

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 317

SENATE BILL 1347

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1517; AMENDING SECTIONS 42-2003 AND 42-5009, ARIZONA REVISED STATUTES; REPEALING SECTION 42-5015, ARIZONA REVISED STATUTES; AMENDING SECTIONS 42-5061, 42-5070, 42-5074, 42-5075, 42-5159, 43-222 AND 43-1021, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 10, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1075; AMENDING SECTION 43-1121, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1163; RELATING TO MOTION PICTURE PRODUCTION TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 41, chapter 10, article 1, Arizona Revised Statutes,
3 is amended by adding section 41-1517, to read:

4 41-1517. Motion picture production tax incentives; duties;
5 definitions

6 A. FROM AND AFTER DECEMBER 31, 2005 THROUGH DECEMBER 31, 2010, THE
7 DEPARTMENT OF COMMERCE SHALL QUALIFY MOTION PICTURE PRODUCTION COMPANIES THAT
8 PRODUCE ONE OR MORE MOTION PICTURES IN THIS STATE FOR MOTION PICTURE
9 PRODUCTION TAX INCENTIVES, SUBJECT TO THE FOLLOWING REQUIREMENTS AND
10 CONDITIONS:

11 1. A MOTION PICTURE PRODUCTION COMPANY MUST INCUR PRODUCTION COSTS IN
12 THIS STATE OF AT LEAST TWO HUNDRED FIFTY THOUSAND DOLLARS DURING EACH TWELVE
13 MONTH PERIOD FOR WHICH IT IS QUALIFIED FOR THE TAX INCENTIVES.

14 2. FOR THE PURPOSE OF THIS SECTION, PRODUCTION COSTS ARE LIMITED TO
15 AND SUBJECT TO THE FOLLOWING CONDITIONS:

16 (a) SALARIES AND OTHER COMPENSATION FOR TALENT, MANAGEMENT AND LABOR
17 PAID TO RESIDENTS OF THIS STATE, AS DEFINED BY SECTION 43-104.

18 (b) A STORY AND SCENARIO TO BE USED FOR A MOTION PICTURE.

19 (c) SET CONSTRUCTION AND OPERATIONS, WARDROBE, PROPS, ACCESSORIES AND
20 RELATED SERVICES IN THIS STATE. EXPENSES PAID FOR CONSTRUCTION CONTRACTS ARE
21 LIMITED TO CONTRACTORS WHO ARE LICENSED UNDER TITLE 32, CHAPTER 10.

22 (d) PHOTOGRAPHY, SOUND SYNCHRONIZATION, LIGHTING AND RELATED COSTS
23 INCURRED IN THIS STATE.

24 (e) EDITING AND RELATED SERVICES PERFORMED IN THIS STATE.

25 (f) RENTAL OF FACILITIES AND EQUIPMENT IN THIS STATE.

26 (g) CATERED FOOD, DRINK AND CONDIMENT PURCHASED IN THIS STATE.

27 (h) OTHER DIRECT IN-STATE COSTS OF PRODUCING THE MOTION PICTURE,
28 PURSUANT TO RULES ADOPTED BY THE DEPARTMENT OF REVENUE THAT FOLLOW GENERALLY
29 ACCEPTED ACCOUNTING STANDARDS FOR THE MOTION PICTURE INDUSTRY.

30 (i) PAYMENTS FOR PENALTIES AND FINES DO NOT QUALIFY AS PRODUCTION
31 COSTS.

32 3. A MOTION PICTURE PRODUCTION COMPANY MUST EMPLOY RESIDENTS OF THIS
33 STATE IN ITS PRODUCTION ACTIVITIES AS FOLLOWS:

34 (a) IN 2006, AT LEAST TWENTY-FIVE PER CENT OF FULL-TIME EMPLOYEES
35 WORKING IN THIS STATE MUST BE RESIDENTS OF THIS STATE.

36 (b) IN 2007, AT LEAST THIRTY-FIVE PER CENT OF FULL-TIME EMPLOYEES
37 WORKING IN THIS STATE MUST BE RESIDENTS OF THIS STATE.

38 (c) IN 2008 AND EVERY SUBSEQUENT TAXABLE YEAR THEREAFTER, AT LEAST
39 FIFTY PER CENT OF FULL-TIME EMPLOYEES WORKING IN THIS STATE MUST BE RESIDENTS
40 OF THIS STATE.

41 4. A MOTION PICTURE PRODUCTION COMPANY MUST SUBMIT A COMPLETED
42 APPLICATION PURSUANT TO SUBSECTION B OR G OF THIS SECTION. AN APPLICATION IS
43 COMPLETE ON RECEIPT OF ALL REQUESTED INFORMATION.

1 5. A MOTION PICTURE PRODUCTION COMPANY MUST INCLUDE IN THE CREDITS FOR
2 EACH MOTION PICTURE, OTHER THAN A COMMERCIAL ADVERTISEMENT, AN
3 ACKNOWLEDGEMENT THAT THE PRODUCTION WAS FILMED IN ARIZONA.

4 B. A MOTION PICTURE PRODUCTION COMPANY INITIALLY APPLYING FOR
5 QUALIFICATION UNDER THIS SECTION MUST REPORT THE FOLLOWING TO THE DEPARTMENT
6 OF COMMERCE ON A FORM AND IN A MANNER PRESCRIBED BY THE DEPARTMENT, WITH THE
7 COOPERATION OF THE DEPARTMENT OF REVENUE:

8 1. THE NAME, ADDRESS, TELEPHONE NUMBER AND WEB SITE OF THE MOTION
9 PICTURE PRODUCTION COMPANY.

10 2. THE NAME AND ADDRESS OF AN INDIVIDUAL WHO WILL MAINTAIN RECORDS OF
11 EXPENDITURES IN THIS STATE.

12 3. THE PROJECTED FIRST PREPRODUCTION DATE AND LAST PRODUCTION DATE IN
13 THIS STATE.

14 4. THE PRODUCTION OFFICE ADDRESS AND OFFICE TELEPHONE NUMBER IN THIS
15 STATE.

16 5. THE ESTIMATED TOTAL BUDGET OF THE PRODUCTION.

17 6. THE ESTIMATED TOTAL EXPENDITURES IN THIS STATE.

18 7. THE ESTIMATED TOTAL PERCENTAGE OF THE PRODUCTION TAKING PLACE IN
19 THIS STATE.

20 8. THE ESTIMATED LEVEL OF EMPLOYMENT OF RESIDENTS OF THIS STATE IN THE
21 CAST AND CREW.

22 9. A SCRIPT, INCLUDING A SYNOPSIS, THE PROPOSED DIRECTOR AND A
23 PRELIMINARY LIST OF THE CAST AND PRODUCER.

24 10. A SIGNED AFFIRMATION FROM THE APPLICANT THAT:

25 (a) THE MOTION PICTURE PRODUCTION COMPANY AGREES TO FURNISH RECORDS OF
26 EXPENDITURES IN THIS STATE TO THE DEPARTMENT OF REVENUE ON REQUEST.

27 (b) ANY ITEMS PURCHASED WITH A CERTIFICATION ISSUED UNDER SECTION
28 42-5009, SUBSECTION H ARE INTENDED FOR USE BY THE APPLICANT DIRECTLY IN
29 MOTION PICTURE PRODUCTION.

