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**Jane Dee Hull
Secretary of State**

CHAPTER 322

SENATE BILL 1375

AN ACT

AMENDING SECTIONS 42-1310.01 AND 42-1409, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAX EXEMPTIONS.

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

2 Section 1. Section 42-1310.01, Arizona Revised Statutes, is amended
3 to read:

4 42-1310.01. Retail classification; definitions

5 A. The retail classification is comprised of the business of selling
6 tangible personal property at retail. The tax base for the retail
7 classification is the gross proceeds of sales or gross income derived from
8 the business. The tax imposed on the retail classification pursuant to this
9 section does not apply to the gross proceeds of sales or gross income from:

10 1. Professional or personal service occupations or businesses which
11 involve sales or transfers of tangible personal property only as
12 inconsequential elements.

13 2. Services rendered in addition to selling tangible personal property
14 at retail.

15 3. Sales of warranty or service contracts. The storage, use or
16 consumption of tangible personal property provided under the conditions of
17 such contracts is subject to tax under section 42-1408.01.

18 4. Sales of tangible personal property by any nonprofit organization
19 organized and operated exclusively for charitable purposes and recognized by
20 the department and the United States internal revenue service as such a
21 nonprofit organization for charitable purposes.

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

4 6. Business activity by a person which is properly included in any
5 other business classification by that person which is taxable under this
6 article.

7 7. The sale of stocks and bonds.

8 8. Drugs and medical oxygen on the prescription of a member of the
9 medical, dental or veterinarian profession who is licensed by law to
10 administer such substances.

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

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

15 11. Prescription eyeglasses or contact lenses.

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

17 13. Durable medical equipment which has a federal health care financing
18 administration common procedure code, is designated reimbursable by medicare,
19 is prescribed by a person who is licensed under title 32, chapter 7, 8, 13,
20 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily
21 used to serve a medical purpose, is generally not useful to a person in the
22 absence of illness or injury and is appropriate for use in the home.

23 14. Sales to nonresidents of this state for use outside this state if
24 the vendor ships or delivers the tangible personal property out of this
25 state.

26 15. Food, as provided in and subject to the conditions of article 1.1
27 of this chapter and section 42-1310.14.

28 16. Items purchased with United States department of agriculture food
29 coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958)
30 or food instruments issued under section 17 of the child nutrition act (P.L.
31 95-627; 92 Stat. 3603; and P.L. 99-661, section 4302).

32 17. Textbooks by any bookstore that are required by any state
33 university or community college.

34 18. Food and drink to a person who is engaged in business which is
35 classified under the restaurant classification and which provides such food
36 and drink without monetary charge to its employees for their own consumption
37 on the premises during the employees' hours of employment.

38 19. Articles of food, drink or condiment and accessory tangible
39 personal property to a school district if such articles and accessory
40 tangible personal property are to be prepared and served to persons for
41 consumption on the premises of a public school within the district during
42 school hours.

43 20. Lottery tickets or shares pursuant to title 5, chapter 5,
44 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. In this
4 paragraph:

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

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

12 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
13 under title 28, chapter 9, article 1 or 2, sales of use fuel to a holder of
14 a valid single trip use fuel tax permit issued under section 28-1559, sales
15 of aviation fuel which are subject to the tax imposed under section
16 28-1765.01 and sales of jet fuel which are subject to the tax imposed under
17 chapter 9.2 of this title.

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
23 or the constitution of this state.

24 25. Tangible personal property sold to:

25 (a) A qualifying hospital as defined in section 42-1301.

26 (b) A qualifying health care organization as defined in section
27 42-1301 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 42-1301 if the organization is dedicated to providing educational,
31 therapeutic, rehabilitative and family medical education training for blind,
32 visually impaired and multi-handicapped children from the time of birth to
33 age twenty-one.

34 (d) A qualifying community health center as defined in section
35 42-1301.

