utility, pursuant to the  
42 following provisions:

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

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

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

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

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

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

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

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

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

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

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

32 14. The leasing or renting of certified ignition interlock devices  
33 installed pursuant to the requirements prescribed by section 28-1461. For  
34 the purposes of this paragraph, "certified ignition interlock device" has the  
35 same meaning prescribed in section 28-1301.

36 15. Computer data center equipment purchased by the owner, operator or  
37 qualified colocation tenant of the computer data center or an authorized  
38 agent of the owner, operator or qualified colocation tenant during the  
39 qualification period for use in a computer data center that is certified by  
40 the Arizona commerce authority under section 41-1519. To qualify for this  
41 deduction, at the time of purchase, the owner, operator or qualified  
42 colocation tenant must present to the retailer its certificate that is issued  
43 pursuant to section 41-1519 and that establishes its qualification for the  
44 deduction. For the purposes of this paragraph, "computer data center",  
45 "computer data center equipment", "qualification period" and "qualified  
46 colocation tenant" have the same meanings prescribed in section 41-1519.

1           16. The gross proceeds of sales or gross income derived from a contract  
2 with the owner of real property or improvements to real property for the  
3 maintenance, repair, replacement or alteration of existing property, except  
4 as specified in this paragraph. The gross proceeds of sales or gross income  
5 derived from a de minimis amount of modification activity does not subject  
6 the contract or any part of the contract to tax. For the purposes of this  
7 paragraph:

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

17           (b) Any term not defined in this paragraph that is defined in section  
18 42-5075 has the same meaning prescribed in section 42-5075.

19           (c) This paragraph does not apply to a contract that primarily  
20 involves surface or subsurface improvements to land and that is subject to  
21 title 28, chapter 19, 20 or 22 or title 34, chapter 2 or 6 even if the  
22 contract also includes vertical improvements. If a city or town imposes a  
23 tax on contracts that are subject to procurement processes under those  
24 provisions, the city or town shall include in the request for proposals a  
25 notice to bidders when those projects are subject to the tax. This  
26 subdivision does not apply to contracts with:

27           (i) Community facilities districts, fire districts, county television  
28 improvement districts, community park maintenance districts, cotton pest  
29 control districts, hospital districts, pest abatement districts, health  
30 service districts, agricultural improvement districts, county free library  
31 districts, county jail districts, county stadium districts, special health  
32 care districts, public health services districts, theme park districts,  
33 regional attraction districts or revitalization districts.

34           (ii) Any special taxing district not specified in item (i) of this  
35 subdivision if the district does not substantially engage in the  
36 modification, maintenance, repair, replacement or alteration of surface or  
37 subsurface improvements to land.

38           17. Monitoring services relating to an alarm system as defined in  
39 section 32-101.

40           18. Tangible personal property, job printing or publications sold to or  
41 purchased by, or tangible personal property leased, rented or licensed for  
42 use to or by, a qualifying health sciences educational institution as defined  
43 in section 42-5001.

44           19. The transfer of title or possession of coal back and forth between  
45 an owner or operator of a power plant and a person who is responsible for  
46 refining coal if both of the following apply:

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

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

8 20. The gross proceeds of sales or gross income from sales of low or  
9 reduced cost articles of food or drink to eligible elderly or homeless  
10 persons or persons with a disability by a business subject to tax under  
11 section 42-5074 that contracts with the department of economic security and  
12 that is approved by the food and nutrition service of the United States  
13 department of agriculture pursuant to the supplemental nutrition assistance  
14 program established by the food and nutrition act of 2008 (P.L. 110-246; 122  
15 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the  
16 purchases are made with the benefits issued pursuant to the supplemental  
17 nutrition assistance program.

18 21. Tangible personal property incorporated or fabricated into a  
19 project described in paragraph 16 of this subsection, that is located within  
20 the exterior boundaries of an Indian reservation for which the owner, as  
21 defined in section 42-5075, of the project is an Indian tribe or an  
22 affiliated Indian. For the purposes of this paragraph:

23 (a) "Affiliated Indian" means an individual native American Indian WHO  
24 IS duly registered on the tribal rolls of the Indian tribe for whose benefit  
25 the Indian reservation was established.

