

COMMITTEE ON APPROPRIATIONS  
SENATE AMENDMENTS TO H.B. 2111  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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

4 41-1516. Healthy forest enterprise incentives; definitions

5 A. The Arizona commerce authority shall:

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

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

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

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

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

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

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

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

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

5 (i) At least seventy per cent of the harvested or processed products  
6 must be qualifying forest products.

7 (ii) At least seventy-five per cent of the harvested or processed  
8 products must be from areas in this state.

9 (d) If the business is engaged in transporting qualifying forest  
10 products, it must submit a letter from the state forester or United States  
11 forest service, or official records or documents produced in connection with  
12 the project, stating that all of the qualifying forest products it transports  
13 are harvested from areas in this state. In addition, the business must  
14 submit evidence to the authority that at least seventy-five per cent of the  
15 mileage traveled by its units each year are for transporting qualifying  
16 forest products from or to qualifying projects described in subdivision (b)  
17 or (c) of this paragraph, unless a lower mileage is due to forest closures or  
18 weather conditions that are beyond the control of the business.

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

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

22 4. Must enter into a memorandum of understanding with the authority  
23 containing:

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

26 (b) A commitment to continue in business and use the qualifying  
27 equipment primarily on qualifying projects in this state as described in  
28 paragraph 1 of this subsection, other than for reasons beyond the control of  
29 the business. The authority shall consult with the department of revenue in  
30 designing the memorandum of understanding to incorporate the legal  
31 qualifications for the available tax incentives and shall include the  
32 requirement that any qualifying equipment that is purchased or leased free of  
33 transaction privilege or use tax must continue to be used in this state for  
34 the term of the memorandum of understanding or the duration of its  
35 operational life, whichever is shorter.

36 (c) Provisions considered necessary by the authority to ensure the  
37 competency and responsibility of businesses that qualify under this section,

1 including registration or other accreditation with trade and professional  
2 organizations and compliance with best management and operational practices  
3 used by governmental agencies in awarding forestry contracts.

4 (d) The authorization for the authority to terminate, adjust or  
5 recapture all or part of the tax benefits provided to the business on  
6 noncompliance with the law, noncompliance with the terms of the memorandum or  
7 violation of the terms of any contracts with the federal or state government  
8 relating to the qualifying project. The authority shall notify the  
9 department of revenue of the conditions of noncompliance. The department of  
10 revenue may also terminate the certification if it obtains information  
11 indicating a failure to qualify and comply. The department of revenue may  
12 require the business to file appropriate amended tax returns or to file  
13 appropriate use tax returns reflecting the recapture of the direct or  
14 indirect tax benefits.

15 5. Must submit a copy of the certification to the department of  
16 revenue for approval before using the certification for purposes of any tax  
17 incentive. The department of revenue shall review and approve the  
18 certification in a timely manner if the business is in good standing with the  
19 department and is not delinquent in the payment of any tax collected by the  
20 department. A failure to approve or deny the certification within sixty days  
21 after the date the business submits it to the department constitutes approval  
22 of the certification.

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

28 ~~D.~~ C. To obtain and maintain certification under this section, a  
29 business must:

30 1. Apply to the authority.

31 2. Submit and retain copies of all required information, including  
32 information relating to the actual or projected number of employees in this  
33 state.

34 3. Allow inspections and audits to verify the qualification and  
35 accuracy of information submitted to the authority.

36 ~~E.~~ D. Certification under this section is valid for sixty calendar  
37 months from the date of issuance. A business must apply for recertification

1 at least thirty days before the current certification expires. The  
2 application for recertification shall be in a form prescribed by the  
3 authority and shall confirm that the business is continuing in a qualifying  
4 project and is in compliance with all requirements prescribed for  
5 certification.

6 ~~F.~~ E. Within sixty days after receiving a complete and correct  
7 application and all required information as prescribed by this section, the  
8 authority shall grant or deny certification and give written notice by  
9 certified mail to the applicant. The applicant is certified as a qualified  
10 business on the date the notice of certification is delivered to the  
11 applicant. A failure to respond within sixty days after receiving a complete  
12 and correct application constitutes approval of the application.

13 ~~G.~~ F. The certification shall state an effective date with respect to  
14 each authorized tax incentive which, in each case, must be at the start of a  
15 taxable year or taxable period.

16 ~~H.~~ G. On or before March 1 of each year, each qualifying business  
17 shall make a report to the authority on all business activity in the  
18 preceding calendar year. Business information contained in the reports is  
19 confidential and shall not be disclosed to the public except as provided by  
20 this section and except that a copy of the report shall be transmitted to the  
21 department of revenue. The report shall be in a form prescribed by the  
22 authority and include:

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

26 2. Employment information necessary to confirm eligibility for income  
27 tax credits as prescribed by sections 43-1076 and 43-1162.

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

30 ~~I.~~ H. On or before May 1 of each year, the authority shall report to  
31 the joint legislative budget committee:

32 1. The quantity, measured by weight, of qualifying forest products  
33 reported by harvesters, by transporters and by processors in the preceding  
34 calendar year.

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

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

4           ~~I.~~ I. For purposes of administering and ensuring compliance with this  
5 section, agents of the authority may enter, and a qualified business shall  
6 allow access to, a qualifying project site at reasonable times and on  
7 reasonable notice to:

8           1. Inspect the facilities at the site.

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

11           3. Otherwise ascertain compliance with law and the terms of the  
12 memorandum of understanding.

13           ~~J.~~ J. The authority shall revoke the business' certification and  
14 notify the department of revenue and county assessor if either:

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

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

20           ~~K.~~ K. For the purposes of this section:

21           1. "Forest health" means the degree to which the integrity of the  
22 forest is sustained, including reducing the risk of catastrophic wildfire and  
23 destructive insect infestation, benefiting wildland habitats, watersheds and  
24 communities.

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

28           3. "Processing" means:

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

33           (b) Burning qualifying forest products in the process of commercial  
34 electrical generation or commercial thermal energy production for heating or  
35 cooling, regardless of the physical structure of the forest product before  
36 burning.

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

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

11           (b) Forest residue receiving and handling equipment, including truck  
12 dumpers, log unloaders, scales, log decking facilities and equipment and chip  
13 pile facilities.

14           (c) Sorting and processing equipment, including portable and  
15 stationary log loaders, front-end loaders, ~~fork-lifts~~ FORKLIFTS and cranes,  
16 chippers and grinders, screens, decks and debarkers, saws and sawmill  
17 equipment, firewood processing, wood residue baling and bagging equipment,  
18 kilns, planing and molding equipment and laminating and joining equipment.

19           (d) Forest waste and residue disposal and processing equipment,  
20 including:

21           (i) Processing and sizing equipment, hogs, chippers, screens,  
22 pelletizers and wood splitters.

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

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

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

29           (v) Generated waste disposal equipment, including ash silos and  
30 wastewater treatment and disposal equipment.

31           (vi) Shop and maintenance equipment and major spares having a value of  
32 more than five thousand dollars each.

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

1           6. "Qualifying project" means harvesting, transporting or processing  
2 qualifying forest products as required for certification pursuant to this  
3 section.

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

5           41-1532. Tax incentives; conditions

6           ~~A. A prime contractor may qualify for an exemption from transaction~~  
7 ~~privilege tax with respect to activities in a military reuse zone as~~  
8 ~~provided, and subject to the terms and conditions prescribed, by section~~  
9 ~~42-5075, subsection B, paragraph 4.~~

10           ~~B.~~ A. A taxpayer that owns or leases income producing property  
11 located in a military reuse zone is eligible for an income tax credit for net  
12 increases in employment of full-time employees who are primarily engaged in  
13 providing aviation or aerospace services or in manufacturing, assembling or  
14 fabricating aviation or aerospace products as provided, and subject to the  
15 terms and conditions prescribed, by section 43-1079 or 43-1167, as  
16 applicable. To qualify for a tax incentive under this subsection the  
17 taxpayer shall:

18           1. Agree with the Arizona commerce authority in writing to furnish  
19 information relating to the amount of tax benefits the taxpayer receives for  
20 each taxable year in which the taxpayer claims the credit. If the taxpayer  
21 fails to provide the required information, the authority shall immediately  
22 revoke the taxpayer's qualification and notify the department of revenue.

23           2. Enter into a memorandum of understanding with this state through  
24 the authority containing employment goals. Each year in which the taxpayer  
25 claims the credit the taxpayer shall report in writing to the authority its  
26 performance in achieving the goals. The memorandum shall contain provisions  
27 that allow:

28           (a) The authority to stop, readjust or recapture all or part of the  
29 tax credit allowed to the taxpayer on noncompliance with the terms of the  
30 memorandum.

31           (b) The authority to notify the department of revenue of the  
32 conditions of noncompliance.

33           (c) The department of revenue to require the taxpayer to file  
34 appropriate amended tax returns reflecting the recapture of the tax credit.

35           ~~C.~~ B. Taxable property in a military reuse zone that is devoted to  
36 providing aviation or aerospace services or to manufacturing, assembling or  
37 fabricating aviation or aerospace products qualifies for assessment as class

1 six property as provided, and subject to the terms and conditions prescribed,  
2 by sections 42-12006 and 42-15006.

3 ~~D.~~ C. To qualify for a tax incentive described in subsection ~~A or C~~ B  
4 of this section, the taxpayer shall provide to the authority information  
5 relating to the amount of tax benefits the taxpayer receives each year for  
6 each year in which the taxpayer claims the incentives on forms prescribed by  
7 the authority. If the taxpayer fails to provide the required information,  
8 the authority shall immediately revoke the taxpayer's certification of  
9 eligibility and notify the department of revenue.

10 ~~E.~~ D. Taxpayers who qualify for tax incentives under subsection A OR  
11 B ~~or C~~ of this section shall be certified by the authority as eligible for a  
12 five-year period, subject to termination in the event of changed  
13 circumstances rendering the taxpayer no longer eligible.

14 ~~F.~~ E. Notwithstanding subsection ~~C~~ B of this section, an insurer  
15 located in a military reuse zone is eligible for a premium tax credit under  
16 section 20-224.04 for net increases in employment positions of residents of  
17 this state. To qualify for a premium tax credit the insurer shall:

18 1. Agree with the authority in writing to furnish information relating  
19 to the amount of premium tax credits the insurer receives each year. If the  
20 insurer fails to provide the required information, the authority shall  
21 immediately revoke the insurer's qualification and notify the department of  
22 insurance.

23 2. Enter into a memorandum of understanding with this state through  
24 the authority containing employment goals. Each year the insurer shall  
25 report in writing to the authority its performance in achieving the goals.  
26 The memorandum shall contain provisions that allow:

27 (a) The authority to stop, readjust or recapture all or part of the  
28 premium tax credits provided to the insurer on noncompliance with the terms  
29 of the memorandum.

30 (b) The authority to notify the department of insurance of the  
31 conditions of noncompliance.

32 Sec. 3. Section 42-1004, Arizona Revised Statutes, is amended to read:

33 42-1004. General powers and duties of the department; res  
34 judicata; remedies; enforcement; special collections  
35 account

36 A. The department shall administer and enforce this title, title 43  
37 and other laws assigned to it and has all the powers and duties prescribed by



1 law for such purposes. In all proceedings prescribed by law the department  
2 may act on behalf of this state. In addition, the department shall:

3 1. Formulate policies, plans and programs to effectuate the missions  
4 and purposes of the department.

5 2. Employ and remove personnel subject to title 41, chapter 4, article  
6 4 and, as applicable, articles 5 and 6, determine the conditions of  
7 employment and prescribe the duties and powers of administrative,  
8 professional, technical, secretarial, clerical and other personnel as may be  
9 necessary in the performance of its duties, and contract for the services of  
10 outside advisors, consultants and aides as may be reasonably necessary.

11 3. Make contracts and incur obligations within the general scope of  
12 its activities and operations subject to the availability of its funds.

13 4. Contract with or assist other departments, agencies or institutions  
14 of the state, local, Indian tribal and federal governments in the furtherance  
15 of its purposes, objectives and programs.

16 5. Accept grants, matching funds and direct payments from public or  
17 private agencies for the conduct of programs which are consistent with the  
18 overall purposes and objectives of the department.

19 6. Provide information and advice within the scope of its duties  
20 subject to the laws on confidentiality of information and departmental rules  
21 adopted pursuant to such laws.

22 7. Advise with and make recommendations to the governor and the  
23 legislature on all matters concerning its objectives.

24 8. Have an official seal which shall be judicially noticed.

25 9. Provide an integrated, coordinated and uniform system of tax  
26 administration and revenue collection for the state, **INCLUDING A COORDINATED**  
27 **ELECTRONIC METHOD OF COLLECTING STATE AND MUNICIPAL TRANSACTION PRIVILEGE AND**  
28 **AFFILIATED EXCISE TAXES.**

29 B. The department may:

30 1. With the approval of the attorney general:

31 (a) Abate any balance owed by a taxpayer if the balance is  
32 uncollectible. Related liens, if any, are extinguished on abatement.

33 (b) Abate all or part of the unpaid portion of any tax if the director  
34 determines that the administration and collection costs involved would exceed  
35 the amount of the tax.

36 2. Offer publications relating to the administration of state taxes  
37 for sale at a price equal to the pro rata cost of publication and

1 distribution. Monies received from the sale of publications shall be placed  
2 in a revenue publications revolving fund. Monies in the fund:

3 (a) Shall be used to meet publication and distribution expenses.

4 (b) Are exempt from the provisions of section 35-190 relating to  
5 lapsing of appropriations.

6 3. Enter into contingent fee contracts to collect delinquent state  
7 taxes, penalties, interest and other amounts owed to the department under  
8 title 43 and chapter 5, article 1 of this title, consistent with the  
9 requirements of chapter 2, article 1 of this title. No contract may be  
10 entered into for the hiring of auditors on a contingent fee basis except  
11 auditors that are hired to enforce title 44, chapter 3.

12 C. In the determination of any issue of law or fact under this title  
13 or title 43, neither the department, nor any officer or agency having any  
14 administrative duties under this title or title 43, nor any court is bound by  
15 the determination of any other executive officer or administrative agency of  
16 this state. In the determination of any case arising under this title or  
17 title 43, the rule of res judicata is applicable only if the liability  
18 involved is for the same year or period as was involved in another case  
19 previously determined under this title or title 43.

20 D. The remedies of this state provided for in this title and title 43  
21 are cumulative, and no action taken by the department constitutes an election  
22 by this state to pursue any remedy to the exclusion of any other remedy  
23 provided by law.

24 E. The attorney general shall prosecute in the name of this state all  
25 actions necessary to enforce this title and title 43. The attorney general  
26 may defend all actions brought against this state or an officer or agency of  
27 this state arising under this title and title 43. The attorney general may  
28 delegate the prosecuting authority to any county attorney for prosecution in  
29 that county.

30 F. A special collections account is established in the state general  
31 fund. All monies collected pursuant to contracts authorized by subsection B,  
32 paragraph 3 of this section shall be deposited in the special collections  
33 account. The department shall pay from the account all fees and court costs  
34 provided for in the contracts authorized under subsection B, paragraph 3 of  
35 this section. The department shall allocate the remainder of the amounts  
36 collected under subsection B, paragraph 3 of this section to the state or the  
37 political subdivision in the proportion that the monies would have been

1 distributed pursuant to chapter 5 of this title or section 43-206,  
2 respectively.

3 Sec. 4. Section 42-1103, Arizona Revised Statutes, is amended to read:

4 42-1103. Enjoining delinquent taxpayer from engaging or  
5 continuing in business

6 A. In order to ensure or to compel payment of taxes and to aid in  
7 enforcing this article, the director may apply to the tax court to enjoin any  
8 delinquent taxpayer or person who may be or may become liable for payment of  
9 any tax from engaging or continuing in business until the person ceases to be  
10 a delinquent taxpayer or complies with other requirements ~~which~~ THAT are  
11 reasonably necessary to protect the revenues of this state and ~~which~~ THAT are  
12 prescribed by the director.

13 B. On application for an injunction against a delinquent taxpayer, the  
14 court may forthwith issue an order temporarily restraining the taxpayer from  
15 doing business. The court shall hear the matter within three days and, on a  
16 showing by a preponderance of evidence that the taxpayer is delinquent and  
17 has been given notice of the hearing as required by law, the court may enjoin  
18 the taxpayer from engaging or continuing in business in this state until the  
19 taxpayer ceases to be delinquent. On issuing an injunction, the court may  
20 also order the sheriff to seal the taxpayer's business premises and may allow  
21 the taxpayer access to the premises only on the approval of the court.

22 C. On application for an injunction against a person other than a  
23 delinquent taxpayer, the court may issue an order temporarily restraining the  
24 person from engaging or continuing in business. The court shall hear the  
25 matter within three days and on a showing that the person has been given  
26 notice of the hearing as required by law, that demand has been made on the  
27 taxpayer to furnish security, that the taxpayer has not furnished security  
28 and that the director considers the collection from the primarily responsible  
29 person of the total amount of tax due or reasonably expected to become due to  
30 be in jeopardy, the court may forthwith enjoin the person from engaging or  
31 continuing in business until the person complies in full with the demand of  
32 the director for furnishing security.

33 D. The court shall not issue a temporary restraining order or  
34 injunction under this section against any person who has furnished security  
35 pursuant to section 42-1102, ~~OR~~ 42-5006 ~~or 42-5007~~. On a showing to the  
36 court by any person against whom a temporary restraining order or injunction  
37 has issued under this section that the person has furnished such security,

1 the court shall dissolve or set aside the temporary restraining order or  
2 injunction.

3 Sec. 5. Section 42-5001, Arizona Revised Statutes, is amended to read:

4 42-5001. Definitions

5 In this article and article 2 of this chapter, unless the context  
6 otherwise requires:

7 1. "Business" includes all activities or acts, personal or corporate,  
8 engaged in or caused to be engaged in with the object of gain, benefit or  
9 advantage, either directly or indirectly, but does not include either:

10 (a) Casual activities or sales.

11 (b) The transfer of electricity from a solar photovoltaic generation  
12 system to an electric utility distribution system.

13 2. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

14 3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY  
15 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR  
16 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES  
17 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,  
18 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,  
19 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING  
20 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH  
21 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR  
22 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD  
23 TO WHETHER OR NOT THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.

24 ~~2.~~ 4. "Distribution base" means the portion of the revenues derived  
25 from the tax levied by this article and articles 5 and 8 of this chapter  
26 designated for distribution to counties, municipalities and other purposes  
27 according to section 42-5029, subsection D.

28 ~~3.~~ 5. "Engaging", when used with reference to engaging or continuing  
29 in business, includes the exercise of corporate or franchise powers.

30 ~~4.~~ 6. "Gross income" means the gross receipts of a taxpayer derived  
31 from trade, business, commerce or sales and the value proceeding or accruing  
32 from the sale of tangible personal property or service, or both, and without  
33 any deduction on account of losses.

34 ~~5.~~ 7. "Gross proceeds of sales" means the value proceeding or  
35 accruing from the sale of tangible personal property without any deduction on  
36 account of the cost of property sold, expense of any kind or losses, but cash  
37 discounts allowed and taken on sales are not included as gross income.

1           ~~6.~~ 8. "Gross income" and "gross proceeds of sales" do not include  
2 goods, wares or merchandise, or value thereof, returned by customers if the  
3 sale price is refunded either in cash or by credit, nor the value of  
4 merchandise traded in on the purchase of new merchandise when the trade-in  
5 allowance is deducted from the sales price of the new merchandise before  
6 completion of the sale.

7           ~~7.~~ 9. "Gross receipts" means the total amount of the sale, lease or  
8 rental price, as the case may be, of the retail sales of retailers, including  
9 any services that are a part of the sales, valued in money, whether received  
10 in money or otherwise, including all receipts, cash, credits and property of  
11 every kind or nature, and any amount for which credit is allowed by the  
12 seller to the purchaser without any deduction from the amount on account of  
13 the cost of the property sold, materials used, labor or service performed,  
14 interest paid, losses or any other expense. Gross receipts do not include  
15 cash discounts allowed and taken nor the sale price of property returned by  
16 customers if the full sale price is refunded either in cash or by credit.

17           ~~8.~~ 10. "Person" or "company" includes an individual, firm,  
18 partnership, joint venture, association, corporation, estate or trust, this  
19 state, any county, city, town, district, other than a school district, or  
20 other political subdivision and any other group or combination acting as a  
21 unit, and the plural as well as the singular number.

22           ~~9.~~ 11. "Qualifying community health center":

23           (a) Means an entity that is recognized as nonprofit under section  
24 501(c)(3) of the United States internal revenue code, that is a  
25 community-based, primary care clinic that has a community-based board of  
26 directors and that is either:

27           (i) The sole provider of primary care in the community.

28           (ii) A nonhospital affiliated clinic that is located in a federally  
29 designated medically underserved area in this state.

30           (b) Includes clinics that are being constructed as qualifying  
31 community health centers.

32           ~~10.~~ 12. "Qualifying health care organization" means an entity that is  
33 recognized as nonprofit under section 501(c) of the United States internal  
34 revenue code and that uses, saves or invests at least eighty per cent of all  
35 monies that it receives from all sources each year only for health and  
36 medical related educational and charitable services, as documented by annual  
37 financial audits prepared by an independent certified public accountant,

1 performed according to generally accepted auditing standards and filed  
2 annually with the department. Monies that are used, saved or invested to  
3 lease, purchase or construct a facility for health and medical related  
4 education and charitable services are included in the eighty per cent  
5 requirement.

6 ~~11-~~ 13. "Qualifying hospital" means any of the following:

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

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

15 (c) A hospital, nursing care institution or residential care  
16 institution ~~which~~ THAT is operated by the federal government, this state or a  
17 political subdivision of this state.

18 (d) A facility that is under construction and that on completion will  
19 be a facility under subdivision (a), (b) or (c) of this paragraph.

20 ~~12-~~ 14. "Retailer" includes every person engaged in the business  
21 classified under the retail classification pursuant to section 42-5061 and,  
22 when in the opinion of the department it is necessary for the efficient  
23 administration of this article, includes dealers, distributors, supervisors,  
24 employers and salesmen, representatives, peddlers or canvassers as the agents  
25 of the dealers, distributors, supervisors or employers under whom they  
26 operate or from whom they obtain the tangible personal property sold by them,  
27 whether in making sales on their own behalf or on behalf of the dealers,  
28 distributors, supervisors or employers.

29 ~~13-~~ 15. "Sale" means any transfer of title or possession, or both,  
30 exchange, barter, lease or rental, conditional or otherwise, in any manner or  
31 by any means whatever, including consignment transactions and auctions, of  
32 tangible personal property or other activities taxable under this chapter,  
33 for a consideration, and includes:

34 (a) Any transaction by which the possession of property is transferred  
35 but the seller retains the title as security for the payment of the price.

36 (b) Fabricating tangible personal property for consumers who furnish  
37 either directly or indirectly the materials used in the fabrication work.

1 (c) Furnishing, preparing or serving for a consideration any tangible  
2 personal property consumed on the premises of the person furnishing,  
3 preparing or serving the tangible personal property.

4 ~~14.~~ 16. "Solar daylighting" means a device that is specifically  
5 designed to capture and redirect the visible portion of the solar beam, while  
6 controlling the infrared portion, for use in illuminating interior building  
7 spaces in lieu of artificial lighting.

8 ~~15.~~ 17. "Solar energy device" means a system or series of mechanisms  
9 designed primarily to provide heating, to provide cooling, to produce  
10 electrical power, to produce mechanical power, to provide solar daylighting  
11 or to provide any combination of the foregoing by means of collecting and  
12 transferring solar generated energy into such uses either by active or  
13 passive means, including wind generator systems that produce electricity.  
14 Solar energy systems may also have the capability of storing solar energy for  
15 future use. Passive systems shall clearly be designed as a solar energy  
16 device, such as a trombe wall, and not merely as a part of a normal  
17 structure, such as a window.

18 ~~16.~~ 18. "Tangible personal property" means personal property ~~which~~  
19 THAT may be seen, weighed, measured, felt or touched or THAT is in any other  
20 manner perceptible to the senses.

21 ~~17.~~ 19. "Tax year" or "taxable year" means either the calendar year or  
22 the taxpayer's fiscal year, if permission is obtained from the department to  
23 use a fiscal year as the tax period instead of the calendar year.

24 ~~18.~~ 20. "Taxpayer" means any person who is liable for any tax ~~which~~  
25 THAT is imposed by this article.

26 ~~19.~~ 21. "Wholesaler" or "jobber" means any person who sells tangible  
27 personal property for resale and not for consumption by the purchaser.

28 Sec. 6. Section 42-5006, Arizona Revised Statutes, is amended to read:

29 ~~42-5006.~~ Taxpayer bonds; out of state licensed contractors and  
30 manufactured building dealers

31 A. Notwithstanding section 42-1102, the department shall require a  
32 surety bond for each taxpayer ~~who is required to be licensed under title 32,~~  
33 ~~chapter 10 or~~ who is regulated under title 41, chapter 16, article 2, if the  
34 taxpayer's principal place of business is outside this state or if the  
35 taxpayer has conducted business in this state for less than one year. The  
36 department shall prescribe the form of the bond. The bond shall be maintained  
37 for a period of at least two years.

1           B. The bond, duly executed by the applicant as principal and with a  
2 corporation duly authorized to execute and write bonds in this state as  
3 surety, shall be payable to this state and conditioned on the payment of all  
4 transaction privilege taxes incurred and imposed on the taxpayer by this  
5 state and its political subdivisions. The bond shall be in such amount, but  
6 not less than two thousand dollars, as will assure the payment of the  
7 transaction privilege taxes ~~which~~ THAT may reasonably be expected to be  
8 incurred by the licensed establishment for a period of one hundred fifty  
9 days.

10           C. The director, by rule, may establish classes of expected tax  
11 liability in five thousand dollar increments, beginning with the minimum bond  
12 amount prescribed in subsection B of this section. The bond shall provide  
13 that after notice and a hearing the director may order forfeited to this  
14 state and any affected political subdivision part or all of the bond for  
15 nonpayment of taxes, interest and penalties.

16           D. A licensee on application for a new license covered by subsection A  
17 of this section, renewal of a license covered by subsection A of this section  
18 or transfer of a license covered by subsection A of this section is exempt  
19 from posting a bond if the licensee has for at least two years immediately  
20 preceding the application made timely payment of all transaction privilege  
21 taxes incurred.

22           E. If a licensee is not exempt from this section, the director may  
23 exempt the licensee if the director finds that the surety bond is not  
24 necessary to ~~insure~~ ENSURE payment of such taxes to the state and any  
25 affected political subdivision or the licensee had good cause for the late or  
26 insufficient payment of the transaction privilege tax and affiliated excise  
27 taxes incurred.

28           Sec. 7. Repeal

29           Section 42-5007, Arizona Revised Statutes, is repealed from and after  
30 December 31, 2014.

31           Sec. 8. Section 42-5009, Arizona Revised Statutes, is amended to read:  
32 42-5009. Certificates establishing deductions; liability for  
33 making false certificate

34           A. A person who conducts any business classified under article 2 of  
35 this chapter may establish entitlement to the allowable deductions from the  
36 tax base of that business by both:



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

4           2. Obtaining a certificate executed by the purchaser indicating the  
5 name and address of the purchaser, the precise nature of the business of the  
6 purchaser, the purpose for which the purchase was made, the necessary facts  
7 to establish the appropriate deduction and the tax license number of the  
8 purchaser to the extent the deduction depends on the purchaser conducting  
9 business classified under article 2 of this chapter and a certification that  
10 the person executing the certificate is authorized to do so on behalf of the  
11 purchaser. The certificate may be disregarded if the seller has reason to  
12 believe that the information contained in the certificate is not accurate or  
13 complete.

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

17           C. The department may prescribe a form for the certificate described  
18 in subsection A of this section. Under such rules as it may prescribe, the  
19 department may also describe transactions with respect to which a person is  
20 not entitled to rely solely on the information contained in the certificate  
21 provided for in subsection A of this section but must instead obtain such  
22 additional information as required by the rules in order to be entitled to  
23 the deduction.