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

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

41 27. Tangible personal property sold to a person engaged in business
42 classified under the prime contracting classification if the person is
43 subject to tax under this article by reason of being engaged in such
44 business, or to a subcontractor working under the control of a prime

1 contractor that is subject to tax under this article, if the property so sold
2 is to be incorporated or fabricated by the person into any real property,
3 structure, project, development or improvement as part of the business. No
4 deduction is available for the sale of tangible personal property which is
5 not to be so incorporated or fabricated.

6 28. The sale of a motor vehicle to:

7 (a) A nonresident of this state if the purchaser's state of residence
8 does not allow a corresponding use tax exemption to the tax imposed by this
9 article and if the nonresident has secured a special thirty-day nonresident
10 registration of the vehicle by applying according to section 28-302.

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

13 29. Tangible personal property purchased or leased in this state by a
14 nonprofit charitable organization that has qualified under section 501(c)(3)
15 of the United States internal revenue code and that engages in and uses such
16 property exclusively for training, job placement or rehabilitation programs
17 or testing for mentally or physically handicapped persons.

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

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

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

35 33. Medical oxygen, including delivery hose, mask or tent, regulator
36 and tank, on the prescription of a member of the medical, dental or
37 veterinary profession who is licensed by law to administer medical oxygen.

38 34. Sales of new semitrailers, as defined in section 28-101,
39 manufactured in Arizona, or new parts manufactured in Arizona for
40 semitrailers sold by the manufacturer to a person who holds an interstate
41 commerce commission license for use in interstate commerce.

42 35. Sales of seeds, seedlings, roots, bulbs, cuttings and other
43 propagative material to persons who use those items to commercially produce

1 agricultural, horticultural, viticultural or floricultural crops in this
2 state.

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

8 37. Sales of tangible personal property that is shipped or delivered
9 directly to a destination outside the United States for use in that foreign
10 country.

11 38. Sales of natural gas or liquefied petroleum gas used to propel a
12 motor vehicle.

13 39. Paper machine clothing such as forming fabrics and dryer felts,
14 sold to a paper manufacturer and directly used or consumed in paper
15 manufacturing.

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

27 41. Beginning from and after June 30, 1995, sales of liquid, solid or
28 gaseous chemicals used in manufacturing, processing, fabricating, mining,
29 refining, metallurgical operations or research and development if using or
30 consuming the chemicals, alone or as part of an integrated system of
31 chemicals, involves direct contact with the materials from which the product
32 is produced for the purpose of causing or permitting a chemical or physical
33 change to occur in the materials as part of the production process. This
34 paragraph does not include chemicals that are used or consumed in activities
35 such as packaging, storage or transportation but does not affect any
36 deduction for such chemicals that is otherwise provided by this section.

37 42. Through December 31, 1994, personal property liquidation
38 transactions, conducted by a personal property liquidator. From and after
39 December 31, 1994, personal property liquidation transactions shall be
40 taxable under this section provided that nothing in this subsection shall
41 be construed to authorize the taxation of casual activities or transactions
42 under this article or article 2 of this chapter. In this paragraph:

43 (a) "Personal property liquidation transaction" means a sale of
44 personal property made by a personal property liquidator acting solely on

1 behalf of the owner of the personal property sold at the dwelling of the
2 owner or upon the death of any owner, on behalf of the surviving spouse, if
3 any, any devisee or heir or the personal representative of the estate of the
4 deceased, if one has been appointed.

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

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

11 44. A motor vehicle and any repair and replacement parts and tangible
12 personal property becoming a part of such motor vehicle, sold to a licensed
13 motor carrier or a lightweight motor vehicle operator subject to tax under
14 title 28, chapter 9, article 6 who is engaged in the business of leasing or
15 renting such property.

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

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

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

31 48. Tangible personal property sold to a person engaged in business and
32 subject to tax under the transient lodging classification if the tangible
33 personal property is a personal hygiene item which is furnished to and
34 intended to be consumed by the transient during his occupancy.

