Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 137

SENATE BILL 1130

AN ACT

AMENDING SECTIONS 42-5061 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND AFFILIATED EXCISE TAX EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to
3 read:
4 42-5061. 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 does not apply
9 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 42-5156.
18 4. Sales of tangible personal property by any nonprofit organization
19 organized and operated exclusively for charitable purposes and recognized by
20 the United States internal revenue service under section 501(c)(3) of the
21 internal revenue code.
22 5. Sales to persons engaged in business classified under the
23 restaurant classification of articles used by human beings for food, drink
24 or condiment, whether simple, mixed or compounded.
25 6. Business activity which is properly included in any other business
26 classification which is taxable under article 1 of this chapter.
27 7. The sale of stocks and bonds.
28 8. Drugs and medical oxygen, including delivery hose, mask or tent,
29 regulator and tank, on the prescription of a member of the medical, dental
30 or veterinarian profession who is licensed by law to administer such
31 substances.
32 9. Prosthetic appliances as defined in section 23-501 prescribed or
33 recommended by a health professional licensed pursuant to title 32, chapter
34 7, 8, 11, 13, 14, 15, 16, 17 or 29.
35 10. Insulin, insulin syringes and glucose test strips.
36 11. Prescription eyeglasses or contact lenses.
37 12. Hearing aids as defined in section 36-1901.
38 13. Durable medical equipment which has a federal health care financing
39 administration common procedure code, is designated reimbursable by medicare,
40 is prescribed by a person who is licensed under title 32, chapter 7, 8, 13,
41 14, 15, 17 or 29, can withstand repeated use, is primarily and customarily
42 used to serve a medical purpose, is generally not useful to a person in the
43 absence of illness or injury and is appropriate for use in the home.

1 14. Sales to nonresidents of this state for use outside this state if
2 the vendor ships or delivers the tangible personal property out of this
3 state.
4 15. Food, as provided in and subject to the conditions of article 3 of
5 this chapter and section 42-5074.
6 16. Items purchased with United States department of agriculture food
7 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
8 958) or food instruments issued under section 17 of the child nutrition act
9 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
10 section 1786).
11 17. Textbooks by any bookstore that are required by any state
12 university or community college.
13 18. Food and drink to a person who is engaged in business which is
14 classified under the restaurant classification and which provides such food
15 and drink without monetary charge to its employees for their own consumption
16 on the premises during the employees' hours of employment.
17 19. Articles of food, drink or condiment and accessory tangible
18 personal property to a school district if such articles and accessory
19 tangible personal property are to be prepared and served to persons for
20 consumption on the premises of a public school within the district during
21 school hours.
22 20. Lottery tickets or shares pursuant to title 5, chapter 5,
23 article 1.
24 21. The sale of precious metal bullion and monetized bullion to the
25 ultimate consumer, but the sale of coins or other forms of money for
26 manufacture into jewelry or works of art is subject to the tax. In this
27 paragraph:
28 (a) "Monetized bullion" means coins and other forms of money which are
29 manufactured from gold, silver or other metals and which have been or are
30 used as a medium of exchange in this or another state, the United States or
31 a foreign nation.
32 (b) "Precious metal bullion" means precious metal, including gold,
33 silver, platinum, rhodium and palladium, which has been smelted or refined
34 so that its value depends on its contents and not on its form.
35 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
36 under title 28, chapter 16, article 1 or 2, sales of use fuel to a holder of
37 a valid single trip use fuel tax permit issued under section 28-5739, sales
38 of aviation fuel which are subject to the tax imposed under section 28-8344
39 and sales of jet fuel which are subject to the tax imposed under article 8
40 of this chapter.
41 23. Tangible personal property sold to a person engaged in the business
42 of leasing or renting such property under the personal property rental
43 classification if such property is to be leased or rented by such person.

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

25. Tangible personal property sold to:

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

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

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

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

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

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

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

27. Tangible personal property sold to a person that is subject to tax under this article by reason of being engaged in business classified under the prime contracting classification under section 42-5075, or to a subcontractor working under the control of a prime contractor that is subject to tax under article 1 of this chapter, if the property so sold is any of the following:

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

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

(c) Incorporated or fabricated by the person into any lake facility development in a commercial enhancement reuse district under conditions prescribed for the deduction allowed by section 42-5075, subsection B, paragraph 8.

28. The sale of a motor vehicle to:

(a) A nonresident of this state if the purchaser's state of residence does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special
2 thirty-day nonresident registration of the vehicle by applying according to
3 section 28-2154.
4 (b) An enrolled member of an Indian tribe who resides on the Indian
5 reservation established for that tribe.
6 29. Tangible personal property purchased or leased in this state by a
7 nonprofit charitable organization that has qualified under section 501(c)(3)
8 of the United States internal revenue code and that engages in and uses such
9 property exclusively for training, job placement or rehabilitation programs
10 or testing for mentally or physically handicapped persons.
11 30. Sales of tangible personal property by a nonprofit organization
12 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
13 of the internal revenue code if the organization is associated with a major
14 league baseball team or a national touring professional golfing association
15 and no part of the organization's net earnings inures to the benefit of any
16 private shareholder or individual.
17 31. Sales of commodities, as defined by title 7 United States Code
18 section 2, that are consigned for resale in a warehouse in this state in or
19 from which the commodity is deliverable on a contract for future delivery
20 subject to the rules of a commodity market regulated by the United States
21 commodity futures trading commission.
22 32. Sales of tangible personal property by a nonprofit organization
23 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
24 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
25 sponsors or operates a rodeo featuring primarily farm and ranch animals and
26 no part of the organization's net earnings inures to the benefit of any
27 private shareholder or individual.
28 33. Sales of new semitrailers, as defined in section 28-101,
29 manufactured in Arizona, or new parts manufactured in Arizona for
30 semitrailers sold by the manufacturer to a person who holds an interstate
31 commerce commission license for use in interstate commerce.
32 34. Sales of seeds, seedlings, roots, bulbs, cuttings and other
33 propagative material to persons who use those items to commercially produce
34 agricultural, horticultural, viticultural or floricultural crops in this
35 state.
36 35. Machinery, equipment, technology or related supplies that are only
37 useful to assist a person who is physically disabled as defined in section
38 46-191, has a developmental disability as defined in section 36-551 or has
39 a head injury as defined in section 41-3201 to be more independent and
40 functional.
41 36. Sales of tangible personal property that is shipped or delivered
42 directly to a destination outside the United States for use in that foreign
43 country.
44 37. Sales of natural gas or liquefied petroleum gas used to propel a
45 motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

47. Tangible personal property sold to a person engaged in business and subject to tax under the transient lodging classification if the tangible personal property is a personal hygiene item OR ARTICLES USED BY HUMAN BEINGS FOR FOOD, DRINK OR CONDIMENT, EXCEPT ALCOHOLIC BEVERAGES, which ~~is~~ ARE furnished WITHOUT ADDITIONAL CHARGE to and intended to be consumed by the transient during the transient's occupancy.