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

1           E. If a seller is entitled to a deduction by complying with subsection  
2 B of this section, the department may require the purchaser to establish the  
3 accuracy and completeness of the information provided to the seller that  
4 entitled the seller to the deduction. If the purchaser cannot establish the  
5 accuracy and completeness of the information, the purchaser is liable in an  
6 amount equal to any tax, penalty and interest that the seller would have been  
7 required to pay under this article if the seller had not complied with  
8 subsection B of this section. Payment of the amount under this subsection  
9 exempts the purchaser from liability for any tax imposed under article 4 of  
10 this chapter. The amount shall be treated as tax revenues collected from the  
11 seller in order to designate the distribution base for purposes of section  
12 42-5029.

13           F. The department may prescribe a form for a certificate used to  
14 establish entitlement to the deductions described in section 42-5061,  
15 subsection A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3.  
16 Under rules the department may prescribe, the department may also require  
17 additional information for the seller to be entitled to the deduction. If a  
18 seller is entitled to the deductions described in section 42-5061, subsection  
19 A, paragraph ~~47~~ 46 and section 42-5063, subsection B, paragraph 3, the  
20 department may require the purchaser who executed the certificate to  
21 establish the accuracy and completeness of the information contained in the  
22 certificate that would entitle the seller to the deduction. If the purchaser  
23 cannot establish the accuracy and completeness of the information, the  
24 purchaser is liable in an amount equal to any tax, penalty and interest that  
25 the seller would have been required to pay under this article. Payment of  
26 the amount under this subsection exempts the purchaser from liability for any  
27 tax imposed under article 4 of this chapter. The amount shall be treated as  
28 tax revenues collected from the seller in order to designate the distribution  
29 base for purposes of section 42-5029.

30           G. If a seller claims a deduction under section 42-5061, subsection A,  
31 paragraph 25 and establishes entitlement to the deduction with an exemption  
32 letter that the purchaser received from the department and the exemption  
33 letter was based on a contingent event, the department may require the  
34 purchaser that received the exemption letter to establish the satisfaction of  
35 the contingent event within a reasonable time. If the purchaser cannot  
36 establish the satisfaction of the event, the purchaser is liable in an amount  
37 equal to any tax, penalty and interest that the seller would have been

1 required to pay under this article if the seller had not been furnished the  
2 exemption letter. Payment of the amount under this subsection exempts the  
3 purchaser from liability for any tax imposed under article 4 of this chapter.  
4 The amount shall be treated as tax revenues collected from the seller in  
5 order to designate the distribution base for purposes of section 42-5029.  
6 For the purposes of this subsection, "reasonable time" means a time  
7 limitation that the department determines and that does not exceed the time  
8 limitations pursuant to section 42-1104.

9 H. The department shall prescribe forms for certificates used to  
10 establish the satisfaction of the criteria necessary to qualify the sale of a  
11 motor vehicle for the deductions described in section 42-5061, subsection A,  
12 paragraph 14, paragraph 28, subdivision (a) and paragraph ~~45~~ 44 and  
13 subsection U. To establish entitlement to these deductions, a motor vehicle  
14 dealer shall retain:

15 1. A valid certificate as prescribed by this subsection completed by  
16 the purchaser and obtained prior to the issuance of the nonresident  
17 registration permit authorized by section 28-2154.

18 2. A copy of the nonresident registration permit authorized by section  
19 28-2154.

20 3. A legible copy of a current valid driver license issued to the  
21 purchaser by another state or foreign country that indicates an address  
22 outside of this state. For the sale of a motor vehicle to a nonresident  
23 entity, the entity's representative must have a current valid driver license  
24 issued by the same jurisdiction as that in which the entity is located.

25 4. For the purposes of the deduction provided by section 42-5061,  
26 subsection A, paragraph 14, a certificate documenting the delivery of the  
27 motor vehicle to an out-of-state location.

28 I. Notwithstanding subsection A, paragraph 2 of this section, if a  
29 motor vehicle dealer has established entitlement to a deduction by complying  
30 with subsection H of this section, the department may require the purchaser  
31 who executed the certificate to establish the accuracy and completeness of  
32 the information contained in the certificate that entitled the motor vehicle  
33 dealer to the deduction. If the purchaser cannot establish the accuracy and  
34 completeness of the information, the purchaser is liable in an amount equal  
35 to any tax, penalty and interest that the motor vehicle dealer would have  
36 been required to pay under this article and under articles IV and V of the  
37 model city tax code as defined in section 42-6051. Payment of the amount

1 under this subsection exempts the purchaser from liability for any tax  
2 imposed under article 4 of this chapter and any tax imposed under article VI  
3 of the model city tax code as defined in section 42-6051. The amount shall  
4 be treated as tax revenues collected from the motor vehicle dealer in order  
5 to designate the distribution base for purposes of section 42-5029.

6 J. Notwithstanding any other law, compliance with subsection H of this  
7 section by a motor vehicle dealer entitles the motor vehicle dealer to the  
8 exemption provided in section 42-6004, subsection A, paragraph 4.

9 K. THE DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE TO BE USED  
10 TO ESTABLISH ENTITLEMENT TO THE DEDUCTION DESCRIBED IN SECTION 42-5061,  
11 SUBSECTION A, PARAGRAPH 27, SUBDIVISION (b) RELATING TO HIGHWAY, STREET AND  
12 BRIDGE CONSTRUCTION. A HIGHWAY, STREET OR BRIDGE CONTRACTOR SHALL OBTAIN A  
13 NEW CERTIFICATE FOR EACH PROJECT AND IS SUBJECT TO THE FOLLOWING REQUIREMENTS  
14 AND CONDITIONS:

15 1. A HIGHWAY, STREET OR BRIDGE CONTRACTOR MAY USE A CERTIFICATE ISSUED  
16 PURSUANT TO THIS SUBSECTION ONLY WITH RESPECT TO MATERIALS THAT WILL BE  
17 INCORPORATED INTO A HIGHWAY, STREET OR BRIDGE.

18 2. THE DEPARTMENT SHALL ISSUE THE CERTIFICATE TO A HIGHWAY, STREET OR  
19 BRIDGE CONTRACTOR ON RECEIVING SUFFICIENT DOCUMENTATION TO ESTABLISH THAT THE  
20 HIGHWAY, STREET OR BRIDGE CONTRACTOR MEETS THE REQUIREMENTS OF THIS  
21 SUBSECTION.

22 3. THE DEPARTMENT SHALL NOT ISSUE A CERTIFICATE TO A HIGHWAY, STREET  
23 OR BRIDGE CONTRACTOR THAT HAS A DELINQUENT TAX BALANCE OWING TO THE  
24 DEPARTMENT UNDER THIS TITLE OR TITLE 43.

25 4. IF THE DEPARTMENT DETERMINES THAT A HIGHWAY, STREET OR BRIDGE  
26 CONTRACTOR HAS FAILED TO MEET ANY OF THE REQUIREMENTS PRESCRIBED BY THIS  
27 SUBSECTION, ANY DEDUCTIONS FROM TAXATION FROM THE USE OF THE CERTIFICATE ARE  
28 SUBJECT TO RECAPTURE AND PAYMENT BY THE HIGHWAY, STREET OR BRIDGE CONTRACTOR.

29 Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:  
30 42-5010. Rates; distribution base

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

33 1. Five per cent of the tax base as computed for the business of every  
34 person engaging or continuing in this state in the following business  
35 classifications described in article 2 of this chapter:

- 36 (a) Transporting classification.  
37 (b) Utilities classification.

- 1 (c) Telecommunications classification.  
2 (d) Pipeline classification.  
3 (e) Private car line classification.  
4 (f) Publication classification.  
5 (g) Job printing classification.  
6 (h) ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.  
7 ~~(i) Owner builder sales classification.~~  
8 ~~(j)~~ (i) Amusement classification.  
9 ~~(k)~~ (j) Restaurant classification.  
10 ~~(l)~~ (k) Personal property rental classification.  
11 ~~(m)~~ (l) Retail classification.  
12 (m) HIGHWAY, STREET OR BRIDGE CONSTRUCTION CLASSIFICATION.
- 13 2. Five and one-half per cent of the tax base as computed for the  
14 business of every person engaging or continuing in this state in the  
15 transient lodging classification described in section 42-5070.
- 16 3. Three and one-eighth per cent of the tax base as computed for the  
17 business of every person engaging or continuing in this state in the mining  
18 classification described in section 42-5072.
- 19 4. Zero per cent of the tax base as computed for the business of every  
20 person engaging or continuing in this state in the commercial lease  
21 classification described in section 42-5069.
- 22 B. Except as provided by subsection J of this section, twenty per cent  
23 of the tax revenues collected at the rate prescribed by subsection A,  
24 paragraph 1 of this section from persons on account of engaging in business  
25 under the business classifications listed in subsection A, paragraph 1,  
26 subdivisions (a) through ~~(i)~~ (h) AND (m) of this section is designated as  
27 distribution base for purposes of section 42-5029.
- 28 C. Forty per cent of the tax revenues collected at the rate prescribed  
29 by subsection A, paragraph 1 of this section from persons on account of  
30 engaging in business under the business classifications listed in subsection  
31 A, paragraph 1, subdivisions ~~(j)~~ (i) through ~~(m)~~ (l) of this section is  
32 designated as distribution base for purposes of section 42-5029.
- 33 D. Thirty-two per cent of the tax revenues collected from persons on  
34 account of engaging in business under the business classification listed in  
35 subsection A, paragraph 3 of this section is designated as distribution base  
36 for purposes of section 42-5029.

1 E. Fifty-three and one-third per cent of the tax revenues collected  
2 from persons on account of engaging in business under the business  
3 classification listed in subsection A, paragraph 4 of this section is  
4 designated as distribution base for purposes of section 42-5029.

5 F. Fifty per cent of the tax revenues collected from persons on  
6 account of engaging in business under the business classification listed in  
7 subsection A, paragraph 2 of this section is designated as distribution base  
8 for purposes of section 42-5029.

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

23 H. Any increase in the rate of tax that is imposed by this chapter and  
24 that is enacted by the legislature or by a vote of the people does not apply  
25 with respect to contracts entered into by ~~prime~~ HIGHWAY, STREET OR BRIDGE  
26 contractors or pursuant to written bids made by ~~prime~~ HIGHWAY, STREET OR  
27 BRIDGE contractors on or before the effective date of the legislation or the  
28 date of the election enacting the increase. To qualify for the exemption  
29 under this subsection, the ~~prime~~ HIGHWAY, STREET OR BRIDGE contractor must  
30 maintain sufficient documentation, in a manner and form prescribed by the  
31 department, to verify the date of the contract or written bid.

32 I. For taxpayers taxable under this chapter other than ~~prime~~ HIGHWAY,  
33 STREET OR BRIDGE contractors taxable pursuant to section ~~42-5075~~ 42-5078:

34 1. Any increase in the rate of tax that is levied by this article or  
35 article 2 of this chapter enacted by the legislature or by a vote of the  
36 people does not apply for a period of one hundred twenty days from the date  
37 of the tax rate increase to the gross proceeds of sales or gross income from

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

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

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

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

21 Sec. 10. Section 42-5029, Arizona Revised Statutes, is amended to  
22 read:

23 42-5029. Remission and distribution of monies; definition

24 A. The department shall deposit, pursuant to sections 35-146 and  
25 35-147, all revenues collected under this article and articles 4, 5 and 8 of  
26 this chapter pursuant to section 42-1116, separately accounting for:

27 1. Payments of estimated tax under section 42-5014, subsection D.

28 2. Revenues collected pursuant to section 42-5070.

29 3. Revenues collected under this article and article 5 of this chapter  
30 from and after June 30, 2000 from sources located on Indian reservations in  
31 this state.

32 4. Revenues collected pursuant to section 42-5010, subsection G and  
33 section 42-5155, subsection ~~D~~ E.

34 B. The department shall credit payments of estimated tax to an  
35 estimated tax clearing account and each month shall transfer all monies in  
36 the estimated tax clearing account to a fund designated as the transaction  
37 privilege and severance tax clearing account. The department shall credit

1 all other payments to the transaction privilege and severance tax clearing  
2 account, separately accounting for the monies designated as distribution base  
3 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the  
4 department shall report to the state treasurer the amount of monies collected  
5 pursuant to this article and articles 4, 5 and 8 of this chapter.

6 C. On notification by the department, the state treasurer shall  
7 distribute the monies deposited in the transaction privilege and severance  
8 tax clearing account in the manner prescribed by this section and by sections  
9 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the  
10 account pursuant to sections 42-1118 and 42-1254.

11 D. Of the monies designated as distribution base the department shall:

12 1. Pay twenty-five per cent to the various incorporated municipalities  
13 in this state in proportion to their population to be used by the  
14 municipalities for any municipal purpose.

15 2. Pay 38.08 per cent to the counties in this state by averaging the  
16 following proportions:

17 (a) The proportion that the population of each county bears to the  
18 total state population.

19 (b) The proportion that the distribution base monies collected during  
20 the calendar month in each county under this article, section 42-5164,  
21 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
22 total distribution base monies collected under this article, section 42-5164,  
23 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
24 the state for the calendar month.

25 3. Pay an additional 2.43 per cent to the counties in this state as  
26 follows:

27 (a) Average the following proportions:

28 (i) The proportion that the assessed valuation used to determine  
29 secondary property taxes of each county, after deducting that part of the  
30 assessed valuation that is exempt from taxation at the beginning of the month  
31 for which the amount is to be paid, bears to the total assessed valuations  
32 used to determine secondary property taxes of all the counties after  
33 deducting that portion of the assessed valuations that is exempt from  
34 taxation at the beginning of the month for which the amount is to be paid.  
35 Property of a city or town that is not within or contiguous to the municipal  
36 corporate boundaries and from which water is or may be withdrawn or diverted  
37 and transported for use on other property is considered to be taxable



1 property in the county for purposes of determining assessed valuation in the  
2 county under this item.

3 (ii) The proportion that the distribution base monies collected during  
4 the calendar month in each county under this article, section 42-5164,  
5 subsection B, section 42-5205, subsection B and section 42-5353 bear to the  
6 total distribution base monies collected under this article, section 42-5164,  
7 subsection B, section 42-5205, subsection B and section 42-5353 throughout  
8 the state for the calendar month.

9 (b) If the proportion computed under subdivision (a) of this paragraph  
10 for any county is greater than the proportion computed under paragraph 2 of  
11 this subsection, the department shall compute the difference between the  
12 amount distributed to that county under paragraph 2 of this subsection and  
13 the amount that would have been distributed under paragraph 2 of this  
14 subsection using the proportion computed under subdivision (a) of this  
15 paragraph and shall pay that difference to the county from the amount  
16 available for distribution under this paragraph. Any monies remaining after  
17 all payments under this subdivision shall be distributed among the counties  
18 according to the proportions computed under paragraph 2 of this subsection.

19 4. After any distributions required by sections 42-5030, 42-5030.01,  
20 42-5031, 42-5032, 42-5032.01 and 42-5032.02, and after making any transfer to  
21 the water quality assurance revolving fund as required by section 49-282,  
22 subsection B, credit the remainder of the monies designated as distribution  
23 base to the state general fund. From this amount the legislature shall  
24 annually appropriate to:

25 (a) The department of revenue sufficient monies to administer and  
26 enforce this article and articles 5 and 8 of this chapter.

27 (b) The department of economic security monies to be used for the  
28 purposes stated in title 46, chapter 1.

29 (c) The firearms safety and ranges fund established by section 17-273,  
30 fifty thousand dollars derived from the taxes collected from the retail  
31 classification pursuant to section 42-5061 for the current fiscal year.

32 E. If approved by the qualified electors voting at a statewide general  
33 election, all monies collected pursuant to section 42-5010, subsection G and  
34 section 42-5155, subsection ~~D~~ E shall be distributed each fiscal year  
35 pursuant to this subsection. The monies distributed pursuant to this  
36 subsection are in addition to any other appropriation, transfer or other  
37 allocation of public or private monies from any other source and shall not

1 supplant, replace or cause a reduction in other school district, charter  
2 school, university or community college funding sources. The monies shall be  
3 distributed as follows:

4 1. If there are outstanding state school facilities revenue bonds  
5 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the  
6 amount that is necessary to pay the fiscal year's debt service on outstanding  
7 state school improvement revenue bonds for the current fiscal year shall be  
8 transferred each month to the school improvement revenue bond debt service  
9 fund established by section 15-2084. The total amount of bonds for which  
10 these monies may be allocated for the payment of debt service shall not  
11 exceed a principal amount of eight hundred million dollars exclusive of  
12 refunding bonds and other refinancing obligations.

13 2. After any transfer of monies pursuant to paragraph 1 of this  
14 subsection, twelve per cent of the remaining monies collected during the  
15 preceding month shall be transferred to the technology and research  
16 initiative fund established by section 15-1648 to be distributed among the  
17 universities for the purpose of investment in technology and research-based  
18 initiatives.

19 3. After the transfer of monies pursuant to paragraph 1 of this  
20 subsection, three per cent of the remaining monies collected during the  
21 preceding month shall be transferred to the workforce development account  
22 established in each community college district pursuant to section 15-1472  
23 for the purpose of investment in workforce development programs.

24 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
25 subsection, one-twelfth of the amount a community college that is owned,  
26 operated or chartered by a qualifying Indian tribe on its own Indian  
27 reservation would receive pursuant to section 15-1472, subsection D,  
28 paragraph 2 if it were a community college district shall be distributed each  
29 month to the treasurer or other designated depository of a qualifying Indian  
30 tribe. Monies distributed pursuant to this paragraph are for the exclusive  
31 purpose of providing support to one or more community colleges owned,  
32 operated or chartered by a qualifying Indian tribe and shall be used in a  
33 manner consistent with section 15-1472, subsection B. For the purposes of  
34 this paragraph, "qualifying Indian tribe" has the same meaning as defined in  
35 section 42-5031.01, subsection D.

36 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
37 subsection, one-twelfth of the following amounts shall be transferred each

1 month to the department of education for the increased cost of basic state  
2 aid under section 15-971 due to added school days and associated teacher  
3 salary increases enacted in 2000:

4 (a) In fiscal year 2001-2002, \$15,305,900.

5 (b) In fiscal year 2002-2003, \$31,530,100.

6 (c) In fiscal year 2003-2004, \$48,727,700.

7 (d) In fiscal year 2004-2005, \$66,957,200.

8 (e) In fiscal year 2005-2006 and each fiscal year thereafter,  
9 \$86,280,500.

10 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
11 subsection, seven million eight hundred thousand dollars is appropriated each  
12 fiscal year, to be paid in monthly installments, to the department of  
13 education to be used for school safety as provided in section 15-154 and two  
14 hundred thousand dollars is appropriated each fiscal year, to be paid in  
15 monthly installments to the department of education to be used for the  
16 character education matching grant program as provided in section 15-154.01.

17 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
18 subsection, no more than seven million dollars may be appropriated by the  
19 legislature each fiscal year to the department of education to be used for  
20 accountability purposes as described in section 15-241 and title 15, chapter  
21 9, article 8.

22 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
23 subsection, one million five hundred thousand dollars is appropriated each  
24 fiscal year, to be paid in monthly installments, to the failing schools  
25 tutoring fund established by section 15-241.

26 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this  
27 subsection, twenty-five million dollars shall be transferred each fiscal year  
28 to the state general fund to reimburse the general fund for the cost of the  
29 income tax credit allowed by section 43-1072.01.

30 10. After the payment of monies pursuant to paragraphs 1 through 9 of  
31 this subsection, the remaining monies collected during the preceding month  
32 shall be transferred to the classroom site fund established by section  
33 15-977. The monies shall be allocated as follows in the manner prescribed by  
34 section 15-977:

35 (a) Forty per cent shall be allocated for teacher compensation based  
36 on performance.

1           (b) Twenty per cent shall be allocated for increases in teacher base  
2 compensation and employee related expenses.

3           (c) Forty per cent shall be allocated for maintenance and operation  
4 purposes.

5           F. The department shall credit the remainder of the monies in the  
6 transaction privilege and severance tax clearing account to the state general  
7 fund, subject to any distribution required by section 42-5030.01.

8           G. Notwithstanding subsection D of this section, if a court of  
9 competent jurisdiction finally determines that tax monies distributed under  
10 this section were illegally collected under this article or articles 5 and 8  
11 of this chapter and orders the monies to be refunded to the taxpayer, the  
12 department shall compute the amount of such monies that was distributed to  
13 each city, town and county under this section. The department shall notify  
14 the state treasurer of that amount plus the proportionate share of additional  
15 allocated costs required to be paid to the taxpayer. Each city's, town's and  
16 county's proportionate share of the costs shall be based on the amount of the  
17 original tax payment each municipality and county received. Each month the  
18 state treasurer shall reduce the amount otherwise distributable to the city,  
19 town and county under this section by one thirty-sixth of the total amount to  
20 be recovered from the city, town or county until the total amount has been  
21 recovered, but the monthly reduction for any city, town or county shall not  
22 exceed ten per cent of the full monthly distribution to that entity. The  
23 reduction shall begin for the first calendar month after the final  
24 disposition of the case and shall continue until the total amount, including  
25 interest and costs, has been recovered.

26           H. On receiving a certificate of default from the greater Arizona  
27 development authority pursuant to section 41-2257 or 41-2258 and to the  
28 extent not otherwise expressly prohibited by law, the state treasurer shall  
29 withhold from the next succeeding distribution of monies pursuant to this  
30 section due to the defaulting political subdivision the amount specified in  
31 the certificate of default and immediately deposit the amount withheld in the  
32 greater Arizona development authority revolving fund. The state treasurer  
33 shall continue to withhold and deposit the monies until the greater Arizona  
34 development authority certifies to the state treasurer that the default has  
35 been cured. In no event may the state treasurer withhold any amount that the  
36 defaulting political subdivision certifies to the state treasurer and the  
37 authority as being necessary to make any required deposits then due for the

1 payment of principal and interest on bonds of the political subdivision that  
2 were issued before the date of the loan repayment agreement or bonds and that  
3 have been secured by a pledge of distributions made pursuant to this section.

4 I. Except as provided by sections 42-5033 and 42-5033.01, the  
5 population of a county, city or town as determined by the most recent United  
6 States decennial census plus any revisions to the decennial census certified  
7 by the United States bureau of the census shall be used as the basis for  
8 apportioning monies pursuant to subsection D of this section.

9 J. Except as otherwise provided by this subsection, on notice from the  
10 department of revenue pursuant to section 42-6010, subsection B, the state  
11 treasurer shall withhold from the distribution of monies pursuant to this  
12 section to the affected city or town the amount of the penalty for business  
13 location municipal tax incentives provided by the city or town to a business  
14 entity that locates a retail business facility in the city or town. The  
15 state treasurer shall continue to withhold monies pursuant to this subsection  
16 until the entire amount of the penalty has been withheld. The state  
17 treasurer shall credit any monies withheld pursuant to this subsection to the  
18 state general fund as provided by subsection D, paragraph 4 of this section.  
19 The state treasurer shall not withhold any amount that the city or town  
20 certifies to the department of revenue and the state treasurer as being  
21 necessary to make any required deposits or payments for debt service on bonds  
22 or other long-term obligations of the city or town that were issued or  
23 incurred before the location incentives provided by the city or town.

24 K. On notice from the auditor general pursuant to section 9-626,  
25 subsection D, the state treasurer shall withhold from the distribution of  
26 monies pursuant to this section to the affected city the amount computed  
27 pursuant to section 9-626, subsection D. The state treasurer shall continue  
28 to withhold monies pursuant to this subsection until the entire amount  
29 specified in the notice has been withheld. The state treasurer shall credit  
30 any monies withheld pursuant to this subsection to the state general fund as  
31 provided by subsection D, paragraph 4 of this section.

32 L. For the purposes of this section, "community college district"  
33 means a community college district that is established pursuant to sections  
34 15-1402 and 15-1403 and that is a political subdivision of this state and,  
35 unless otherwise specified, includes a community college district established  
36 pursuant to section 15-1402.01 and a provisional community college district  
37 established pursuant to section 15-1409.

1 Sec. 11. Section 42-5032.01, Arizona Revised Statutes, is amended to  
2 read:

3 42-5032.01. Distribution of revenues for tourism and sports  
4 authority

5 A. Each month the state treasurer shall pay, from the amount  
6 designated as distribution base pursuant to section 42-5029, subsection D,  
7 the amount determined under subsection B of this section to the tourism and  
8 sports authority for deposit in the authority's facility revenue clearing  
9 account established by section 5-834.

10 B. The amount to be paid under subsection A of this section is the  
11 total amount of state transaction privilege tax revenues received from  
12 persons conducting business under:

13 1. The retail, amusement and restaurant classifications at, or with  
14 respect to events held at, a multipurpose facility that is owned or operated  
15 by the authority pursuant to title 5, chapter 8.

16 2. The retail, amusement and restaurant classifications at, or with  
17 respect to, professional football contests that are held beginning July,~~—~~  
18 2001 in a stadium located on the campus of an institution under the  
19 jurisdiction of the Arizona board of regents.

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

27 ~~D.~~ C. The department shall report the **amounts** AMOUNT under  
28 ~~subsections~~ SUBSECTION B ~~and C~~ of this section to the state treasurer on or  
29 before the fifteenth day of each month for payment in the following month.

30 Sec. 12. Section 42-5032.02, Arizona Revised Statutes, is amended to  
31 read:

32 42-5032.02. Distribution of revenues for city, town or county  
33 infrastructure improvements related to  
34 manufacturing facilities; definitions

35 A. Subject to subsection B of this section, from and after September  
36 30, 2013 through September 30, 2023, each month the state treasurer shall pay  
37 a city, town or county the amount determined under subsection C of this

1 section for the purpose of funding up to eighty per cent of the cost of  
2 public infrastructure improvements for the benefit of a manufacturing  
3 facility.

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

6 1. Twenty-five per cent of the capital investment that is certified  
7 under subsection D of this section and that constitutes ~~construction phase~~  
8 ~~services, as defined in section 42-5075,~~ CONTRACTING ACTIVITY has been made  
9 by the manufacturing facility.

10 2. From and after June 30, 2014.

11 C. The amount to be paid to a city, town or county under subsection A  
12 of this section is the total amount of state transaction privilege tax  
13 revenues collected under section 42-5010, subsection A ~~from persons~~  
14 ~~conducting business under section 42-5075 derived from~~ FOR SALES OF MATERIALS  
15 USED IN contracts to construct buildings and associated improvements for the  
16 benefit of a manufacturing facility. THE AMOUNT TO BE DISTRIBUTED EACH MONTH  
17 SHALL BE PAID IN EQUAL INSTALLMENTS OVER THE LIFE OF THE CONTRACT TO  
18 CONSTRUCT BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF THE  
19 MANUFACTURING FACILITY. The total amount paid to all cities, towns and  
20 counties under this subsection shall not exceed a maximum of fifty million  
21 dollars.

22 D. Before the commencement of the construction of buildings and  
23 associated improvements for the benefit of a manufacturing facility that will  
24 require a city, town or county to make infrastructure improvements, the  
25 manufacturing facility shall file a sworn certification with the Arizona  
26 commerce authority, and submit a copy of this sworn certification to the  
27 applicable city, town or county, that the manufacturing facility agrees to  
28 PROVIDE A COPY OF THE CONSTRUCTION CONTRACT SHOWING THE COST OF THE MATERIALS  
29 TO BE USED IN THE CONSTRUCTION OF BUILDINGS AND ASSOCIATED IMPROVEMENTS FOR  
30 THE MANUFACTURING FACILITY AND TO either:

31 1. Make at least five hundred million dollars in capital investment if  
32 the manufacturing facility is located in a county that has a population of  
33 eight hundred thousand persons or more.

34 2. Make at least fifty million dollars in capital investment if the  
35 manufacturing facility is located in a county that has a population of less  
36 than eight hundred thousand persons.