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

39 1. Machinery, or equipment, used directly in manufacturing,
40 processing, fabricating, job printing, refining or metallurgical operations.
41 The terms "manufacturing", "processing", "fabricating", "job printing",
42 "refining" and "metallurgical" as used in this paragraph refer to and include
43 those operations commonly understood within their ordinary meaning.

1 "Metallurgical operations" includes leaching, milling, precipitating,
2 smelting and refining.

3 2. Mining machinery, or equipment, used directly in the process of
4 extracting ores or minerals from the earth for commercial purposes, including
5 equipment required to prepare the materials for extraction and handling,
6 loading or transporting such extracted material to the surface. "Mining"
7 includes underground, surface and open pit operations for extracting ores and
8 minerals.

9 3. Tangible personal property, sold to persons engaged in business
10 classified under the telecommunications classification, consisting of central
11 office switching equipment, switchboards, private branch exchange equipment,
12 microwave radio equipment and carrier equipment including optical fiber,
13 coaxial cable and other transmission media which are components of carrier
14 systems.

15 4. Machinery, equipment or transmission lines used directly in
16 producing or transmitting electrical power, but not including distribution.
17 Transformers and control equipment used at transmission substation sites
18 constitute equipment used in producing or transmitting electrical power.

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

22 6. Pipes or valves four inches in diameter or larger used to transport
23 oil, natural gas, artificial gas, water or coal slurry.

24 7. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold to:

26 (a) A person holding a federal certificate of public convenience and
27 necessity or foreign air carrier permit for air transportation for use as or
28 in conjunction with or becoming a part of aircraft to be used to transport
29 persons, property or United States mail in intrastate, interstate or foreign
30 commerce.

31 (b) Any foreign government for use by such government outside of this
32 state.

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

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

1 9. Railroad rolling stock, rails, ties and signal control equipment
2 used directly to transport persons or property in intrastate or interstate
3 transportation for hire.

4 10. Machinery or equipment used directly to drill for oil or gas or
5 used directly in the process of extracting oil or gas from the earth for
6 commercial purposes.

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

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

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

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

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

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

38 15. MACHINERY AND EQUIPMENT THAT ARE PURCHASED BY OR ON BEHALF OF THE
39 OWNERS OF A SOUND STAGE COMPLEX AND PRIMARILY USED FOR MOTION PICTURE,
40 MULTIMEDIA OR INTERACTIVE VIDEO PRODUCTION IN THE COMPLEX. THIS PARAGRAPH
41 APPLIES ONLY IF THE INITIAL CONSTRUCTION OF THE SOUND STAGE COMPLEX BEGINS
42 AFTER JUNE 30, 1996 AND BEFORE JANUARY 1, 2002 AND THE MACHINERY AND
43 EQUIPMENT ARE PURCHASED BEFORE THE EXPIRATION OF FIVE YEARS AFTER THE START
44 OF INITIAL CONSTRUCTION. FOR PURPOSES OF THIS PARAGRAPH:

1 (a) "MOTION PICTURE, MULTIMEDIA OR INTERACTIVE VIDEO PRODUCTION"
2 INCLUDES PRODUCTS FOR THEATRICAL AND TELEVISION RELEASE, EDUCATIONAL
3 PRESENTATIONS, ELECTRONIC RETAILING, DOCUMENTARIES, MUSIC VIDEOS, INDUSTRIAL
4 FILMS, CD-ROM, VIDEO GAME PRODUCTION, COMMERCIAL ADVERTISING AND TELEVISION
5 EPISODE PRODUCTION AND OTHER GENRES THAT ARE INTRODUCED THROUGH DEVELOPING
6 TECHNOLOGY.

7 (b) "SOUND STAGE COMPLEX" MEANS A FACILITY OF MULTIPLE STAGES
8 INCLUDING PRODUCTION OFFICES, CONSTRUCTION SHOPS AND RELATED AREAS, PROP AND
9 COSTUME SHOPS, STORAGE AREAS, PARKING FOR PRODUCTION VEHICLES AND AREAS THAT
10 ARE LEASED TO BUSINESSES THAT COMPLEMENT THE PRODUCTION NEEDS AND ORIENTATION
11 OF THE OVERALL FACILITY.