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

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

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

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

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

51. Sales of alternative fuel vehicles, as defined in section 43-1086, if the vehicle was manufactured as a diesel fuel vehicle and converted to operate on alternative fuel and equipment that is installed in a conventional

1 diesel fuel motor vehicle to convert the vehicle to operate on an alternative
2 fuel, as defined in section 1-215.
3 52. Sales of any spirituous, vinous or malt liquor by a person that is
4 licensed in this state as a wholesaler by the department of liquor licenses
5 and control pursuant to title 4, chapter 2, article 1.
6 53. Sales of tangible personal property to be incorporated or installed
7 as part of environmental response or remediation activities under section
8 42-5075, subsection B, paragraph 6.
9 B. In addition to the deductions from the tax base prescribed by
10 subsection A of this section, the gross proceeds of sales or gross income
11 derived from sales of the following categories of tangible personal property
12 shall be deducted from the tax base:
13 1. Machinery, or equipment, used directly in manufacturing,
14 processing, fabricating, job printing, refining or metallurgical operations.
15 The terms "manufacturing", "processing", "fabricating", "job printing",
16 "refining" and "metallurgical" as used in this paragraph refer to and include
17 those operations commonly understood within their ordinary meaning.
18 "Metallurgical operations" includes leaching, milling, precipitating,
19 smelting and refining.
20 2. Mining machinery, or equipment, used directly in the process of
21 extracting ores or minerals from the earth for commercial purposes, including
22 equipment required to prepare the materials for extraction and handling,
23 loading or transporting such extracted material to the surface. "Mining"
24 includes underground, surface and open pit operations for extracting ores and
25 minerals.
26 3. Tangible personal property sold to persons engaged in business
27 classified under the telecommunications classification and consisting of
28 central office switching equipment, switchboards, private branch exchange
29 equipment, microwave radio equipment and carrier equipment including optical
30 fiber, coaxial cable and other transmission media which are components of
31 carrier systems.
32 4. Machinery, equipment or transmission lines used directly in
33 producing or transmitting electrical power, but not including distribution.
34 Transformers and control equipment used at transmission substation sites
35 constitute equipment used in producing or transmitting electrical power.
36 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
37 or to be used as breeding or production stock, including sales of breedings
38 or ownership shares in such animals used for breeding or production.
39 6. Pipes or valves four inches in diameter or larger used to transport
40 oil, natural gas, artificial gas, water or coal slurry, including compressor
41 units, regulators, machinery and equipment, fittings, seals and any other
42 part that is used in operating the pipes or valves.
43 7. Aircraft, navigational and communication instruments and other
44 accessories and related equipment sold to:

1 (a) A person holding a federal certificate of public convenience and
2 necessity, a supplemental air carrier certificate under federal aviation
3 regulations (14 Code of Federal Regulations part 121) or a foreign air
4 carrier permit for air transportation for use as or in conjunction with or
5 becoming a part of aircraft to be used to transport persons, property or
6 United States mail in intrastate, interstate or foreign commerce.
7 (b) Any foreign government for use by such government outside of this
8 state.
9 (c) Persons who are not residents of this state and who will not use
10 such property in this state other than in removing such property from this
11 state. This subdivision also applies to corporations that are not
12 incorporated in this state, regardless of maintaining a place of business in
13 this state, if the principal corporate office is located outside this state
14 and the property will not be used in this state other than in removing the
15 property from this state.
16 8. Machinery, tools, equipment and related supplies used or consumed
17 directly in repairing, remodeling or maintaining aircraft, aircraft engines
18 or aircraft component parts by or on behalf of a certificated or licensed
19 carrier of persons or property.
20 9. Railroad rolling stock, rails, ties and signal control equipment
21 used directly to transport persons or property.
22 10. Machinery or equipment used directly to drill for oil or gas or
23 used directly in the process of extracting oil or gas from the earth for
24 commercial purposes.
25 11. Buses or other urban mass transit vehicles which are used directly
26 to transport persons or property for hire or pursuant to a governmentally
27 adopted and controlled urban mass transportation program and which are sold
28 to bus companies holding a federal certificate of convenience and necessity
29 or operated by any city, town or other governmental entity or by any person
30 contracting with such governmental entity as part of a governmentally adopted
31 and controlled program to provide urban mass transportation.
32 12. Groundwater measuring devices required under section 45-604.
33 13. New machinery and equipment consisting of tractors, tractor-drawn
34 implements, self-powered implements, machinery and equipment necessary for
35 extracting milk and for producing livestock, and machinery and equipment
36 necessary for cooling milk and producing livestock, and drip irrigation lines
37 not already exempt under paragraph 6 of this subsection and that are used for
38 commercial production of agricultural, horticultural, viticultural and
39 floricultural crops and products in this state. In this paragraph:
40 (a) "New machinery and equipment" means machinery and equipment which
41 have never been sold at retail except pursuant to leases or rentals which do
42 not total two years or more.
43 (b) "Self-powered implements" includes machinery and equipment that
44 are electric-powered.

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

15. Machinery and equipment that are purchased by or on behalf of the owners of a soundstage complex and primarily used for motion picture, multimedia or interactive video production in the complex. This paragraph applies only if the initial construction of the soundstage complex begins after June 30, 1996 and before January 1, 2002 and the machinery and equipment are purchased before the expiration of five years after the start of initial construction. For purposes of this paragraph:

(a) "Motion picture, multimedia or interactive video production" includes products for theatrical and television release, educational presentations, electronic retailing, documentaries, music videos, industrial films, CD-ROM, video game production, commercial advertising and television episode production and other genres that are introduced through developing technology.

(b) "Soundstage complex" means a facility of multiple stages including production offices, construction shops and related areas, prop and costume shops, storage areas, parking for production vehicles and areas that are leased to businesses that complement the production needs and orientation of the overall facility.

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

(a) Any direct broadcast satellite television or data transmission service that operates pursuant to 47 Code of Federal Regulations parts 25 and 100.

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

(i) Over two-thirds of the transmissions, measured in megabytes, transmitted by the facility during the test period were transmitted to or on behalf of one or more direct broadcast satellite television or data transmission services that operate pursuant to 47 Code of Federal Regulations parts 25 and 100.