1 E. The certification under subsection D of this section shall contain  
2 a sworn statement or certification, signed by an officer of the manufacturing  
3 facility under penalty of perjury, that the information contained is true and  
4 correct according to the best belief and knowledge of the person submitting  
5 the information to the department after a reasonable investigation of the  
6 facts.

7 F. On receipt of a sworn certification from a manufacturing facility  
8 pursuant to subsection D of this section and before the commencement of the  
9 construction of buildings and associated improvements for the benefit of a  
10 manufacturing facility that will require a city, town or county to make  
11 infrastructure improvements, the city, town or county shall enter into a  
12 written agreement with the department. This agreement and any amendments or  
13 changes to the agreement shall:

14 1. State the cost of the public infrastructure improvements and  
15 separately identify the particular improvements that will be made, **INCLUDING**  
16 **SPECIFICALLY IDENTIFYING THE COST OF MATERIALS USED.**

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

20 3. State that the city, town or county will pay a minimum of twenty  
21 per cent of the cost of the public infrastructure improvements with its own  
22 monies or with monies from the manufacturing facility.

23 4. State that the city, town or county will immediately notify the  
24 department when monies received under this section exceed eighty per cent of  
25 the cost of the infrastructure improvements and will return the amount of the  
26 excess to the state treasurer for deposit to the state general fund.

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

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

34 ~~7.~~ 6. State that the city, town or county agrees that any amounts  
35 paid by the department to a ~~prime contractor as identified under paragraph 6~~  
36 ~~of this subsection resulting from an audit adjustment or claim for credit or~~  
37 ~~refund of taxes described in subsection C of this section~~ **CITY, TOWN OR**



1 COUNTY THAT EXCEED THE AMOUNT OF THE TRANSACTION PRIVILEGE TAX PAID ON THE  
2 SALE OF MATERIALS USED IN THE CONSTRUCTION OF BUILDINGS OR OTHER ASSOCIATED  
3 IMPROVEMENTS FOR THE BENEFIT OF THE MANUFACTURING FACILITY shall be recovered  
4 by the department from the city, town or county by reducing the amount paid  
5 to the city, town or county under section 42-5029 from monies designated as  
6 distribution base in the month next succeeding the month in which the  
7 adjustment or claim is paid.

8 ~~8.~~ 7. State that the city, town or county agrees that the department  
9 will use the amounts subject to any distribution required under subsection A  
10 of this section in calculating the maximum amount set by subsection C of this  
11 section.

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

20 ~~10.~~ 8. Provide any other information deemed necessary by the  
21 department.

22 G. EACH YEAR AND ON COMPLETION OF THE CONTRACT TO CONSTRUCT BUILDINGS  
23 AND OTHER ASSOCIATED IMPROVEMENTS FOR THE BENEFIT OF A MANUFACTURING  
24 FACILITY, THE MANUFACTURING FACILITY SHALL PROVIDE A RECONCILIATION OF THE  
25 COST OF MATERIALS USED IN THE CONSTRUCTION OF THE BUILDINGS AND OTHER  
26 ASSOCIATED IMPROVEMENTS, INCLUDING AMOUNTS REPRESENTING A REIMBURSEMENT OF  
27 TRANSACTION PRIVILEGE TAXES PAID BY THE RETAILER.

28 ~~6.~~ H. On notification by the department, the state treasurer shall  
29 cease payments under subsection A of this section if either of the following  
30 occurs:

31 1. A city, town or county has received monies that meet or exceed  
32 eighty per cent of the cost of the public infrastructure improvements that  
33 are necessary to support the activities related to the manufacturing facility  
34 as described in the written agreement pursuant to subsection ~~E~~ F of this  
35 section.

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

4           ~~H.~~ I. For the purposes of this section:

5           1. "Associated improvement" includes any public infrastructure  
6 improvement that is made for the benefit of the manufacturing facility  
7 outside of the parcel or parcels of real property where the manufacturing  
8 facility is located.

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

12           3. "Manufacturing facility":

13           (a) Means an establishment THAT IS engaged in the mechanical, physical  
14 or chemical transformation or fabrication of materials, substances or  
15 components into new products in this state, ~~and~~ that is classified within  
16 sections 31 through 33 inclusive of the 2007 edition of the north American  
17 industry classification system as published by the national technical  
18 information service of the United States department of commerce and ~~the~~  
19 ~~establishment~~ THAT agrees to either:

20           ~~(a)~~ (i) Make at least five hundred million dollars in capital  
21 investment if the manufacturing facility is located in a county that has a  
22 population of eight hundred thousand persons or more.

23           ~~(b)~~ (ii) Make at least fifty million dollars in capital investment if  
24 the manufacturing facility is located in a county that has a population of  
25 less than eight hundred thousand persons.

26 ~~Manufacturing facility~~

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

29           4. "Population" means the population determined in the most recent  
30 United States decennial census or the most recent special census as provided  
31 in section 28-6532.

32           5. "Public infrastructure" means water facilities, wastewater  
33 facilities and roads that are necessary to support the activities of the  
34 manufacturing facility.

1           Sec. 13. Title 42, chapter 5, article 1, Arizona Revised Statutes, is  
2 amended by adding section 42-5039, to read:

3           42-5039. Sourcing of certain transactions involving tangible  
4                                   personal property; definitions

5           A. EXCEPT AS PROVIDED IN SECTION 42-5075, RETAIL SALES OF TANGIBLE  
6 PERSONAL PROPERTY SHALL BE SOURCED AS FOLLOWS:

7           1. TO THE SELLER'S BUSINESS LOCATION IF THE SELLER RECEIVES THE ORDER  
8 AT A BUSINESS LOCATION IN THIS STATE.

9           2. TO THE PURCHASER'S LOCATION IN THIS STATE IF THE SELLER RECEIVES  
10 THE ORDER AT A BUSINESS LOCATION OUTSIDE THIS STATE.

11           B. FOR THE PURPOSES OF MUNICIPAL EXCISE TAXES, THE JURISDICTION WITH  
12 THE RIGHT TO TAX A SALE OF TANGIBLE PERSONAL PROPERTY IS THE CITY OR TOWN  
13 DESCRIBED AS FOLLOWS:

14           1. WHERE THE ORDER IS RECEIVED. AN ORDER IS RECEIVED WHEN ALL OF THE  
15 INFORMATION NECESSARY TO ACCEPT THE ORDER HAS BEEN RECEIVED BY OR ON BEHALF  
16 OF THE SELLER, REGARDLESS OF WHERE THE ORDER IS ACCEPTED OR APPROVED. THE  
17 PLACE OF BUSINESS OF THE PURCHASER DOES NOT DETERMINE WHERE THE ORDER IS  
18 RECEIVED.

19           2. IF PARAGRAPH 1 OF THIS SUBSECTION DOES NOT APPLY TO ANY CITY OR  
20 TOWN, WHERE THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS  
21 TAKEN.

22           3. IF PARAGRAPHS 1 AND 2 OF THIS SUBSECTION DO NOT APPLY TO ANY CITY  
23 OR TOWN, WHERE THE TRANSFER OF TITLE OR POSSESSION OF THE TANGIBLE PERSONAL  
24 PROPERTY OCCURRED.

25           C. THE GROSS RECEIPTS FROM LEASING OR RENTING TANGIBLE PERSONAL  
26 PROPERTY SHALL BE SOURCED AS FOLLOWS:

27           1. TO THE LESSOR'S BUSINESS LOCATION IF THE LESSOR HAS A BUSINESS  
28 LOCATION IN THIS STATE.

29           2. TO THE LESSEE'S ADDRESS IF THE LESSOR DOES NOT HAVE A BUSINESS  
30 LOCATION IN THIS STATE. THE GROSS RECEIPTS ARE TAXABLE WHEN THE PROPERTY IS  
31 SHIPPED, DELIVERED OR OTHERWISE BROUGHT INTO THIS STATE FOR USE IN THIS  
32 STATE.

33           D. FOR THE PURPOSES OF THIS SECTION:

34           1. "LESSEE'S ADDRESS" MEANS THE RESIDENTIAL ADDRESS OF AN INDIVIDUAL  
35 LESSEE AND THE PRIMARY BUSINESS ADDRESS OF ANY OTHER LESSEE.

36           2. "LESSOR'S BUSINESS LOCATION" MEANS THE BUSINESS ADDRESS THAT  
37 APPEARS ON THE LESSOR'S TRANSACTION PRIVILEGE TAX LICENSE.

1           3. "SELLER'S BUSINESS LOCATION" MEANS THE LOCATION WHERE ANY OF THE  
2 FOLLOWING OCCURS:

3           (a) THE ORDER IS RECEIVED.

4           (b) THE STOCK IS LOCATED FROM WHICH THE TANGIBLE PERSONAL PROPERTY IS  
5 TAKEN.

6           (c) THE TRANSFER OF TITLE OR POSSESSION OCCURS.

7           Sec. 14. Section 42-5061, Arizona Revised Statutes, is amended to  
8 read:

9           42-5061. Retail classification: definitions

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

15           1. Professional or personal service occupations or businesses that  
16 involve sales or transfers of tangible personal property only as  
17 inconsequential elements.

18           2. Services rendered in addition to selling tangible personal property  
19 at retail.

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

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

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

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

32           7. The sale of stocks and bonds.

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

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

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

5           11. Prescription eyeglasses or contact lenses.

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

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

14           14. Sales OF MOTOR VEHICLES to nonresidents of this state for use  
15 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the  
16 ~~tangible personal property~~ MOTOR VEHICLE TO A DESTINATION out of this state.

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

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

24           17. Textbooks by any bookstore that are required by any state  
25 university or community college.

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

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

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

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

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

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

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

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

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

24           25. Tangible personal property sold to:

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

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

29           (c) A qualifying health care organization as defined in section  
30 42-5001 if the organization is dedicated to providing educational,  
31 therapeutic, rehabilitative and family medical education training for blind,  
32 visually impaired and multihandicapped children from the time of birth to age  
33 twenty-one.

34           (d) A qualifying community health center as defined in section  
35 42-5001.

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

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

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

14 27. Tangible personal property sold to a person that is subject to tax  
15 under this article by reason of being engaged in business classified under  
16 the ~~prime contracting~~ MANUFACTURED BUILDING DEALER classification under  
17 section 42-5075, ~~OR THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION~~  
18 CLASSIFICATION UNDER SECTION 42-5078 or to a subcontractor working under the  
19 control of a ~~prime~~ HIGHWAY, STREET OR BRIDGE contractor that is subject to  
20 tax under article 1 of this chapter, if the property so sold is any of the  
21 following:

22 (a) TO BE incorporated or fabricated by the person into A MANUFACTURED  
23 BUILDING. ~~any real property, structure, project, development or improvement~~  
24 ~~as part of the business.~~

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

27 (b) TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY,  
28 STREET OR BRIDGE.

29 28. The sale of a motor vehicle to:

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

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

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

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

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

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

24           33. Sales of seeds, seedlings, roots, bulbs, cuttings and other  
25 propagative material to persons who use those items to commercially produce  
26 agricultural, horticultural, viticultural or floricultural crops in this  
27 state.

28           34. Machinery, equipment, technology or related supplies that are only  
29 useful to assist a person who is physically disabled as defined in section  
30 46-191, has a developmental disability as defined in section 36-551 or has a  
31 head injury as defined in section 41-3201 to be more independent and  
32 functional.

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

36           ~~36.~~ 35. Sales of natural gas or liquefied petroleum gas used to propel  
37 a motor vehicle.



1           ~~37.~~ 36. Paper machine clothing, such as forming fabrics and dryer  
2 felts, sold to a paper manufacturer and directly used or consumed in paper  
3 manufacturing.

4           ~~38.~~ 37. Coal, petroleum, coke, natural gas, virgin fuel oil and  
5 electricity sold to a qualified environmental technology manufacturer,  
6 producer or processor as defined in section 41-1514.02 and directly used or  
7 consumed in the generation or provision of on-site power or energy solely for  
8 environmental technology manufacturing, producing or processing or  
9 environmental protection. This paragraph shall apply for twenty full  
10 consecutive calendar or fiscal years from the date the first paper  
11 manufacturing machine is placed in service. In the case of an environmental  
12 technology manufacturer, producer or processor who does not manufacture  
13 paper, the time period shall begin with the date the first manufacturing,  
14 processing or production equipment is placed in service.

15           ~~39.~~ 38. Sales of liquid, solid or gaseous chemicals used in  
16 manufacturing, processing, fabricating, mining, refining, metallurgical  
17 operations, research and development and, beginning on January 1, 1999,  
18 printing, if using or consuming the chemicals, alone or as part of an  
19 integrated system of chemicals, involves direct contact with the materials  
20 from which the product is produced for the purpose of causing or permitting a  
21 chemical or physical change to occur in the materials as part of the  
22 production process. This paragraph does not include chemicals that are used  
23 or consumed in activities such as packaging, storage or transportation but  
24 does not affect any deduction for such chemicals that is otherwise provided  
25 by this section. For the purposes of this paragraph, "printing" means a  
26 commercial printing operation and includes job printing, engraving,  
27 embossing, copying and bookbinding.

28           ~~40.~~ 39. Through December 31, 1994, personal property liquidation  
29 transactions, conducted by a personal property liquidator. From and after  
30 December 31, 1994, personal property liquidation transactions shall be  
31 taxable under this section provided that nothing in this subsection shall be  
32 construed to authorize the taxation of casual activities or transactions  
33 under this chapter. For the purposes of this paragraph:

34           (a) "Personal property liquidation transaction" means a sale of  
35 personal property made by a personal property liquidator acting solely on  
36 behalf of the owner of the personal property sold at the dwelling of the  
37 owner or on the death of any owner, on behalf of the surviving spouse, if

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

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

5 ~~41.~~ 40. Sales of food, drink and condiment for consumption within the  
6 premises of any prison, jail or other institution under the jurisdiction of  
7 the state department of corrections, the department of public safety, the  
8 department of juvenile corrections or a county sheriff.

9 ~~42.~~ 41. A motor vehicle and any repair and replacement parts and  
10 tangible personal property becoming a part of such motor vehicle sold to a  
11 motor carrier who is subject to a fee prescribed in title 28, chapter 16,  
12 article 4 and who is engaged in the business of leasing or renting such  
13 property.

14 ~~43.~~ 42. Livestock and poultry feed, salts, vitamins and other  
15 additives for livestock or poultry consumption that are sold to persons who  
16 are engaged in producing livestock, poultry, or livestock or poultry products  
17 or who are engaged in feeding livestock or poultry commercially. For the  
18 purposes of this paragraph, "poultry" includes ratites.

19 ~~44.~~ 43. Sales of implants used as growth promotants and injectable  
20 medicines, not already exempt under paragraph 8 of this subsection, for  
21 livestock or poultry owned by or in possession of persons who are engaged in  
22 producing livestock, poultry, or livestock or poultry products or who are  
23 engaged in feeding livestock or poultry commercially. For the purposes of  
24 this paragraph, "poultry" includes ratites.

25 ~~45.~~ 44. Sales of motor vehicles at auction to nonresidents of this  
26 state for use outside this state if the vehicles are shipped or delivered out  
27 of this state, regardless of where title to the motor vehicles passes or its  
28 free on board point.

29 ~~46.~~ 45. Tangible personal property sold to a person engaged in  
30 business and subject to tax under the transient lodging classification if the  
31 tangible personal property is a personal hygiene item or articles used by  
32 human beings for food, drink or condiment, except alcoholic beverages, that  
33 are furnished without additional charge to and intended to be consumed by the  
34 transient during the transient's occupancy.

35 ~~47.~~ 46. Sales of alternative fuel, as defined in section 1-215, to a  
36 used oil fuel burner who has received a permit to burn used oil or used oil  
37 fuel under section 49-426 or 49-480.

1           ~~48.~~ 47. Sales of materials that are purchased by or for publicly  
2 funded libraries including school district libraries, charter school  
3 libraries, community college libraries, state university libraries or  
4 federal, state, county or municipal libraries for use by the public as  
5 follows:

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

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

8           ~~49.~~ 48. Tangible personal property sold to a commercial airline and  
9 consisting of food, beverages and condiments and accessories used for serving  
10 the food and beverages, if those items are to be provided without additional  
11 charge to passengers for consumption in flight. For the purposes of this  
12 paragraph, "commercial airline" means a person holding a federal certificate  
13 of public convenience and necessity or foreign air carrier permit for air  
14 transportation to transport persons, property or United States mail in  
15 intrastate, interstate or foreign commerce.

16           ~~50.~~ 49. Sales of alternative fuel vehicles if the vehicle was  
17 manufactured as a diesel fuel vehicle and converted to operate on alternative  
18 fuel and equipment that is installed in a conventional diesel fuel motor  
19 vehicle to convert the vehicle to operate on an alternative fuel, as defined  
20 in section 1-215.

21           ~~51.~~ 50. Sales of any spirituous, vinous or malt liquor by a person  
22 that is licensed in this state as a wholesaler by the department of liquor  
23 licenses and control pursuant to title 4, chapter 2, article 1.

24           ~~52.~~ 51. Sales of tangible personal property to be incorporated or  
25 installed as part of ~~environmental response or remediation activities under~~  
26 ~~section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION, CONSTRUCTING,  
27 FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL  
28 PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT EXEMPT INCORPORATED  
29 MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND TANGIBLE PERSONAL PROPERTY  
30 INCORPORATED, TO PERFORM ONE OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO  
31 A RELEASE OR SUSPECTED RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR  
32 CONTAMINANT FROM A FACILITY TO THE ENVIRONMENT, UNLESS THE RELEASE WAS  
33 AUTHORIZED BY A PERMIT ISSUED BY A GOVERNMENTAL AUTHORITY:

34           (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A  
35 SUSPECTED RELEASE.

36           (b) EXCAVATION, REMOVAL AND TRANSPORTATION OF CONTAMINATED SOIL AND  
37 ITS TREATMENT OR DISPOSAL.

1 (c) TREATMENT OF CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR  
2 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE  
3 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

4 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED  
5 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OR A  
6 CONTAMINANT.

7 (e) THE INSTALLATION OF STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO  
8 CONTAIN CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM  
9 REACHING A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE  
10 ENVIRONMENT.

11 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR THE CONSTRUCTION OR USE  
12 OF ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE  
13 FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT, FACILITIES  
14 OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO PREVENT OR  
15 CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

16 ~~53.~~ 52. Sales of tangible personal property by a nonprofit  
17 organization that is exempt from taxation under section 501(c)(6) of the  
18 internal revenue code if the organization produces, organizes or promotes  
19 cultural or civic related festivals or events and no part of the  
20 organization's net earnings inures to the benefit of any private shareholder  
21 or individual.

22 ~~54.~~ 53. Through August 31, 2014, sales of Arizona centennial  
23 medallions by the historical advisory commission.

24 ~~55.~~ 54. Application services that are designed to assess or test  
25 student learning or to promote curriculum design or enhancement purchased by  
26 or for any school district, charter school, community college or state  
27 university. For the purposes of this paragraph:

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

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

33 ~~56.~~ 55. Sales of motor vehicle fuel and use fuel to a qualified  
34 business under section 41-1516 for off-road use in harvesting, processing or  
35 transporting qualifying forest products removed from qualifying projects as  
36 defined in section 41-1516.

1           ~~57.~~ 56. Sales of repair parts installed in equipment used directly by  
2 a qualified business under section 41-1516 in harvesting, processing or  
3 transporting qualifying forest products removed from qualifying projects as  
4 defined in section 41-1516.

5           ~~58.~~ 57. Sales or other transfers of renewable energy credits or any  
6 other unit created to track energy derived from renewable energy resources.  
7 For the purposes of this paragraph, "renewable energy credit" means a unit  
8 created administratively by the corporation commission or governing body of a  
9 public power utility to track kilowatt hours of electricity derived from a  
10 renewable energy resource or the kilowatt hour equivalent of conventional  
11 energy resources displaced by distributed renewable energy resources.

12           58. TANGIBLE PERSONAL PROPERTY SOLD TO A QUALIFIED BUSINESS UNDER  
13 SECTION 41-1516 IF THE PROPERTY SOLD IS TO BE INCORPORATED OR FABRICATED INTO  
14 A BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY  
15 THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING QUALIFYING FOREST  
16 PRODUCTS. TO QUALIFY FOR THIS DEDUCTION, THE QUALIFIED BUSINESS AT THE TIME  
17 OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE DEPARTMENT.

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

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

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

35           3. Tangible personal property sold to persons engaged in business  
36 classified under the telecommunications classification and consisting of  
37 central office switching equipment, switchboards, private branch exchange

1 equipment, microwave radio equipment and carrier equipment including optical  
2 fiber, coaxial cable and other transmission media ~~which~~ THAT are components  
3 of carrier systems.

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

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

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

15 7. Aircraft, navigational and communication instruments and other  
16 accessories and related equipment sold to:

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

23 (b) Any foreign government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

1 qualified business at the time of purchase must present its certification  
2 approved by the department.

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

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

9 2. Janitorial equipment and hand tools.

10 3. Office equipment, furniture and supplies.

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

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

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

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

21 8. MACHINERY AND EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY USED BY  
22 A CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

23 D. In addition to the deductions from the tax base prescribed by  
24 subsection A of this section, there shall be deducted from the tax base the  
25 gross proceeds of sales or gross income derived from sales of machinery,  
26 equipment, materials and other tangible personal property used directly and  
27 predominantly to construct a qualified environmental technology  
28 manufacturing, producing or processing facility as described in section  
29 41-1514.02. This subsection applies for ten full consecutive calendar or  
30 fiscal years after the start of initial construction.

31 E. In computing the tax base, gross proceeds of sales or gross income  
32 from retail sales of heavy trucks and trailers does not include any amount  
33 attributable to federal excise taxes imposed by 26 United States Code section  
34 4051.

35 F. In computing the tax base, gross proceeds of sales or gross income  
36 from the sale of use fuel, as defined in section 28-5601, does not include

1 any amount attributable to federal excise taxes imposed by 26 United States  
2 Code section 4091.

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

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

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

- 23 1. Transporting classification.
- 24 2. Utilities classification.
- 25 3. Telecommunications classification.
- 26 4. Pipeline classification.
- 27 5. Private car line classification.
- 28 6. Publication classification.
- 29 7. Job printing classification.
- 30 8. ~~Prime contracting~~ MANUFACTURED BUILDING DEALER classification.
- 31 ~~9. Owner builder sales classification.~~
- 32 ~~10.~~ 9. Restaurant classification.
- 33 10. HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION.

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

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

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

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

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

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

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

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

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

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

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

35          O. In computing the tax base in the case of the sale or transfer of  
36          wireless telecommunications equipment as an inducement to a customer to enter  
37          into or continue a contract for telecommunications services that are taxable

1 under section 42-5064, gross proceeds of sales or gross income does not  
2 include any sales commissions or other compensation received by the retailer  
3 as a result of the customer entering into or continuing a contract for the  
4 telecommunications services.

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

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

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

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

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

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

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

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

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

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

21           V. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, REGARDLESS  
22 OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE, IS  
23 CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION UNDER THIS  
24 SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS  
25 SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE  
26 PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE  
27 IDENTIFIED IN SUBSECTION A OR B OF THIS SECTION. IF A PERSON WHO IS IN THE  
28 BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES IN  
29 BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL  
30 STOCK FOR USE IN CONTRACTING ACTIVITIES, THE PURCHASE PRICE OF THAT PERSONAL  
31 PROPERTY IS SUBJECT TO USE TAX UNDER SECTION 42-5155.

32           ~~V.~~ W. For the purposes of this section:

33           1. "Aircraft" includes:

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

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

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

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

12 ~~W.~~ X. For the purposes of subsection J of this section:

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

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

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

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

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

31 6. "Subcontract" means an agreement between a contractor and any  
32 person who is not an employee of the contractor for furnishing of supplies or  
33 services that, in whole or in part, are necessary to the performance of one  
34 or more government contracts, or under which any portion of the contractor's  
35 obligation under one or more government contracts is performed, undertaken or  
36 assumed and that includes provisions causing title to overhead materials or  
37 other tangible personal property used in the performance of the subcontract

1 to pass to the government or that includes provisions incorporating such  
2 title passing clauses in a government contract into the subcontract. FOR THE  
3 PURPOSES OF THIS PARAGRAPH, "CONTRACTOR" HAS ITS ORDINARY AND COMMON MEANING  
4 AND DOES NOT HAVE THE MEANING PRESCRIBED BY SECTION 42-5001.

5 Sec. 15. Section 42-5071, Arizona Revised Statutes, is amended to  
6 read:

7 42-5071. Personal property rental classification

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

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

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

17 3. Leasing or renting tangible personal property by a parent  
18 corporation to a subsidiary corporation or by a subsidiary corporation to  
19 another subsidiary of the same parent corporation if taxes were paid under  
20 this chapter on the gross proceeds or gross income accruing from the initial  
21 sale of the tangible personal property. For the purposes of this paragraph,  
22 "subsidiary" means a corporation of which at least eighty per cent of the  
23 voting shares are owned by the parent corporation.

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

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

32 6. Leasing or renting aircraft, flight simulators or similar training  
33 equipment to students or staff by nonprofit, accredited educational  
34 institutions that offer associate or baccalaureate degrees in aviation or  
35 aerospace related fields.



1           7. Leasing or renting photographs, transparencies or other creative  
2 works used by this state on internet ~~web-sites~~ WEBSITES, in magazines or in  
3 other publications that encourage tourism.

4           B. The tax base for the personal property rental classification is the  
5 gross proceeds of sales or gross income derived from the business, but the  
6 gross proceeds of sales or gross income derived from the following shall be  
7 deducted from the tax base:

8           1. Reimbursements by the lessee to the lessor of a motor vehicle for  
9 payments by the lessor of the applicable fees and taxes imposed by sections  
10 28-2003, 28-2352, 28-2402, 28-2481 and 28-5801, title 28, chapter 15,  
11 article 2 and article IX, section 11, Constitution of Arizona, to the extent  
12 such amounts are separately identified as such fees and taxes and are billed  
13 to the lessee.

14           2. Leases or rentals of tangible personal property ~~which~~ THAT, if it  
15 had been purchased instead of leased or rented by the lessee, would have been  
16 exempt under:

17           (a) Section 42-5061, subsection A, paragraph 8, 9, 12, 13, 25, 29, ~~50~~  
18 ~~49~~ or ~~55~~ 54.

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

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

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

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

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

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

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

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

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

1           D. In computing the tax base, the gross proceeds of sales or gross  
2 income from the lease or rental of a motor vehicle does not include any  
3 amount attributable to the car rental surcharge under section 28-5810 or  
4 48-4234.

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

13           Sec. 16. Section 42-5072, Arizona Revised Statutes, is amended to  
14 read:

15           42-5072. Mining classification; definition

16           A. The mining classification is comprised of the business of mining,  
17 quarrying or producing for sale, profit or commercial use any  
18 nonmetalliferous mineral product that has been mined, quarried or otherwise  
19 extracted within the boundaries of this state described in article I, section  
20 1, Constitution of Arizona.

21           B. The tax base for the mining classification is the gross proceeds of  
22 sales or gross income derived from the business. The gross proceeds of sales  
23 or gross income derived from sales described under section 42-5061,  
24 subsection A, paragraph 27, **SUBDIVISION (b)** and subsection J, paragraph 2  
25 shall be deducted from the tax base.

26           C. The tax base includes the value of the entire product mined,  
27 quarried or produced for sale, profit or commercial use in this state,  
28 regardless of the place of sale of the product or of the fact that deliveries  
29 may be made to points without this state. If, however, the sale price of the  
30 product includes freight, the sale price shall be reduced by the actual  
31 freight paid by any person from the place of production to the place of  
32 delivery.

33           D. In the case of a person engaged in business classified under the  
34 mining classification all or part of whose income is derived from service or  
35 manufacturing charges instead of from sales of the products manufactured or  
36 handled, the tax base includes the gross income of the person derived from  
37 the service or manufacturing charge.