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

- 14 1. Expendable materials.
- 15 2. Janitorial equipment and hand tools.
- 16 3. Office equipment, furniture and supplies.
- 17 4. Tangible personal property used in selling or distributing
18 activities.

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

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

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

26 D. In computing the tax base, gross proceeds of sales or gross income
27 from retail sales of automobiles does not include any amount attributable to
28 federal excise taxes imposed by 26 United States Code section 4001.

29 E. In addition to the deductions from the tax base prescribed by
30 subsection A of this section, there shall be deducted from the tax base the
31 gross proceeds of sales or gross income derived from sales of machinery,
32 equipment, materials and other tangible personal property used directly and
33 predominantly to construct a qualified environmental technology
34 manufacturing, producing or processing facility as described in section
35 41-1514.02. This subsection applies for ten full consecutive calendar or
36 fiscal years after the start of initial construction.

37 F. In computing the tax base, gross proceeds of sales or gross income
38 from retail sales of heavy trucks and trailers does not include any amount
39 attributable to federal excise taxes imposed by 26 United States Code section
40 4051.

41 G. In computing the tax base, gross proceeds of sales or gross income
42 from the sale of use fuel, as defined in section 28-1551, does not include
43 any amount attributable to federal excise taxes imposed by 26 United States
44 Code section 4091.

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

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

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

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

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

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

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

39 3. Overhead materials or other tangible personal property that is used
40 in performing a contract between the United States government and a
41 manufacturer, modifier, assembler or repairer, including property used in
42 performing a subcontract with a government contractor who is a manufacturer,
43 modifier, assembler or repairer, to which title passes to the government
44 under the terms of the contract or subcontract.

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

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

10 M. The department shall require every person claiming a deduction
11 provided by subsection K or L of this section to file on forms prescribed by
12 the department at such times as the department directs a sworn statement
13 disclosing the name of the purchaser and the exact amount of sales on which
14 the exclusion or deduction is claimed.

15 N. In computing the tax base, gross proceeds of sales or gross income
16 does not include a manufacturer's cash rebate on the sales price of a motor
17 vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

18 O. ~~Through December 31, 1996,~~ There shall be deducted from the tax
19 base the amount received from sales of solar energy devices, but the
20 deduction shall not exceed five thousand dollars for each solar energy
21 device. Before deducting any amount under this subsection, the retailer
22 shall register with the department as a solar energy retailer. By
23 registering, the retailer acknowledges that it will make its books and
24 records relating to sales of solar energy devices available to the department
25 for examination.

26 P. For the purposes of this section:

27 1. "Aircraft" includes:

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

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

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

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

42 Q. For purposes of subsection K of this section:

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

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

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

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

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

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

29 Sec. 2. Section 42-1409, Arizona Revised Statutes, is amended to read:

30 42-1409. Exemptions

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

34 1. Tangible personal property sold in this state, the gross receipts
35 from the sale of which are included in the measure of the tax imposed by
36 article 1 of this chapter.

37 2. Tangible personal property the sale or use of which has already
38 been subjected to an excise tax equal to or exceeding the tax imposed by this
39 article under the laws of another state of the United States.

40 3. Tangible personal property, the storage, use or consumption of
41 which the constitution or laws of the United States prohibit this state from
42 taxing.

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

4 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
5 which in this state is subject to the tax imposed under the provisions of
6 title 28, chapter 9, article 1 or 2, use fuel which is sold to or used by a
7 person holding a valid single trip use fuel tax permit issued under section
8 28-1559, aviation fuel, the sales, distribution or use of which in this state
9 is subject to the tax imposed under section 28-1765.01 and jet fuel, the
10 sales, distribution or use of which in this state is subject to the tax
11 imposed under chapter 9.2 of this title.