30 C. THE DEPARTMENT OF COMMERCE SHALL REVIEW ALL APPLICATIONS WITHIN
31 THIRTY DAYS AFTER SUBMISSION PURSUANT TO SUBSECTION B OR G OF THIS SECTION TO
32 DETERMINE WHETHER THE MOTION PICTURE PRODUCTION COMPANY SATISFIES ALL OF THE
33 CRITERIA PROVIDED IN SUBSECTION A OF THIS SECTION AND SHALL ESTABLISH THE
34 PROCESS BY WHICH THE DEPARTMENT QUALIFIES AND PREAPPROVES A COMPANY FOR
35 MOTION PICTURE PRODUCTION TAX INCENTIVES. THIS PROCESS SHALL PREAPPROVE A
36 COMPANY FOR MOTION PICTURE PRODUCTION TAX INCENTIVES BASED ON PRIORITY
37 PLACEMENT ESTABLISHED BY THE DATE THAT SUCH MOTION PICTURE PRODUCTION COMPANY
38 FILED ITS INITIAL APPLICATION FOR QUALIFICATION WITH THE DEPARTMENT.

39 D. THE DEPARTMENT SHALL NOT PREAPPROVE INCOME TAX CREDITS EXCEEDING A
40 TOTAL OF:

41 1. THIRTY MILLION DOLLARS IN 2006.

42 2. FORTY MILLION DOLLARS IN 2007.

43 3. FIFTY MILLION DOLLARS IN 2008.

44 4. SIXTY MILLION DOLLARS IN 2009.

1 5. FROM AND AFTER DECEMBER 31, 2009, SEVENTY MILLION DOLLARS IN A
2 SINGLE YEAR.

3 6. FIVE MILLION DOLLARS FOR AN INDIVIDUAL MOTION PICTURE.

4 E. THE DEPARTMENT OF COMMERCE SHALL DENY AN APPLICATION SUBMITTED
5 PURSUANT TO SUBSECTION B OR G OF THIS SECTION IF IT DETERMINES THAT:

6 1. THE MOTION PICTURE PRODUCTION COMPANY DOES NOT MEET ALL OF THE
7 ESTABLISHED CRITERIA PROVIDED IN SUBSECTION A OF THIS SECTION.

8 2. THE PRODUCTION WOULD CONSTITUTE AN OBSCENE MOTION PICTURE FILM OR
9 OBSCENE PICTORIAL PUBLICATION UNDER TITLE 12, CHAPTER 7, ARTICLE 1.1.

10 3. THE PRODUCTION DEPICTS SEXUAL ACTIVITY AS DEFINED IN TITLE 13,
11 CHAPTER 35.

12 4. THE PRODUCTION WOULD CONSTITUTE SEXUAL EXPLOITATION OF A MINOR OR
13 COMMERCIAL SEXUAL EXPLOITATION OF A MINOR UNDER TITLE 13, CHAPTER 35.1.

14 F. ON A DETERMINATION BY THE DEPARTMENT OF COMMERCE THAT A MOTION
15 PICTURE PRODUCTION COMPANY QUALIFIES FOR MOTION PICTURE PRODUCTION TAX
16 INCENTIVES, THE DEPARTMENT SHALL ISSUE THE COMPANY A WRITTEN LETTER OF
17 QUALIFICATION AND TRANSMIT A COPY OF THE LETTER TO THE DEPARTMENT OF
18 REVENUE. A LETTER OF QUALIFICATION IS EFFECTIVE FOR TWELVE CONSECUTIVE
19 MONTHS AS STATED IN THE LETTER.

20 G. A MOTION PICTURE PRODUCTION COMPANY THAT APPLIES FOR
21 REQUALIFICATION MUST CONTINUE TO MEET ALL OF THE ELIGIBILITY CRITERIA
22 PROVIDED UNDER SUBSECTION A OF THIS SECTION AND MUST PROVIDE THE DEPARTMENT
23 OF COMMERCE WITH UPDATED INFORMATION ON THE LOCATION, OWNERSHIP AND
24 OPERATIONS OF THE BUSINESS. FOR PURPOSES OF EFFICIENCY AND REDUCING
25 DUPLICATIVE OR REDUNDANT REPORTING DUTIES, THE DEPARTMENT MAY ESTABLISH A
26 STREAMLINED PROCESS FOR REQUALIFICATION.

27 H. A MOTION PICTURE PRODUCTION COMPANY THAT QUALIFIES FOR THE MOTION
28 PICTURE TAX INCENTIVES SHALL UPON COMPLETION OF THE MOTION PICTURE
29 PRODUCTION, CERTIFY TO THE DEPARTMENT THE TOTAL AMOUNT OF ELIGIBLE PRODUCTION
30 COSTS ASSOCIATED WITH THE PROJECT INCURRED FROM AND AFTER DECEMBER 31, 2005.
31 FROM AND AFTER JUNE 30, 2006, THE DEPARTMENT SHALL PROVIDE APPROVAL TO A
32 MOTION PICTURE PRODUCTION COMPANY THAT IT HAS MET THE ELIGIBILITY
33 REQUIREMENTS OF THIS SECTION AND SHALL NOTIFY THE DEPARTMENT OF REVENUE THAT
34 A MOTION PICTURE PRODUCTION COMPANY MAY CLAIM THE TAX CREDITS PURSUANT TO
35 SECTIONS 43-1075 AND 43-1163.

36 I. THE DEPARTMENT OF COMMERCE, WITH THE COOPERATION OF THE DEPARTMENT
37 OF REVENUE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES
38 AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SECTION.

39 J. ANY INFORMATION GATHERED FROM MOTION PICTURE PRODUCTION COMPANIES
40 FOR THE PURPOSES OF THIS SECTION SHALL BE CONSIDERED CONFIDENTIAL TAXPAYER
41 INFORMATION AND SHALL BE DISCLOSED ONLY AS PROVIDED IN SECTION 42-2003,
42 SUBSECTION B, PARAGRAPH 11.

43 K. THE DEPARTMENT OF COMMERCE SHALL:

44 1. KEEP ANNUAL RECORDS OF THE INFORMATION PROVIDED ON APPLICATIONS FOR
45 MOTION PICTURE PRODUCTION TAX INCENTIVES. THESE RECORDS SHALL REFLECT A

1 PERCENTAGE COMPARISON OF THE ANNUAL AMOUNT OF MONIES EXEMPTED OR CREDITED TO
2 QUALIFYING MOTION PICTURE PRODUCTION COMPANIES TO THE ESTIMATED AMOUNT OF
3 MONIES SPENT ON IN-STATE PRODUCTION COSTS BY MOTION PICTURE PRODUCTION
4 COMPANIES.

5 2. MAINTAIN ANNUAL DATA ON GROWTH IN ARIZONA-BASED MOTION PICTURE
6 INDUSTRY COMPANIES AND MOTION PICTURE INDUSTRY EMPLOYMENT AND WAGES.

7 3. NOT LATER THAN DECEMBER 1 OF EACH YEAR, PREPARE AND PUBLISH A
8 REPORT SUMMARIZING THE INFORMATION COLLECTED PURSUANT TO THIS
9 SUBSECTION. THE DEPARTMENT SHALL MAKE COPIES OF THE ANNUAL REPORT AVAILABLE
10 TO THE PUBLIC ON REQUEST.

11 L. FOR THE PURPOSES OF THIS SECTION:

12 1. "MOTION PICTURE" MEANS A SINGLE MEDIUM OR MULTIMEDIA PROGRAM,
13 INCLUDING A COMMERCIAL ADVERTISING MESSAGE, THAT:

14 (a) IS CREATED BY PRODUCTION ACTIVITIES CONDUCTED IN WHOLE OR IN PART
15 IN THIS STATE.

16 (b) CAN BE VIEWED OR REPRODUCED.

17 (c) IS INTENDED FOR COMMERCIAL DISTRIBUTION OR LICENSING IN THE
18 DELIVERY MEDIUM USED.

19 2. "MOTION PICTURE PRODUCTION COMPANY" MEANS ANY PERSON PRIMARILY
20 ENGAGED IN THE BUSINESS OF PRODUCING MOTION PICTURES AND THAT HAS A PHYSICAL
21 BUSINESS OFFICE AND BANK ACCOUNT IN THIS STATE.