(ii) Over two-thirds of the transmissions, measured in megabytes, transmitted by or on behalf of those direct broadcast television or data

1 transmission services during the test period were transmitted by the facility
2 to or on behalf of those services.
3 For purposes of subdivision (b) of this paragraph, "test period" means the
4 three hundred sixty-five day period beginning on the later of the date on
5 which the tangible personal property is purchased or the date on which the
6 direct broadcast satellite television or data transmission service first
7 transmits information to its customers.
8 17. Clean rooms that are used for manufacturing, processing,
9 fabrication or research and development, as defined in paragraph 14 of this
10 subsection, of semiconductor products. For purposes of this paragraph,
11 "clean room" means all property that comprises or creates an environment
12 where humidity, temperature, particulate matter and contamination are
13 precisely controlled within specified parameters, without regard to whether
14 the property is actually contained within that environment or whether any of
15 the property is affixed to or incorporated into real property. Clean room:
16 (a) Includes the integrated systems, fixtures, piping, movable
17 partitions, lighting and all property that is necessary or adapted to reduce
18 contamination or to control airflow, temperature, humidity, chemical purity
19 or other environmental conditions or manufacturing tolerances, as well as the
20 production machinery and equipment operating in conjunction with the clean
21 room environment.
22 (b) Does not include the building or other permanent, nonremovable
23 component of the building that houses the clean room environment.
24 18. Machinery and equipment used directly in the feeding of poultry,
25 the environmental control of housing for poultry, the movement of eggs within
26 a production and packaging facility or the sorting or cooling of eggs. This
27 exemption does not apply to vehicles used for transporting eggs.
28 19. Machinery or equipment, including related structural components,
29 that is employed in connection with manufacturing, processing, fabricating,
30 job printing, refining, mining, natural gas pipelines, metallurgical
31 operations, telecommunications, producing or transmitting electricity or
32 research and development and that is used directly to meet or exceed rules
33 or regulations adopted by the federal energy regulatory commission, the
34 United States environmental protection agency, the United States nuclear
35 regulatory commission, the Arizona department of environmental quality or a
36 political subdivision of this state to prevent, monitor, control or reduce
37 land, water or air pollution.
38 20. Machinery and equipment that are sold to a person engaged in the
39 commercial production of livestock, livestock products or agricultural,
40 horticultural, viticultural or floricultural crops or products in this state
41 and that are used directly and primarily to prevent, monitor, control or
42 reduce air, water or land pollution.
43 21. Machinery or equipment that enables a television station to
44 originate and broadcast or to receive and broadcast digital television
45 signals and that was purchased to facilitate compliance with the

1 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
2 Code section 336) and the federal communications commission order issued
3 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
4 not exempt any of the following:
5 (a) Repair or replacement parts purchased for the machinery or
6 equipment described in this paragraph.
7 (b) Machinery or equipment purchased to replace machinery or equipment
8 for which an exemption was previously claimed and taken under this paragraph.
9 (c) Any machinery or equipment purchased after the television station
10 has ceased analog broadcasting, or purchased after November 1, 2009,
11 whichever occurs first.
12 C. The deductions provided by subsection B of this section do not
13 include sales of:
14 1. Expendable materials. For purposes of this paragraph, expendable
15 materials do not include any of the categories of tangible personal property
16 specified in subsection B of this section regardless of the cost or useful
17 life of that property.
18 2. Janitorial equipment and hand tools.
19 3. Office equipment, furniture and supplies.
20 4. Tangible personal property used in selling or distributing
21 activities, other than the telecommunications transmissions described in
22 subsection B, paragraph 16 of this section.
23 5. Motor vehicles required to be licensed by this state, except buses
24 or other urban mass transit vehicles specifically exempted pursuant to
25 subsection B, paragraph 11 of this section, without regard to the use of such
26 motor vehicles.
27 6. Shops, buildings, docks, depots and all other materials of whatever
28 kind or character not specifically included as exempt.
29 7. Motors and pumps used in drip irrigation systems.
30 D. In computing the tax base, gross proceeds of sales or gross income
31 from retail sales of automobiles does not include any amount attributable to
32 federal excise taxes imposed by 26 United States Code section 4001.
33 E. In addition to the deductions from the tax base prescribed by
34 subsection A of this section, there shall be deducted from the tax base the
35 gross proceeds of sales or gross income derived from sales of machinery,
36 equipment, materials and other tangible personal property used directly and
37 predominantly to construct a qualified environmental technology
38 manufacturing, producing or processing facility as described in section
39 41-1514.02. This subsection applies for ten full consecutive calendar or
40 fiscal years after the start of initial construction.
41 F. In computing the tax base, gross proceeds of sales or gross income
42 from retail sales of heavy trucks and trailers does not include any amount
43 attributable to federal excise taxes imposed by 26 United States Code section
44 4051.

1 G. In computing the tax base, gross proceeds of sales or gross income
2 from the sale of use fuel, as defined in section 28-5701, does not include
3 any amount attributable to federal excise taxes imposed by 26 United States
4 Code section 4091.
5 H. If a person is engaged in an occupation or business to which
6 subsection A of this section applies, the person's books shall be kept so as
7 to show separately the gross proceeds of sales of tangible personal property
8 and the gross income from sales of services, and if not so kept the tax shall
9 be imposed on the total of the person's gross proceeds of sales of tangible
10 personal property and gross income from services.
11 I. If a person is engaged in the business of selling tangible personal
12 property at both wholesale and retail, the tax under this section applies
13 only to the gross proceeds of the sales made other than at wholesale if the
14 person's books are kept so as to show separately the gross proceeds of sales
15 of each class, and if the books are not so kept, the tax under this section
16 applies to the gross proceeds of every sale so made.
17 J. A person who engages in manufacturing, baling, crating, boxing,
18 barreling, canning, bottling, sacking, preserving, processing or otherwise
19 preparing for sale or commercial use any livestock, agricultural or
20 horticultural product or any other product, article, substance or commodity
21 and who sells the product of such business at retail in this state is deemed,
22 as to such sales, to be engaged in business classified under the retail
23 classification. This subsection does not apply to businesses classified
24 under the:
25 1. Transporting classification.
26 2. Utility classification.
27 3. Telecommunications classification.
28 4. Pipeline classification.
29 5. Private car line classification.
30 6. Publication classification.
31 7. Job printing classification.
32 8. Prime contracting classification.
33 9. Owner builder sales classification.
34 10. Restaurant classification.
35 K. The gross proceeds of sales or gross income derived from the
36 following shall be deducted from the tax base for the retail classification:
37 1. Sales made directly to the United States government or its
38 departments or agencies by a manufacturer, modifier, assembler or repairer.
39 2. Sales made directly to a manufacturer, modifier, assembler or
40 repairer if such sales are of any ingredient or component part of products
41 sold directly to the United States government or its departments or agencies
42 by the manufacturer, modifier, assembler or repairer.
43 3. Overhead materials or other tangible personal property that is used
44 in performing a contract between the United States government and a
45 manufacturer, modifier, assembler or repairer, including property used in