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

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

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

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

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

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

37 12. Printed, photographic, electronic or digital media materials for
38 use by the public, which are unavailable for purchase in this state,
39 purchased by publicly funded libraries.

40 13. Tangible personal property purchased by:

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

1 (b) A hospital operated by this state or a political subdivision of
2 this state.

3 (c) A licensed nursing care institution or a licensed residential care
4 institution or a residential care facility operated in conjunction with a
5 licensed nursing care institution or a licensed kidney dialysis center, which
6 provides medical services, nursing services or health related services and
7 is not used or held for profit.

8 (d) A qualifying health care organization, as defined in section
9 42-1301, if the tangible personal property is used by the organization solely
10 to provide health and medical related educational and charitable services.

11 (e) A qualifying health care organization as defined in section
12 42-1301 if the organization is dedicated to providing educational,
13 therapeutic, rehabilitative and family medical education training for blind,
14 visually impaired and multi-handicapped children from the time of birth to
15 age twenty-one.

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

21 (g) A person holding a privilege tax license to engage or continue in
22 business classified under the prime contracting classification under article
23 1 of this chapter if the tangible personal property is incorporated or
24 fabricated by the contractor into a structure, project, development or
25 improvement in fulfillment of a contract.

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

30 (i) A qualifying community health center as defined in section
31 42-1301.

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

35 (k) A person engaged in business under the transient lodging
36 classification if the property is a personal hygiene product which is
37 furnished without additional charge to and intended to be consumed by the
38 transient during his occupancy.

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

44 15. Tangible personal property sold by:

1 (a) Any nonprofit organization organized and operated exclusively for
2 charitable purposes and recognized by the department and the United States
3 internal revenue service as such a nonprofit organization for charitable
4 purposes.

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

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

15 16. Drugs and medical oxygen on the prescription of a member of the
16 medical, dental or veterinarian profession who is licensed by law to
17 administer such substances.

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

22 18. Prescription eyeglasses and contact lenses.

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

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

25 21. Durable medical equipment which has a federal health care financing
26 administration common procedure code, is designated reimbursable by medicare,
27 is prescribed by a person who is licensed under title 32, chapter 7, 13, 17
28 or 29, can withstand repeated use, is primarily and customarily used to serve
29 a medical purpose, is generally not useful to a person in the absence of
30 illness or injury and is appropriate for use in the home.

31 22. Food, as provided in and subject to the conditions of article 1.1
32 of this chapter and section 42-1310.14.

33 23. Items purchased with United States department of agriculture food
34 coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958)
35 or food instruments issued under section 17 of the child nutrition act
36 (P.L. 95-627; 92 Stat. 3603; and P.L. 99-661; section 4302).

37 24. Food and drink provided without monetary charge by a taxpayer which
38 is subject to section 42-1310.14 to its employees for their own consumption
39 on the premises during the employees' hours of employment.

40 25. Tangible personal property that is used or consumed in a business
41 subject to section 42-1310.14 for human food, drink or condiment, whether
42 simple, mixed or compounded.

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

4 27. Lottery tickets or shares purchased pursuant to title 5, chapter
5 5, article 1.

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

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

10 30. Medical oxygen, including delivery hose, mask or tent, regulator
11 and tank, on the prescription of a member of the medical, dental or
12 veterinary profession who is licensed by law to administer medical oxygen.

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

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

27 33. Motor vehicles that are removed from inventory by a motor vehicle
28 dealer as defined in section 28-1301 and that are provided to:

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

31 (b) Public educational institutions.

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

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

37 35. Machinery, equipment, technology or related supplies that are only
38 useful to assist a person who is physically disabled as defined in section
39 46-191, has a developmental disability as defined in section 36-551 or has
40 a head injury as defined in section 41-3201, to be more independent and
41 functional.