1 E. If a person engaging in business classified under the mining  
2 classification ships or transports all or part of a product out of this state  
3 without making sale of the product or ships his product outside of this state  
4 in an unfinished condition, the value of the product or article in the  
5 condition or form in which it existed when transported out of this state and  
6 before it enters interstate commerce is included in the tax base, and the  
7 department shall prescribe equitable and uniform rules for ascertaining that  
8 value. In determining the tax base, if the product or any part of the  
9 product has been processed in this state and the proceeds of such processing  
10 have been included in the tax base of the processor under this chapter, the  
11 person may deduct from the value of the product when transported out of this  
12 state the cost of such processing.

13 F. A person who conducts a business classified under the mining  
14 classification may be deemed also to be engaged in business classified under  
15 the retail classification to the extent the person's activities comprise  
16 business under the retail classification if the tax is paid at the rate  
17 imposed on the retail classification by section 42-5010. If the transaction  
18 is not subject to taxation under the retail classification, the transaction  
19 shall be included in the tax base under this section.

20 G. For the purposes of this section, "nonmetalliferous mineral  
21 product" means oil, natural gas, limestone, sand, gravel or any other  
22 nonmetalliferous mineral product, compound or combination of nonmetalliferous  
23 mineral products.

24 Sec. 17. Section 42-5075, Arizona Revised Statutes, is amended to  
25 read:

26 42-5075. Manufactured building dealer classification;  
27 exemptions; definitions

28 A. The ~~prime contracting~~ MANUFACTURED BUILDING DEALER classification  
29 is comprised of the business of ~~prime contracting and dealership of~~ SELLING  
30 manufactured buildings. Sales for resale to another dealership of  
31 manufactured buildings are not subject to tax. Sales for resale do not  
32 include sales to a lessor of manufactured buildings. The sale of a used  
33 manufactured building is not taxable under this chapter. The proceeds from  
34 alteration and repairs to a used manufactured building are taxable under this  
35 section.

36 B. The tax base for the ~~prime contracting~~ MANUFACTURED BUILDING DEALER  
37 classification is sixty-five per cent of the gross proceeds of sales or gross

1 income derived from the business. The following amounts shall be deducted  
2 from the gross proceeds of sales or gross income before computing the tax  
3 base:

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

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

10 ~~3.~~ 2. The sales price of furniture, furnishings, fixtures, appliances  
11 and attachments that are not incorporated as component parts of or attached  
12 to a manufactured building or the setup site. The sale of such items may be  
13 subject to the taxes imposed by article 1 of this chapter separately and  
14 distinctly from the sale of the manufactured building.

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

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

35 ~~6. The gross proceeds of sales or gross income from a contract to~~  
36 ~~provide for one or more of the following actions, or a contract for site~~  
37 ~~preparation, constructing, furnishing or installing machinery, equipment or~~

1 ~~other tangible personal property, including structures necessary to protect~~  
2 ~~exempt incorporated materials or installed machinery or equipment, and~~  
3 ~~tangible personal property incorporated into the project, to perform one or~~  
4 ~~more of the following actions in response to a release or suspected release~~  
5 ~~of a hazardous substance, pollutant or contaminant from a facility to the~~  
6 ~~environment, unless the release was authorized by a permit issued by a~~  
7 ~~governmental authority:~~

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

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

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

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

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

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

27 ~~7. The gross proceeds of sales or gross income that is derived from a~~  
28 ~~contract entered into for the installation, assembly, repair or maintenance~~  
29 ~~of machinery, equipment or other tangible personal property that is deducted~~  
30 ~~from the tax base of the retail classification pursuant to section 42-5061,~~  
31 ~~subsection B, or that is exempt from use tax pursuant to section 42-5159,~~  
32 ~~subsection B, and that does not become a permanent attachment to a building,~~  
33 ~~highway, road, railroad, excavation or manufactured building or other~~  
34 ~~structure, project, development or improvement. If the ownership of the~~  
35 ~~realty is separate from the ownership of the machinery, equipment or tangible~~  
36 ~~personal property, the determination as to permanent attachment shall be made~~  
37 ~~as if the ownership were the same. The deduction provided in this paragraph~~

1 ~~does not include gross proceeds of sales or gross income from that portion of~~  
2 ~~any contracting activity that consists of the development of, or modification~~  
3 ~~to, real property in order to facilitate the installation, assembly, repair,~~  
4 ~~maintenance or removal of machinery, equipment or other tangible personal~~  
5 ~~property that is deducted from the tax base of the retail classification~~  
6 ~~pursuant to section 42-5061, subsection B or that is exempt from use tax~~  
7 ~~pursuant to section 42-5159, subsection B. For the purposes of this~~  
8 ~~paragraph, "permanent attachment" means at least one of the following:~~

9 ~~(a) To be incorporated into real property.~~

10 ~~(b) To become so affixed to real property that it becomes a part of~~  
11 ~~the real property.~~

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

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

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

18 ~~(b) Section 42-5061, subsection B.~~

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

21 ~~(d) Section 42-5159, subsection B.~~

22 ~~9. The gross proceeds of sales or gross income received from a~~  
23 ~~contract for the construction of an environmentally controlled facility for~~  
24 ~~the raising of poultry for the production of eggs and the sorting, cooling~~  
25 ~~and packaging of eggs.~~

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

35 ~~11. The gross proceeds of sales or gross income that is derived from~~  
36 ~~the installation, assembly, repair or maintenance of clean rooms that are~~

1 ~~deducted from the tax base of the retail classification pursuant to section~~  
2 ~~42-5061, subsection B, paragraph 16.~~

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

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

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

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

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

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

32 ~~18. The gross proceeds of sales or gross income received from a~~  
33 ~~contract for the construction of any building, or other structure, project,~~  
34 ~~development or improvement owned by a qualified business under section~~  
35 ~~41-1516 for harvesting or processing qualifying forest products removed from~~  
36 ~~qualifying projects as defined in section 41-1516 if actual construction~~  
37 ~~begins before January 1, 2024. To qualify for this deduction, the prime~~

1 ~~contractor must obtain a letter of qualification from the Arizona commerce~~  
2 ~~authority before beginning work under the contract.~~

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

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

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

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

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

22 ~~1. A prime contractor may establish entitlement to the deduction by~~  
23 ~~both:~~

24 ~~(a) Marking the invoice for the transaction to indicate that the gross~~  
25 ~~proceeds of sales or gross income derived from the transaction was deducted~~  
26 ~~from the base.~~

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

35 ~~2. A person who does not comply with paragraph 1 of this subsection~~  
36 ~~may establish entitlement to the deduction by presenting facts necessary to~~  
37 ~~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 services in respect to any~~  
23 ~~improvement, building, highway, road, railroad, excavation, manufactured~~  
24 ~~building or other structure, project, development or improvement are not~~  
25 ~~subject to tax if they can demonstrate that the job was within the control of~~  
26 ~~a prime contractor or contractors or a dealership of manufactured buildings~~  
27 ~~and that the prime contractor or dealership is liable for the tax on the~~  
28 ~~gross income, gross proceeds of sales or gross receipts attributable to the~~  
29 ~~job and from which the subcontractors or others were paid.~~

30           ~~E. Amounts received by a contractor for a project are excluded from~~  
31 ~~the contractor's gross proceeds of sales or gross income derived from the~~  
32 ~~business if the person who hired the contractor executes and provides a~~  
33 ~~certificate to the contractor stating that the person providing the~~  
34 ~~certificate is a prime contractor and is liable for the tax under article 1~~  
35 ~~of this chapter. The department shall prescribe the form of the certificate.~~  
36 ~~If the contractor has reason to believe that the information contained on the~~  
37 ~~certificate is erroneous or incomplete, the department may disregard the~~

1 ~~certificate. If the person who provides the certificate is not liable for~~  
2 ~~the tax as a prime contractor, that person is nevertheless deemed to be the~~  
3 ~~prime contractor in lieu of the contractor and is subject to the tax under~~  
4 ~~this section on the gross receipts or gross proceeds received by the~~  
5 ~~contractor.~~

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

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

17 ~~H. For the purposes of section 42-5032.02, from and after September~~  
18 ~~30, 2013, the department shall separately account for revenues reported and~~  
19 ~~collected under the prime contracting classification from any prime~~  
20 ~~contractor engaged in the construction of any buildings and associated~~  
21 ~~improvements that are for the benefit of a manufacturing facility. For the~~  
22 ~~purposes of this subsection, "associated improvements" and "manufacturing~~  
23 ~~facility" have the same meanings prescribed in section 42-5032.02.~~

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

34 ~~J. The gross proceeds of sales or gross income derived from~~  
35 ~~landscaping activities are subject to tax under this section. Landscaping~~  
36 ~~includes installing lawns, grading or leveling ground, installing gravel or~~  
37 ~~boulders, planting trees and other plants, felling trees, removing or~~

1 ~~mulching tree stumps, removing other imbedded plants, building or modifying~~  
2 ~~irrigation berms, repairing sprinkler or watering systems, installing~~  
3 ~~railroad ties and installing underground sprinkler or watering systems.~~

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

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

16 ~~M. C.~~ The following apply ~~to~~ IN DETERMINING THE TAXABLE SITUS OF  
17 SALES OF manufactured buildings:

18 1. For sales in this state where the ~~dealership of~~ manufactured  
19 ~~buildings~~ BUILDING DEALER contracts to deliver the building to a setup site  
20 or to perform the setup in this state, the taxable situs is the setup site.

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

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

29 ~~N. The gross proceeds of sales or gross income attributable to a~~  
30 ~~separate, written design phase services contract or professional services~~  
31 ~~contract, executed before modification begins, is not subject to tax under~~  
32 ~~this section, regardless of whether the services are provided sequential to~~  
33 ~~or concurrent with prime contracting activities that are subject to tax under~~  
34 ~~this section. This subsection does not include the gross proceeds of sales~~  
35 ~~or gross income attributable to construction phase services. For the~~  
36 ~~purposes of this subsection:~~

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

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

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

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

15           ~~(i) The scope of a change in the modification work, contract for~~  
16 ~~modification work or other contract documents.~~

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

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

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

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

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

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

4           ~~(i) Master schedule updates.~~

5           ~~(ii) Modification work cash flow projection updates.~~

6           ~~(iii) Site reports made on a periodic basis.~~

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

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

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

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

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

18           ~~2. "Design phase services" means services for developing and~~  
19 ~~completing a design for a project that are not construction phase services,~~  
20 ~~including the following:~~

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

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

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

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

34           ~~(e) Preparing preliminary estimates of costs of modification work~~  
35 ~~before completion of the final design of the project, including an estimate~~  
36 ~~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~~  
5 ~~modifications.~~

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

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

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

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

15           ~~(vi) Any bond and insurance premiums.~~

16           ~~(vii) Any applicable taxes.~~

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

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

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

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

31           ~~0. Notwithstanding subsection P, paragraph 8 of this section, a person~~  
32 ~~owning real property who enters into a contract for sale of the real~~  
33 ~~property, who is responsible to the new owner of the property for~~  
34 ~~modifications made to the property in the period subsequent to the transfer~~  
35 ~~of title and who receives a consideration for the modifications is considered~~  
36 ~~a prime contractor solely for purposes of taxing the gross proceeds of sale~~  
37 ~~or gross income received for the modifications made subsequent to the~~

1 ~~transfer of title. The original owner's gross proceeds of sale or gross~~  
2 ~~income received for the modifications shall be determined according to the~~  
3 ~~following methodology:~~

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

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

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

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

28 ~~P. D. For the purposes of this section:~~

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

30 ~~2. "Contractor" is synonymous with the term "builder" and means any~~  
31 ~~person or organization that undertakes to or offers to undertake to, or~~  
32 ~~purports to have the capacity to undertake to, or submits a bid to, or does~~  
33 ~~personally or by or through others, modify any building, highway, road,~~  
34 ~~railroad, excavation, manufactured building or other structure, project,~~  
35 ~~development or improvement, or to do any part of such a project, including~~  
36 ~~the erection of scaffolding or other structure or works in connection with~~  
37 ~~such a project, and includes subcontractors and specialty contractors. For~~

1 ~~all purposes of taxation or deduction, this definition shall govern without~~  
2 ~~regard to whether or not such contractor is acting in fulfillment of a~~  
3 ~~contract.~~

4 4. 1. "Manufactured building" means a manufactured home, mobile home  
5 or factory-built building, as defined in section 41-2142.

6 ~~3.~~ 2. ~~"Dealership of Manufactured buildings~~ BUILDING DEALER" means a  
7 dealer who either:

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

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

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

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

18 ~~7. "Prime contracting" means engaging in business as a prime~~  
19 ~~contractor.~~

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

31 ~~9.~~ 3. "Sale of a used manufactured building" does not include a lease  
32 of a used manufactured building.

33 Sec. 18. Repeal

34 Section 42-5076, Arizona Revised Statutes, is repealed from and after  
35 December 31, 2014.



1           Sec. 19. Title 42, chapter 5, article 2, Arizona Revised Statutes, is  
2 amended by adding section 42-5078, to read:

3           42-5078. Highway, street and bridge construction  
4   classification; definitions

5           A. THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION IS  
6 COMPRISED OF THE BUSINESS OF CONSTRUCTING A HIGHWAY, STREET OR BRIDGE.

7           B. THE TAX BASE FOR THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION  
8 CLASSIFICATION IS SIXTY-FIVE PER CENT OF THE GROSS PROCEEDS OF SALES OR GROSS  
9 INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED  
10 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX  
11 BASE:

12           1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
13 CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF ANY  
14 HIGHWAY, STREET OR BRIDGE LOCATED WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER  
15 THE ZONE IS INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE  
16 ELIGIBLE TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE  
17 CONTRACT, THE HIGHWAY, STREET OR BRIDGE CONTRACTOR MUST HAVE APPLIED FOR A  
18 LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE.

19           2. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO A  
20 SEPARATE, WRITTEN DESIGN PHASE SERVICES OR PROFESSIONAL SERVICES CONTRACT,  
21 EXECUTED BEFORE THE CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET  
22 OR BRIDGE BEGINS, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL  
23 TO OR CONCURRENT WITH CONSTRUCTION ACTIVITIES SUBJECT TO TAX UNDER THIS  
24 SECTION. THIS DEDUCTION DOES NOT INCLUDE THE GROSS PROCEEDS OF SALES OR THE  
25 GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE SERVICES.

26           3. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE  
27 TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES  
28 THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION.  
29 FOR THE PURPOSES OF THIS PARAGRAPH, "DIRECT COSTS" MEANS THE PORTION OF THE  
30 ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR  
31 ENGINEERING SERVICES.

32           C. SUBCONTRACTORS WHO PERFORM SERVICES WITH RESPECT TO THE  
33 CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR BRIDGE ARE NOT  
34 SUBJECT TO TAX IF THEY CAN DEMONSTRATE THAT THE JOB WAS WITHIN THE CONTROL OF  
35 A HIGHWAY, STREET OR BRIDGE CONTRACTOR AND THAT THE HIGHWAY, STREET, OR  
36 BRIDGE CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS

1 OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH THE  
2 SUBCONTRACTORS WERE PAID.

3 D. FOR THE PURPOSES OF THIS SECTION:

4 1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND  
5 COMPLETION OF ANY CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR  
6 BRIDGE, INCLUDING THE FOLLOWING:

7 (a) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR  
8 REPAIR OF A HIGHWAY, STREET OR BRIDGE, INCLUDING TEAM MANAGEMENT AND  
9 COORDINATION, SCHEDULING, COST CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD  
10 MANAGEMENT, SAFETY PROGRAM, CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

11 (b) ADMINISTRATION OR SUPERVISION OF ANY PUNCH LIST. FOR THE PURPOSES  
12 OF THIS SUBDIVISION, "PUNCH LIST" MEANS MINOR ITEMS OF WORK PERFORMED AFTER  
13 SUBSTANTIAL COMPLETION AND BEFORE FINAL COMPLETION OF THE PROJECT.

14 (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO  
15 CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A  
16 WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION  
17 OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:

18 (i) THE SCOPE OF CHANGE IN THE WORK.

19 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM  
20 PRICE AS SET IN THE CONTRACT FOR CONSTRUCTION OF THE HIGHWAY, STREET OR  
21 BRIDGE. FOR THE PURPOSES OF THIS ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE  
22 AMOUNT GUARANTEED TO BE THE MAXIMUM AMOUNT DUE TO A HIGHWAY, STREET OR BRIDGE  
23 CONTRACTOR FOR THE PERFORMANCE OF THE CONSTRUCTION, ALTERATION OR REPAIR OF A  
24 HIGHWAY, STREET OR BRIDGE.

25 (iii) THE EXTENT OF AN ADJUSTMENT, IF ANY, TO THE CONTRACT TIME OF  
26 PERFORMANCE SET FORTH IN THE CONTRACT.

27 (d) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR  
28 REPAIR WORK PERFORMED PURSUANT TO CHANGE DIRECTIVES. FOR THE PURPOSES OF  
29 THIS SUBDIVISION, "CHANGE DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE  
30 IN CONSTRUCTION, ALTERATION OR REPAIR WORK BEFORE AGREEMENT ON AN ADJUSTMENT  
31 OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT TIME.

32 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR  
33 FINAL COMPLETION.

34 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES  
35 OR OTHER ITEMS THE HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR MUST  
36 FURNISH PURSUANT TO A CONTRACT FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF  
37 A HIGHWAY, STREET OR BRIDGE. FOR THE PURPOSES OF THIS SUBDIVISION, "AS-BUILT

1 DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT TO FIELD  
2 CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND  
3 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

4 (g) PREPARATION OF STATUS REPORTS AFTER THE CONSTRUCTION, ALTERATION  
5 OR REPAIR WORK HAS BEGUN DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING  
6 PREPARATION OF ANY OF THE FOLLOWING:

7 (i) MASTER SCHEDULE UPDATES.

8 (ii) CONSTRUCTION, ALTERATION OR REPAIR CASH FLOW PROJECTION DATES.

9 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

10 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN  
11 CONSTRUCTION, ALTERATION OR REPAIR WORK DOCUMENTS THAT REQUIRE RESOLUTION.

12 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN  
13 CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

14 (h) PREPARATION OF DAILY LOGS OF CONSTRUCTION, ALTERATION OR REPAIR  
15 WORK, INCLUDING DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE  
16 OCCURRENCES.

17 (i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE  
18 HIGHWAY, STREET AND BRIDGE CONSTRUCTION CONTRACTOR TO ILLUSTRATE DETAILS OF  
19 THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

20 (j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A  
21 HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR RECEIVES A CERTIFICATE OF  
22 PAYMENT OR CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF  
23 CONSTRUCTION, ALTERATION OR REPAIR WORK PERFORMED ON THE PROJECT.

24 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND  
25 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,  
26 INCLUDING THE FOLLOWING:

27 (a) EVALUATING SURVEYS, REPORTS, TEST RESULTS OR ANY OTHER INFORMATION  
28 ON SITE CONDITIONS FOR THE PROJECT, INCLUDING PHYSICAL CHARACTERISTICS, LEGAL  
29 LIMITATIONS AND UTILITY LOCATIONS FOR THE SITE.

30 (b) EVALUATING ANY CRITERIA OR PROGRAMMING OBJECTIVES FOR THE PROJECT  
31 TO ASCERTAIN REQUIREMENTS FOR THE PROJECT, SUCH AS PHYSICAL REQUIREMENTS  
32 AFFECTING COST OR PROJECTED UTILIZATION OF THE PROJECT.

33 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM  
34 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,  
35 CONSTRUCTION, ALTERATION OR REPAIR DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE  
36 SCOPE OF OR MATERIALS FOR THE PROJECT.

1 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE  
2 PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER CONSTRUCTION, ALTERATION  
3 OR REPAIR WORK HAS BEGUN.

4 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF CONSTRUCTION,  
5 ALTERATION OR REPAIR WORK BEFORE COMPLETION OF THE FINAL DESIGN OF THE  
6 PROJECT, INCLUDING AN ESTIMATE OR SCHEDULE OF VALUES FOR ANY OF THE  
7 FOLLOWING:

8 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,  
9 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE  
10 EXECUTION AND COMPLETION OF CONSTRUCTION, ALTERATION OR REPAIR WORK,  
11 REGARDLESS OF WHETHER THEY ARE TEMPORARY OR PERMANENT OR WHETHER THEY ARE  
12 INCORPORATED IN THE CONSTRUCTION, ALTERATION OR REPAIR.

13 (ii) THE COST OF LABOR AND MATERIALS TO BE FURNISHED BY THE OWNER OF  
14 THE PROPERTY.

15 (iii) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE HIGHWAY,  
16 STREET OR BRIDGE CONSTRUCTION CONTRACTOR PURSUANT TO THE CONTRACT FOR  
17 CONSTRUCTION, ALTERATION OR REPAIR WORK.

18 (iv) ANY BOND AND INSURANCE PREMIUMS.

19 (v) ANY APPLICABLE TAXES.

20 (vi) ANY CONTINGENCY FEES FOR THE HIGHWAY, STREET OR BRIDGE  
21 CONSTRUCTION CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE  
22 PROJECT.

23 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO  
24 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF  
25 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR REPAIR  
26 FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL CONSTRUCTION,  
27 ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS  
28 FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

29 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF SUBCONTRACTORS,  
30 INCLUDING ANY PREQUALIFICATIONS OF SUBCONTRACTOR CANDIDATES.

31 3. "HIGHWAY, STREET OR BRIDGE CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS  
32 A CLASSIFICATION A LICENSE FROM THE REGISTRAR OF CONTRACTORS AND WHO  
33 SUPERVISES, PERFORMS OR COORDINATES THE CONSTRUCTION, ALTERATION OR REPAIR OF  
34 A HIGHWAY, STREET OR BRIDGE, INCLUDING THE CONTRACTING, IF ANY, WITH ANY  
35 SUBCONTRACTORS.

36 4. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,  
37 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE

1 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN  
2 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS  
3 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

4 Sec. 20. Section 42-5151, Arizona Revised Statutes, is amended to  
5 read:

6 42-5151. Definitions

7 In this article, unless the context otherwise requires:

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

13 2. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

14 3. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY  
15 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR  
16 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES  
17 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,  
18 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,  
19 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING  
20 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH  
21 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR  
22 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION GOVERNS WITHOUT REGARD  
23 TO WHETHER OR NOT THE CONTRACTOR IS ACTING IN FULFILLMENT OF A CONTRACT.

24 ~~2.~~ 4. "Electric distribution service" means distributing electricity  
25 to retail electric customers through the use of electric distribution  
26 facilities.

27 ~~3.~~ 5. "Electric generation service" means providing electricity for  
28 sale to retail electric customers but excluding electric distribution or  
29 transmission services.

30 ~~4.~~ 6. "Electric transmission service" means transmitting electricity  
31 to retail electric customers or to electric distribution facilities so  
32 classified by the federal energy regulatory commission or, to the extent  
33 permitted by law, so classified by the Arizona corporation commission.

34 ~~5.~~ 7. "Electric utility services" means the business of providing  
35 electric ancillary services, electric distribution services, electric  
36 generation services, electric transmission services and other services  
37 related to providing electricity.

1           ~~6.~~ 8. "Electricity" means electric energy, electric capacity or  
2 electric capacity and energy.

3           ~~7.~~ 9. "Electricity supplier" means a person, whether acting in a  
4 principal, agent or other capacity, that offers to sell electricity to a  
5 retail electric customer in this state.

6           ~~8.~~ 10. "Natural gas" means natural or artificial gas, and includes  
7 methane and propane gas, the natural gas commodity, natural gas pipeline  
8 capacity or natural gas commodity and pipeline capacity.

9           ~~9.~~ 11. "Natural gas utility services" means the business of selling  
10 natural gas or providing natural gas transportation services or other  
11 services related to providing natural gas.

12           ~~10.~~ 12. "Notice" means written notice served personally or by  
13 certified mail and addressed to the last known address of the person to whom  
14 such notice is given.

15           ~~11.~~ 13. "Other services" includes metering, meter reading services,  
16 billing and collecting services.

17           ~~12.~~ 14. "Person" means an individual, firm, partnership, joint  
18 venture, association, corporation, estate, trust, receiver or syndicate, this  
19 state or a county, city, municipality, district or other political  
20 subdivision or agency thereof.

21           ~~13.~~ 15. "Purchase" means any transfer, exchange or barter, conditional  
22 or otherwise, in any manner or by any means, of tangible personal property  
23 for a consideration, including transactions by which the possession of  
24 property is transferred but the seller retains the title as security for  
25 payment.

26           ~~14.~~ 16. "Purchase price" or "sales price" means the total amount for  
27 which tangible personal property is sold, including any services that are a  
28 part of the sale, valued in money, whether paid in money or otherwise, and  
29 any amount for which credit is given to the purchaser by the seller without  
30 any deduction on account of the cost of the property sold, materials used,  
31 labor or services performed, interest charged, losses or other expenses, but  
32 does not include:

33           (a) Discounts allowed and taken.

34           (b) Charges for labor or services in installing, remodeling or  
35 repairing.

1 (c) Freight costs billed to and collected from a purchaser by a  
2 retailer for tangible personal property which, on the order of the retailer,  
3 is shipped directly from a manufacturer or wholesaler to the purchaser.

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

7 (e) The value of merchandise that is traded in on the purchase of new  
8 or pre-owned merchandise when the trade-in allowance is deducted from the  
9 sales price of the new or pre-owned merchandise before the completion of the  
10 sale.

11 ~~15.~~ 17. "Retail electric customer" means a person who purchases  
12 electricity for that person's own use, including use in that person's trade  
13 or business, and not for resale, redistribution or retransmission.

14 ~~16.~~ 18. "Retail natural gas customer" means a person who purchases  
15 natural gas for that person's own use, including use in that person's trade  
16 or business, and not for resale, redistribution or retransmission.

17 ~~17.~~ 19. "Retailer" includes:

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

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

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

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

15           ~~20.~~ 22. "Storage" means keeping or retaining tangible personal  
16 property purchased from a retailer for any purpose except sale in the regular  
17 course of business or subsequent use solely outside this state.

18           ~~21.~~ 23. "Taxpayer" means any retailer or person storing, using or  
19 consuming tangible personal property the storage, use or consumption of which  
20 is subject to the tax imposed by this article when such tax was not paid to a  
21 retailer.

22           ~~22.~~ 24. "Use or consumption" means the exercise of any right or power  
23 over tangible personal property incidental to owning the property except  
24 holding for sale or selling the property in the regular course of business.

25           ~~23.~~ 25. "Utility business" means a person that is engaged in the  
26 business of providing electric utility services to retail electric customers  
27 or natural gas utility services to retail natural gas customers.

28           Sec. 21. Section 42-5155, Arizona Revised Statutes, is amended to  
29 read:

30           42-5155. Levy of tax; tax rate; purchaser's liability

31           A. There is levied and imposed an excise tax on the storage, use or  
32 consumption in this state of tangible personal property purchased from a  
33 retailer or utility business, as a percentage of the sales price. A  
34 manufactured building purchased outside this state and set up in this state  
35 is subject to tax under this section and in this case the RATE IS A  
36 percentage ~~is~~ OF sixty-five per cent of the sales price.



1           B. The tax imposed by this section applies to any purchaser ~~which~~ THAT  
2 purchased tangible personal property for resale but subsequently uses or  
3 consumes the property.