22 3. "MOTION PICTURE PRODUCTION TAX INCENTIVES" MEANS THE TAX DEDUCTIONS
23 FOR TRANSACTION PRIVILEGE AND USE TAXES LISTED IN SECTION 42-5009, SUBSECTION
24 H AND THE CREDIT AGAINST INCOME TAXES PROVIDED UNDER SECTION 43-1075 OR
25 43-1163.

26 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
27 42-2003. Authorized disclosure of confidential information

28 A. Confidential information relating to:

29 1. A taxpayer may be disclosed to the taxpayer, its successor in
30 interest or a designee of the taxpayer who is authorized in writing by the
31 taxpayer. A principal corporate officer of a parent corporation may execute
32 a written authorization for a controlled subsidiary.

33 2. A corporate taxpayer may be disclosed to any principal officer, any
34 person designated by a principal officer or any person designated in a
35 resolution by the corporate board of directors or other similar governing
36 body.

37 3. A partnership may be disclosed to any partner of the partnership.
38 This exception does not include disclosure of confidential information of a
39 particular partner unless otherwise authorized.

40 4. An estate may be disclosed to the personal representative of the
41 estate and to any heir, next of kin or beneficiary under the will of the
42 decedent if the department finds that the heir, next of kin or beneficiary
43 has a material interest which will be affected by the confidential
44 information.

1 5. A trust may be disclosed to the trustee or trustees, jointly or
2 separately, and to the grantor or any beneficiary of the trust if the
3 department finds that the grantor or beneficiary has a material interest
4 which will be affected by the confidential information.

5 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
6 to confidentiality either in writing or on the record in any administrative
7 or judicial proceeding.

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

10 B. Confidential information may be disclosed to:

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

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

17 3. The department of liquor licenses and control for its use in
18 determining whether a spirituous liquor licensee has paid all transaction
19 privilege taxes and affiliated excise taxes incurred as a result of the sale
20 of spirituous liquor at the licensed establishment and imposed on the
21 licensed establishments by this state and its political subdivisions.

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

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

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

38 (b) A state tax official of another state.

39 (c) An organization of states that operates an information exchange
40 for tax administration purposes.

41 (d) An agency, official or organization of a foreign country with
42 responsibilities that are comparable to those listed in subdivision (a), (b)
43 or (c) of this paragraph.

44 (e) An agency, official or organization of an Indian tribal government
45 with responsibilities comparable to the responsibilities of the agencies,

1 officials or organizations identified in subdivision (a), (b) or (c) of this
2 paragraph.

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

5 7. Any person to the extent necessary for effective tax administration
6 in connection with:

7 (a) The processing, storage, transmission, destruction and
8 reproduction of the information.

9 (b) The programming, maintenance, repair, testing and procurement of
10 equipment for purposes of tax administration.

11 8. The office of administrative hearings relating to taxes
12 administered by the department pursuant to section 42-1101, but the
13 department shall not disclose any confidential information:

14 (a) Regarding income tax, withholding tax or estate tax.

15 (b) On any tax issue relating to information associated with the
16 reporting of income tax, withholding tax or estate tax.

17 9. The United States treasury inspector general for tax administration
18 for the purpose of reporting a violation of internal revenue code section
19 7213A (26 United States Code section 7213A), unauthorized inspection of
20 returns or return information.

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

23 11. THE DEPARTMENT OF COMMERCE FOR ITS USE IN BOTH:

24 (a) QUALIFYING MOTION PICTURE PRODUCTION COMPANIES FOR THE TAX
25 INCENTIVES PROVIDED FOR MOTION PICTURE PRODUCTION UNDER CHAPTER 5 OF THIS
26 TITLE AND SECTIONS 43-1075 AND 43-1163.

27 (b) FULFILLING ITS ANNUAL REPORTING RESPONSIBILITY PURSUANT TO SECTION
28 41-1517, SUBSECTION J.

29 C. Confidential information may be disclosed in any state or federal
30 judicial or administrative proceeding pertaining to tax administration if the
31 taxpayer is a party to the proceeding.

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

35 E. The department, upon the request of any person, shall provide the
36 names and addresses of bingo licensees as defined in section 5-401 or verify
37 whether or not a person has a privilege license and number or withholding
38 license and number.

39 F. A department employee, in connection with the official duties
40 relating to any audit, collection activity or civil or criminal
41 investigation, may disclose return information to the extent that disclosure
42 is necessary to obtain information which is not otherwise reasonably
43 available. These official duties include the correct determination of and
44 liability for tax, the amount to be collected or the enforcement of other
45 state tax revenue laws.

1 G. If an organization is exempt from this state's income tax as
2 provided in section 43-1201 for any taxable year, the name and address of the
3 organization and the application filed by the organization upon which the
4 department made its determination for exemption together with any papers
5 submitted in support of the application and any letter or document issued by
6 the department concerning the application are open to public inspection.

7 H. Confidential information relating to transaction privilege tax, use
8 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
9 be disclosed to any county, city or town tax official if the information
10 relates to a taxpayer who is or may be taxable by the county, city or town.
11 Any taxpayer information released by the department to the county, city or
12 town:

13 1. May only be used for internal purposes.

14 2. May not be disclosed to the public in any manner that does not
15 comply with confidentiality standards established by the department. The
16 county, city or town shall agree in writing with the department that any
17 release of confidential information that violates the confidentiality
18 standards adopted by the department will result in the immediate suspension
19 of any rights of the county, city or town to receive taxpayer information
20 under this subsection.

21 I. The department may disclose statistical information gathered from
22 confidential information if it does not disclose confidential information
23 attributable to any one taxpayer. In order to comply with the requirements
24 of section 42-5029, subsection A, paragraph 3, the department may disclose to
25 the state treasurer statistical information gathered from confidential
26 information, even if it discloses confidential information attributable to a
27 taxpayer.

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

33 K. Except as provided in section 42-2002, subsection B, confidential
34 information, described in section 42-2001, paragraph 2, subdivision (a), item
35 (iii), may be disclosed to law enforcement agencies for law enforcement
36 purposes.

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

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

43 N. Except as provided in section 42-2002, subsection C, a court may
44 order the department to disclose confidential information pertaining to a
45 party to an action. An order shall be made only upon a showing of good cause

1 and that the party seeking the information has made demand upon the taxpayer
2 for the information.

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

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

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

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

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

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

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

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

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

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

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

40 G. If a seller claims a deduction under section 42-5061, subsection A,
41 paragraph 25 and establishes entitlement to the deduction with an exemption
42 letter that the purchaser received from the department and the exemption
43 letter was based on a contingent event, the department may require the
44 purchaser that received the exemption letter to establish the satisfaction of
45 the contingent event within a reasonable time. If the purchaser cannot

1 establish the satisfaction of the event, the purchaser is liable in an amount
2 equal to any tax, penalty and interest that the seller would have been
3 required to pay under this article if the seller had not been furnished the
4 exemption letter. Payment of the amount under this subsection exempts the
5 purchaser from liability for any tax imposed under article 4 of this chapter.
6 The amount shall be treated as a transaction privilege tax to the purchaser
7 and as tax revenues collected from the seller in order to designate the
8 distribution base for purposes of section 42-5029. For the purposes of this
9 subsection, "reasonable time" means a time limitation that the department
10 determines and that does not exceed the time limitations pursuant to section
11 42-1104.