42 36. Beginning from and after June 30, 1995, liquid, solid or gaseous
43 chemicals used in manufacturing, processing, fabricating, mining, refining,
44 metallurgical operations or research and development if using or consuming

1 the chemicals, alone or as part of an integrated system of chemicals,
2 involves direct contact with the materials from which the product is produced
3 for the purpose of causing or permitting a chemical or physical change to
4 occur in the materials as part of the production process. This paragraph
5 does not include chemicals that are used or consumed in activities such as
6 packaging, storage or transportation but does not affect any exemption for
7 such chemicals that is otherwise provided by this section.

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

12 38. A motor vehicle and any repair and replacement parts and tangible
13 personal property becoming a part of such motor vehicle, sold to a licensed
14 motor carrier or a lightweight motor vehicle operator subject to tax under
15 title 28, chapter 9, article 6 who is engaged in the business of leasing or
16 renting such property.

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

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

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

34 (b) "Subcontract" means an agreement between a contractor and any
35 person who is not an employee OF THE CONTRACTOR for furnishing of supplies
36 or services that, in whole or in part, are necessary to the performance of
37 one or more government contracts, or under which any portion of the
38 contractor's obligation under one or more government contracts is performed,
39 undertaken or assumed, and that includes provisions causing title to overhead
40 materials or other tangible personal property used in the performance of the
41 subcontract to pass to the government or that includes provisions
42 incorporating such title passing clauses in a government contract into the
43 subcontract.

1 41. Through December 31, 1994, tangible personal property sold pursuant
2 to a personal property liquidation transaction, as defined in section
3 42-1310.01. From and after December 31, 1994, tangible personal property
4 sold pursuant to a personal property liquidation transaction, as defined in
5 section 42-1310.01, if the gross proceeds of the sales were included in the
6 measure of the tax imposed by article 1 of this chapter or if the personal
7 property liquidation was a casual activity or transaction.

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

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

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

24 3. Tangible personal property, sold to persons engaged in business
25 classified under the telecommunications classification under article 1 of
26 this chapter, consisting of central office switching equipment, switchboards,
27 private branch exchange equipment, microwave radio equipment and carrier
28 equipment including optical fiber, coaxial cable and other transmission media
29 which are components of carrier systems.

30 4. Machinery, equipment or transmission lines used directly in
31 producing or transmitting electrical power, but not including distribution.
32 Transformers and control equipment used at transmission substation sites
33 constitute equipment used in producing or transmitting electrical power.

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

37 6. Pipes or valves four inches in diameter or larger used to transport
38 oil, natural gas, artificial gas, water or coal slurry.

39 7. Aircraft, navigational and communication instruments and other
40 accessories and related equipment sold to:

41 (a) A person holding a federal certificate of public convenience and
42 necessity or foreign air carrier permit for air transportation for use as or
43 in conjunction with or becoming a part of aircraft to be used to transport

1 persons, property or United States mail in intrastate, interstate or foreign
2 commerce.

3 (b) Any foreign government for use by such government outside of this
4 state, or sold to persons who are not residents of this state and who will
5 not use such property in this state other than in removing such property from
6 this state.

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

11 9. Rolling stock, rails, ties and signal control equipment used
12 directly to transport persons or property in intrastate or interstate
13 transportation for hire.

14 10. Machinery or equipment used directly to drill for oil or gas or
15 used directly in the process of extracting oil or gas from the earth for
16 commercial purposes.

17 11. Buses or other urban mass transit vehicles which are used directly
18 to transport persons or property for hire or pursuant to a governmentally
19 adopted and controlled urban mass transportation program and which are sold
20 to bus companies holding a federal certificate of convenience and necessity
21 or operated by a city, town or other governmental entity or by any person
22 contracting with such governmental entity as part of a governmentally adopted
23 and controlled program to provide urban mass transportation.

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

25 13. New machinery and equipment consisting of tractors, tractor-drawn
26 implements, self-powered implements, machinery and equipment that are
27 necessary for extracting milk, and for cooling milk and livestock, and drip
28 irrigation lines not already exempt under paragraph 6 of this subsection used
29 for commercial production of agricultural, horticultural, viticultural and
30 floricultural crops and products in this state. In this paragraph:

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

34 (b) "Self-powered implements" includes machinery and equipment that
35 is electric-powered.