1 performing a subcontract with a government contractor who is a manufacturer,
2 modifier, assembler or repairer, to which title passes to the government
3 under the terms of the contract or subcontract.
4 4. Sales of overhead materials or other tangible personal property to
5 a manufacturer, modifier, assembler or repairer if the gross proceeds of
6 sales or gross income derived from the property by the manufacturer,
7 modifier, assembler or repairer will be exempt under paragraph 3 of this
8 subsection.
9 L. There shall be deducted from the tax base fifty per cent of the
10 gross proceeds or gross income from any sale of tangible personal property
11 made directly to the United States government or its departments or agencies,
12 which is not deducted under subsection K of this section.
13 M. The department shall require every person claiming a deduction
14 provided by subsection K or L of this section to file on forms prescribed by
15 the department at such times as the department directs a sworn statement
16 disclosing the name of the purchaser and the exact amount of sales on which
17 the exclusion or deduction is claimed.
18 N. In computing the tax base, gross proceeds of sales or gross income
19 does not include:
20 1. A manufacturer's cash rebate on the sales price of a motor vehicle
21 if the buyer assigns the buyer's right in the rebate to the retailer.
22 2. The waste tire disposal fee imposed pursuant to section 44-1302.
23 O. There shall be deducted from the tax base the amount received from
24 sales of solar energy devices, but the deduction shall not exceed five
25 thousand dollars for each solar energy device. Before deducting any amount
26 under this subsection, the retailer shall register with the department as a
27 solar energy retailer. By registering, the retailer acknowledges that it
28 will make its books and records relating to sales of solar energy devices
29 available to the department for examination.
30 P. In computing the tax base in the case of the sale or transfer of
31 wireless telecommunications equipment as an inducement to a customer to enter
32 into or continue a contract for telecommunications services that are taxable
33 under section 42-5064, gross proceeds of sales or gross income does not
34 include any sales commissions or other compensation received by the retailer
35 as a result of the customer entering into or continuing a contract for the
36 telecommunications services.
37 Q. For the purposes of this section, a sale of wireless
38 telecommunications equipment to a person who holds the equipment for sale or
39 transfer to a customer as an inducement to enter into or continue a contract
40 for telecommunications services that are taxable under section 42-5064 is
41 considered to be a sale for resale in the regular course of business.
42 R. Retail sales of prepaid calling cards or prepaid authorization
43 numbers for telecommunications services, including sales of reauthorization
44 of a prepaid card or authorization number, are subject to tax under this
45 section.

1 S. For the purposes of this section, the diversion of gas from a
2 pipeline by a person engaged in the business of operating a natural or
3 artificial gas pipeline, for the sole purpose of fueling compressor equipment
4 to pressurize the pipeline, is not a sale of the gas to the operator of the
5 pipeline.
6 T. If a seller is entitled to a deduction pursuant to subsection B,
7 paragraph 16, subdivision (b) of this section, the department may require the
8 purchaser to establish that the requirements of subsection B, paragraph 16,
9 subdivision (b) of this section have been satisfied. If the purchaser cannot
10 establish that the requirements of subsection B, paragraph 16, subdivision
11 (b) of this section have been satisfied, the purchaser is liable in an amount
12 equal to any tax, penalty and interest which the seller would have been
13 required to pay under article 1 of this chapter if the seller had not made
14 a deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
15 section. Payment of the amount under this subsection exempts the purchaser
16 from liability for any tax imposed under article 4 of this chapter and
17 related to the tangible personal property purchased. The amount shall be
18 treated as transaction privilege tax to the purchaser and as tax revenues
19 collected from the seller to designate the distribution base pursuant to
20 section 42-5029.
21 U. For purposes of section 42-5032.01, the department shall separately
22 account for revenues collected under the retail classification from
23 businesses selling tangible personal property at retail:
24 1. On the premises of a multipurpose facility that is owned, leased
25 or operated by the tourism and sports authority pursuant to title 5,
26 chapter 8.
27 2. At professional football contests that are held in a stadium
28 located on the campus of an institution under the jurisdiction of the Arizona
29 board of regents.
30 V. For the purposes of this section:
31 1. "Aircraft" includes:
32 (a) An airplane flight simulator that is approved by the federal
33 aviation administration for use as a phase II or higher flight simulator
34 under appendix H, 14 Code of Federal Regulations part 121.
35 (b) Tangible personal property that is permanently affixed or attached
36 as a component part of an aircraft that is owned or operated by a
37 certificated or licensed carrier of persons or property.
38 2. "Other accessories and related equipment" includes aircraft
39 accessories and equipment such as ground service equipment that physically
40 contact aircraft at some point during the overall carrier operation.
41 3. "Selling at retail" means a sale for any purpose other than for
42 resale in the regular course of business in the form of tangible personal
43 property, but transfer of possession, lease and rental as used in the
44 definition of sale mean only such transactions as are found on investigation
45 to be in lieu of sales as defined without the words lease or rental.

1 W. For purposes of subsection K of this section:
2 1. "Assembler" means a person who unites or combines products, wares
3 or articles of manufacture so as to produce a change in form or substance
4 without changing or altering the component parts.
5 2. "Manufacturer" means a person who is principally engaged in the
6 fabrication, production or manufacture of products, wares or articles for use
7 from raw or prepared materials, imparting to those materials new forms,
8 qualities, properties and combinations.
9 3. "Modifier" means a person who reworks, changes or adds to products,
10 wares or articles of manufacture.
11 4. "Overhead materials" means tangible personal property, the gross
12 proceeds of sales or gross income derived from which would otherwise be
13 included in the retail classification, and which are used or consumed in the
14 performance of a contract, the cost of which is charged to an overhead
15 expense account and allocated to various contracts based upon generally
16 accepted accounting principles and consistent with government contract
17 accounting standards.
18 5. "Repairer" means a person who restores or renews products, wares
19 or articles of manufacture.
20 6. "Subcontract" means an agreement between a contractor and any
21 person who is not an employee of the contractor for furnishing of supplies
22 or services that, in whole or in part, are necessary to the performance of
23 one or more government contracts, or under which any portion of the
24 contractor's obligation under one or more government contracts is performed,
25 undertaken or assumed and that includes provisions causing title to overhead
26 materials or other tangible personal property used in the performance of the
27 subcontract to pass to the government or that includes provisions
28 incorporating such title passing clauses in a government contract into the
29 subcontract.
30 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:
31 42-5159. Exemptions
32 A. The tax levied by this article does not apply to the storage, use
33 or consumption in this state of the following described tangible personal
34 property:
35 1. Tangible personal property sold in this state, the gross receipts
36 from the sale of which are included in the measure of the tax imposed by
37 articles 1 and 2 of this chapter.
38 2. Tangible personal property the sale or use of which has already
39 been subjected to an excise tax at a rate equal to or exceeding the tax
40 imposed by this article under the laws of another state of the United States.
41 If the excise tax imposed by the other state is at a rate less than the tax
42 imposed by this article, the tax imposed by this article is reduced by the
43 amount of the tax already imposed by the other state.