4           C. THE PURCHASE OF TANGIBLE PERSONAL PROPERTY BY A CONTRACTOR,  
5 REGARDLESS OF WHETHER IT WILL BE INCORPORATED INTO A BUILDING OR STRUCTURE,  
6 IS CONSIDERED TO BE A PURCHASE AT RETAIL AND IS SUBJECT TO TAXATION UNDER  
7 THIS SECTION UNLESS THE CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE  
8 THAT IS SIGNED BY THE OWNER OF THE PROPERTY TO BE IMPROVED AND THAT STATES  
9 THAT THE PERSONAL PROPERTY PURCHASED BY THE CONTRACTOR WILL BE USED FOR A  
10 PURPOSE IDENTIFIED IN SECTION 42-5159, SUBSECTION A OR B. IF A PERSON WHO IS  
11 IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES  
12 IN BUSINESS AS A CONTRACTOR AND REMOVES TANGIBLE PERSONAL PROPERTY FROM  
13 RETAIL STOCK FOR USE IN CONTRACTING ACTIVITIES, THE PURCHASE PRICE OF THAT  
14 PERSONAL PROPERTY SHALL BE SUBJECT TO TAX UNDER SUBSECTION B OF THIS SECTION.

15           ~~E.~~ D. The tax rate shall equal the rate of tax prescribed by section  
16 42-5010, subsection A as applied to retailers and utility businesses  
17 according to the respective classification under articles 1 and 2 of this  
18 chapter for the same type of transaction or business activity.

19           ~~D.~~ E. In addition to the rate prescribed by subsection ~~E.~~ D of this  
20 section, if approved by the qualified electors voting at a statewide general  
21 election, an additional rate increment of six-tenths of one per cent is  
22 imposed and shall be collected through June 30, 2021. The taxpayer shall pay  
23 taxes pursuant to this subsection at the same time and in the same manner as  
24 under subsection ~~E.~~ D of this section. The department shall separately  
25 account for the revenues collected with respect to the rate imposed pursuant  
26 to this subsection, and the state treasurer shall pay all of those revenues  
27 in the manner prescribed by section 42-5029, subsection E.

28           ~~E.~~ F. Every person storing, using or consuming in this state tangible  
29 personal property purchased from a retailer or utility business is liable for  
30 the tax. The person's liability is not extinguished until the tax has been  
31 paid to this state.

32           ~~F.~~ G. A receipt from a retailer or utility business that maintains a  
33 place of business in this state or from a retailer or utility business that  
34 is authorized by the department to collect the tax, under such rules as it  
35 may prescribe, and that is for the purposes of this article regarded as a  
36 retailer or utility business maintaining a place of business in this state,  
37 given to the purchaser as provided in section 42-5161 is sufficient to

1 relieve the purchaser from further liability for the tax to which the receipt  
2 refers.

3 Sec. 22. Section 42-5159, Arizona Revised Statutes, is amended to  
4 read:

5 42-5159. Exemptions

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

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

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

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

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

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

34 6. Tangible personal property brought into this state by an individual  
35 who was a nonresident at the time the property was purchased for storage, use  
36 or consumption by the individual if the first actual use or consumption of

1 the property was outside this state, unless the property is used in  
2 conducting a business in this state.

3 7. Purchases of implants used as growth promotants and injectable  
4 medicines, not already exempt under paragraph 16 of this subsection, for  
5 livestock and poultry owned by, or in possession of, persons who are engaged  
6 in producing livestock, poultry, or livestock or poultry products, or who are  
7 engaged in feeding livestock or poultry commercially. For the purposes of  
8 this paragraph, "poultry" includes ratites.

9 8. Livestock, poultry, supplies, feed, salts, vitamins and other  
10 additives for use or consumption in the businesses of farming, ranching and  
11 feeding livestock or poultry, not including fertilizers, herbicides and  
12 insecticides. For the purposes of this paragraph, "poultry" includes  
13 ratites.

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

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

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

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

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

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

30 13. Tangible personal property purchased by:

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

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

36 (c) A licensed nursing care institution or a licensed residential care  
37 institution or a residential care facility operated in conjunction with a

1 licensed nursing care institution or a licensed kidney dialysis center, which  
2 provides medical services, nursing services or health related services and is  
3 not used or held for profit.

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

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

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

17 (g) A person that is subject to tax under article 1 of this chapter by  
18 reason of being engaged in business classified under the ~~prime contracting~~  
19 ~~MANUFACTURED BUILDING DEALER~~ classification under section 42-5075, ~~OR THE~~  
20 ~~HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION UNDER SECTION 42-5078~~  
21 or a subcontractor working under the control of a ~~prime~~ ~~HIGHWAY, STREET OR~~  
22 ~~BRIDGE~~ contractor, if the tangible personal property is ~~EITHER~~ any of the  
23 following:

24 (i) ~~TO BE~~ incorporated or fabricated ~~by the contractor~~ into a  
25 ~~MANUFACTURED BUILDING. structure, project, development or improvement in~~  
26 ~~fulfillment of a contract.~~

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

29 (ii) ~~TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY,~~  
30 ~~STREET OR BRIDGE.~~

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

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

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

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

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

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

22 15. Tangible personal property sold by:

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

26 (b) A nonprofit organization that is exempt from taxation under  
27 section 501(c)(3) or 501(c)(6) of the internal revenue code if the  
28 organization is associated with a major league baseball team or a national  
29 touring professional golfing association and no part of the organization's  
30 net earnings inures to the benefit of any private shareholder or individual.

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

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

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

8           18. Prescription eyeglasses and contact lenses.

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

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

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

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

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

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

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

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

35          27. Lottery tickets or shares purchased pursuant to title 5, chapter  
36 5.1, article 1.

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

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

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

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

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

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

23           (b) Public educational institutions.

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

27           33. Natural gas or liquefied petroleum gas used to propel a motor  
28 vehicle.

29           34. Machinery, equipment, technology or related supplies that are only  
30 useful to assist a person who is physically disabled as defined in section  
31 46-191, has a developmental disability as defined in section 36-551 or has a  
32 head injury as defined in section 41-3201 to be more independent and  
33 functional.

34           35. Liquid, solid or gaseous chemicals used in manufacturing,  
35 processing, fabricating, mining, refining, metallurgical operations, research  
36 and development and, beginning on January 1, 1999, printing, if using or  
37 consuming the chemicals, alone or as part of an integrated system of

1 chemicals, involves direct contact with the materials from which the product  
2 is produced for the purpose of causing or permitting a chemical or physical  
3 change to occur in the materials as part of the production process. This  
4 paragraph does not include chemicals that are used or consumed in activities  
5 such as packaging, storage or transportation but does not affect any  
6 exemption for such chemicals that is otherwise provided by this section. For  
7 the purposes of this paragraph, "printing" means a commercial printing  
8 operation and includes job printing, engraving, embossing, copying and  
9 bookbinding.

10 36. Food, drink and condiment purchased for consumption within the  
11 premises of any prison, jail or other institution under the jurisdiction of  
12 the state department of corrections, the department of public safety, the  
13 department of juvenile corrections or a county sheriff.

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

18 38. Tangible personal property ~~which~~ THAT is or directly enters into  
19 and becomes an ingredient or component part of cards used as prescription  
20 plan identification cards.

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

28 (a) "Overhead materials" means tangible personal property, the gross  
29 proceeds of sales or gross income derived from which would otherwise be  
30 included in the retail classification, ~~and which are~~ THAT IS used or consumed  
31 in the performance of a contract, the cost of which is charged to an overhead  
32 expense account and allocated to various contracts based ~~upon~~ ON generally  
33 accepted accounting principles and consistent with government contract  
34 accounting standards.

35 (b) "Subcontract" means an agreement between a contractor and any  
36 person who is not an employee of the contractor for furnishing of supplies or  
37 services that, in whole or in part, are necessary to the performance of one



1 or more government contracts, or under which any portion of the contractor's  
2 obligation under one or more government contracts is performed, undertaken or  
3 assumed, and that includes provisions causing title to overhead materials or  
4 other tangible personal property used in the performance of the subcontract  
5 to pass to the government or that includes provisions incorporating such  
6 title passing clauses in a government contract into the subcontract. FOR THE  
7 PURPOSES OF THIS SUBDIVISION, "CONTRACTOR" HAS ITS ORDINARY AND COMMON  
8 MEANING AND DOES NOT HAVE THE MEANING PRESCRIBED IN SECTION 42-5151.

9 40. Through December 31, 1994, tangible personal property sold pursuant  
10 to a personal property liquidation transaction, as defined in section  
11 42-5061. From and after December 31, 1994, tangible personal property sold  
12 pursuant to a personal property liquidation transaction, as defined in  
13 section 42-5061, if the gross proceeds of the sales were included in the  
14 measure of the tax imposed by article 1 of this chapter or if the personal  
15 property liquidation was a casual activity or transaction.

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

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

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

30 44. Alternative fuel vehicles if the vehicle was manufactured as a  
31 diesel fuel vehicle and converted to operate on alternative fuel and  
32 equipment that is installed in a conventional diesel fuel motor vehicle to  
33 convert the vehicle to operate on an alternative fuel, as defined in section  
34 1-215.

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

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

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

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

9 47. Tangible personal property purchased to be incorporated or  
10 installed as part of ~~environmental response or remediation activities under~~  
11 ~~section 42-5075, subsection B, paragraph 6~~ SITE PREPARATION, CONSTRUCTING,  
12 FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL  
13 PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT EXEMPT INCORPORATED  
14 MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND TANGIBLE PERSONAL PROPERTY  
15 INCORPORATED, TO PERFORM ONE OR MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO  
16 A RELEASE OR SUSPECTED RELEASE OF A HAZARDOUS SUBSTANCE, POLLUTANT OR  
17 CONTAMINANT FROM A FACILITY TO THE ENVIRONMENT, UNLESS THE RELEASE WAS  
18 AUTHORIZED BY A PERMIT ISSUED BY A GOVERNMENTAL AUTHORITY:

19 (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A  
20 SUSPECTED RELEASE.

21 (b) EXCAVATION, REMOVAL AND TRANSPORTATION OF CONTAMINATED SOIL AND  
22 ITS TREATMENT OR DISPOSAL.

23 (c) TREATMENT OF CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR  
24 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE  
25 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

26 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED  
27 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OR A  
28 CONTAMINANT.

29 (e) THE INSTALLATION OF STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO  
30 CONTAIN CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM  
31 REACHING A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE  
32 ENVIRONMENT.

33 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR THE CONSTRUCTION OR USE  
34 OF ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE  
35 FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT, FACILITIES  
36 OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO PREVENT OR  
37 CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

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

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

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

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

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

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

24           52. Repair parts installed in equipment used directly by a qualified  
25 business under section 41-1516 in harvesting, processing or transporting  
26 qualifying forest products removed from qualifying projects as defined in  
27 section 41-1516.

28           53. Renewable energy credits or any other unit created to track energy  
29 derived from renewable energy resources. For the purposes of this paragraph,  
30 "renewable energy credit" means a unit created administratively by the  
31 corporation commission or governing body of a public power entity to track  
32 kilowatt hours of electricity derived from a renewable energy resource or the  
33 kilowatt hour equivalent of conventional energy resources displaced by  
34 distributed renewable energy resources.

35           54. TANGIBLE PERSONAL PROPERTY PURCHASED BY A QUALIFIED BUSINESS UNDER  
36 SECTION 41-1516 IF THE PROPERTY SOLD IS TO BE INCORPORATED OR FABRICATED INTO  
37 A BUILDING, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY

1 THE QUALIFIED BUSINESS FOR HARVESTING OR PROCESSING QUALIFYING FOREST  
2 PRODUCTS. TO QUALIFY FOR THIS EXEMPTION, THE QUALIFIED BUSINESS AT THE TIME  
3 OF PURCHASE MUST PRESENT ITS CERTIFICATION APPROVED BY THE DEPARTMENT.

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

7 1. Machinery, or equipment, used directly in manufacturing,  
8 processing, fabricating, job printing, refining or metallurgical operations.  
9 The terms "manufacturing", "processing", "fabricating", "job printing",  
10 "refining" and "metallurgical" as used in this paragraph refer to and include  
11 those operations commonly understood within their ordinary meaning.  
12 "Metallurgical operations" includes leaching, milling, precipitating,  
13 smelting and refining. MANUFACTURING AND PROCESSING DO NOT INCLUDE ENGAGING  
14 IN THE BUSINESS OF CONTRACTING.

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

21 3. Tangible personal property sold to persons engaged in business  
22 classified under the telecommunications classification under section 42-5064  
23 and consisting of central office switching equipment, switchboards, private  
24 branch exchange equipment, microwave radio equipment and carrier equipment  
25 including optical fiber, coaxial cable and other transmission media ~~which~~  
26 THAT are components of carrier systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 For the purposes of subdivision (b) of this paragraph, "test period" means  
35 the three hundred sixty-five day period beginning on the later of the date on  
36 which the tangible personal property is purchased or the date on which the

1 direct broadcast satellite television or data transmission service first  
2 transmits information to its customers.

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

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

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

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

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

33 19. Machinery and equipment that are used in the commercial production  
34 of livestock, livestock products or agricultural, horticultural, viticultural  
35 or floricultural crops or products in this state and that are used directly  
36 and primarily to prevent, monitor, control or reduce air, water or land  
37 pollution.

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

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

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

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

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

21           C. The exemptions provided by subsection B of this section do not  
22 include:

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

27           2. Janitorial equipment and hand tools.

28           3. Office equipment, furniture and supplies.

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

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

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



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

2           8. MACHINERY AND EQUIPMENT OR TANGIBLE PERSONAL PROPERTY USED BY A  
3 CONTRACTOR IN THE PERFORMANCE OF A CONTRACT.

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

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

11           2. Revenues received from providing electricity, including ancillary  
12 services, electric distribution services, electric generation services,  
13 electric transmission services and other services related to providing  
14 electricity with respect to which the transaction privilege tax imposed under  
15 section 42-5063 has been paid.

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

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

21           1. Fees charged by a municipally owned utility to persons constructing  
22 residential, commercial or industrial developments or connecting residential,  
23 commercial or industrial developments to a municipal utility system or  
24 systems if the fees are segregated and used only for capital expansion,  
25 system enlargement or debt service of the utility system or systems.

26           2. Reimbursement or contribution compensation to any person or persons  
27 owning a utility system for property and equipment installed to provide  
28 utility access to, on or across the land of an actual utility consumer if the  
29 property and equipment become the property of the utility. This deduction  
30 shall not exceed the value of such property and equipment.

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

32           1. "Aircraft" includes:

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

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

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

7 H. For the purposes of subsection D of this section, "ancillary  
8 services", "electric distribution service", "electric generation service",  
9 "electric transmission service" and "other services" have the same meanings  
10 prescribed in section 42-5063.

11 Sec. 23. Section 42-5160, Arizona Revised Statutes, is amended to  
12 read:

13 42-5160. Liability for tax

14 Any person who uses, stores or consumes any tangible personal property  
15 ~~upon~~ ON which a tax is imposed by this article and ~~upon~~ ON which the tax has  
16 not been collected by a registered retailer or utility business shall pay the  
17 tax as provided by this article, but every retailer and utility business  
18 maintaining a place of business in this state and making sales of tangible  
19 personal property for storage, use or other consumption in this state shall  
20 collect the tax from the purchaser or user unless the property is exempt  
21 under this article or the purchaser or user pays the tax directly to the  
22 department as provided by section 42-5167. In the case of a manufactured  
23 building that is purchased from a dealer outside this state and brought into  
24 this state, any person who is hired to set up the manufactured building and  
25 who is licensed pursuant to title 41, chapter 16, article 4 shall collect the  
26 tax from the owner and remit the tax with any tax that is due under the ~~prime~~  
27 ~~contracting~~ MANUFACTURED BUILDING DEALER classification PURSUANT TO SECTION  
28 42-5075.

29 Sec. 24. Section 42-6001, Arizona Revised Statutes, is amended to  
30 read:

31 42-6001. Collection and administration of transaction privilege  
32 tax and affiliated excise taxes; committee

33 A. The department ~~may~~ SHALL collect and administer any transaction  
34 privilege and affiliated excise taxes, including use tax, severance tax, jet  
35 fuel excise and use tax, and rental occupancy tax, imposed by any city or  
36 town, and the department and any city or town ~~may~~ SHALL enter into  
37 intergovernmental contracts or agreements to provide a uniform method of

1 administration, collection, audit and licensing of transaction privilege and  
2 affiliated excise taxes imposed by the state or cities or towns pursuant to  
3 title 11, chapter 7, article 3.

4 ~~B. The director may enter into agreements with cities and towns of  
5 this state that levy transaction privilege and affiliated excise taxes to  
6 provide for unified or coordinated licensing, collection and auditing  
7 programs for such taxes levied by cities and towns and taxes levied pursuant  
8 to chapter 5 of this title. Such cities and towns may enter into agreements  
9 with the department to provide for unified or coordinated licensing,  
10 collection and auditing programs for such transaction privilege and  
11 affiliated excise taxes levied by such cities and towns and for taxes levied  
12 pursuant to chapter 5 of this title.~~

13 ~~C. A city or town that does not enter into an agreement with the  
14 department for the collection of municipal transaction privilege and  
15 affiliated excise taxes shall report to the department on or before September  
16 1 of each year the total amount of those taxes collected by the city or town  
17 in the preceding fiscal year.~~

18 ~~D.~~ B. The director shall establish with such THE cities and towns a  
19 uniform licensing, collection and audit committee to direct such unified or  
20 coordinated functions.

21 ~~E. A taxpayer who is required to pay any municipal transaction  
22 privilege and affiliated excise taxes to a city or town that has not entered  
23 into an intergovernmental contract or agreement with the department of  
24 revenue under subsection B of this section to provide a coordinated method of  
25 collecting municipal transaction privilege and affiliated excise taxes may  
26 instead report and pay the required tax to that city or town through an  
27 online portal. The online portal shall be procured by the department of  
28 administration pursuant to a public-private partnership entered into pursuant  
29 to section 41-2559, shall include access to a single point of filing and  
30 paying the tax and shall provide security measures to protect taxpayer  
31 information. The taxpayer may be charged a fee to use the online portal.~~

32 C. THE GOVERNING BODY OF AN INCORPORATED CITY OR TOWN AND THE  
33 DEPARTMENT MAY ENTER INTO AN AGREEMENT WHEREBY:

34 1. THE DEPARTMENT WILL FURNISH PART-TIME OR FULL-TIME PERSONNEL TO  
35 PERFORM AUDIT SERVICES WITHIN THE BOUNDARIES OF THE CITY OR TOWN, AS PROVIDED  
36 IN THE AGREEMENT.

1           2. THE INCORPORATED CITY OR TOWN THAT CONTRACTS FOR SERVICES PURSUANT  
2 TO THIS SECTION WILL PAY TO THE DEPARTMENT THE AMOUNT AGREED TO BE PAID FOR  
3 THESE SERVICES.

4           Sec. 25. Section 42-6002, Arizona Revised Statutes, is amended to  
5 read:

6           42-6002. Procedures for levy, collection and enforcement  
7   applicable to cities and towns

8           A. The procedures for levy, collection and enforcement of payment of  
9 transaction privilege and affiliated excise taxes, including use tax,  
10 severance tax, jet fuel excise and use tax, and rental occupancy tax, levied  
11 by a city or town ~~by such city or town~~ shall be in the same manner as  
12 authorized by chapter 5 of this title ~~unless otherwise provided by the~~  
13 ~~ordinance of such city or town. The department, when acting on behalf of a~~  
14 ~~city or town in levying and collecting transaction privilege and affiliated~~  
15 ~~taxes for such city or town, shall utilize the procedures for levying,~~  
16 ~~collecting and enforcing the payment of such taxes on behalf of the city or~~  
17 ~~town.~~

18           B. A city or town shall not:

19           1. Employ auditors ~~on a contingent fee basis or enter into contingent~~  
20 ~~fee contracts for auditing any transaction privilege or affiliated tax levied~~  
21 ~~by the city or town.~~

22           2. Enter into contracts with a third party, other than this state ~~or a~~  
23 ~~political subdivision of this state~~, for the collection, administration or  
24 processing of transaction privilege or affiliated taxes levied by the city or  
25 town. ~~This paragraph does not apply to a city or town that does not contract~~  
26 ~~with the department for the collection, administration or processing of~~  
27 ~~transaction privilege or affiliated taxes levied by the city or town and that~~  
28 ~~enters into a contract with a third party solely for the collection of~~  
29 ~~delinquent city or town transaction privilege or affiliated taxes for which a~~  
30 ~~liability has been established.~~

31           Sec. 26. Section 42-6004, Arizona Revised Statutes, is amended to  
32 read:

33           42-6004. Exemption from municipal tax

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

36           1. Exhibition events in this state sponsored, conducted or operated by  
37 a nonprofit organization that is exempt from taxation under section

1 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the  
2 organization is associated with a major league baseball team or a national  
3 touring professional golfing association and no part of the organization's  
4 net earnings inures to the benefit of any private shareholder or individual.

5 2. Interstate telecommunications services, which include that portion  
6 of telecommunications services, such as subscriber line service, allocable by  
7 federal law to interstate telecommunications service.

8 3. Sales of warranty or service contracts.

9 4. Sales of motor vehicles to nonresidents of this state for use  
10 outside this state if the ~~vendor~~ MOTOR VEHICLE DEALER ships or delivers the  
11 motor vehicle to a destination outside this state.

12 5. Interest on finance contracts.

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

14 7. Sales of food or other items purchased with United States  
15 department of agriculture food stamp coupons issued under the food stamp act  
16 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section  
17 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,  
18 section 4302; 42 United States Code section 1786) but may impose such a tax  
19 on other sales of food. If a city, town or special taxing district exempts  
20 sales of food from its tax or imposes a different transaction privilege rate  
21 on the gross proceeds of sales or gross income from sales of food and nonfood  
22 items, it shall use the definition of food prescribed by rule adopted by the  
23 department pursuant to section 42-5106.

24 8. Sales of internet access services to the person's subscribers and  
25 customers. For the purposes of this paragraph:

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

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

34 9. The gross proceeds of sales or gross income retained by the Arizona  
35 exposition and state fair board from ride ticket sales at the annual Arizona  
36 state fair.

1           10. Through August 31, 2014, sales of Arizona centennial medallions by  
2 the historical advisory commission.

3           11. The gross proceeds of sales or gross income derived from a  
4 commercial lease in which a reciprocal insurer or a corporation leases real  
5 property to an affiliated corporation. For the purposes of this paragraph:

6           (a) "Affiliated corporation" means a corporation that meets one of the  
7 following conditions:

8           (i) The corporation owns or controls at least eighty per cent of the  
9 lessor.

10           (ii) The corporation is at least eighty per cent owned or controlled  
11 by the lessor.

12           (iii) The corporation is at least eighty per cent owned or controlled  
13 by a corporation that also owns or controls at least eighty per cent of the  
14 lessor.

15           (iv) The corporation is at least eighty per cent owned or controlled  
16 by a corporation that is at least eighty per cent owned or controlled by a  
17 reciprocal insurer.

18           (b) For the purposes of subdivision (a) of this paragraph, ownership  
19 and control are determined by reference to the voting shares of a  
20 corporation.

21           (c) "Reciprocal insurer" has the same meaning prescribed in section  
22 20-762.

23           12. The gross proceeds of sales or gross income derived from a  
24 commercial lease in which a corporation leases real property to a corporation  
25 of which at least eighty per cent of the voting shares of each corporation  
26 are owned by the same shareholders.

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

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

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

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

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

8           4. Incarcerating or detaining in a privately operated prison, jail or  
9     detention facility prisoners who are under the jurisdiction of the United  
10    States, this state or any other state or a political subdivision of this  
11    state or of any other state.

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

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

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

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

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

31          6. CONSTRUCTION CONTRACTING, OWNER BUILDER SALES OR SPECULATIVE  
32    BUILDING. THE SALE OF TANGIBLE PERSONAL PROPERTY TO A CONTRACTOR, OWNER  
33    BUILDER OR SPECULATIVE BUILDER, AS DEFINED IN THE MODEL CITY TAX CODE,  
34    REGARDLESS OF WHETHER THE PROPERTY WILL BE INCORPORATED INTO A BUILDING OR  
35    STRUCTURE, IS CONSIDERED TO BE A SALE AT RETAIL AND IS SUBJECT TO TAXATION  
36    UNDER THE RETAIL SALES PROVISION OF THE MODEL CITY TAX CODE UNLESS THE  
37    CONTRACTOR PROVIDES TO THE RETAILER A CERTIFICATE THAT IS SIGNED BY THE OWNER

1 OF THE PROPERTY TO BE IMPROVED AND THAT STATES THAT THE PERSONAL PROPERTY  
2 PURCHASED BY THE CONTRACTOR WILL BE USED FOR A PURPOSE EXEMPT FROM THE RETAIL  
3 CLASSIFICATION AS PRESCRIBED IN THE MODEL CITY TAX CODE. IF A PERSON WHO IS  
4 IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL ALSO ENGAGES  
5 IN BUSINESS AS A CONTRACTOR, OWNER BUILDING OR SPECULATIVE BUILDER AND  
6 REMOVES TANGIBLE PERSONAL PROPERTY FROM RETAIL STOCK FOR USE IN CONTRACTING,  
7 OWNER BUILDER OR SPECULATIVE BUILDING ACTIVITIES, THE PURCHASE PRICE OF THAT  
8 PERSONAL PROPERTY IS SUBJECT TO USE TAX.

9 7. SALES OF TANGIBLE PERSONAL PROPERTY TO A PERSON THAT IS SUBJECT TO  
10 TAX BY REASON OF BEING ENGAGED IN BUSINESS CLASSIFIED UNDER THE HIGHWAY,  
11 STREET AND BRIDGE CONSTRUCTION CLASSIFICATION UNDER SECTION 42-6020, OR TO A  
12 SUBCONTRACTOR WORKING UNDER THE CONTROL OF A HIGHWAY, STREET OR BRIDGE  
13 CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-6020, IF THE PROPERTY SOLD  
14 IS TO BE INCORPORATED OR FABRICATED BY THE PERSON INTO A HIGHWAY, STREET OR  
15 BRIDGE.

16 D. A city, town or other taxing jurisdiction shall not levy a  
17 transaction privilege, sales, use, franchise or other similar tax or fee,  
18 however denominated, in excess of one-tenth of one per cent of the value of  
19 the entire product mined, smelted, extracted, refined, produced or prepared  
20 for sale, profit or commercial use, on persons engaged in the business of  
21 mineral processing, except to the extent that the tax is computed on the  
22 gross proceeds or gross income from sales at retail.

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

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

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

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

32 Sec. 27. Section 42-6005, Arizona Revised Statutes, is amended to  
33 read:

34 42-6005. Unified audit committee; audits

35 A. The director shall establish a unified audit committee with cities  
36 and towns. The committee shall coordinate uniform audit functions. The  
37 committee shall publish uniform guidelines that interpret the model city tax



1 code and that apply to all cities and towns that have adopted the model city  
2 tax code.

3 B. If the department intends to conduct an audit of a taxpayer, the  
4 department shall notify the cities or towns in which the taxpayer conducts  
5 business. ~~A city or town may accept the audit as a joint audit and may elect  
6 to have a representative participate in the audit provided that no more than  
7 two city or town representatives in total may participate. If a city or town  
8 does not accept the audit as a joint audit, the city or town may not conduct  
9 an audit of the taxpayer for forty two months from the close of the last tax  
10 period covered by the audit unless an exception applies to that taxpayer  
11 pursuant to section 42-2059. An audit conducted by a city or town serves as  
12 a joint audit for all cities and towns that have taxing jurisdiction.~~

13 C. A taxpayer that conducts business in more than one jurisdiction may  
14 ~~allow a joint~~ IS SUBJECT TO A SINGLE audit for all taxing jurisdictions.  
15 ~~A taxpayer that does not allow a joint audit for all taxing jurisdictions is  
16 subject to an audit by another jurisdiction at any time. If a joint audit is  
17 performed by a city or town, this section shall not be construed to prohibit  
18 the department from conducting any audit that does not violate the provisions  
19 of section 42-2059.~~

20 D. When the state statutes and model city tax code are the same and  
21 where the department has issued written guidance, the department's  
22 interpretation is binding on cities and towns.