12 H. FROM AND AFTER DECEMBER 31, 2005 THROUGH DECEMBER 31, 2010, THE
13 DEPARTMENT SHALL PRESCRIBE A FORM FOR A CERTIFICATE USED TO ESTABLISH
14 ENTITLEMENT TO THE DEDUCTIONS DESCRIBED IN SECTION 42-5061, SUBSECTION B,
15 PARAGRAPH 23, SECTION 42-5070, SUBSECTION C, PARAGRAPH 2, SECTION 42-5074,
16 SUBSECTION B, PARAGRAPH 10, SECTION 42-5075, SUBSECTION B, PARAGRAPH 20 AND
17 SECTION 42-5159, SUBSECTION B, PARAGRAPH 23 RELATING TO MOTION PICTURE
18 PRODUCTION. THE CERTIFICATE IS EFFECTIVE FOR TWELVE CONSECUTIVE CALENDAR
19 MONTHS FROM AND AFTER THE DATE OF ISSUANCE AND IS SUBJECT TO THE FOLLOWING
20 REQUIREMENTS AND CONDITIONS:

21 1. A MOTION PICTURE PRODUCTION COMPANY AS DEFINED IN SECTION 41-1517
22 MAY USE A CERTIFICATE ISSUED PURSUANT TO THIS SUBSECTION ONLY WITH RESPECT TO
23 PRODUCTION COSTS DESCRIBED IN SECTION 41-1517, SUBSECTION A, PARAGRAPH 2 THAT
24 ARE SUBJECT TO TAXATION UNDER ARTICLE 2 OR 4 OF THIS CHAPTER.

25 2. THE DEPARTMENT SHALL ISSUE THE CERTIFICATE TO A MOTION PICTURE
26 PRODUCTION COMPANY ON RECEIVING THE COMPANY'S LETTER OF QUALIFICATION FROM
27 THE DEPARTMENT OF COMMERCE, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION.

28 3. THE DEPARTMENT SHALL NOT ISSUE A CERTIFICATE TO A MOTION PICTURE
29 PRODUCTION COMPANY THAT HAS A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT
30 UNDER THIS TITLE OR TITLE 43.

31 4. IF THE DEPARTMENT DETERMINES THAT A MOTION PICTURE PRODUCTION
32 COMPANY NO LONGER QUALIFIES FOR A CERTIFICATE OF EXEMPTION OR HAS USED THE
33 CERTIFICATE OF EXEMPTION FOR UNAUTHORIZED PURPOSES, THE DEPARTMENT SHALL
34 REVOKE THE CERTIFICATE OF EXEMPTION AND THE MOTION PICTURE PRODUCTION COMPANY
35 IS LIABLE FOR AN AMOUNT EQUAL TO THE TRANSACTION PRIVILEGE AND USE TAXES THAT
36 WOULD HAVE BEEN DUE ON TAXABLE TRANSACTIONS DURING THE TIME THE COMPANY DID
37 NOT QUALIFY FOR OR IMPROPERLY USED THE CERTIFICATE, WITH INTEREST AND
38 PENALTIES AS PROVIDED BY LAW.

39 5. THE DEPARTMENT SHALL MAINTAIN ANNUAL DATA ON THE TOTAL AMOUNT OF
40 MONIES EXEMPTED THROUGH THE USE OF CERTIFICATES ISSUED PURSUANT TO THIS
41 SUBSECTION AND SHALL PROVIDE THOSE DATA TO THE DEPARTMENT OF COMMERCE ON
42 REQUEST.

43 6. THE DEPARTMENT OF REVENUE, WITH THE COOPERATION OF THE DEPARTMENT
44 OF COMMERCE, SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES
45 AS NECESSARY TO EFFECTUATE THE PURPOSES OF THIS SUBSECTION.

1 7. IF, AFTER AUDIT, THE DEPARTMENT DETERMINES THAT A MOTION PICTURE
2 PRODUCTION COMPANY FAILED TO MEET ANY OF THE REQUIREMENTS PRESCRIBED BY THIS
3 SUBSECTION, ANY DEDUCTIONS FROM TAXATION FROM THE USE OF THE CERTIFICATE ARE
4 SUBJECT TO RECAPTURE AND PAYMENT BY THE MOTION PICTURE PRODUCTION COMPANY TO
5 THE DEPARTMENT.

6 Sec. 4. Repeal

7 Section 42-5015, Arizona Revised Statutes, is repealed.

8 Sec. 5. Section 42-5061, Arizona Revised Statutes, is amended to read:
9 42-5061. Retail classification; definitions

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

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

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

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

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

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

30 6. Business activity which is properly included in any other business
31 classification which is taxable under article 1 of this chapter.

32 7. The sale of stocks and bonds.

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

36 9. Prosthetic appliances as defined in section 23-501 prescribed or
37 recommended by a health professional licensed pursuant to title 32, chapter
38 7, 8, 11, 13, 14, 15, 16, 17 or 29.

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

40 11. Prescription eyeglasses or contact lenses.

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

42 13. Durable medical equipment which has a centers for medicare and
43 medicaid services common procedure code, is designated reimbursable by
44 medicare, is prescribed by a person who is licensed under title 32, chapter
45 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and

1 customarily used to serve a medical purpose, is generally not useful to a
2 person in the absence of illness or injury and is appropriate for use in the
3 home.

4 14. Sales to nonresidents of this state for use outside this state if
5 the vendor ships or delivers the tangible personal property out of this
6 state.

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

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

14 17. Textbooks by any bookstore that are required by any state
15 university or community college.

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

20 19. Articles of food, drink or condiment and accessory tangible
21 personal property to a school district if such articles and accessory
22 tangible personal property are to be prepared and served to persons for
23 consumption on the premises of a public school within the district during
24 school hours.

25 20. Lottery tickets or shares pursuant to title 5, chapter 5,
26 article 1.

27 21. The sale of precious metal bullion and monetized bullion to the
28 ultimate consumer, but the sale of coins or other forms of money for
29 manufacture into jewelry or works of art is subject to the tax. ~~IN~~ FOR THE
30 PURPOSES OF this paragraph:

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

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

38 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
39 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
40 valid single trip use fuel tax permit issued under section 28-5739, sales of
41 aviation fuel which are subject to the tax imposed under section 28-8344 and
42 sales of jet fuel which are subject to the tax imposed under article 8 of
43 this chapter.

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

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

7 25. Tangible personal property sold to:

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

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

12 (c) A qualifying health care organization as defined in section
13 42-5001 if the organization is dedicated to providing educational,
14 therapeutic, rehabilitative and family medical education training for blind,
15 visually impaired and multihandicapped children from the time of birth to age
16 twenty-one.

17 (d) A qualifying community health center as defined in section
18 42-5001.

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

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

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

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

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

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

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

1 28. The sale of a motor vehicle to:

2 (a) A nonresident of this state if the purchaser's state of residence
3 does not allow a corresponding use tax exemption to the tax imposed by
4 article 1 of this chapter and if the nonresident has secured a special thirty
5 day nonresident registration permit for the vehicle as prescribed by sections
6 28-2154 and 28-2154.01.

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

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

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

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

26 32. Sales of tangible personal property by a nonprofit organization
27 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
28 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
29 sponsors or operates a rodeo featuring primarily farm and ranch animals and
30 no part of the organization's net earnings inures to the benefit of any
31 private shareholder or individual.

32 33. 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 34. 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 a
39 head injury as defined in section 41-3201 to be more independent and
40 functional.

41 35. 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 36. Sales of natural gas or liquefied petroleum gas used to propel a
45 motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

20 46. Tangible personal property sold to a person engaged in business and
21 subject to tax under the transient lodging classification if the tangible
22 personal property is a personal hygiene item or articles used by human beings
23 for food, drink or condiment, except alcoholic beverages, which are furnished
24 without additional charge to and intended to be consumed by the transient
25 during the transient's occupancy.