1 3. Tangible personal property, the storage, use or consumption of
2 which the constitution or laws of the United States prohibit this state from
3 taxing.
4 4. Tangible personal property which directly enters into and becomes
5 an ingredient or component part of any manufactured, fabricated or processed
6 article, substance or commodity for sale in the regular course of business.
7 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
8 which in this state is subject to the tax imposed under the provisions of
9 title 28, chapter 16, article 1 or 2, use fuel which is sold to or used by
10 a person holding a valid single trip use fuel tax permit issued under section
11 28-5739, aviation fuel, the sales, distribution or use of which in this state
12 is subject to the tax imposed under section 28-8344, and jet fuel, the sales,
13 distribution or use of which in this state is subject to the tax imposed
14 under article 8 of this chapter.
15 6. Tangible personal property brought into this state by an individual
16 who was a nonresident at the time the property was purchased for storage, use
17 or consumption by the individual if the first actual use or consumption of
18 the property was outside this state, unless the property is used in
19 conducting a business in this state.
20 7. Purchases of implants used as growth promotants and injectable
21 medicines, not already exempt under paragraph 16 of this subsection, for
22 livestock and poultry owned by, or in possession of, persons who are engaged
23 in producing livestock, poultry, or livestock or poultry products, or who are
24 engaged in feeding livestock or poultry commercially. For purposes of this
25 paragraph, "poultry" includes ratites.
26 8. Livestock, poultry, supplies, feed, salts, vitamins and other
27 additives for use or consumption in the businesses of farming, ranching and
28 feeding livestock or poultry, not including fertilizers, herbicides and
29 insecticides. For purposes of this paragraph, "poultry" includes ratites.
30 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
31 material for use in commercially producing agricultural, horticultural,
32 viticultural or floricultural crops in this state.
33 10. Tangible personal property not exceeding two hundred dollars in any
34 one month purchased by an individual at retail outside the continental limits
35 of the United States for the individual's own personal use and enjoyment.
36 11. Advertising supplements which are intended for sale with newspapers
37 published in this state and which have already been subjected to an excise
38 tax under the laws of another state in the United States which equals or
39 exceeds the tax imposed by this article.
40 12. Materials that are purchased by or for publicly funded libraries
41 including school district libraries, charter school libraries, community
42 college libraries, state university libraries or federal, state, county or
43 municipal libraries for use by the public as follows:
44 (a) Printed or photographic materials, beginning August 7, 1985.
45 (b) Electronic or digital media materials, beginning July 17, 1994.

1 13. Tangible personal property purchased by:
2 (a) A hospital organized and operated exclusively for charitable
3 purposes, no part of the net earnings of which inures to the benefit of any
4 private shareholder or individual.
5 (b) A hospital operated by this state or a political subdivision of
6 this state.
7 (c) A licensed nursing care institution or a licensed residential care
8 institution or a residential care facility operated in conjunction with a
9 licensed nursing care institution or a licensed kidney dialysis center, which
10 provides medical services, nursing services or health related services and
11 is not used or held for profit.
12 (d) A qualifying health care organization, as defined in section
13 42-5001, if the tangible personal property is used by the organization solely
14 to provide health and medical related educational and charitable services.
15 (e) A qualifying health care organization as defined in section
16 42-5001 if the organization is dedicated to providing educational,
17 therapeutic, rehabilitative and family medical education training for blind,
18 visually impaired and multihandicapped children from the time of birth to age
19 twenty-one.
20 (f) A nonprofit charitable organization that has qualified under
21 section 501(c)(3) of the United States internal revenue code and that engages
22 in and uses such property exclusively for training, job placement or
23 rehabilitation programs or testing for mentally or physically handicapped
24 persons.
25 (g) A person that is subject to tax under article 1 of this chapter
26 by reason of being engaged in business classified under the prime contracting
27 classification under section 42-5075, or a subcontractor working under the
28 control of a prime contractor, if the tangible personal property is any of
29 the following:
30 (i) Incorporated or fabricated by the contractor into a structure,
31 project, development or improvement in fulfillment of a contract.
32 (ii) Used in environmental response or remediation activities under
33 section 42-5075, subsection B, paragraph 6.
34 (iii) Incorporated or fabricated by the person into any lake facility
35 development in a commercial enhancement reuse district under conditions
36 prescribed for the deduction allowed by section 42-5075, subsection B,
37 paragraph 8.
38 (h) A nonprofit charitable organization that has qualified under
39 section 501(c)(3) of the internal revenue code if the property is purchased
40 from the parent or an affiliate organization that is located outside this
41 state.
42 (i) A qualifying community health center as defined in section
43 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 product OR ARTICLES USED
6 BY HUMAN BEINGS FOR FOOD, DRINK OR CONDIMENT, EXCEPT ALCOHOLIC BEVERAGES,
7 which ~~is~~ ARE furnished without additional charge to and intended to be
8 consumed by the 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
14 is used by the organization solely to provide residential apartment housing
15 for low income persons over sixty-two years of age in a facility that
16 qualifies 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.
36 16. Drugs and medical oxygen, including delivery hose, mask or tent,
37 regulator and tank, on the prescription of a member of the medical, dental
38 or veterinarian profession who is licensed by law to administer such
39 substances.
40 17. Prosthetic appliances, as defined in section 23-501, prescribed or
41 recommended by a person who is licensed, registered or otherwise
42 professionally credentialed as a physician, dentist, podiatrist,
43 chiropractor, naturopath, homeopath, nurse or optometrist.
44 18. Prescription eyeglasses and contact lenses.
45 19. Insulin, insulin syringes and glucose test strips.