23 Sec. 28. Title 42, chapter 6, Arizona Revised Statutes, is amended by  
24 adding article 1.1, to read:

25 ARTICLE 1.1. MUNICIPAL CONTRACTING EXCISE TAX

26 42-6020. Highway, street and bridge construction; definitions

27 A. THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION CLASSIFICATION IS  
28 COMPRISED OF THE BUSINESS OF CONSTRUCTING A HIGHWAY, STREET OR BRIDGE.

29 B. THE TAX BASE FOR THE HIGHWAY, STREET AND BRIDGE CONSTRUCTION  
30 CLASSIFICATION IS SIXTY-FIVE PER CENT OF THE GROSS PROCEEDS OF SALES OR GROSS  
31 INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED  
32 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX  
33 BASE:

34 1. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
35 CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, OR REPAIR OF ANY  
36 HIGHWAY, STREET OR BRIDGE LOCATED WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER  
37 THE ZONE IS INITIALLY ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE

1 ELIGIBLE TO QUALIFY FOR THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE  
2 CONTRACT, THE HIGHWAY, STREET OR BRIDGE CONTRACTOR MUST HAVE APPLIED FOR A  
3 LETTER OF QUALIFICATION FROM THE DEPARTMENT OF REVENUE.

4 2. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO A  
5 SEPARATE, WRITTEN DESIGN PHASE SERVICES OR PROFESSIONAL SERVICES CONTRACT,  
6 EXECUTED BEFORE THE CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET  
7 OR BRIDGE BEGINS, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL  
8 TO OR CONCURRENT WITH CONSTRUCTION ACTIVITIES SUBJECT TO TAX UNDER THIS  
9 SECTION. THIS DEDUCTION DOES NOT INCLUDE THE GROSS PROCEEDS OF SALES OR THE  
10 GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE SERVICES.

11 3. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE  
12 TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES  
13 THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION.  
14 FOR THE PURPOSES OF THIS PARAGRAPH, "DIRECT COSTS" MEANS THE PORTION OF THE  
15 ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR  
16 ENGINEERING SERVICES.

17 C. SUBCONTRACTORS WHO PERFORM SERVICES WITH RESPECT TO THE  
18 CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR BRIDGE ARE NOT  
19 SUBJECT TO TAX IF THEY CAN DEMONSTRATE THAT THE JOB WAS WITHIN THE CONTROL OF  
20 A HIGHWAY, STREET OR BRIDGE CONTRACTOR AND THAT THE HIGHWAY, STREET, OR  
21 BRIDGE CONTRACTOR IS LIABLE FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS  
22 OF SALES OR GROSS RECEIPTS ATTRIBUTABLE TO THE JOB AND FROM WHICH THE  
23 SUBCONTRACTORS WERE PAID.

24 D. FOR THE PURPOSES OF THIS SECTION:

25 1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND  
26 COMPLETION OF ANY CONSTRUCTION, ALTERATION OR REPAIR OF A HIGHWAY, STREET OR  
27 BRIDGE, INCLUDING THE FOLLOWING:

28 (a) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR  
29 REPAIR OF A HIGHWAY, STREET OR BRIDGE, INCLUDING TEAM MANAGEMENT AND  
30 COORDINATION, SCHEDULING, COST CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD  
31 MANAGEMENT, SAFETY PROGRAM, CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

32 (b) ADMINISTRATION OR SUPERVISION OF ANY PUNCH LIST. FOR THE PURPOSES  
33 OF THIS SUBDIVISION, "PUNCH LIST" MEANS MINOR ITEMS OF WORK PERFORMED AFTER  
34 SUBSTANTIAL COMPLETION AND BEFORE FINAL COMPLETION OF THE PROJECT.

35 (c) ADMINISTRATION OR SUPERVISION OF ANY WORK PERFORMED PURSUANT TO  
36 CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE ORDER" MEANS A

1 WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR THE CONSTRUCTION  
2 OF A HIGHWAY, STREET OR BRIDGE, PROVIDING FOR ALL OF THE FOLLOWING:

3 (i) THE SCOPE OF CHANGE IN THE WORK.

4 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM  
5 PRICE AS SET IN THE CONTRACT FOR CONSTRUCTION OF THE HIGHWAY, STREET OR  
6 BRIDGE. FOR PURPOSES OF THIS ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE  
7 AMOUNT GUARANTEED TO BE THE MAXIMUM AMOUNT DUE TO HIGHWAY, STREET OR BRIDGE  
8 CONTRACTOR FOR THE PERFORMANCE OF THE CONSTRUCTION, ALTERATION OR REPAIR OF A  
9 HIGHWAY, STREET OR BRIDGE.

10 (iii) THE EXTENT OF AN ADJUSTMENT, IF ANY TO THE CONTRACT TIME OF  
11 PERFORMANCE SET FORTH IN THE CONTRACT.

12 (d) ADMINISTRATION OR SUPERVISION OF ANY CONSTRUCTION, ALTERATION OR  
13 REPAIR WORK PERFORMED PURSUANT TO CHANGE DIRECTIVES. FOR THE PURPOSES OF  
14 THIS SUBSECTION, "CHANGE DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE  
15 IN CONSTRUCTION, ALTERATION OR REPAIR WORK BEFORE AGREEMENT ON AN ADJUSTMENT  
16 OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT TIME.

17 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR  
18 FINAL COMPLETION.

19 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES  
20 OR OTHER ITEMS THE HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR MUST  
21 FURNISH PURSUANT TO A CONTRACT FOR THE CONSTRUCTION, ALTERATION OR REPAIR OF  
22 A HIGHWAY, STREET OR BRIDGE. FOR PURPOSES OF THIS SUBDIVISION, "AS-BUILT  
23 DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT TO FIELD  
24 CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND  
25 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

26 (g) PREPARATION OF STATUS REPORTS AFTER THE CONSTRUCTION, ALTERATION  
27 OR REPAIR WORK HAS BEGUN DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING  
28 PREPARATION OF ANY OF THE FOLLOWING:

29 (i) MASTER SCHEDULE UPDATES.

30 (ii) CONSTRUCTION, ALTERATION OR REPAIR CASH FLOW PROJECTION DATES.

31 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

32 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN  
33 CONSTRUCTION, ALTERATION OR REPAIR WORK DOCUMENTS THAT REQUIRE RESOLUTION.

34 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN  
35 CONNECTION WITH THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

1 (h) PREPARATION OF DAILY LOGS OF CONSTRUCTION, ALTERATION OR REPAIR  
2 WORK, INCLUDING DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE  
3 OCCURRENCES.

4 (i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE  
5 HIGHWAY, STREET AND BRIDGE CONSTRUCTION CONTRACTOR TO ILLUSTRATE DETAILS OF  
6 THE CONSTRUCTION, ALTERATION OR REPAIR WORK.

7 (j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A  
8 HIGHWAY, STREET OR BRIDGE CONSTRUCTION CONTRACTOR RECEIVES A CERTIFICATE OF  
9 PAYMENT OR CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF  
10 CONSTRUCTION, ALTERATION OR REPAIR WORK PERFORMED ON THE PROJECT.

11 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND  
12 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,  
13 INCLUDING THE FOLLOWING:

14 (a) EVALUATING SURVEYS, REPORTS, TEST RESULTS OR ANY OTHER INFORMATION  
15 ON SITE CONDITIONS FOR THE PROJECT, INCLUDING PHYSICAL CHARACTERISTICS, LEGAL  
16 LIMITATIONS AND UTILITY LOCATIONS FOR THE SITE.

17 (b) EVALUATING ANY CRITERIA OR PROGRAMMING OBJECTIVES FOR THE PROJECT  
18 TO ASCERTAIN REQUIREMENTS FOR THE PROJECT, SUCH AS PHYSICAL REQUIREMENTS  
19 AFFECTING COST OR PROJECTED UTILIZATION OF THE PROJECT.

20 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM  
21 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,  
22 CONSTRUCTION, ALTERATION OR REPAIR DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE  
23 SCOPE OF OR MATERIALS FOR THE PROJECT.

24 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE  
25 PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER CONSTRUCTION, ALTERATION  
26 OR REPAIR WORK HAS BEGUN.

27 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF CONSTRUCTION,  
28 ALTERATION OR REPAIR WORK BEFORE COMPLETION OF THE FINAL DESIGN OF THE  
29 PROJECT, INCLUDING AN ESTIMATE OR SCHEDULE OF VALUES FOR ANY OF THE  
30 FOLLOWING:

31 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,  
32 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE  
33 EXECUTION AND COMPLETION OF CONSTRUCTION, ALTERATION OR REPAIR WORK,  
34 REGARDLESS OF WHETHER THEY ARE TEMPORARY OR PERMANENT OR WHETHER THEY ARE  
35 INCORPORATED IN THE CONSTRUCTION, ALTERATION OR REPAIR.

36 (ii) THE COST OF LABOR AND MATERIALS TO BE FURNISHED BY THE OWNER OF  
37 THE PROPERTY.

1 (iii) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE HIGHWAY,  
2 STREET OR BRIDGE CONSTRUCTION CONTRACTOR PURSUANT TO THE CONTRACT FOR  
3 CONSTRUCTION, ALTERATION OR REPAIR WORK.

4 (iv) ANY BOND AND INSURANCE PREMIUMS.

5 (v) ANY APPLICABLE TAXES.

6 (vi) ANY CONTINGENCY FEES FOR THE HIGHWAY, STREET OR BRIDGE  
7 CONSTRUCTION CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE  
8 PROJECT.

9 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO  
10 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF  
11 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, CONSTRUCTION, ALTERATION OR REPAIR  
12 FEASIBILITY, AVAILABILITY OF MATERIALS AND LABOR, LOCAL CONSTRUCTION,  
13 ALTERATION OR REPAIR ACTIVITY AS RELATED TO SCHEDULES AND TIME REQUIREMENTS  
14 FOR CONSTRUCTION, ALTERATION OR REPAIR WORK.

15 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF SUBCONTRACTORS,  
16 INCLUDING ANY PREQUALIFICATIONS OF SUBCONTRACTOR CANDIDATES.

17 3. "HIGHWAY, STREET OR BRIDGE CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS  
18 A CLASSIFICATION A LICENSE FROM THE REGISTRAR OF CONTRACTORS AND WHO  
19 SUPERVISES, PERFORMS OR COORDINATES THE CONSTRUCTION, ALTERATION OR REPAIR OF  
20 A HIGHWAY, STREET OR BRIDGE, INCLUDING THE CONTRACTING, IF ANY, WITH ANY  
21 SUBCONTRACTORS.

22 4. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,  
23 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE  
24 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN  
25 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS  
26 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION B, PARAGRAPH 3 OF THIS SECTION.

27 42-6021. Residential and commercial contracting classification:  
28 definitions

29 A. THE RESIDENTIAL AND COMMERCIAL CONTRACTING CLASSIFICATION IS  
30 COMPRISED OF THE BUSINESS OF RESIDENTIAL AND COMMERCIAL CONTRACTING.

31 B. THE TAX BASE FOR THE RESIDENTIAL AND COMMERCIAL CONTRACTING  
32 CLASSIFICATION IS SIXTY-FIVE PER CENT OF THE GROSS PROCEEDS OF SALES OR GROSS  
33 INCOME DERIVED FROM THE BUSINESS. THE FOLLOWING AMOUNTS SHALL BE DEDUCTED  
34 FROM THE GROSS PROCEEDS OF SALES OR GROSS INCOME BEFORE COMPUTING THE TAX  
35 BASE:

36 1. THE SALES PRICE OF LAND, WHICH SHALL NOT EXCEED THE FAIR MARKET  
37 VALUE.

1           2. SALES AND INSTALLATION OF GROUNDWATER MEASURING DEVICES REQUIRED  
2 UNDER SECTION 45-604 AND GROUNDWATER MONITORING WELLS REQUIRED BY LAW,  
3 INCLUDING MONITORING WELLS INSTALLED FOR ACQUIRING INFORMATION FOR A PERMIT  
4 REQUIRED BY LAW.

5           3. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
6 CONTRACT ENTERED INTO FOR THE CONSTRUCTION, ALTERATION, REPAIR, ADDITION,  
7 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKING OR DEMOLITION OF ANY BUILDING,  
8 RAILROAD, EXCAVATION, OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT  
9 LOCATED IN A MILITARY REUSE ZONE FOR PROVIDING AVIATION OR AEROSPACE SERVICES  
10 OR FOR A MANUFACTURER, ASSEMBLER OR FABRICATOR OF AVIATION OR AEROSPACE  
11 PRODUCTS WITHIN AN ACTIVE MILITARY REUSE ZONE AFTER THE ZONE IS INITIALLY  
12 ESTABLISHED OR RENEWED UNDER SECTION 41-1531. TO BE ELIGIBLE TO QUALIFY FOR  
13 THIS DEDUCTION, BEFORE BEGINNING WORK UNDER THE CONTRACT, THE PRIME  
14 CONTRACTOR MUST HAVE APPLIED FOR A LETTER OF QUALIFICATION FROM THE  
15 DEPARTMENT OF REVENUE.

16           4. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
17 TO CONSTRUCT A QUALIFIED ENVIRONMENTAL TECHNOLOGY MANUFACTURING, PRODUCING OR  
18 PROCESSING FACILITY, AS DESCRIBED IN SECTION 41-1514.02, AND FROM SUBSEQUENT  
19 CONSTRUCTION AND INSTALLATION CONTRACTS THAT BEGIN WITHIN TEN YEARS AFTER THE  
20 START OF INITIAL CONSTRUCTION. TO QUALIFY FOR THIS DEDUCTION, BEFORE  
21 BEGINNING WORK UNDER THE CONTRACT, THE CONTRACTOR MUST OBTAIN A LETTER OF  
22 QUALIFICATION FROM THE DEPARTMENT OF REVENUE. THIS PARAGRAPH SHALL APPLY FOR  
23 TEN FULL CONSECUTIVE CALENDAR OR FISCAL YEARS AFTER THE START OF INITIAL  
24 CONSTRUCTION.

25           5. THE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM A CONTRACT TO  
26 PROVIDE FOR ONE OR MORE OF THE FOLLOWING ACTIONS, OR A CONTRACT FOR SITE  
27 PREPARATION, CONSTRUCTING, FURNISHING OR INSTALLING MACHINERY, EQUIPMENT OR  
28 OTHER TANGIBLE PERSONAL PROPERTY, INCLUDING STRUCTURES NECESSARY TO PROTECT  
29 EXEMPT INCORPORATED MATERIALS OR INSTALLED MACHINERY OR EQUIPMENT, AND  
30 TANGIBLE PERSONAL PROPERTY INCORPORATED INTO THE PROJECT, TO PERFORM ONE OR  
31 MORE OF THE FOLLOWING ACTIONS IN RESPONSE TO A RELEASE OR SUSPECTED RELEASE  
32 OF A HAZARDOUS SUBSTANCE, POLLUTANT OR CONTAMINANT FROM A FACILITY TO THE  
33 ENVIRONMENT, UNLESS THE RELEASE WAS AUTHORIZED BY A PERMIT ISSUED BY A  
34 GOVERNMENTAL AUTHORITY:

35           (a) ACTIONS TO MONITOR, ASSESS AND EVALUATE SUCH A RELEASE OR A  
36 SUSPECTED RELEASE.

1 (b) EXCAVATION, REMOVAL AND TRANSPORTATION OF CONTAMINATED SOIL AND  
2 ITS TREATMENT OR DISPOSAL.

3 (c) TREATMENT OF CONTAMINATED SOIL BY VAPOR EXTRACTION, CHEMICAL OR  
4 PHYSICAL STABILIZATION, SOIL WASHING OR BIOLOGICAL TREATMENT TO REDUCE THE  
5 CONCENTRATION, TOXICITY OR MOBILITY OF A CONTAMINANT.

6 (d) PUMPING AND TREATMENT OR IN SITU TREATMENT OF CONTAMINATED  
7 GROUNDWATER OR SURFACE WATER TO REDUCE THE CONCENTRATION OR TOXICITY OF A  
8 CONTAMINANT.

9 (e) THE INSTALLATION OF STRUCTURES, SUCH AS CUTOFF WALLS OR CAPS, TO  
10 CONTAIN CONTAMINANTS PRESENT IN GROUNDWATER OR SOIL AND PREVENT THEM FROM  
11 REACHING A LOCATION WHERE THEY COULD THREATEN HUMAN HEALTH OR WELFARE OR THE  
12 ENVIRONMENT.

13 THIS PARAGRAPH DOES NOT INCLUDE ASBESTOS REMOVAL OR THE CONSTRUCTION OR USE  
14 OF ANCILLARY STRUCTURES SUCH AS MAINTENANCE SHEDS, OFFICES OR STORAGE  
15 FACILITIES FOR UNATTACHED EQUIPMENT, POLLUTION CONTROL EQUIPMENT, FACILITIES  
16 OR OTHER CONTROL ITEMS REQUIRED OR TO BE USED BY A PERSON TO PREVENT OR  
17 CONTROL CONTAMINATION BEFORE IT REACHES THE ENVIRONMENT.

18 6. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A  
19 CONTRACT ENTERED INTO FOR THE INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE  
20 OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS DEDUCTED  
21 FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION 42-5061,  
22 SUBSECTION B, OR THAT IS EXEMPT FROM USE TAX PURSUANT TO SECTION 42-5159,  
23 SUBSECTION B, AND THAT DOES NOT BECOME A PERMANENT ATTACHMENT TO A BUILDING,  
24 HIGHWAY, ROAD, RAILROAD, EXCAVATION OR MANUFACTURED BUILDING OR OTHER  
25 STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT. IF THE OWNERSHIP OF THE  
26 REALTY IS SEPARATE FROM THE OWNERSHIP OF THE MACHINERY, EQUIPMENT OR TANGIBLE  
27 PERSONAL PROPERTY, THE DETERMINATION AS TO PERMANENT ATTACHMENT SHALL BE MADE  
28 AS IF THE OWNERSHIP WERE THE SAME. THE DEDUCTION PROVIDED IN THIS PARAGRAPH  
29 DOES NOT INCLUDE GROSS PROCEEDS OF SALES OR GROSS INCOME FROM THAT PORTION OF  
30 ANY CONTRACTING ACTIVITY THAT CONSISTS OF THE DEVELOPMENT OF, OR MODIFICATION  
31 TO, REAL PROPERTY IN ORDER TO FACILITATE THE INSTALLATION, ASSEMBLY, REPAIR,  
32 MAINTENANCE OR REMOVAL OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL  
33 PROPERTY THAT IS DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION  
34 PURSUANT TO SECTION 42-5061, SUBSECTION B OR THAT IS EXEMPT FROM USE TAX  
35 PURSUANT TO SECTION 42-5159, SUBSECTION B. FOR THE PURPOSES OF THIS  
36 PARAGRAPH, "PERMANENT ATTACHMENT" MEANS AT LEAST ONE OF THE FOLLOWING:

1 (a) TO BE INCORPORATED INTO REAL PROPERTY.

2 (b) TO BECOME SO AFFIXED TO REAL PROPERTY THAT IT BECOMES A PART OF  
3 THE REAL PROPERTY.

4 (c) TO BE SO ATTACHED TO REAL PROPERTY THAT REMOVAL WOULD CAUSE  
5 SUBSTANTIAL DAMAGE TO THE REAL PROPERTY FROM WHICH IT IS REMOVED.

6 7. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO THE  
7 PURCHASE OF MACHINERY, EQUIPMENT OR OTHER TANGIBLE PERSONAL PROPERTY THAT IS  
8 EXEMPT FROM OR DEDUCTIBLE FROM TRANSACTION PRIVILEGE AND USE TAX UNDER:

9 (a) SECTION 42-5061, SUBSECTION A, PARAGRAPH 25 OR 29.

10 (b) SECTION 42-5061, SUBSECTION B.

11 (c) SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (a), (b),  
12 (c), (d), (e), (f), (i), (j) OR (l).

13 (d) SECTION 42-5159, SUBSECTION B.

14 8. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
15 CONTRACT FOR THE CONSTRUCTION OF AN ENVIRONMENTALLY CONTROLLED FACILITY FOR  
16 THE RAISING OF POULTRY FOR THE PRODUCTION OF EGGS AND THE SORTING, COOLING  
17 AND PACKAGING OF EGGS.

18 9. THE GROSS PROCEEDS OF SALES OR GROSS INCOME THAT IS DERIVED FROM A  
19 CONTRACT ENTERED INTO WITH A PERSON WHO IS ENGAGED IN THE COMMERCIAL  
20 PRODUCTION OF LIVESTOCK, LIVESTOCK PRODUCTS OR AGRICULTURAL, HORTICULTURAL,  
21 VITICULTURAL OR FLORICULTURAL CROPS OR PRODUCTS IN THIS STATE FOR THE  
22 CONSTRUCTION, ALTERATION, REPAIR, IMPROVEMENT, MOVEMENT, WRECKING OR  
23 DEMOLITION OR ADDITION TO OR SUBTRACTION FROM ANY BUILDING, HIGHWAY, ROAD,  
24 EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT, DEVELOPMENT OR  
25 IMPROVEMENT USED DIRECTLY AND PRIMARILY TO PREVENT, MONITOR, CONTROL OR  
26 REDUCE AIR, WATER OR LAND POLLUTION.

27 10. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE  
28 INSTALLATION, ASSEMBLY, REPAIR OR MAINTENANCE OF CLEAN ROOMS THAT ARE  
29 DEDUCTED FROM THE TAX BASE OF THE RETAIL CLASSIFICATION PURSUANT TO SECTION  
30 42-5061, SUBSECTION B, PARAGRAPH 16.

31 11. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
32 ENTERED INTO FOR THE CONSTRUCTION OF A RESIDENTIAL APARTMENT HOUSING FACILITY  
33 THAT QUALIFIES FOR A FEDERAL HOUSING SUBSIDY FOR LOW INCOME PERSONS OVER  
34 SIXTY-TWO YEARS OF AGE AND THAT IS OWNED BY A NONPROFIT CHARITABLE  
35 ORGANIZATION THAT HAS QUALIFIED UNDER SECTION 501(c)(3) OF THE INTERNAL  
36 REVENUE CODE.



1           12. FOR TAXABLE PERIODS BEGINNING FROM AND AFTER DECEMBER 31, 1996 AND  
2           ENDING BEFORE JANUARY 1, 2017, THE GROSS PROCEEDS OF SALES OR GROSS INCOME  
3           DERIVED FROM A CONTRACT TO PROVIDE AND INSTALL A SOLAR ENERGY DEVICE. THE  
4           CONTRACTOR SHALL REGISTER WITH THE DEPARTMENT AS A SOLAR ENERGY CONTRACTOR.  
5           BY REGISTERING, THE CONTRACTOR ACKNOWLEDGES THAT IT WILL MAKE ITS BOOKS AND  
6           RECORDS RELATING TO SALES OF SOLAR ENERGY DEVICES AVAILABLE TO THE DEPARTMENT  
7           FOR EXAMINATION.

8           13. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
9           ENTERED INTO FOR THE CONSTRUCTION OF A LAUNCH SITE, AS DEFINED IN 14 CODE OF  
10          FEDERAL REGULATIONS SECTION 401.5.

11          14. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
12          ENTERED INTO FOR THE CONSTRUCTION OF A DOMESTIC VIOLENCE SHELTER THAT IS  
13          OWNED AND OPERATED BY A NONPROFIT CHARITABLE ORGANIZATION THAT HAS QUALIFIED  
14          UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE.

15          15. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM CONTRACTS  
16          TO PERFORM POSTCONSTRUCTION TREATMENT OF REAL PROPERTY FOR TERMITE AND  
17          GENERAL PEST CONTROL, INCLUDING WOOD-DESTROYING ORGANISMS.

18          16. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM CONTRACTS  
19          ENTERED INTO BEFORE JULY 1, 2006 FOR CONSTRUCTING A STATE UNIVERSITY RESEARCH  
20          INFRASTRUCTURE PROJECT IF THE PROJECT HAS BEEN REVIEWED BY THE JOINT  
21          COMMITTEE ON CAPITAL REVIEW BEFORE THE UNIVERSITY ENTERS INTO THE  
22          CONSTRUCTION CONTRACT FOR THE PROJECT. FOR THE PURPOSES OF THIS PARAGRAPH,  
23          "RESEARCH INFRASTRUCTURE" HAS THE SAME MEANING PRESCRIBED IN SECTION 15-1670.

24          17. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A  
25          CONTRACT FOR THE CONSTRUCTION OF ANY BUILDING, RAILROAD OR OTHER STRUCTURE,  
26          PROJECT, DEVELOPMENT OR IMPROVEMENT OWNED BY A QUALIFIED BUSINESS UNDER  
27          SECTION 41-1516 FOR HARVESTING OR PROCESSING QUALIFYING FOREST PRODUCTS  
28          REMOVED FROM QUALIFYING PROJECTS AS DEFINED IN SECTION 41-1516 IF ACTUAL  
29          CONSTRUCTION BEGINS BEFORE JANUARY 1, 2024. TO QUALIFY FOR THIS DEDUCTION,  
30          THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST OBTAIN A LETTER OF  
31          QUALIFICATION FROM THE ARIZONA COMMERCE AUTHORITY BEFORE BEGINNING WORK UNDER  
32          THE CONTRACT.

33          18. ANY AMOUNT OF THE GROSS PROCEEDS OF SALES OR GROSS INCOME  
34          ATTRIBUTABLE TO DEVELOPMENT FEES THAT ARE INCURRED IN RELATION TO A CONTRACT  
35          FOR CONSTRUCTION, DEVELOPMENT OR IMPROVEMENT OF REAL PROPERTY AND THAT ARE  
36          PAID BY A RESIDENTIAL OR COMMERCIAL CONTRACTOR OR SUBCONTRACTOR. FOR THE  
37          PURPOSES OF THIS PARAGRAPH:

1 (a) THE ATTRIBUTABLE AMOUNT SHALL NOT EXCEED THE VALUE OF THE  
2 DEVELOPMENT FEES ACTUALLY IMPOSED.

3 (b) THE ATTRIBUTABLE AMOUNT IS EQUAL TO THE TOTAL AMOUNT OF  
4 DEVELOPMENT FEES PAID BY THE RESIDENTIAL OR COMMERCIAL CONTRACTOR OR  
5 SUBCONTRACTOR, AND THE TOTAL DEVELOPMENT FEES CREDITED IN EXCHANGE FOR THE  
6 CONSTRUCTION OF, CONTRIBUTION TO OR DEDICATION OF REAL PROPERTY FOR PROVIDING  
7 PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES NECESSARY TO  
8 THE DEVELOPMENT. THE REAL PROPERTY MUST BE THE SUBJECT OF THE DEVELOPMENT  
9 FEES.

10 (c) "DEVELOPMENT FEES" MEANS FEES IMPOSED TO OFFSET CAPITAL COSTS OF  
11 PROVIDING PUBLIC INFRASTRUCTURE, PUBLIC SAFETY OR OTHER PUBLIC SERVICES TO A  
12 DEVELOPMENT AND AUTHORIZED PURSUANT TO SECTION 9-463.05, SECTION 11-1102 OR  
13 TITLE 48 REGARDLESS OF THE JURISDICTION TO WHICH THE FEES ARE PAID.

14 C. ENTITLEMENT TO THE DEDUCTION PURSUANT TO SUBSECTION B, PARAGRAPH 6  
15 OF THIS SECTION IS SUBJECT TO THE FOLLOWING PROVISIONS:

16 1. A RESIDENTIAL OR COMMERCIAL CONTRACTOR MAY ESTABLISH ENTITLEMENT TO  
17 THE DEDUCTION BY BOTH:

18 (a) MARKING THE INVOICE FOR THE TRANSACTION TO INDICATE THAT THE GROSS  
19 PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE TRANSACTION WAS DEDUCTED  
20 FROM THE BASE.