26 47. Sales of alternative fuel, as defined in section 1-215, to 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 48. Sales of materials that are purchased by or for publicly funded
30 libraries including school district libraries, charter school libraries,
31 community college libraries, state university libraries or federal, state,
32 county or municipal libraries for use by the public as follows:

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

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

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

43 50. Sales of alternative fuel vehicles if the vehicle was manufactured
44 as a diesel fuel vehicle and converted to operate on alternative fuel and
45 equipment that is installed in a conventional diesel fuel motor vehicle to

1 convert the vehicle to operate on an alternative fuel, as defined in section
2 1-215.

3 51. 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 52. 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 53. Sales of tangible personal property by a nonprofit organization
10 that is exempt from taxation under section 501(c)(6) of the internal revenue
11 code if the organization produces, organizes or promotes cultural or civic
12 related festivals or events and no part of the organization's net earnings
13 inures to the benefit of any private shareholder or individual.

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

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

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

31 3. Tangible personal property sold to persons engaged in business
32 classified under the telecommunications classification and consisting of
33 central office switching equipment, switchboards, private branch exchange
34 equipment, microwave radio equipment and carrier equipment including optical
35 fiber, coaxial cable and other transmission media which are components of
36 carrier systems.

37 4. Machinery, equipment or transmission lines used directly in
38 producing or transmitting electrical power, but not including distribution.
39 Transformers and control equipment used at transmission substation sites
40 constitute equipment used in producing or transmitting electrical power.

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

44 6. Pipes or valves four inches in diameter or larger used to transport
45 oil, natural gas, artificial gas, water or coal slurry, including compressor

1 units, regulators, machinery and equipment, fittings, seals and any other
2 part that is used in operating the pipes or valves.

3 7. Aircraft, navigational and communication instruments and other
4 accessories and related equipment sold to:

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

11 (b) Any foreign government for use by such government outside of this
12 state.

13 (c) Persons who are not residents of this state and who will not use
14 such property in this state other than in removing such property from this
15 state. This subdivision also applies to corporations that are not
16 incorporated in this state, regardless of maintaining a place of business in
17 this state, if the principal corporate office is located outside this state
18 and the property will not be used in this state other than in removing the
19 property from this state.

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

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

26 10. Machinery or equipment used directly to drill for oil or gas or
27 used directly in the process of extracting oil or gas from the earth for
28 commercial purposes.

29 11. Buses or other urban mass transit vehicles which are used directly
30 to transport persons or property for hire or pursuant to a governmentally
31 adopted and controlled urban mass transportation program and which are sold
32 to bus companies holding a federal certificate of convenience and necessity
33 or operated by any city, town or other governmental entity or by any person
34 contracting with such governmental entity as part of a governmentally adopted
35 and controlled program to provide urban mass transportation.

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

37 13. New machinery and equipment consisting of tractors, tractor-drawn
38 implements, self-powered implements, machinery and equipment necessary for
39 extracting milk, and machinery and equipment necessary for cooling milk and
40 livestock, and drip irrigation lines not already exempt under paragraph 6 of
41 this subsection and that are used for commercial production of agricultural,
42 horticultural, viticultural and floricultural crops and products in this
43 state. ~~In~~ FOR THE PURPOSES OF this paragraph:

1 (a) "New machinery and equipment" means machinery and equipment which
2 have never been sold at retail except pursuant to leases or rentals which do
3 not total two years or more.

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

6 14. Machinery or equipment used in research and development. ~~IN~~ FOR
7 THE PURPOSES OF this paragraph, "research and development" means basic and
8 applied research in the sciences and engineering, and designing, developing
9 or testing prototypes, processes or new products, including research and
10 development of computer software that is embedded in or an integral part of
11 the prototype or new product or that is required for machinery or equipment
12 otherwise exempt under this section to function effectively. Research and
13 development do not include manufacturing quality control, routine consumer
14 product testing, market research, sales promotion, sales service, research in
15 social sciences or psychology, computer software research that is not
16 included in the definition of research and development, or other
17 nontechnological activities or technical services.

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

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

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

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

39 (a) Any direct broadcast satellite television or data transmission
40 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
41 100.

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

44 (i) Over two-thirds of the transmissions, measured in megabytes,
45 transmitted by the facility during the test period were transmitted to or on

1 behalf of one or more direct broadcast satellite television or data
2 transmission services that operate pursuant to 47 Code of Federal Regulations
3 parts 25 and 100.

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

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

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

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

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

29 18. Machinery and equipment used directly in the feeding of poultry,
30 the environmental control of housing for poultry, the movement of eggs within
31 a production and packaging facility or the sorting or cooling of eggs. This
32 exemption does not apply to vehicles used for transporting eggs.

33 19. Machinery or equipment, including related structural components,
34 that is employed in connection with manufacturing, processing, fabricating,
35 job printing, refining, mining, natural gas pipelines, metallurgical
36 operations, telecommunications, producing or transmitting electricity or
37 research and development and that is used directly to meet or exceed rules or
38 regulations adopted by the federal energy regulatory commission, the United
39 States environmental protection agency, the United States nuclear regulatory
40 commission, the Arizona department of environmental quality or a political
41 subdivision of this state to prevent, monitor, control or reduce land, water
42 or air pollution.

43 20. Machinery and equipment that are sold to a person engaged in the
44 commercial production of livestock, livestock products or agricultural,
45 horticultural, viticultural or floricultural crops or products in this state

1 and that are used directly and primarily to prevent, monitor, control or
2 reduce air, water or land pollution.

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

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

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

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

17 22. Qualifying equipment that is purchased from and after June 30, 2004
18 through June 30, 2014 by a qualified business for harvesting, transporting or
19 the initial processing of forest products, including biomass, as provided in
20 section 41-1516. To qualify for this deduction, the qualified business at
21 the time of purchase must present its certification approved by the
22 department.

23 23. MACHINERY, EQUIPMENT AND OTHER TANGIBLE PERSONAL PROPERTY USED
24 DIRECTLY IN MOTION PICTURE PRODUCTION BY A MOTION PICTURE PRODUCTION
25 COMPANY. TO QUALIFY FOR THIS DEDUCTION, AT THE TIME OF PURCHASE, THE MOTION
26 PICTURE PRODUCTION COMPANY MUST PRESENT TO THE RETAILER ITS CERTIFICATE THAT
27 IS ISSUED PURSUANT TO SECTION 42-5009, SUBSECTION H AND THAT ESTABLISHES ITS
28 QUALIFICATION FOR THE DEDUCTION.

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

31 1. Expendable materials. For THE purposes of this paragraph,
32 expendable materials do not include any of the categories of tangible
33 personal property specified in subsection B of this section regardless of the
34 cost or useful life of that property.

35 2. Janitorial equipment and hand tools.

36 3. Office equipment, furniture and supplies.

37 4. Tangible personal property used in selling or distributing
38 activities, other than the telecommunications transmissions described in
39 subsection B, paragraph 16 of this section.

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

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

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

2 D. In addition to the deductions from the tax base prescribed by
3 subsection A of this section, there shall be deducted from the tax base the
4 gross proceeds of sales or gross income derived from sales of machinery,
5 equipment, materials and other tangible personal property used directly and
6 predominantly to construct a qualified environmental technology
7 manufacturing, producing or processing facility as described in section
8 41-1514.02. This subsection applies for ten full consecutive calendar or
9 fiscal years after the start of initial construction.

10 E. In computing the tax base, gross proceeds of sales or gross income
11 from retail sales of heavy trucks and trailers does not include any amount
12 attributable to federal excise taxes imposed by 26 United States Code section
13 4051.

14 F. In computing the tax base, gross proceeds of sales or gross income
15 from the sale of use fuel, as defined in section 28-5601, does not include
16 any amount attributable to federal excise taxes imposed by 26 United States
17 Code section 4091.