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

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

34 22. THE CHARGES FOR THE LEASING OR RENTING OF SPACE TO MAKE ATTACHMENTS  
35 TO UTILITY POLES AS FOLLOWS:

36 (a) BY A PERSON THAT IS ENGAGED IN THE BUSINESS OF PROVIDING OR  
37 FURNISHING ELECTRICAL SERVICES OR TELECOMMUNICATION SERVICES OR THAT IS A  
38 CABLE OPERATOR.

39 (b) TO A PERSON THAT IS ENGAGED IN THE BUSINESS OF PROVIDING OR  
40 FURNISHING ELECTRICAL SERVICES OR TELECOMMUNICATION SERVICES OR THAT IS A  
41 CABLE OPERATOR.

42 B. A city, town or other taxing jurisdiction shall not levy a  
43 transaction privilege, sales, use, franchise or other similar tax or fee,  
44 however denominated, on natural gas or liquefied petroleum gas used to propel  
45 a motor vehicle.

1 C. A city, town or other taxing jurisdiction shall not levy a  
2 transaction privilege, sales, gross receipts, use, franchise or other similar  
3 tax or fee, however denominated, on gross proceeds of sales or gross income  
4 derived from any of the following:

5 1. A motor carrier's use on the public highways in this state if the  
6 motor carrier is subject to a fee prescribed in title 28, chapter 16,  
7 article 4.

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

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

15 4. Incarcerating or detaining in a privately operated prison, jail or  
16 detention facility prisoners who are under the jurisdiction of the United  
17 States, this state or any other state or a political subdivision of this  
18 state or of any other state.

19 5. Transporting for hire persons, freight or property by light motor  
20 vehicles subject to a fee under title 28, chapter 15, article 4.

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

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

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

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

38 D. A city, town or other taxing jurisdiction shall not levy a  
39 transaction privilege, sales, use, franchise or other similar tax or fee,  
40 however denominated, in excess of one-tenth of one percent of the value of  
41 the entire product mined, smelted, extracted, refined, produced or prepared  
42 for sale, profit or commercial use, on persons engaged in the business of  
43 mineral processing, except to the extent that the tax is computed on the  
44 gross proceeds or gross income from sales at retail.

1 E. In computing the tax base, any city, town or other taxing  
2 jurisdiction shall not include in the gross proceeds of sales or gross  
3 income:

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

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

7 F. A city or town shall not levy a use tax on the storage, use or  
8 consumption of tangible personal property in the city or town by a school  
9 district or charter school.

10 G. FOR THE PURPOSES OF THIS SECTION:

11 1. "CABLE OPERATOR" HAS THE SAME MEANING PRESCRIBED BY SECTION 9-505.

12 2. "ELECTRICAL SERVICES" MEANS TRANSMITTING OR DISTRIBUTING  
13 ELECTRICITY, ELECTRIC LIGHTS, CURRENT OR POWER OVER LINES, WIRES OR CABLES.

14 3. "TELECOMMUNICATION SERVICES" MEANS TRANSMITTING OR RELAYING SOUND,  
15 VISUAL IMAGE, DATA, INFORMATION, IMAGES OR MATERIAL OVER LINES, WIRES OR  
16 CABLES BY RADIO SIGNAL, LIGHT BEAM, TELEPHONE, TELEGRAPH OR ANY OTHER  
17 ELECTROMAGNETIC MEANS.

18 4. "UTILITY POLE" MEANS ANY WOODEN, METAL OR OTHER POLE USED FOR  
19 UTILITY PURPOSES AND THE POLE'S APPURTENANCES THAT ARE ATTACHED OR AUTHORIZED  
20 FOR ATTACHMENT BY THE PERSON CONTROLLING THE POLE.

21 Sec. 7. Retroactivity

22 Section 42-5075, Arizona Revised Statutes, as amended by this act, is  
23 effective retroactively to from and after December 31, 2014.

APPROVED BY THE GOVERNOR MARCH 26, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 27, 2015.