21 (b) OBTAINING A CERTIFICATE EXECUTED BY THE CUSTOMER INDICATING THE  
22 NAME AND ADDRESS OF THE CUSTOMER, THE PRECISE NATURE OF THE BUSINESS OF THE  
23 CUSTOMER, THE PURPOSE FOR WHICH THE PURCHASE WAS MADE, THE NECESSARY FACTS TO  
24 ESTABLISH THE DEDUCTIBILITY OF THE PROPERTY UNDER SECTION 42-5061, SUBSECTION  
25 B, AND A CERTIFICATION THAT THE PERSON EXECUTING THE CERTIFICATE IS  
26 AUTHORIZED TO DO SO ON BEHALF OF THE PURCHASER. THE CERTIFICATE MAY BE  
27 DISREGARDED IF THE RESIDENTIAL OR COMMERCIAL CONTRACTOR HAS REASON TO BELIEVE  
28 THAT THE INFORMATION CONTAINED IN THE CERTIFICATE IS NOT ACCURATE OR  
29 COMPLETE.

30 2. A PERSON WHO DOES NOT COMPLY WITH PARAGRAPH 1 OF THIS SUBSECTION  
31 MAY ESTABLISH ENTITLEMENT TO THE DEDUCTION BY PRESENTING FACTS NECESSARY TO  
32 SUPPORT THE ENTITLEMENT, BUT THE BURDEN OF PROOF IS ON THAT PERSON.

33 3. THE DEPARTMENT MAY PRESCRIBE A FORM FOR THE CERTIFICATE DESCRIBED  
34 IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION. THE DEPARTMENT MAY ALSO  
35 ADOPT RULES THAT DESCRIBE THE TRANSACTIONS WITH RESPECT TO WHICH A PERSON IS  
36 NOT ENTITLED TO RELY SOLELY ON THE INFORMATION CONTAINED IN THE CERTIFICATE  
37 PROVIDED IN PARAGRAPH 1, SUBDIVISION (b) OF THIS SUBSECTION BUT MUST INSTEAD

1 OBTAIN SUCH ADDITIONAL INFORMATION AS REQUIRED IN ORDER TO BE ENTITLED TO THE  
2 DEDUCTION.

3 4. IF A RESIDENTIAL OR COMMERCIAL CONTRACTOR IS ENTITLED TO A  
4 DEDUCTION BY COMPLYING WITH PARAGRAPH 1 OF THIS SUBSECTION, THE DEPARTMENT  
5 MAY REQUIRE THE CUSTOMER WHO CAUSED THE EXECUTION OF THE CERTIFICATE TO  
6 ESTABLISH THE ACCURACY AND COMPLETENESS OF THE INFORMATION REQUIRED TO BE  
7 CONTAINED IN THE CERTIFICATE THAT WOULD ENTITLE THE RESIDENTIAL OR COMMERCIAL  
8 CONTRACTOR TO THE DEDUCTION. IF THE CUSTOMER CANNOT ESTABLISH THE ACCURACY  
9 AND COMPLETENESS OF THE INFORMATION, THE CUSTOMER IS LIABLE IN AN AMOUNT  
10 EQUAL TO ANY TAX, PENALTY AND INTEREST THAT THE RESIDENTIAL OR COMMERCIAL  
11 CONTRACTOR WOULD HAVE BEEN REQUIRED TO PAY UNDER ARTICLE 1 OF THIS CHAPTER IF  
12 THE RESIDENTIAL OR COMMERCIAL CONTRACTOR HAD NOT COMPLIED WITH PARAGRAPH 1 OF  
13 THIS SUBSECTION.

14 D. SUBCONTRACTORS OR OTHERS WHO PERFORM SERVICES IN RESPECT TO ANY  
15 IMPROVEMENT, BUILDING, RAILROAD, EXCAVATION OR OTHER STRUCTURE, PROJECT,  
16 DEVELOPMENT OR IMPROVEMENT ARE NOT SUBJECT TO TAX IF THEY CAN DEMONSTRATE  
17 THAT THE JOB WAS WITHIN THE CONTROL OF A RESIDENTIAL OR COMMERCIAL CONTRACTOR  
18 OR CONTRACTORS AND THAT THE RESIDENTIAL OR COMMERCIAL CONTRACTOR IS LIABLE  
19 FOR THE TAX ON THE GROSS INCOME, GROSS PROCEEDS OF SALES OR GROSS RECEIPTS  
20 ATTRIBUTABLE TO THE JOB AND FROM WHICH THE SUBCONTRACTORS OR OTHERS WERE  
21 PAID.

22 E. AMOUNTS RECEIVED BY A CONTRACTOR FOR A PROJECT ARE EXCLUDED FROM  
23 THE CONTRACTOR'S GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM THE  
24 BUSINESS IF THE PERSON WHO HIRED THE CONTRACTOR EXECUTES AND PROVIDES A  
25 CERTIFICATE TO THE CONTRACTOR STATING THAT THE PERSON PROVIDING THE  
26 CERTIFICATE IS A RESIDENTIAL OR COMMERCIAL CONTRACTOR AND IS LIABLE FOR THE  
27 TAX UNDER THIS ARTICLE. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE  
28 CERTIFICATE. IF THE CONTRACTOR HAS REASON TO BELIEVE THAT THE INFORMATION  
29 CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY  
30 DISREGARD THE CERTIFICATE. IF THE PERSON WHO PROVIDES THE CERTIFICATE IS NOT  
31 LIABLE FOR THE TAX AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR, THAT PERSON IS  
32 NEVERTHELESS DEEMED TO BE THE RESIDENTIAL OR COMMERCIAL CONTRACTOR IN LIEU OF  
33 THE CONTRACTOR AND IS SUBJECT TO THE TAX UNDER THIS SECTION ON THE GROSS  
34 RECEIPTS OR GROSS PROCEEDS RECEIVED BY THE CONTRACTOR.

35 F. EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE BUSINESS  
36 OF RESIDENTIAL OR COMMERCIAL CONTRACTING SHALL PRESENT TO THE CUSTOMER OF  
37 SUCH RESIDENTIAL OR COMMERCIAL CONTRACTING A WRITTEN RECEIPT OF THE GROSS

1 INCOME OR GROSS PROCEEDS OF SALES FROM SUCH ACTIVITY AND SHALL SEPARATELY  
2 STATE THE TAXES TO BE PAID PURSUANT TO THIS SECTION.

3 G. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM A CONTRACT  
4 FOR LAWN MAINTENANCE SERVICES ARE NOT SUBJECT TO TAX UNDER THIS SECTION IF  
5 THE CONTRACT DOES NOT INCLUDE LANDSCAPING ACTIVITIES. LAWN MAINTENANCE  
6 SERVICE IS A SERVICE PURSUANT TO SECTION 42-5061, SUBSECTION A, PARAGRAPH 1,  
7 AND INCLUDES LAWN MOWING AND EDGING, WEEDING, REPAIRING SPRINKLER HEADS OR  
8 DRIP IRRIGATION HEADS, SEASONAL REPLACEMENT OF FLOWERS, REFRESHING GRAVEL,  
9 LAWN DETHATCHING, SEEDING WINTER LAWNS, LEAF AND DEBRIS COLLECTION AND  
10 REMOVAL, TREE OR SHRUB PRUNING OR CLIPPING, GARDEN AND GRAVEL RAKING AND  
11 APPLYING PESTICIDES, AS DEFINED IN SECTION 3-361, AND FERTILIZER MATERIALS,  
12 AS DEFINED IN SECTION 3-262.

13 H. THE GROSS PROCEEDS OF SALES OR GROSS INCOME DERIVED FROM  
14 LANDSCAPING ACTIVITIES ARE SUBJECT TO TAX UNDER THIS SECTION. LANDSCAPING  
15 INCLUDES INSTALLING LAWNS, GRADING OR LEVELING GROUND, INSTALLING GRAVEL OR  
16 BOULDERS, PLANTING TREES AND OTHER PLANTS, FELLING TREES, REMOVING OR  
17 MULCHING TREE STUMPS, REMOVING OTHER IMBEDDED PLANTS, BUILDING OR MODIFYING  
18 IRRIGATION BERMS, REPAIRING SPRINKLER OR WATERING SYSTEMS, INSTALLING  
19 RAILROAD TIES AND INSTALLING UNDERGROUND SPRINKLER OR WATERING SYSTEMS.

20 I. THE PORTION OF GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE  
21 TO THE ACTUAL DIRECT COSTS OF PROVIDING ARCHITECTURAL OR ENGINEERING SERVICES  
22 THAT ARE INCORPORATED IN A CONTRACT IS NOT SUBJECT TO TAX UNDER THIS SECTION.  
23 FOR THE PURPOSES OF THIS SUBSECTION, "DIRECT COSTS" MEANS THE PORTION OF THE  
24 ACTUAL COSTS THAT ARE DIRECTLY EXPENDED IN PROVIDING ARCHITECTURAL OR  
25 ENGINEERING SERVICES.

26 J. OPERATING A LANDFILL OR A SOLID WASTE DISPOSAL FACILITY IS NOT  
27 SUBJECT TO TAXATION UNDER THIS SECTION, INCLUDING FILLING, COMPACTING AND  
28 CREATING VEHICLE ACCESS TO AND FROM CELL SITES WITHIN THE LANDFILL.  
29 CONSTRUCTING ROADS TO A LANDFILL OR SOLID WASTE DISPOSAL FACILITY AND  
30 CONSTRUCTING CELLS WITHIN A LANDFILL OR SOLID WASTE DISPOSAL FACILITY MAY BE  
31 DEEMED PRIME CONTRACTING UNDER THIS SECTION.

32 K. THE GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO A  
33 SEPARATE, WRITTEN DESIGN PHASE SERVICES CONTRACT OR PROFESSIONAL SERVICES  
34 CONTRACT, EXECUTED BEFORE MODIFICATION BEGINS, IS NOT SUBJECT TO TAX UNDER  
35 THIS SECTION, REGARDLESS OF WHETHER THE SERVICES ARE PROVIDED SEQUENTIAL TO  
36 OR CONCURRENT WITH RESIDENTIAL OR COMMERCIAL CONTRACTING ACTIVITIES THAT ARE  
37 SUBJECT TO TAX UNDER THIS SECTION. THIS SUBSECTION DOES NOT INCLUDE THE

1 GROSS PROCEEDS OF SALES OR GROSS INCOME ATTRIBUTABLE TO CONSTRUCTION PHASE  
2 SERVICES. FOR THE PURPOSES OF THIS SUBSECTION:

3 1. "CONSTRUCTION PHASE SERVICES" MEANS SERVICES FOR THE EXECUTION AND  
4 COMPLETION OF ANY MODIFICATION, INCLUDING THE FOLLOWING:

5 (a) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED ON THE  
6 PROJECT, INCLUDING TEAM MANAGEMENT AND COORDINATION, SCHEDULING, COST  
7 CONTROLS, SUBMITTAL PROCESS MANAGEMENT, FIELD MANAGEMENT, SAFETY PROGRAM,  
8 CLOSE-OUT PROCESS AND WARRANTY PERIOD SERVICES.

9 (b) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED  
10 PURSUANT TO A PUNCH LIST. FOR THE PURPOSES OF THIS SUBDIVISION, "PUNCH LIST"  
11 MEANS MINOR ITEMS OF MODIFICATION WORK PERFORMED AFTER SUBSTANTIAL COMPLETION  
12 AND BEFORE FINAL COMPLETION OF THE PROJECT.

13 (c) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED  
14 PURSUANT TO CHANGE ORDERS. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE  
15 ORDER" MEANS A WRITTEN INSTRUMENT ISSUED AFTER EXECUTION OF A CONTRACT FOR  
16 MODIFICATION WORK, PROVIDING FOR ALL OF THE FOLLOWING:

17 (i) THE SCOPE OF A CHANGE IN THE MODIFICATION WORK, CONTRACT FOR  
18 MODIFICATION WORK OR OTHER CONTRACT DOCUMENTS.

19 (ii) THE AMOUNT OF AN ADJUSTMENT, IF ANY, TO THE GUARANTEED MAXIMUM  
20 PRICE AS SET IN THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS  
21 ITEM, "GUARANTEED MAXIMUM PRICE" MEANS THE AMOUNT GUARANTEED TO BE THE  
22 MAXIMUM AMOUNT DUE TO A RESIDENTIAL OR COMMERCIAL CONTRACTOR FOR THE  
23 PERFORMANCE OF ALL MODIFICATION WORK FOR THE PROJECT.

24 (iii) THE EXTENT OF AN ADJUSTMENT, IF ANY, TO THE CONTRACT TIME OF  
25 PERFORMANCE SET FORTH IN THE CONTRACT.

26 (d) ADMINISTRATION OR SUPERVISION OF ANY MODIFICATION PERFORMED  
27 PURSUANT TO CHANGE DIRECTIVES. FOR THE PURPOSES OF THIS SUBDIVISION, "CHANGE  
28 DIRECTIVE" MEANS A WRITTEN ORDER DIRECTING A CHANGE IN MODIFICATION WORK  
29 BEFORE AGREEMENT ON AN ADJUSTMENT OF THE GUARANTEED MAXIMUM PRICE OR CONTRACT  
30 TIME.

31 (e) INSPECTION TO DETERMINE THE DATES OF SUBSTANTIAL COMPLETION OR  
32 FINAL COMPLETION.

33 (f) PREPARATION OF ANY MANUALS, WARRANTIES, AS-BUILT DRAWINGS, SPARES  
34 OR OTHER ITEMS THE RESIDENTIAL OR COMMERCIAL CONTRACTOR MUST FURNISH PURSUANT  
35 TO THE CONTRACT FOR MODIFICATION WORK. FOR THE PURPOSES OF THIS SUBDIVISION,  
36 "AS-BUILT DRAWING" MEANS A DRAWING THAT INDICATES FIELD CHANGES MADE TO ADAPT

1 TO FIELD CONDITIONS, FIELD CHANGES RESULTING FROM CHANGE ORDERS OR BURIED AND  
2 CONCEALED INSTALLATION OF PIPING, CONDUIT AND UTILITY SERVICES.

3 (g) PREPARATION OF STATUS REPORTS AFTER MODIFICATION WORK HAS BEGUN  
4 DETAILING THE PROGRESS OF WORK PERFORMED, INCLUDING PREPARATION OF ANY OF THE  
5 FOLLOWING:

6 (i) MASTER SCHEDULE UPDATES.

7 (ii) MODIFICATION WORK CASH FLOW PROJECTION UPDATES.

8 (iii) SITE REPORTS MADE ON A PERIODIC BASIS.

9 (iv) IDENTIFICATION OF DISCREPANCIES, CONFLICTS OR AMBIGUITIES IN  
10 MODIFICATION WORK DOCUMENTS THAT REQUIRE RESOLUTION.

11 (v) IDENTIFICATION OF ANY HEALTH AND SAFETY ISSUES THAT HAVE ARISEN IN  
12 CONNECTION WITH THE MODIFICATION WORK.

13 (h) PREPARATION OF DAILY LOGS OF MODIFICATION WORK, INCLUDING  
14 DOCUMENTATION OF PERSONNEL, WEATHER CONDITIONS AND ON-SITE OCCURRENCES.

15 (i) PREPARATION OF ANY SUBMITTALS OR SHOP DRAWINGS USED BY THE  
16 RESIDENTIAL OR COMMERCIAL CONTRACTOR TO ILLUSTRATE DETAILS OF THE  
17 MODIFICATION WORK PERFORMED.

18 (j) ADMINISTRATION OR SUPERVISION OF ANY OTHER ACTIVITIES FOR WHICH A  
19 RESIDENTIAL OR COMMERCIAL CONTRACTOR RECEIVES A CERTIFICATE FOR PAYMENT OR  
20 CERTIFICATE FOR FINAL PAYMENT BASED ON THE PROGRESS OF MODIFICATION WORK  
21 PERFORMED ON THE PROJECT.

22 2. "DESIGN PHASE SERVICES" MEANS SERVICES FOR DEVELOPING AND  
23 COMPLETING A DESIGN FOR A PROJECT THAT ARE NOT CONSTRUCTION PHASE SERVICES,  
24 INCLUDING THE FOLLOWING:

25 (a) EVALUATING SURVEYS, REPORTS, TEST RESULTS OR ANY OTHER INFORMATION  
26 ON-SITE CONDITIONS FOR THE PROJECT, INCLUDING PHYSICAL CHARACTERISTICS, LEGAL  
27 LIMITATIONS AND UTILITY LOCATIONS FOR THE SITE.

28 (b) EVALUATING ANY CRITERIA OR PROGRAMMING OBJECTIVES FOR THE PROJECT  
29 TO ASCERTAIN REQUIREMENTS FOR THE PROJECT, SUCH AS PHYSICAL REQUIREMENTS  
30 AFFECTING COST OR PROJECTED UTILIZATION OF THE PROJECT.

31 (c) PREPARING DRAWINGS AND SPECIFICATIONS FOR ARCHITECTURAL PROGRAM  
32 DOCUMENTS, SCHEMATIC DESIGN DOCUMENTS, DESIGN DEVELOPMENT DOCUMENTS,  
33 MODIFICATION WORK DOCUMENTS OR DOCUMENTS THAT IDENTIFY THE SCOPE OF OR  
34 MATERIALS FOR THE PROJECT.

35 (d) PREPARING AN INITIAL SCHEDULE FOR THE PROJECT, EXCLUDING THE  
36 PREPARATION OF UPDATES TO THE MASTER SCHEDULE AFTER MODIFICATION WORK HAS  
37 BEGUN.

1 (e) PREPARING PRELIMINARY ESTIMATES OF COSTS OF MODIFICATION WORK  
2 BEFORE COMPLETION OF THE FINAL DESIGN OF THE PROJECT, INCLUDING AN ESTIMATE  
3 OR SCHEDULE OF VALUES FOR ANY OF THE FOLLOWING:

4 (i) LABOR, MATERIALS, MACHINERY AND EQUIPMENT, TOOLS, WATER, HEAT,  
5 UTILITIES, TRANSPORTATION AND OTHER FACILITIES AND SERVICES USED IN THE  
6 EXECUTION AND COMPLETION OF MODIFICATION WORK, REGARDLESS OF WHETHER THEY ARE  
7 TEMPORARY OR PERMANENT OR WHETHER THEY ARE INCORPORATED IN THE MODIFICATIONS.

8 (ii) THE COST OF LABOR AND MATERIALS TO BE FURNISHED BY THE OWNER OF  
9 THE REAL PROPERTY.

10 (iii) THE COST OF ANY EQUIPMENT OF THE OWNER OF THE REAL PROPERTY TO  
11 BE ASSIGNED BY THE OWNER TO THE RESIDENTIAL OR COMMERCIAL CONTRACTOR.

12 (iv) THE COST OF ANY LABOR FOR INSTALLATION OF EQUIPMENT SEPARATELY  
13 PROVIDED BY THE OWNER OF THE REAL PROPERTY THAT HAS BEEN DESIGNED, SPECIFIED,  
14 SELECTED OR SPECIFICALLY PROVIDED FOR IN ANY DESIGN DOCUMENT FOR THE PROJECT.

15 (v) ANY FEE PAID BY THE OWNER OF THE REAL PROPERTY TO THE RESIDENTIAL  
16 OR COMMERCIAL CONTRACTOR PURSUANT TO THE CONTRACT FOR MODIFICATION WORK.

17 (vi) ANY BOND AND INSURANCE PREMIUMS.

18 (vii) ANY APPLICABLE TAXES.

19 (viii) ANY CONTINGENCY FEES FOR THE RESIDENTIAL OR COMMERCIAL  
20 CONTRACTOR THAT MAY BE USED BEFORE FINAL COMPLETION OF THE PROJECT.

21 (f) REVIEWING AND EVALUATING COST ESTIMATES AND PROJECT DOCUMENTS TO  
22 PREPARE RECOMMENDATIONS ON SITE USE, SITE IMPROVEMENTS, SELECTION OF  
23 MATERIALS, BUILDING SYSTEMS AND EQUIPMENT, MODIFICATION FEASIBILITY,  
24 AVAILABILITY OF MATERIALS AND LABOR, LOCAL MODIFICATION ACTIVITY AS RELATED  
25 TO SCHEDULES AND TIME REQUIREMENTS FOR MODIFICATION WORK.

26 (g) PREPARING THE PLAN AND PROCEDURES FOR SELECTION OF SUBCONTRACTORS,  
27 INCLUDING ANY PREQUALIFICATION OF SUBCONTRACTOR CANDIDATES.

28 3. "PROFESSIONAL SERVICES" MEANS ARCHITECT SERVICES, ASSAYER SERVICES,  
29 ENGINEER SERVICES, GEOLOGIST SERVICES, LAND SURVEYING SERVICES OR LANDSCAPE  
30 ARCHITECT SERVICES THAT ARE WITHIN THE SCOPE OF THOSE SERVICES AS PROVIDED IN  
31 TITLE 32, CHAPTER 1 AND FOR WHICH GROSS PROCEEDS OF SALES OR GROSS INCOME HAS  
32 NOT OTHERWISE BEEN DEDUCTED UNDER SUBSECTION K OF THIS SECTION.

33 L. NOTWITHSTANDING SUBSECTION M, PARAGRAPH 6 OF THIS SECTION, A PERSON  
34 OWNING REAL PROPERTY WHO ENTERS INTO A CONTRACT FOR SALE OF THE REAL  
35 PROPERTY, WHO IS RESPONSIBLE TO THE NEW OWNER OF THE PROPERTY FOR  
36 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER  
37 OF TITLE AND WHO RECEIVES A CONSIDERATION FOR THE MODIFICATIONS IS CONSIDERED

1 A RESIDENTIAL OR COMMERCIAL CONTRACTOR SOLELY FOR PURPOSES OF TAXING THE  
2 GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS MADE  
3 SUBSEQUENT TO THE TRANSFER OF TITLE. THE ORIGINAL OWNER'S GROSS PROCEEDS OF  
4 SALE OR GROSS INCOME RECEIVED FOR THE MODIFICATIONS SHALL BE DETERMINED  
5 ACCORDING TO THE FOLLOWING METHODOLOGY:

6 1. IF ANY PART OF THE CONTRACT FOR SALE OF THE PROPERTY SPECIFIES  
7 AMOUNTS TO BE PAID TO THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN  
8 THE PERIOD SUBSEQUENT TO THE TRANSFER OF TITLE, THE AMOUNTS ARE INCLUDED IN  
9 THE ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME UNDER THIS  
10 SECTION. PROCEEDS FROM THE SALE OF THE PROPERTY THAT ARE RECEIVED AFTER  
11 TRANSFER OF TITLE AND THAT ARE UNRELATED TO THE MODIFICATIONS MADE SUBSEQUENT  
12 TO THE TRANSFER OF TITLE ARE NOT CONSIDERED GROSS PROCEEDS OF SALE OR GROSS  
13 INCOME FROM THE MODIFICATIONS.

14 2. IF THE ORIGINAL OWNER ENTERS INTO AN AGREEMENT SEPARATE FROM THE  
15 CONTRACT FOR SALE OF THE REAL PROPERTY PROVIDING FOR AMOUNTS TO BE PAID TO  
16 THE ORIGINAL OWNER FOR THE MODIFICATIONS TO BE MADE IN THE PERIOD SUBSEQUENT  
17 TO THE TRANSFER OF TITLE TO THE PROPERTY, THE AMOUNTS ARE INCLUDED IN THE  
18 ORIGINAL OWNER'S GROSS PROCEEDS OF SALE OR GROSS INCOME RECEIVED FOR THE  
19 MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE.

20 3. IF THE ORIGINAL OWNER IS RESPONSIBLE TO THE NEW OWNER FOR  
21 MODIFICATIONS MADE TO THE PROPERTY IN THE PERIOD SUBSEQUENT TO THE TRANSFER  
22 OF TITLE AND DERIVES ANY GROSS PROCEEDS OF SALE OR GROSS INCOME FROM THE  
23 PROJECT SUBSEQUENT TO THE TRANSFER OF TITLE OTHER THAN A DELAYED DISBURSEMENT  
24 FROM ESCROW UNRELATED TO THE MODIFICATIONS, IT IS PRESUMED THAT THE AMOUNTS  
25 ARE RECEIVED FOR THE MODIFICATIONS MADE SUBSEQUENT TO THE TRANSFER OF TITLE  
26 UNLESS THE CONTRARY IS ESTABLISHED BY THE OWNER THROUGH ITS BOOKS, RECORDS  
27 AND PAPERS KEPT IN THE REGULAR COURSE OF BUSINESS.

28 4. THE TAX BASE OF THE ORIGINAL OWNER IS COMPUTED IN THE SAME MANNER  
29 AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR UNDER THIS SECTION.

30 M. FOR THE PURPOSES OF THIS SECTION:

31 1. "CONTRACTING" MEANS ENGAGING IN BUSINESS AS A CONTRACTOR.

32 2. "CONTRACTOR" IS SYNONYMOUS WITH THE TERM "BUILDER" AND MEANS ANY  
33 PERSON OR ORGANIZATION THAT UNDERTAKES TO OR OFFERS TO UNDERTAKE TO, OR  
34 PURPORTS TO HAVE THE CAPACITY TO UNDERTAKE TO, OR SUBMITS A BID TO, OR DOES  
35 PERSONALLY OR BY OR THROUGH OTHERS, MODIFY ANY BUILDING, HIGHWAY, ROAD,  
36 RAILROAD, EXCAVATION, MANUFACTURED BUILDING OR OTHER STRUCTURE, PROJECT,  
37 DEVELOPMENT OR IMPROVEMENT, OR TO DO ANY PART OF SUCH A PROJECT, INCLUDING



1 THE ERECTION OF SCAFFOLDING OR OTHER STRUCTURE OR WORKS IN CONNECTION WITH  
2 SUCH A PROJECT, AND INCLUDES SUBCONTRACTORS AND SPECIALTY CONTRACTORS. FOR  
3 ALL PURPOSES OF TAXATION OR DEDUCTION, THIS DEFINITION SHALL GOVERN WITHOUT  
4 REGARD TO WHETHER OR NOT SUCH CONTRACTOR IS ACTING IN FULFILLMENT OF A  
5 CONTRACT.

6 3. "MODIFICATION" MEANS CONSTRUCTION, ALTERATION, REPAIR, ADDITION,  
7 SUBTRACTION, IMPROVEMENT, MOVEMENT, WRECKAGE OR DEMOLITION.

8 4. "MODIFY" MEANS TO CONSTRUCT, ALTER, REPAIR, ADD TO, SUBTRACT FROM,  
9 IMPROVE, MOVE, WRECK OR DEMOLISH.

10 5. "RESIDENTIAL OR COMMERCIAL CONTRACTING" MEANS ENGAGING IN BUSINESS  
11 AS A RESIDENTIAL OR COMMERCIAL CONTRACTOR.

12 6. "RESIDENTIAL OR COMMERCIAL CONTRACTOR" MEANS A CONTRACTOR WHO HOLDS  
13 A RESIDENTIAL OR COMMERCIAL CONTRACTING CLASSIFICATION LICENSE FROM THE  
14 ARIZONA REGISTRAR AND WHO SUPERVISES, PERFORMS OR COORDINATES THE  
15 MODIFICATION OF ANY BUILDING, RAILROAD, EXCAVATION, OR OTHER STRUCTURE,  
16 PROJECT, DEVELOPMENT OR IMPROVEMENT INCLUDING THE CONTRACTING, IF ANY, WITH  
17 ANY SUBCONTRACTORS OR SPECIALTY CONTRACTORS AND WHO IS RESPONSIBLE FOR THE  
18 COMPLETION OF THE CONTRACT. EXCEPT AS PROVIDED IN SUBSECTIONS E AND L OF  
19 THIS SECTION, A PERSON WHO OWNS REAL PROPERTY, WHO ENGAGES ONE OR MORE  
20 CONTRACTORS TO MODIFY THAT REAL PROPERTY AND WHO DOES NOT ITSELF MODIFY THAT  
21 REAL PROPERTY IS NOT A RESIDENTIAL OR COMMERCIAL CONTRACTOR WITHIN THE  
22 MEANING OF THIS PARAGRAPH REGARDLESS OF THE EXISTENCE OF A CONTRACT FOR SALE  
23 OR THE SUBSEQUENT SALE OF THAT REAL PROPERTY.