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

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

30 I. A person who engages in manufacturing, baling, crating, boxing,
31 barreling, canning, bottling, sacking, preserving, processing or otherwise
32 preparing for sale or commercial use any livestock, agricultural or
33 horticultural product or any other product, article, substance or commodity
34 and who sells the product of such business at retail in this state is deemed,
35 as to such sales, to be engaged in business classified under the retail
36 classification. This subsection does not apply to businesses classified
37 under the:

- 38 1. Transporting classification.
- 39 2. Utilities classification.
- 40 3. Telecommunications classification.
- 41 4. Pipeline classification.
- 42 5. Private car line classification.
- 43 6. Publication classification.
- 44 7. Job printing classification.
- 45 8. Prime contracting classification.

1 9. Owner builder sales classification.

2 10. Restaurant classification.

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

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

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

11 3. Overhead materials or other tangible personal property that is used
12 in performing a contract between the United States government and a
13 manufacturer, modifier, assembler or repairer, including property used in
14 performing a subcontract with a government contractor who is a manufacturer,
15 modifier, assembler or repairer, to which title passes to the government
16 under the terms of the contract or subcontract.

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

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

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

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

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

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

36 N. There shall be deducted from the tax base the amount received from
37 sales of solar energy devices, but the deduction shall not exceed five
38 thousand dollars for each solar energy device. Before deducting any amount
39 under this subsection, the retailer shall register with the department as a
40 solar energy retailer. By registering, the retailer acknowledges that it
41 will make its books and records relating to sales of solar energy devices
42 available to the department for examination.

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

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

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

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

14 R. For the purposes of this section, the diversion of gas from a
15 pipeline by a person engaged in the business of operating a natural or
16 artificial gas pipeline, for the sole purpose of fueling compressor equipment
17 to pressurize the pipeline, is not a sale of the gas to the operator of the
18 pipeline.

19 S. If a seller is entitled to a deduction pursuant to subsection B,
20 paragraph 16, subdivision (b) of this section, the department may require the
21 purchaser to establish that the requirements of subsection B, paragraph 16,
22 subdivision (b) of this section have been satisfied. If the purchaser cannot
23 establish that the requirements of subsection B, paragraph 16, subdivision
24 (b) of this section have been satisfied, the purchaser is liable in an amount
25 equal to any tax, penalty and interest which the seller would have been
26 required to pay under article 1 of this chapter if the seller had not made a
27 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
28 section. Payment of the amount under this subsection exempts the purchaser
29 from liability for any tax imposed under article 4 of this chapter and
30 related to the tangible personal property purchased. The amount shall be
31 treated as transaction privilege tax to the purchaser and as tax revenues
32 collected from the seller to designate the distribution base pursuant to
33 section 42-5029.

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

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

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

42 U. In computing the tax base for the sale of a motor vehicle to a
43 nonresident of this state, if the purchaser's state of residence allows a
44 corresponding use tax exemption to the tax imposed by article 1 of this
45 chapter and the rate of the tax in the purchaser's state of residence is

1 lower than the rate prescribed in article 1 of this chapter, and the
2 nonresident has secured a special thirty day nonresident registration permit
3 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
4 be deducted from the tax base a portion of the gross proceeds or gross income
5 from the sale so that the amount of transaction privilege tax that is paid in
6 this state is equal to the excise tax that is imposed by the purchaser's
7 state of residence on the nonexempt sale or use of the motor vehicle.

8 V. For the purposes of this section:

9 1. "Aircraft" includes:

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

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

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

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

24 W. For THE purposes of subsection J of this section:

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

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

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

34 4. "Overhead materials" means tangible personal property, the gross
35 proceeds of sales or gross income derived from which would otherwise be
36 included in the retail classification, and which are used or consumed in the
37 performance of a contract, the cost of which is charged to an overhead
38 expense account and allocated to various contracts based upon generally
39 accepted accounting principles and consistent with government contract
40 accounting standards.

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

43 6. "Subcontract" means an agreement between a contractor and any
44 person who is not an employee of the contractor for furnishing of supplies or
45 services that, in whole or in part, are necessary to the performance of one

1 or more government contracts, or under which any portion of the contractor's
2 obligation under one or more government contracts is performed, undertaken or
3 assumed and that includes provisions causing title to overhead materials or
4 other tangible personal property used in the performance of the subcontract
5 to pass to the government or that includes provisions incorporating such
6 title passing clauses in a government contract into the subcontract.

7 Sec. 6. Section 42-5070, Arizona Revised Statutes, is amended to read:
8 42-5070. Transient lodging classification

9 A. The transient lodging classification is comprised of the business
10 of operating, for occupancy by transients, a hotel or motel, including an
11 inn, tourist home or house, dude ranch, resort, campground, studio or
12 bachelor hotel, lodging house, rooming house, apartment house, dormitory,
13 public or private club, mobile home or house trailer at a fixed location or
14 other similar structure, and also including a space, lot or slab which is
15 occupied or intended or designed for occupancy by transients in a mobile home
16 or house trailer furnished by them for such occupancy. For purposes of this
17 subsection "transient" means any person who either at the person's own
18 expense or at the expense of another obtains lodging space or the use of
19 lodging space on a daily or weekly basis, or on any other basis for less than
20 thirty consecutive days.

21 B. The transient lodging classification does not include:

22 1. Operating a convalescent home or facility, home for the aged,
23 hospital, jail, military installation or fraternity or sorority house or
24 operating any structure exclusively by an association, institution,
25 governmental agency or corporation for religious, charitable or educational
26 purposes, if no part of the net earnings of the association, corporation or
27 other entity inures to the benefit of any private shareholder or individual.

28 2. A lease or rental of a mobile home or house trailer at a fixed
29 location or any other similar structure, and also including a space, lot or
30 slab which is occupied or intended or designed for occupancy by transients in
31 a mobile home or house trailer furnished by them for such occupancy for
32 thirty or more consecutive days.

33 3. Leasing or renting four or fewer rooms of an owner-occupied
34 residential home, together with furnishing no more than a breakfast meal, to
35 transient lodgers at no more than a fifty per cent average annual occupancy
36 rate.

37 C. The tax base for the transient lodging classification is the gross
38 proceeds of sales or gross income derived from the business, except that the
39 tax base does not include:

40 1. Gross proceeds of sales or gross income derived from business
41 activity that is properly included in another business classification under
42 this article and that is taxable to the person engaged in that business
43 classification, but the gross proceeds of sales or gross income to be
44 deducted shall not exceed the consideration paid to the person conducting the
45 activity.

1 2. GROSS PROCEEDS OF SALES OR GROSS INCOME FROM LEASES OR RENTALS OF
2 LODGING SPACE TO A MOTION PICTURE PRODUCTION COMPANY IF, AT THE TIME OF LEASE
3 OR RENTAL, THE MOTION PICTURE PRODUCTION COMPANY PRESENTS TO THE BUSINESS ITS
4 CERTIFICATE OF QUALIFICATION THAT IS ISSUED PURSUANT TO SECTION 42-5009,
5 SUBSECTION H.

6 D. The department shall separately account for revenues collected
7 under the transient lodging classification for purposes of section 42-5029,
8 subsection D, paragraph 4, subdivision ~~(f)~~ (b).

9 Sec. 7. Section 42-5074, Arizona Revised Statutes, is amended to read:
10 42-5074. Restaurant classification

11 A. The restaurant classification is comprised of the business of
12 operating restaurants, dining cars, dining rooms, lunchrooms, lunch stands,
13 soda fountains, catering services or similar establishments where articles of
14 food or drink are sold for consumption on or off the premises.

15 B. The tax base for the restaurant classification is the gross
16 proceeds of sales or gross income derived from the business. The gross
17 proceeds of sales or gross income derived from the following shall be
18 deducted from the tax base:

19 1. Sales to a person engaged in business classified under the
20 restaurant classification if the items sold are to be resold in the regular
21 course of the business.

22 2. Sales by a congressionally chartered veterans organization of food
23 or drink prepared for consumption on the premises leased, owned or maintained
24 by the organization.