1 20. Hearing aids as defined in section 36-1901.
2 21. Durable medical equipment which has a federal health care financing
3 administration common procedure code, is designated reimbursable by medicare,
4 is prescribed by a person who is licensed under title 32, chapter 7, 13, 17
5 or 29, can withstand repeated use, is primarily and customarily used to serve
6 a medical purpose, is generally not useful to a person in the absence of
7 illness or injury and is appropriate for use in the home.
8 22. Food, as provided in and subject to the conditions of article 3 of
9 this chapter and section 42-5074.
10 23. Items purchased with United States department of agriculture food
11 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
12 958) or food instruments issued under section 17 of the child nutrition act
13 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
14 section 1786).
15 24. Food and drink provided without monetary charge by a taxpayer which
16 is subject to section 42-5074 to its employees for their own consumption on
17 the premises during the employees' hours of employment.
18 25. Tangible personal property that is used or consumed in a business
19 subject to section 42-5074 for human food, drink or condiment, whether
20 simple, mixed or compounded.
21 26. Food, drink or condiment and accessory tangible personal property
22 if they are to be prepared and served to persons for consumption on the
23 premises of a public school in a school district during school hours.
24 27. Lottery tickets or shares purchased pursuant to title 5, chapter
25 5, article 1.
26 28. Textbooks, sold by a bookstore, that are required by any state
27 university or community college.
28 29. Magazines, other periodicals or other publications produced by this
29 state to encourage tourist travel.
30 30. Paper machine clothing, such as forming fabrics and dryer felts,
31 purchased by a paper manufacturer and directly used or consumed in paper
32 manufacturing.
33 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
34 purchased by a qualified environmental technology manufacturer, producer or
35 processor as defined in section 41-1514.02 and directly used or consumed in
36 the generation or provision of on-site power or energy solely for
37 environmental technology manufacturing, producing or processing or
38 environmental protection. This paragraph shall apply for fifteen full
39 consecutive calendar or fiscal years from the date the first paper
40 manufacturing machine is placed in service. In the case of an environmental
41 technology manufacturer, producer or processor who does not manufacture
42 paper, the time period shall begin with the date the first manufacturing,
43 processing or production equipment is placed in service.
44 32. Motor vehicles that are removed from inventory by a motor vehicle
45 dealer as defined in section 28-4301 and that are provided to:

1 (a) Charitable or educational institutions that are exempt from
2 taxation under section 501(c)(3) of the internal revenue code.
3 (b) Public educational institutions.
4 (c) State universities or affiliated organizations of a state
5 university if no part of the organization's net earnings inures to the
6 benefit of any private shareholder or individual.
7 33. Natural gas or liquefied petroleum gas used to propel a motor
8 vehicle.
9 34. Machinery, equipment, technology or related supplies that are only
10 useful to assist a person who is physically disabled as defined in section
11 46-191, has a developmental disability as defined in section 36-551 or has
12 a head injury as defined in section 41-3201 to be more independent and
13 functional.
14 35. Liquid, solid or gaseous chemicals used in manufacturing,
15 processing, fabricating, mining, refining, metallurgical operations, research
16 and development and, beginning on January 1, 1999, printing, if using or
17 consuming the chemicals, alone or as part of an integrated system of
18 chemicals, involves direct contact with the materials from which the product
19 is produced for the purpose of causing or permitting a chemical or physical
20 change to occur in the materials as part of the production process. This
21 paragraph does not include chemicals that are used or consumed in activities
22 such as packaging, storage or transportation but does not affect any
23 exemption for such chemicals that is otherwise provided by this section. For
24 purposes of this paragraph "printing" means a commercial printing operation
25 and includes job printing, engraving, embossing, copying and bookbinding.
26 36. Food, drink and condiment purchased for consumption within the
27 premises of any prison, jail or other institution under the jurisdiction of
28 the state department of corrections, the department of public safety, the
29 department of juvenile corrections or a county sheriff.
30 37. A motor vehicle and any repair and replacement parts and tangible
31 personal property becoming a part of such motor vehicle sold to a motor
32 carrier who is subject to a fee prescribed in title 28, chapter 16, article
33 4 and who is engaged in the business of leasing or renting such property.
34 38. Tangible personal property which is or directly enters into and
35 becomes an ingredient or component part of cards used as prescription plan
36 identification cards.
37 39. Overhead materials or other tangible personal property that is used
38 in performing a contract between the United States government and a
39 manufacturer, modifier, assembler or repairer, including property used in
40 performing a subcontract with a government contractor who is a manufacturer,
41 modifier, assembler or repairer, to which title passes to the government
42 under the terms of the contract or subcontract. For purposes of this
43 paragraph:
44 (a) "Overhead materials" means tangible personal property, the gross
45 proceeds of sales or gross income derived from which would otherwise be

1 included in the retail classification, and which are used or consumed in the
2 performance of a contract, the cost of which is charged to an overhead
3 expense account and allocated to various contracts based upon generally
4 accepted accounting principles and consistent with government contract
5 accounting standards.
6 (b) "Subcontract" means an agreement between a contractor and any
7 person who is not an employee of the contractor for furnishing of supplies
8 or services that, in whole or in part, are necessary to the performance of
9 one or more government contracts, or under which any portion of the
10 contractor's obligation under one or more government contracts is performed,
11 undertaken or assumed, and that includes provisions causing title to overhead
12 materials or other tangible personal property used in the performance of the
13 subcontract to pass to the government or that includes provisions
14 incorporating such title passing clauses in a government contract into the
15 subcontract.
16 40. Through December 31, 1994, tangible personal property sold pursuant
17 to a personal property liquidation transaction, as defined in section
18 42-5061. From and after December 31, 1994, tangible personal property sold
19 pursuant to a personal property liquidation transaction, as defined in
20 section 42-5061, if the gross proceeds of the sales were included in the
21 measure of the tax imposed by article 1 of this chapter or if the personal
22 property liquidation was a casual activity or transaction.
23 41. Wireless telecommunications equipment that is held for sale or
24 transfer to a customer as an inducement to enter into or continue a contract
25 for telecommunications services that are taxable under section 42-5064.
26 42. Alternative fuel, as defined in section 1-215, purchased by a used
27 oil fuel burner who has received a permit to burn used oil or used oil fuel
28 under section 49-426 or 49-480.
29 43. Tangible personal property purchased by a commercial airline and
30 consisting of food, beverages and condiments and accessories used for serving
31 the food and beverages, if those items are to be provided without additional
32 charge to passengers for consumption in flight. For purposes of this
33 paragraph, "commercial airline" means a person holding a federal certificate
34 of public convenience and necessity or foreign air carrier permit for air
35 transportation to transport persons, property or United States mail in
36 intrastate, interstate or foreign commerce.
37 44. Alternative fuel vehicles, as defined in section 43-1086, if the
38 vehicle was manufactured as a diesel fuel vehicle and converted to operate
39 on alternative fuel and equipment that is installed in a conventional diesel
40 fuel motor vehicle to convert the vehicle to operate on an alternative fuel,
41 as defined in section 1-215.
42 45. Gas diverted from a pipeline, by a person engaged in the business
43 of operating a natural or artificial gas pipeline, and used or consumed for
44 the sole purpose of fueling compressor equipment that pressurizes the
45 pipeline.