24 Sec. 29. Section 42-6102, Arizona Revised Statutes, is amended to  
25 read:

26 42-6102. Administration

27 A. Unless the context otherwise requires, chapter 5, article 1 of this  
28 title governs the administration of the taxes imposed by this article, except  
29 that:

30 1. A separate license is not required for the taxes imposed by this  
31 article, and the taxes due under this article shall be included, reported and  
32 paid with the transaction privilege tax.

33 2. A separate bond is not required of employees of the department in  
34 administering this article.

35 3. The taxes imposed by this article may be included without  
36 segregation in any notice and lien filed for unpaid transaction privilege  
37 taxes.

1           B. The taxes imposed pursuant to this article do not apply to the  
2 gross proceeds of sales or gross income derived pursuant to contracts entered  
3 into before the date of the election to authorize the tax by ~~prime~~  
4 ~~contractors and owner-builders~~ HIGHWAY, STREET AND BRIDGE CONSTRUCTION  
5 CONTRACTORS who are classified under ~~sections 42-5075 and 42-5076~~ SECTION  
6 42-5078 unless the contract contains a provision which entitles the  
7 contractor to recover the amount of the tax from a purchaser. In order to  
8 qualify for this exemption the contractor shall provide sufficient  
9 documentation, in a manner and form prescribed by the department, to verify  
10 that a contract was entered into before the date of the election to authorize  
11 the tax.

12           Sec. 30. Section 42-6105, Arizona Revised Statutes, is amended to  
13 read:

14           42-6105. County transportation excise tax; counties with  
15 population of one million two hundred thousand or  
16 more persons

17           A. If approved by the qualified electors voting at a countywide  
18 election, a county with a population of one million two hundred thousand or  
19 more persons shall levy and the department shall collect a tax as provided by  
20 this section, in addition to all other taxes.

21           B. The tax shall be levied and collected:

22           1. At a rate of not more than ten per cent of the transaction  
23 privilege tax rate prescribed by section 42-5010, subsection A applying, as  
24 of January 1, 1990, to each person engaging or continuing in the county in a  
25 business taxed under chapter 5, article 1 of this title.

26           2. ~~In the case of persons subject to the tax imposed under section~~  
27 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~  
28 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
29 SUBSECTION A.

30           3. On the use or consumption of electricity or natural gas by retail  
31 electric or natural gas customers in the county who are subject to use tax  
32 under section 42-5155, at a rate equal to the transaction privilege tax rate  
33 under paragraph 1 of this subsection applying to persons engaging or  
34 continuing in the county in the utilities transaction privilege tax  
35 classification.

36           C. The tax levied under this section shall be in effect for a term of  
37 twenty years.

1 D. The net revenues collected under this section shall be distributed  
2 and deposited as follows for use consistent with the regional transportation  
3 plan adopted under title 28, chapter 17, article 1:

4 1. 56.2 per cent to the regional area road fund pursuant to section  
5 28-6303 for freeways and other routes in the state highway system, including  
6 capital expense and maintenance.

7 2. 10.5 per cent to the regional area road fund pursuant to section  
8 28-6303 for major arterial streets and intersection improvements, including  
9 capital expense and implementation studies.

10 3. 33.3 per cent to the public transportation fund pursuant to section  
11 48-5103 for:

12 (a) Capital costs, maintenance and operation of public transportation  
13 classifications.

14 (b) Capital costs and utility relocation costs associated with a light  
15 rail public transit system.

16 Sec. 31. Section 42-6106, Arizona Revised Statutes, is amended to  
17 read:

18 42-6106. County transportation excise tax

19 A. If approved by the qualified electors voting at a countywide  
20 election, the regional transportation authority in any county shall levy and  
21 the department shall collect a transportation excise tax up to the rate  
22 authorized by this section in addition to all other taxes.

23 B. The tax shall be levied and collected:

24 1. At a rate of not more than ten per cent of the transaction  
25 privilege tax rate prescribed by section 42-5010, subsection A in effect on  
26 January 1, 1990 to each person engaging or continuing in the county in a  
27 business taxed under chapter 5, article 1 of this title.

28 2. ~~In the case of persons subject to the tax imposed under section~~  
29 ~~42-5352, subsection A,~~ At a rate of not more than ~~.305 cents per gallon of~~  
30 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
31 SUBSECTION A.

32 3. On the use or consumption of electricity or natural gas by retail  
33 electric or natural gas customers in the county who are subject to use tax  
34 under section 42-5155, at a rate equal to the transaction privilege tax rate  
35 under paragraph 1 applying to persons engaging or continuing in the county in  
36 the utilities transaction privilege tax classification.

1 C. Any subsequent reduction in the transaction privilege tax rate  
2 prescribed by chapter 5, article 1 of this title shall not reduce the tax  
3 that is approved and collected as prescribed in this section. The department  
4 shall collect the tax at a variable rate if the variable rate is specified in  
5 the ballot proposition. The department shall collect the tax at a modified  
6 rate if approved by a majority of the qualified electors voting.

7 D. The net revenues collected under this section:

8 1. In counties with a population exceeding four hundred thousand  
9 persons, shall be deposited in the regional transportation fund pursuant to  
10 section 48-5307.

11 2. In counties with a population of four hundred thousand or fewer  
12 persons, shall be deposited in the public transportation authority fund  
13 pursuant to section 28-9142 or the regional transportation fund pursuant to  
14 section 48-5307 or shall be allocated between both funds.

15 E. The tax shall be levied under this section beginning January 1 or  
16 July 1, whichever date occurs first after approval by the voters, and may be  
17 in effect for a period of not more than twenty years.

18 Sec. 32. Section 42-6107, Arizona Revised Statutes, is amended to  
19 read:

20 42-6107. County transportation excise tax for roads

21 A. If a majority of the qualified electors voting at a countywide  
22 special election, or a majority of the qualified electors voting on the  
23 ballot proposition at a general election, approves the transportation excise  
24 tax, the county shall levy and the department shall collect a tax:

25 1. At a rate of not more than ten per cent of the transaction  
26 privilege tax rate as prescribed by section 42-5010, subsection A applying,  
27 as of January 1, 1990, to each person engaging or continuing in the county in  
28 a business taxed under chapter 5, article 1 of this title.

29 ~~2. In the case of persons subject to the tax imposed under section~~  
30 ~~42-5352, subsection A, At a rate of not more than .305 cents per gallon of~~  
31 ~~jet fuel sold~~ TEN PER CENT OF THE RATE PRESCRIBED BY SECTION 42-5352,  
32 SUBSECTION A.

33 3. On the use or consumption of electricity or natural gas by retail  
34 electric or natural gas customers in the county who are subject to use tax  
35 under section 42-5155, at a rate equal to the transaction privilege tax rate  
36 under paragraph 1 applying to persons engaging or continuing in the county in  
37 the utilities transaction privilege tax classification. If a majority of the

1 qualified electors in the county approved the transportation excise tax under  
2 this section before 1998, a tax under this paragraph may be approved by  
3 resolution adopted by a majority of the board of supervisors.

4 B. The net revenues collected under this section within a county shall  
5 be deposited in the county's regional area road fund pursuant to title 28,  
6 chapter 17, article 3.

7 C. The tax shall be levied under this section beginning January 1 or  
8 July 1, whichever date occurs first after approval by the voters, and may be  
9 in effect for a period of not more than twenty years.

10 Sec. 33. Title 42, chapter 6, article 3, Arizona Revised Statutes, is  
11 amended by adding section 42-6113, to read:

12 42-6113. County use tax

13 A. IF A COUNTY LEVIES ONE OR MORE EXCISE TAXES PURSUANT TO THIS  
14 ARTICLE ON THE EFFECTIVE DATE OF THIS SECTION AND IF APPROVED BY THE  
15 QUALIFIED ELECTORS VOTING AT A COUNTY-WIDE ELECTION, A COUNTY MAY LEVY AND,  
16 IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX ON THE STORAGE, USE OR  
17 CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A  
18 RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO  
19 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE SUM OF THE RATES OF ALL THE  
20 EXCISE TAXES LEVIED BY THE COUNTY ON THE EFFECTIVE DATE OF THIS SECTION.

21 B. IF, AFTER THE EFFECTIVE DATE OF THIS SECTION, A COUNTY SEEKS TO  
22 LEVY AN EXCISE TAX PURSUANT TO THIS ARTICLE, THE COUNTY SHALL INCLUDE IN THE  
23 LEVY AN EXCISE TAX AT THE SAME RATE ON THE STORAGE, USE OR CONSUMPTION IN THE  
24 COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM A RETAILER.

25 Sec. 34. Section 43-1072.01, Arizona Revised Statutes, is amended to  
26 read:

27 43-1072.01. Credit for increased excise taxes paid

28 A. Subject to the conditions prescribed by this section and if  
29 approved by the qualified electors voting at a statewide general election,  
30 for ~~tax~~ TAXABLE years beginning from and after December 31, 2000 a credit is  
31 allowed against the taxes imposed by this chapter for a taxable year for a  
32 taxpayer who is not claimed as a dependent by any other taxpayer and whose  
33 federal adjusted gross income is:

34 1. Twenty-five thousand dollars or less for a married couple or a  
35 single person who is a head of a household.

36 2. Twelve thousand five hundred dollars or less for a single person or  
37 a married person filing separately.



1 the vehicle. The manufacturer shall make refunds to the consumer and  
2 lienholder, if any, as their interests appear. A reasonable allowance for  
3 use is that amount directly attributable to use by the consumer before his  
4 first written report of the nonconformity to the manufacturer, agent or  
5 dealer and during any subsequent period when the vehicle is not out of  
6 service by reason of repair.

7 B. It is an affirmative defense to any claim under this article that  
8 either:

9 1. An alleged nonconformity does not substantially impair the use and  
10 market value of the motor vehicle.

11 2. A nonconformity is the result of abuse, neglect or unauthorized  
12 modifications or alterations of the motor vehicle.

13 C. In the case of taxes paid pursuant to title 42, chapter 5, if the  
14 manufacturer:

15 1. Accepts return of a motor vehicle from a consumer without replacing  
16 the motor vehicle, the manufacturer shall refund the amount of tax attributed  
17 to the sale of the vehicle to that consumer.

18 2. Replaces a motor vehicle with a new motor vehicle of lesser value,  
19 the manufacturer shall refund the difference between the original amount of  
20 tax attributed to the sale of that vehicle and the amount of tax attributed  
21 to the sale of the replacement vehicle, excluding the value of the motor  
22 vehicle being replaced.

23 3. Replaces a motor vehicle with a new motor vehicle of greater value,  
24 the manufacturer shall calculate the gross proceeds of sales pursuant to  
25 section 42-5001, paragraph ~~6~~ 8.

26 D. Pursuant to section 42-1118, subsection F, the manufacturer may  
27 apply to the department of revenue for a refund for the amount of tax that  
28 the manufacturer properly refunds to the consumer.

29 Sec. 36. Section 48-4022, Arizona Revised Statutes, is amended to  
30 read:

31 48-4022. Excise tax

32 A. The board of directors of a district in a county having a  
33 population of less than one million five hundred thousand persons according  
34 to the most recent United States decennial or special census may by  
35 resolution order the approval of a district excise tax to be placed on the  
36 ballot of an election pursuant to section 48-4021. If a majority of the  
37 qualified electors voting at the election approves the county jail district

1 excise tax, the board of directors may by resolution levy, and if levied, the  
2 department of revenue shall collect, a tax beginning January 1 or July 1,  
3 whichever date first occurs at least three months after the district  
4 resolution approving the tax levy. The tax rate shall be a percentage of the  
5 excise tax rate prescribed by section 42-5010, subsection A applying to each  
6 person engaging or continuing in the district in a business taxed under title  
7 42, chapter 5, article 1 and section 42-5352, subsection A, not to exceed:

8 1. Ten per cent of each rate prescribed by section 42-5010, subsection  
9 A and section 42-5352, subsection A, in counties having a population of five  
10 hundred thousand persons or less.

11 2. Five per cent of each rate prescribed by section 42-5010,  
12 subsection A and section 42-5352, subsection A, in counties having a  
13 population of more than five hundred thousand persons but less than one  
14 million five hundred thousand persons.

15 B. If a district levies an excise tax under subsection A of this  
16 section, the board of directors, by resolution, ~~may~~ SHALL also levy, and if  
17 levied, the department of revenue shall collect, a use tax on ~~each retail~~  
18 ~~electric or natural gas customer using or consuming electricity or natural~~  
19 ~~gas in the district and subject to use tax pursuant to section 42-5155. The~~  
20 ~~use tax levied pursuant to this subsection shall be applied as a percentage~~  
21 ~~of the use tax rate imposed by title 42, chapter 5, article 4 equal to the~~  
22 ~~percentage determined under subsection A, paragraph 1 or 2 of this section,~~  
23 ~~as applicable.~~ THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE  
24 PERSONAL PROPERTY PURCHASED FROM A RETAILER OR UTILITY BUSINESS, AS A  
25 PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO THIS PARAGRAPH  
26 SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER SUBSECTION A OF THIS  
27 SECTION APPLYING TO RETAILERS AND UTILITY BUSINESSES ACCORDING TO THE  
28 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE  
29 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

30 C. The tax applies in both incorporated and unincorporated areas of  
31 the county.

32 D. At the end of each month the state treasurer shall transmit the net  
33 revenues collected pursuant to this section to the district treasurer who  
34 shall deposit the revenues in the county jail district general fund.



1 E. Unless the context otherwise requires:

2 1. Section 42-6102 governs the administration of the tax imposed  
3 pursuant to subsection A of this section.

4 2. Title 42, chapter 5, article 4 governs the administration of the  
5 use tax imposed pursuant to subsection B OR F of this section.

6 F. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS  
7 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF  
8 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A  
9 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX  
10 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL  
11 PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE  
12 TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE  
13 OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

14 Sec. 37. Section 48-5805, Arizona Revised Statutes, is amended to  
15 read:

16 48-5805. Transaction privilege tax; property tax

17 A. The board of directors of the district by resolution may levy, and  
18 if levied, the department of revenue shall collect, a transaction privilege  
19 tax pursuant to this section to be used and spent for the purposes described  
20 in section 48-5804. The board shall set the rate of the tax at not more than  
21 two per cent of the tax rate that applies to each business in the district  
22 that is subject to taxation under title 42, chapter 5, article 1. The board  
23 shall levy the tax on each person engaging in the district in a business  
24 taxed under title 42, chapter 5, article 1.

25 B. Each month the state treasurer shall remit to the district  
26 treasurer the net revenues collected under ~~subsection~~ SUBSECTIONS A, D AND E  
27 of this section during the second preceding month. The district treasurer  
28 shall deposit the monies in the public health services district's accounts  
29 and shall account for all expenditures.

30 C. In lieu of a transaction privilege tax pursuant to subsection A of  
31 this section, the board by resolution may levy in the same manner and at the  
32 same time as other county secondary property taxes are levied a public health  
33 services district tax. The tax shall not exceed twenty-five cents per one  
34 hundred dollars of assessed valuation and shall be levied on all property in  
35 the county and on all property within incorporated cities and towns in the  
36 county. The district shall deposit all monies collected pursuant to this  
37 subsection in a separate account and shall account for all expenditures.

1 D. IF A DISTRICT LEVIES AN EXCISE TAX UNDER SUBSECTION A OF THIS  
2 SECTION, THE BOARD OF DIRECTORS, BY RESOLUTION, SHALL ALSO LEVY, AND IF  
3 LEVIED, THE DEPARTMENT OF REVENUE SHALL COLLECT, A USE TAX ON THE STORAGE,  
4 USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL PROPERTY PURCHASED FROM  
5 A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE TAX LEVIED PURSUANT TO  
6 THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE EXCISE TAX RATE UNDER  
7 SUBSECTION A OF THIS SECTION APPLYING TO RETAILERS ACCORDING TO THE  
8 RESPECTIVE CLASSIFICATION UNDER TITLE 42, CHAPTER 5, ARTICLES 1 AND 2 FOR THE  
9 SAME TYPE OF TRANSACTION OR BUSINESS ACTIVITY.

10 E. IF A DISTRICT LEVIES AN EXCISE TAX PURSUANT TO SUBSECTION A OF THIS  
11 SECTION ON THE EFFECTIVE DATE OF THE AMENDMENT OF THIS SECTION AND IF  
12 APPROVED BY THE QUALIFIED ELECTORS VOTING AT A DISTRICT-WIDE ELECTION, A  
13 DISTRICT MAY LEVY AND, IF LEVIED, THE DEPARTMENT SHALL COLLECT AN EXCISE TAX  
14 ON THE STORAGE, USE OR CONSUMPTION IN THE COUNTY OF TANGIBLE PERSONAL  
15 PROPERTY PURCHASED FROM A RETAILER, AS A PERCENTAGE OF THE SALES PRICE. THE  
16 TAX LEVIED PURSUANT TO THIS SUBSECTION SHALL BE AT A RATE EQUAL TO THE RATE  
17 OF THE EXCISE TAX LEVIED PURSUANT TO SUBSECTION A OF THIS SECTION.

18 Sec. 38. Section 49-290, Arizona Revised Statutes, is amended to read:

19 49-290. Exemption from permit requirements; definition

20 A. Notwithstanding any other statute, a person who performs a remedial  
21 action or a portion of a remedial action that has been approved by the  
22 department if that action or portion is conducted in compliance with this  
23 article is not subject to any requirement to obtain any permit or approval  
24 that may otherwise be required by the department.

25 B. Except as prescribed in subsection D of this section, a person who  
26 conducts a portion of a remedial action, where that portion is entirely on  
27 site and is conducted in compliance with this article, may be exempted from a  
28 requirement to obtain any other state or local permit or approval, other than  
29 any requirement of title 45, at the written request of the person conducting  
30 the remedial action. The written request shall identify the specific permit  
31 to be exempted and the reasons the exemption is requested. The permit may be  
32 exempted if the director finds both of the following:

33 1. The requirement does not arise out of any permit or regulatory  
34 program that is required pursuant to the laws of the United States.

35 2. The requirement presents a substantial impediment to effective  
36 performance of the remedial action selected by the department.

1 C. The director may waive any regulatory requirement adopted pursuant  
2 to this title with respect to a site or portion of a site as part of a record  
3 of decision adopted pursuant to section 49-287.04 for that site or portion of  
4 a site if the regulatory requirement conflicts with the implementation of the  
5 selected remedy, provided that the waiver does not result in adverse impacts  
6 to public health or the environment. No waiver may be granted under this  
7 subsection if it is prohibited by federal law or if the waiver would  
8 jeopardize the continued delegation to the state of authority to implement a  
9 federal environmental program.

10 D. Discharge of wastewater to off-site publicly owned treatment works  
11 and sewer systems does not constitute an activity conducted entirely on site  
12 for purposes of subsection B of this section.

13 E. The director shall give written notice of any request for exemption  
14 made pursuant to subsection B of this section to the remedial action  
15 coordinator designated pursuant to subsection G of this section by the  
16 governmental entity whose permit requirements are the subject of the  
17 request. Before making any finding pursuant to subsection B of this section,  
18 the director or the director's designee shall meet and confer with the  
19 remedial action coordinator and the person conducting the remedial action to  
20 identify alternatives to exemption.

21 F. Any finding made by the director pursuant to subsection B of this  
22 section shall be in writing. The governmental entity whose permit  
23 requirement is preempted as a result of such finding is not liable for  
24 property damage, personal injury damage or violations of state or local law  
25 resulting from the exemption. The director shall notify the affected  
26 governmental entity of any finding made pursuant to subsection B of this  
27 section. A finding of the director made pursuant to subsection B of this  
28 section is a final administrative decision as defined in section 41-1092 and  
29 is subject to judicial review pursuant to title 12, chapter 7, article 6.

30 G. Each city, town and county shall designate a remedial action  
31 coordinator who shall have responsibility for monitoring and facilitating any  
32 remedial actions conducted within its jurisdiction. The designated remedial  
33 action coordinator shall:

34 1. Regularly consult, as needed, with the department and the person  
35 conducting a remedial action throughout the duration of the remedial action.

36 2. Expedite the processing and issuance of permits, approvals or other  
37 authorizations required by the governmental entity represented by the

1 remedial action coordinator, to facilitate the prompt conduct of a remedial  
2 action.

3 3. Provide information to the department and the person conducting the  
4 remedial action regarding applicable requirements of the governmental entity  
5 represented by the remedial action coordinator and the potential for waiver  
6 of such requirements.

7 ~~H. In order to encourage remediation activities under this article and  
8 to conserve the fund, neither this state nor any county that imposes an  
9 excise or similar tax that is levied at a rate applied as a percentage of the  
10 rates on each business class subject to the tax imposed by title 42, chapter  
11 5, article 1 may impose a tax on the sale or purchase of tangible personal  
12 property incorporated or fabricated into any real property, structure,  
13 project, development or improvement under a contract specified in section  
14 42-5075, subsection B, paragraph 6.~~

15 ~~I.~~ H. For THE purposes of this section, "on site" means the areal  
16 extent of contamination and all suitable areas in close proximity to the  
17 contamination that are reasonably necessary for implementation of the  
18 remedial action.

19 Sec. 39. Preexisting contracts; tax

20 A. This act does not apply to or affect the tax liability with respect  
21 to contracts that were entered into before January 1, 2015 by a person who  
22 engaged in business under the prime contracting classification pursuant to  
23 section 42-5075, Arizona Revised Statutes, or the construction contracting,  
24 owner builder or speculative builder classification pursuant to section 415,  
25 416 or 417 of the model city tax code.

26 B. Notwithstanding section 42-5075, Arizona Revised Statutes, as  
27 amended by this act, the tax imposed by title 42, chapter 5, article 1,  
28 Arizona Revised Statutes, is levied and shall be collected at a rate of five  
29 and six-tenths per cent of the tax base, as determined pursuant to section  
30 42-5075, Arizona Revised Statutes, as in effect on December 31, 2014, derived  
31 pursuant to contracts entered into before January 1, 2015 by prime  
32 contractors who were subject to tax under section 42-5075, Arizona Revised  
33 Statutes, before January 1, 2015.

34 C. Prime contractors shall maintain and provide to the department of  
35 revenue on request documentation regarding payments received in satisfaction  
36 of contracts that are subject to taxation under this section.

1           D. Twenty per cent of the tax revenues collected pursuant to this  
2 section is designated as distribution base for purposes of section 42-5029,  
3 Arizona Revised Statutes.

4           E. Notwithstanding section 42-6004, Arizona Revised Statutes, as  
5 amended by this act, the municipal privilege tax imposed by an incorporated  
6 city or town is levied and shall be collected at the rate in effect on  
7 December 31, 2014, as determined pursuant to the model city tax code, derived  
8 pursuant to contracts entered into before January 1, 2015 by construction  
9 contractors, owner builders and speculative builders that were subject to tax  
10 under section 415, 416 or 417 of the model city tax code, before January 1,  
11 2015, unless the contract does not contain a provision that entitles the  
12 taxpayer to recover the amount of the tax. The taxpayer is required to  
13 provide sufficient documentation to the department of revenue.

14           F. The taxes imposed pursuant to title 42, chapter 6, article 3,  
15 Arizona Revised Statutes, apply to the tax base, as determined pursuant to  
16 sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on  
17 December 31, 2014, derived pursuant to contracts entered into after the date  
18 of the election to authorize the tax and before January 1, 2015 by prime  
19 contractors and owner builders who engaged in business pursuant to sections  
20 42-5075 and 42-5076, Arizona Revised Statutes. Contracts entered into before  
21 the date of the election to authorize the tax by prime contractors and owner  
22 builders who engaged in business pursuant to sections 42-5075 and 42-5076,  
23 Arizona Revised Statutes, are taxable pursuant to title 42, chapter 6,  
24 article 3, Arizona Revised Statutes, on the tax base, as determined pursuant  
25 to sections 42-5075 and 42-5076, Arizona Revised Statutes, as in effect on  
26 December 31, 2014, unless the contract does not contain a provision that  
27 entitles the taxpayer to recover the amount of the tax from a purchaser. The  
28 taxpayer is required to provide sufficient documentation to the department of  
29 revenue.

30           G. Unless the context otherwise requires, title 42, chapter 5, article  
31 1, Arizona Revised Statutes, governs the administration of the tax imposed by  
32 this section.

33           Sec. 40. Preexisting tax exempt contracts

34           A. From and after December 31, 2014, the sale of tangible personal  
35 property to a contractor for incorporation or fabrication, pursuant to a  
36 contract entered into before January 1, 2015, into any project that was  
37 subject to a deduction under section 42-5075, subsection B, Arizona Revised

1 Statutes, as in effect on December 31, 2014, is not subject to tax under  
2 section 42-5061, Arizona Revised Statutes.

3 B. From and after December 31, 2014, the sale of tangible personal  
4 property to a construction contractor, owner builder or speculative builder  
5 for incorporation or fabrication pursuant to a contract entered into before  
6 January 1, 2015, into any project that was subject to a deduction under  
7 section 415.b, 416.c.1 or 2, or 417.c.1 or 2 of the model city tax code, as  
8 in effect on December 31, 2014, is not subject to tax under section 460 of  
9 the model city tax code.

10 Sec. 41. Use tax

11 A. Tangible personal property that was purchased before January 1,  
12 2015 by a person who engaged in business under the prime contracting  
13 classification or who performed contracting services within the control of a  
14 prime contractor pursuant to section 42-5075, Arizona Revised Statutes, and  
15 that was not incorporated into a project for which the contract was entered  
16 into before January 1, 2015 is subject to use taxation pursuant to section  
17 42-5155, Arizona Revised Statutes.

18 B. Tangible personal property that was purchased before January 1,  
19 2015 by a person who engaged in business under the construction contracting,  
20 owner builder or speculative builder classification or who performed  
21 contracting services within the control of a construction contractor, owner  
22 builder or speculative builder pursuant to section 415, 416 or 417 of the  
23 model city tax code and that was not incorporated into a project for which  
24 the contract was entered into before January 1, 2015 is subject to use  
25 taxation under the model city tax code.

26 Sec. 42. Department of revenue; emergency rule making

27 The department of revenue may adopt emergency rules pursuant to section  
28 41-1026, Arizona Revised Statutes, as necessary to administer this act.

29 Sec. 43. City and town auditors

30 Notwithstanding section 42-6001, Arizona Revised Statutes, as amended  
31 by this act, for the period beginning January 1, 2015 and ending December 31,  
32 2015, the department shall enter into an agreement with the governing body of  
33 an incorporated city or town to furnish part-time or full-time personnel to  
34 perform audit services within the boundaries of the city or town. The  
35 incorporated city or town shall pay to the department the amount agreed to be  
36 paid.

1           Sec. 44. Rate limitation

2           An incorporated city or town shall not impose a municipal contracting  
3 excise tax rate higher than the rate imposed on construction contracting,  
4 speculative builder or owner-builder, as in effect on December 31, 2012.

5           Sec. 45. Effective dates

6           A. Sections 42-5039 and 42-6113, Arizona Revised Statutes, as added by  
7 this act, and sections 42-6105, 42-6106, 42-6107, 48-4022 and 48-5805,  
8 Arizona Revised Statutes, as amended by this act, are effective from and  
9 after December 31, 2013.

10           B. Sections 42-5078, 42-6020 and 42-6021, Arizona Revised Statutes, as  
11 added by this act and sections 41-1516, 41-1532, 42-1004, 42-1103, 42-5001,  
12 42-5006, 42-5009, 42-5010, 42-5029, 42-5032.01, 42-5032.02, 42-5061, 42-5071,  
13 42-5072, 42-5075, 42-5151, 42-5155, 42-5159, 42-5160, 42-6001, 42-6002,  
14 42-6004, 42-6005, 42-6102, 43-1072.01, 44-1263 and 49-290, Arizona Revised  
15 Statutes, as amended by this act, are effective from and after December  
16 31, 2014."

17 Amend title to conform

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