25 3. Sales by churches, fraternal benefit societies and other nonprofit
26 organizations, as these organizations are defined in the federal internal
27 revenue code (26 United States Code section 501), which do not regularly
28 engage or continue in the restaurant business for the purpose of
29 fund-raising.

30 4. Sales by a nonprofit organization that is exempt from taxation
31 under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code
32 if the organization is associated with a major league baseball team or a
33 national touring professional golfing association and no part of the
34 organization's net earnings inures to the benefit of any private shareholder
35 or individual.

36 5. Sales at a rodeo featuring primarily farm and ranch animals in this
37 state by a nonprofit organization that is exempt from taxation under section
38 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal
39 revenue code and no part of the organization's net earnings inures to the
40 benefit of any private shareholder or individual.

41 6. Sales by any nonprofit organization organized and operated
42 exclusively for charitable purposes and recognized by the United States
43 internal revenue service under section 501(c)(3) of the internal revenue
44 code.

45 7. Sales to qualifying hospitals as defined in section 42-5001.

1 8. Sales to a qualifying health care organization as defined in
2 section 42-5001 if the tangible personal property is used by the organization
3 solely to provide health and medical related educational and charitable
4 services.

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

9 10. SALES OF CATERED FOOD, DRINK AND CONDIMENT TO A MOTION PICTURE
10 PRODUCTION COMPANY. TO QUALIFY FOR THIS DEDUCTION, AT THE TIME OF PURCHASE,
11 THE MOTION PICTURE PRODUCTION COMPANY MUST PRESENT TO THE BUSINESS ITS
12 CERTIFICATE OF QUALIFICATION THAT IS ISSUED PURSUANT TO SECTION 42-5009,
13 SUBSECTION H AND THAT ESTABLISHES ITS QUALIFICATION FOR THE DEDUCTION.

14 C. The tax imposed on the restaurant classification pursuant to this
15 section does not apply to the gross proceeds of sales or gross income from
16 tangible personal property sold to a commercial airline consisting of food,
17 beverages and condiments and accessories used for serving the food and
18 beverages, if those items are to be provided without additional charge to
19 passengers for consumption in flight. For purposes of this subsection,
20 "commercial airline" means a person holding a federal certificate of public
21 convenience and necessity or foreign air carrier permit for air
22 transportation to transport persons, property or United States mail in
23 intrastate, interstate or foreign commerce.

24 D. The department shall separately account for revenues collected
25 under the restaurant classification for purposes of section 42-5029,
26 subsection D, paragraph 4, subdivision (f) (b).

27 E. For purposes of section 42-5032.01, the department shall separately
28 account for revenues collected under the restaurant classification from
29 businesses operating restaurants, dining rooms, lunchrooms, lunch stands,
30 soda fountains, catering services or similar establishments:

31 1. On the premises of a multipurpose facility that is owned or
32 operated by the tourism and sports authority pursuant to title 5, chapter 8
33 for consumption on or off the premises.

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

37 Sec. 8. Section 42-5075, Arizona Revised Statutes, is amended to read:

38 42-5075. Prime contracting classification; exemptions;

39 definitions

40 A. The prime contracting classification is comprised of the business
41 of prime contracting and dealership of manufactured buildings. The sale of a
42 used manufactured building is not taxable under this chapter.

43 B. The tax base for the prime contracting classification is sixty-five
44 per cent of the gross proceeds of sales or gross income derived from the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (a) To be incorporated into real property.

38 (b) To become so affixed to real property that it becomes a part of
39 the real property.

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

42 8. The gross proceeds of sales or gross income received from a
43 contract for constructing any lake facility development in a commercial
44 enhancement reuse district that is designated pursuant to section 9-499.08 if

1 the prime contractor maintains the following records in a form satisfactory
2 to the department and to the city or town in which the property is located:

3 (a) The certificate of qualification of the lake facility development
4 issued by the city or town pursuant to section 9-499.08, subsection D.

5 (b) All state and local transaction privilege tax returns for the
6 period of time during which the prime contractor received gross proceeds of
7 sales or gross income from a contract to construct a lake facility
8 development in a designated commercial enhancement reuse district, showing
9 the amount exempted from state and local taxation.

10 (c) Any other information that the department considers to be
11 necessary.

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

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

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

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

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

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

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

33 12. The gross proceeds of sales or gross income that is derived from
34 the installation, assembly, repair or maintenance of clean rooms that are
35 deducted from the tax base of the retail classification pursuant to section
36 42-5061, subsection B, paragraph 17.

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

43 14. For taxable periods beginning from and after December 31, 1996 and
44 ending before January 1, 2011, the gross proceeds of sales or gross income
45 derived from a contract to provide and install a solar energy device. The

1 deduction shall not exceed five thousand dollars for each contract. Before
2 deducting any amount under this paragraph, the contractor shall register with
3 the department as a solar energy contractor. By registering, the contractor
4 acknowledges that it will make its books and records relating to sales of
5 solar energy devices available to the department for examination.

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

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

13 17. The gross proceeds of sales or gross income derived from contracts
14 to perform postconstruction treatment of real property for termite and
15 general pest control, including wood destroying organisms.

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

22 19. The gross proceeds of sales or gross income received from a
23 contract for the construction of any building, or other structure, project,
24 development or improvement owned by a qualified business for harvesting,
25 transporting or the initial processing of forest products, including biomass,
26 as provided in section 41-1516 if actual construction begins before January
27 1, 2010. To qualify for this deduction, the prime contractor must obtain a
28 letter of qualification from the department of commerce before beginning work
29 under the contract.

30 20. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
31 CONTRACT FOR THE CONSTRUCTION OF ANY BUILDING OR OTHER STRUCTURE ASSOCIATED
32 WITH MOTION PICTURE PRODUCTION IN THIS STATE. TO QUALIFY FOR THE DEDUCTION,
33 AT THE TIME THE CONTRACT IS ENTERED INTO THE MOTION PICTURE PRODUCTION
34 COMPANY MUST PRESENT TO THE PRIME CONTRACTOR ITS CERTIFICATE THAT IS ISSUED
35 PURSUANT TO SECTION 42-5009, SUBSECTION H AND THAT ESTABLISHES ITS
36 QUALIFICATION FOR THE DEDUCTION.

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

39 1. A prime contractor may establish entitlement to the deduction by
40 both:

41 (a) Marking the invoice for the transaction to indicate that the gross
42 proceeds of sales or gross income derived from the transaction was deducted
43 from the base.

44 (b) Obtaining a certificate executed by the purchaser indicating the
45 name and address of the purchaser, the precise nature of the business of the

1 purchaser, the purpose for which the purchase was made, the necessary facts
2 to establish the deductibility of the property under section 42-5061,
3 subsection B, and a certification that the person executing the certificate
4 is authorized to do so on behalf of the purchaser. The certificate may be
5 disregarded if the prime contractor has reason to believe that the
6 information contained in the certificate is not accurate or complete.

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

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

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

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

39 E. Amounts received by a contractor for a project are excluded from
40 the contractor's gross proceeds of sales or gross income derived from the
41 business if the person who hired the contractor executes and provides a
42 certificate to the contractor stating that the person providing the
43 certificate is a prime contractor and is liable for the tax under article 1
44 of this chapter. The department shall prescribe the form of the certificate.
45 If the contractor has reason to believe that the information contained on the

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

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

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

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

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

35 J. The portion of gross proceeds of sales or gross income attributable
36 to the actual direct costs of providing architectural or engineering services
37 that are incorporated in a contract are IS not subject to tax under this
38 section. For the purposes of this subsection, "direct costs" means the
39 portion of the actual costs that are directly expended in providing
40 architectural or engineering services.