36 14. Machinery or equipment used in research and development. In this
37 paragraph, "research and development" means basic and applied research in the
38 sciences and engineering, and designing, developing or testing prototypes,
39 processes or new products, including research and development of computer
40 software that is embedded in or an integral part of the prototype or new
41 product or that is required for machinery or equipment otherwise exempt under
42 this section to function effectively. Research and development do not
43 include manufacturing quality control, routine consumer product testing,
44 market research, sales promotion, sales service, research in social sciences

1 or psychology, computer software research that is not included in the
2 definition of research and development, or other nontechnological activities
3 or technical services.

4 15. MACHINERY AND EQUIPMENT THAT ARE PURCHASED BY OR ON BEHALF OF THE
5 OWNERS OF A SOUND STAGE COMPLEX AND PRIMARILY USED FOR MOTION PICTURE,
6 MULTIMEDIA OR INTERACTIVE VIDEO PRODUCTION IN THE COMPLEX. THIS PARAGRAPH
7 APPLIES ONLY IF THE INITIAL CONSTRUCTION OF THE SOUND STAGE COMPLEX BEGINS
8 AFTER JUNE 30, 1996 AND BEFORE JANUARY 1, 2002 AND THE MACHINERY AND
9 EQUIPMENT ARE PURCHASED BEFORE THE EXPIRATION OF FIVE YEARS AFTER THE START
10 OF INITIAL CONSTRUCTION. FOR PURPOSES OF THIS PARAGRAPH:

11 (a) "MOTION PICTURE, MULTIMEDIA OR INTERACTIVE VIDEO PRODUCTION"
12 INCLUDES PRODUCTS FOR THEATRICAL AND TELEVISION RELEASE, EDUCATIONAL
13 PRESENTATIONS, ELECTRONIC RETAILING, DOCUMENTARIES, MUSIC VIDEOS, INDUSTRIAL
14 FILMS, CD-ROM, VIDEO GAME PRODUCTION, COMMERCIAL ADVERTISING AND TELEVISION
15 EPISODE PRODUCTION AND OTHER GENRES THAT ARE INTRODUCED THROUGH DEVELOPING
16 TECHNOLOGY.

17 (b) "SOUND STAGE COMPLEX" MEANS A FACILITY OF MULTIPLE STAGES
18 INCLUDING PRODUCTION OFFICES, CONSTRUCTION SHOPS AND RELATED AREAS, PROP AND
19 COSTUME SHOPS, STORAGE AREAS, PARKING FOR PRODUCTION VEHICLES AND AREAS THAT
20 ARE LEASED TO BUSINESSES THAT COMPLEMENT THE PRODUCTION NEEDS AND ORIENTATION
21 OF THE OVERALL FACILITY.

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

- 24 1. Expendable materials.
- 25 2. Janitorial equipment and hand tools.
- 26 3. Office equipment, furniture and supplies.
- 27 4. Tangible personal property used in selling or distributing
28 activities.
- 29 5. Motor vehicles required to be licensed by this state, except buses
30 or other urban mass transit vehicles specifically exempted pursuant to
31 subsection B, paragraph 11 of this section, without regard to the use of such
32 motor vehicles.
- 33 6. Shops, buildings, docks, depots and all other materials of whatever
34 kind or character not specifically included as exempt.
- 35 7. Motors and pumps used in drip irrigation systems.

36 D. The tax levied by this article does not apply to the storage, use
37 or consumption in Arizona of machinery, equipment, materials or other
38 tangible personal property if used directly and predominantly to construct
39 a qualified environmental technology manufacturing, producing or processing
40 facility, as described in section 41-1514.02. This subsection applies for
41 ten full consecutive calendar or fiscal years after the start of initial
42 construction.

43 E. For the purposes of subsection B of this section:

- 44 1. "Aircraft" includes:

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

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

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

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