1 46. Tangible personal property that is excluded, exempt or deductible
2 from transaction privilege tax pursuant to section 42-5063.
3 47. Tangible personal property purchased to be incorporated or
4 installed as part of environmental response or remediation activities under
5 section 42-5075, subsection B, paragraph 6.
6 B. In addition to the exemptions allowed by subsection A of this
7 section, the following categories of tangible personal property are also
8 exempt:
9 1. Machinery, or equipment, used directly in manufacturing,
10 processing, fabricating, job printing, refining or metallurgical operations.
11 The terms "manufacturing", "processing", "fabricating", "job printing",
12 "refining" and "metallurgical" as used in this paragraph refer to and include
13 those operations commonly understood within their ordinary meaning.
14 "Metallurgical operations" includes leaching, milling, precipitating,
15 smelting and refining.
16 2. Machinery, or equipment, used directly in the process of extracting
17 ores or minerals from the earth for commercial purposes, including equipment
18 required to prepare the materials for extraction and handling, loading or
19 transporting such extracted material to the surface. "Mining" includes
20 underground, surface and open pit operations for extracting ores and
21 minerals.
22 3. Tangible personal property sold to persons engaged in business
23 classified under the telecommunications classification under section 42-5064
24 and consisting of central office switching equipment, switchboards, private
25 branch exchange equipment, microwave radio equipment and carrier equipment
26 including optical fiber, coaxial cable and other transmission media which are
27 components of carrier systems.
28 4. Machinery, equipment or transmission lines used directly in
29 producing or transmitting electrical power, but not including distribution.
30 Transformers and control equipment used at transmission substation sites
31 constitute equipment used in producing or transmitting electrical power.
32 5. Neat animals, horses, asses, sheep, ratites, swine or goats used
33 or to be used as breeding or production stock, including sales of breedings
34 or ownership shares in such animals used for breeding or production.
35 6. Pipes or valves four inches in diameter or larger used to transport
36 oil, natural gas, artificial gas, water or coal slurry, including compressor
37 units, regulators, machinery and equipment, fittings, seals and any other
38 part that is used in operating the pipes or valves.
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, a supplemental air carrier certificate under federal aviation
43 regulations (14 Code of Federal Regulations part 121) or a foreign air
44 carrier permit for air transportation for use as or in conjunction with or

1 becoming a part of aircraft to be used to transport persons, property or
2 United States mail in intrastate, interstate or foreign 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.
13 10. Machinery or equipment used directly to drill for oil or gas or
14 used directly in the process of extracting oil or gas from the earth for
15 commercial purposes.
16 11. Buses or other urban mass transit vehicles which are used directly
17 to transport persons or property for hire or pursuant to a governmentally
18 adopted and controlled urban mass transportation program and which are sold
19 to bus companies holding a federal certificate of convenience and necessity
20 or operated by any city, town or other governmental entity or by any person
21 contracting with such governmental entity as part of a governmentally adopted
22 and controlled program to provide urban mass transportation.
23 12. Groundwater measuring devices required under section 45-604.
24 13. New machinery and equipment consisting of tractors, tractor-drawn
25 implements, self-powered implements, machinery and equipment that are
26 necessary for extracting milk, and for cooling milk and livestock, and drip
27 irrigation lines not already exempt under paragraph 6 of this subsection and
28 used for commercial production of agricultural, horticultural, viticultural
29 and floricultural crops and products in this state. In this paragraph:
30 (a) "New machinery and equipment" means machinery or equipment which
31 has never been sold at retail except pursuant to leases or rentals which do
32 not total two years or more.
33 (b) "Self-powered implements" includes machinery and equipment that
34 are electric-powered.
35 14. Machinery or equipment used in research and development. In this
36 paragraph, "research and development" means basic and applied research in the
37 sciences and engineering, and designing, developing or testing prototypes,
38 processes or new products, including research and development of computer
39 software that is embedded in or an integral part of the prototype or new
40 product or that is required for machinery or equipment otherwise exempt under
41 this section to function effectively. Research and development do not
42 include manufacturing quality control, routine consumer product testing,
43 market research, sales promotion, sales service, research in social sciences
44 or psychology, computer software research that is not included in the

1 definition of research and development, or other nontechnological activities
2 or technical services.
3 15. Machinery and equipment that are purchased by or on behalf of the
4 owners of a soundstage complex and primarily used for motion picture,
5 multimedia or interactive video production in the complex. This paragraph
6 applies only if the initial construction of the soundstage complex begins
7 after June 30, 1996 and before January 1, 2002 and the machinery and
8 equipment are purchased before the expiration of five years after the start
9 of initial construction. For purposes of this paragraph:
10 (a) "Motion picture, multimedia or interactive video production"
11 includes products for theatrical and television release, educational
12 presentations, electronic retailing, documentaries, music videos, industrial
13 films, CD-ROM, video game production, commercial advertising and television
14 episode production and other genres that are introduced through developing
15 technology.
16 (b) "Soundstage complex" means a facility of multiple stages including
17 production offices, construction shops and related areas, prop and costume
18 shops, storage areas, parking for production vehicles and areas that are
19 leased to businesses that complement the production needs and orientation of
20 the overall facility.
21 16. Tangible personal property that is used by either of the following
22 to receive, store, convert, produce, generate, decode, encode, control or
23 transmit telecommunications information:
24 (a) Any direct broadcast satellite television or data transmission
25 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
26 100.
27 (b) Any satellite television or data transmission facility, if both
28 of the following conditions are met:
29 (i) Over two-thirds of the transmissions, measured in megabytes,
30 transmitted by the facility during the test period were transmitted to or on
31 behalf of one or more direct broadcast satellite television or data
32 transmission services that operate pursuant to 47 Code of Federal Regulations
33 parts 25 and 100.
34 (ii) Over two-thirds of the transmissions, measured in megabytes,
35 transmitted by or on behalf of those direct broadcast television or data
36 transmission services during the test period were transmitted by the facility
37 to or on behalf of those services.
38 For purposes of subdivision (b) of this paragraph, "test period" means the
39 three hundred sixty-five day period beginning on the later of the date on
40 which the tangible personal property is purchased or the date on which the
41 direct broadcast satellite television or data transmission service first
42 transmits information to its customers.
43 17. Clean rooms that are used for manufacturing, processing,
44 fabrication or research and development, as defined in paragraph 14 of this
45 subsection, of semiconductor products. For purposes of this paragraph,

1 "clean room" means all property that comprises or creates an environment
2 where humidity, temperature, particulate matter and contamination are
3 precisely controlled within specified parameters, without regard to whether
4 the property is actually contained within that environment or whether any of
5 the property is affixed to or incorporated into real property. Clean room:
6 (a) Includes the integrated systems, fixtures, piping, movable
7 partitions, lighting and all property that is necessary or adapted to reduce
8 contamination or to control airflow, temperature, humidity, chemical purity
9 or other environmental conditions or manufacturing tolerances, as well as the
10 production machinery and equipment operating in conjunction with the clean
11 room environment.
12 (b) Does not include the building or other permanent, nonremovable
13 component of the building that houses the clean room environment.
14 18. Machinery and equipment that are used directly in the feeding of
15 poultry, the environmental control of housing for poultry, the movement of
16 eggs within a production and packaging facility or the sorting or cooling of
17 eggs. This exemption does not apply to vehicles used for transporting eggs.
18 19. Machinery or equipment, including related structural components,
19 that is employed in connection with manufacturing, processing, fabricating,
20 job printing, refining, mining, natural gas pipelines, metallurgical
21 operations, telecommunications, producing or transmitting electricity or
22 research and development and that is used directly to meet or exceed rules
23 or regulations adopted by the federal energy regulatory commission, the
24 United States environmental protection agency, the United States nuclear
25 regulatory commission, the Arizona department of environmental quality or a
26 political subdivision of this state to prevent, monitor, control or reduce
27 land, water or air pollution.
28 20. Machinery and equipment that are used in the commercial production
29 of livestock, livestock products or agricultural, horticultural, viticultural
30 or floricultural crops or products in this state and that are used directly
31 and primarily to prevent, monitor, control or reduce air, water or land
32 pollution.
33 21. Machinery or equipment that enables a television station to
34 originate and broadcast or to receive and broadcast digital television
35 signals and that was purchased to facilitate compliance with the
36 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
37 Code section 336) and the federal communications commission order issued
38 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
39 not exempt any of the following:
40 (a) Repair or replacement parts purchased for the machinery or
41 equipment described in this paragraph.
42 (b) Machinery or equipment purchased to replace machinery or equipment
43 for which an exemption was previously claimed and taken under this paragraph.

1 (c) Any machinery or equipment purchased after the television station
2 has ceased analog broadcasting, or purchased after November 1, 2009,
3 whichever occurs first.
4 C. The exemptions provided by subsection B of this section do not
5 include:
6 1. Expendable materials. For purposes of this paragraph, expendable
7 materials do not include any of the categories of tangible personal property
8 specified in subsection B of this section regardless of the cost or useful
9 life of that property.
10 2. Janitorial equipment and hand tools.
11 3. Office equipment, furniture and supplies.
12 4. Tangible personal property used in selling or distributing
13 activities, other than the telecommunications transmissions described in
14 subsection B, paragraph 16 of this section.
15 5. Motor vehicles required to be licensed by this state, except buses
16 or other urban mass transit vehicles specifically exempted pursuant to
17 subsection B, paragraph 11 of this section, without regard to the use of such
18 motor vehicles.
19 6. Shops, buildings, docks, depots and all other materials of whatever
20 kind or character not specifically included as exempt.
21 7. Motors and pumps used in drip irrigation systems.
22 D. The following shall be deducted in computing the purchase price of
23 electricity by a retail electric customer from a utility business:
24 1. Revenues received from sales of ancillary services, electric
25 distribution services, electric generation services, electric transmission
26 services and other services related to providing electricity to a retail
27 electric customer who is located outside this state for use outside this
28 state if the electricity is delivered to a point of sale outside this state.
29 2. Revenues received from providing electricity, including ancillary
30 services, electric distribution services, electric generation services,
31 electric transmission services and other services related to providing
32 electricity with respect to which the transaction privilege tax imposed under
33 section 42-5063 has been paid.
34 E. The tax levied by this article does not apply to:
35 1. The storage, use or consumption in Arizona of machinery, equipment,
36 materials or other tangible personal property if used directly and
37 predominantly to construct a qualified environmental technology
38 manufacturing, producing or processing facility, as described in section
39 41-1514.02. This paragraph applies for ten full consecutive calendar or
40 fiscal years after the start of initial construction.
41 2. The purchase of electricity by a qualified environmental technology
42 manufacturer, producer or processor as defined in section 41-1514.02 that is
43 used directly in environmental technology manufacturing, producing or
44 processing. This paragraph shall apply for fifteen full consecutive calendar
45 or fiscal years from the date the first paper manufacturing machine is placed

in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

F. The following shall be deducted in computing the purchase price of electricity by a retail electric customer from a utility business:

1. Fees charged by a municipally owned utility to persons constructing residential, commercial or industrial developments or connecting residential, commercial or industrial developments to a municipal utility system or systems if the fees are segregated and used only for capital expansion, system enlargement or debt service of the utility system or systems.

2. Reimbursement or contribution compensation to any person or persons owning a utility system for property and equipment installed to provide utility access to, on or across the land of an actual utility consumer if the property and equipment become the property of the utility. This deduction shall not exceed the value of such property and equipment.

G. For the purposes of subsection B of this section:

1. "Aircraft" includes:

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

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

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

H. For purposes of subsection D of this section, "ancillary services", "electric distribution service", "electric generation service", "electric transmission service" and "other services" have the same meanings prescribed by section 42-5063.

Sec. 3. Retroactivity

A. Section 42-5061, subsection A, paragraph 47, Arizona Revised Statutes, as amended by this act, applies retroactively to taxable periods beginning from and after June 7, 1994.

B. Section 42-5159, subsection A, paragraph 13, item (k), Arizona Revised Statutes, as amended by this act, applies retroactively to taxable periods beginning from and after June 7, 1994.

APPROVED BY THE GOVERNOR APRIL 17, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2001.

Passed the House April 03, 2001,

by the following vote: 46 Ayes,

14 Nays, 0 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate February 26, 2001,

by the following vote: 24 Ayes,

6 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of April, 2001,

at 10:52 o'clock A M.

Sandra Hanny

Secretary to the Governor

Approved this 17 day of

April, 2001,

at 11:15 o'clock A M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17 day of April, 2001,

at 4:45 o'clock P M.

Betsey Bayless

Secretary of State

S.B. 1130