41 K. For the purposes of this section:

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

43 2. "Contractor" is synonymous with the term "builder" and means any
44 person, firm, partnership, corporation, association or other organization, or
45 a combination of any of them, that undertakes to or offers to undertake to,

1 or purports to have the capacity to undertake to, or submits a bid to, or
2 does personally or by or through others, construct, alter, repair, add to,
3 subtract from, improve, move, wreck or demolish any building, highway, road,
4 railroad, excavation, manufactured building or other structure, project,
5 development or improvement, or to do any part of such a project, including
6 the erection of scaffolding or other structure or works in connection with
7 such a project, and includes subcontractors and specialty contractors. For
8 all purposes of taxation or deduction, this definition shall govern without
9 regard to whether or not such contractor is acting in fulfillment of a
10 contract.

11 3. "Dealership of manufactured buildings" means a dealer who either:

12 (a) Is licensed pursuant to title 41, chapter 16 and who sells at
13 retail manufactured buildings.

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

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

20 5. "Prime contracting" means engaging in business as a prime
21 contractor.

22 6. "Prime contractor" means a contractor who supervises, performs or
23 coordinates the construction, alteration, repair, addition, subtraction,
24 improvement, movement, wreckage or demolition of any building, highway, road,
25 railroad, excavation, manufactured building or other structure, project,
26 development or improvement including the contracting, if any, with any
27 subcontractors or specialty contractors and who is responsible for the
28 completion of the contract.

29 7. "Sale of a used manufactured building" does not include a lease of
30 a used manufactured building.

31 Sec. 9. Section 42-5159, Arizona Revised Statutes, is amended to read:
32 42-5159. Exemptions

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

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

39 2. Tangible personal property the sale or use of which has already
40 been subjected to an excise tax at a rate equal to or exceeding the tax
41 imposed by this article under the laws of another state of the United
42 States. If the excise tax imposed by the other state is at a rate less than
43 the tax imposed by this article, the tax imposed by this article is reduced
44 by the 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 or to the extent that the rate or imposition of tax is
4 unconstitutional under the laws of the United States.

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

8 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
9 which in this state is subject to the tax imposed under ~~the provisions of~~
10 title 28, chapter 16, article 1, use fuel which is sold to or used by a
11 person holding a valid single trip use fuel tax permit issued under section
12 28-5739, aviation fuel, the sales, distribution or use of which in this state
13 is subject to the tax imposed under section 28-8344, and jet fuel, the sales,
14 distribution or use of which in this state is subject to the tax imposed
15 under article 8 of this chapter.

16 6. Tangible personal property brought into this state by an individual
17 who was a nonresident at the time the property was purchased for storage, use
18 or consumption by the individual if the first actual use or consumption of
19 the property was outside this state, unless the property is used in
20 conducting a business in this state.

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

27 8. Livestock, poultry, supplies, feed, salts, vitamins and other
28 additives for use or consumption in the businesses of farming, ranching and
29 feeding livestock or poultry, not including fertilizers, herbicides and
30 insecticides. For THE purposes of this paragraph, "poultry" includes
31 ratites.

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

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

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

42 12. Materials that are purchased by or for publicly funded libraries
43 including school district libraries, charter school libraries, community
44 college libraries, state university libraries or federal, state, county or
45 municipal libraries for use by the public as follows:

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

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

3 13. Tangible personal property purchased by:

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

7 (b) A hospital operated by this state or a political subdivision of
8 this state.

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

14 (d) A qualifying health care organization, as defined in section
15 42-5001, if the tangible personal property is used by the organization solely
16 to provide health and medical related educational and charitable services.

17 (e) A qualifying health care organization as defined in section
18 42-5001 if the organization is dedicated to providing educational,
19 therapeutic, rehabilitative and family medical education training for blind,
20 visually impaired and multihandicapped children from the time of birth to age
21 twenty-one.

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

27 (g) A person that is subject to tax under article 1 of this chapter by
28 reason of being engaged in business classified under the prime contracting
29 classification under section 42-5075, or a subcontractor working under the
30 control of a prime contractor, if the tangible personal property is any of
31 the following:

32 (i) Incorporated or fabricated by the contractor into a structure,
33 project, development or improvement in fulfillment of a contract.

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

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

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

44 (i) A qualifying community health center as defined in section
45 42-5001.

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

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

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

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

22 15. Tangible personal property sold by:

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

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

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

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 or
38 veterinarian profession who is licensed by law to administer such substances.

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

43 18. Prescription eyeglasses and contact lenses.

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

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

1 21. Durable medical equipment which has a centers for medicare and
2 medicaid services common procedure code, is designated reimbursable by
3 medicare, is prescribed by a person who is licensed under title 32, chapter
4 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
5 used to serve a medical purpose, is generally not useful to a person in the
6 absence of illness or injury and is appropriate for use in the home.

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

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

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

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

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

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

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

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

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

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

43 32. Motor vehicles that are removed from inventory by a motor vehicle
44 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 a
12 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 the purposes of this paragraph, "printing" means a commercial printing
25 operation and includes job printing, engraving, embossing, copying and
26 bookbinding.

27 36. Food, drink and condiment purchased for consumption within the
28 premises of any prison, jail or other institution under the jurisdiction of
29 the state department of corrections, the department of public safety, the
30 department of juvenile corrections or a county sheriff.

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

35 38. Tangible personal property which is or directly enters into and
36 becomes an ingredient or component part of cards used as prescription plan
37 identification cards.

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

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

8 (b) "Subcontract" means an agreement between a contractor and any
9 person who is not an employee of the contractor for furnishing of supplies or
10 services that, in whole or in part, are necessary to the performance of one
11 or more government contracts, or under which any portion of the contractor's
12 obligation under one or more government contracts is performed, undertaken or
13 assumed, and that includes provisions causing title to overhead materials or
14 other tangible personal property used in the performance of the subcontract
15 to pass to the government or that includes provisions incorporating such
16 title passing clauses in a government contract into the subcontract.

17 40. Through December 31, 1994, tangible personal property sold pursuant
18 to a personal property liquidation transaction, as defined in section
19 42-5061. From and after December 31, 1994, tangible personal property sold
20 pursuant to a personal property liquidation transaction, as defined in
21 section 42-5061, if the gross proceeds of the sales were included in the
22 measure of the tax imposed by article 1 of this chapter or if the personal
23 property liquidation was a casual activity or transaction.

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

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

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

38 44. Alternative fuel vehicles, ~~as defined in section 43-1086,~~ if the
39 vehicle was manufactured as a diesel fuel vehicle and converted to operate on
40 alternative fuel and equipment that is installed in a conventional diesel
41 fuel motor vehicle to convert the vehicle to operate on an alternative fuel,
42 as defined in section 1-215.

43 45. Gas diverted from a pipeline, by a person engaged in the business
44 of operating a natural or artificial gas pipeline, and used or consumed for

1 the sole purpose of fueling compressor equipment that pressurizes the
2 pipeline.

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

5 47. Tangible personal property purchased to be incorporated or
6 installed as part of environmental response or remediation activities under
7 section 42-5075, subsection B, paragraph 6.

8 48. Tangible personal property sold by a nonprofit organization that is
9 exempt from taxation under section 501(c)(6) of the internal revenue code if
10 the organization produces, organizes or promotes cultural or civic related
11 festivals or events and no part of the organization's net earnings inures to
12 the benefit of any private shareholder or individual.

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

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

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

29 3. Tangible personal property sold to persons engaged in business
30 classified under the telecommunications classification under section 42-5064
31 and consisting of central office switching equipment, switchboards, private
32 branch exchange equipment, microwave radio equipment and carrier equipment
33 including optical fiber, coaxial cable and other transmission media which are
34 components of carrier systems.

35 4. Machinery, equipment or transmission lines used directly in
36 producing or transmitting electrical power, but not including distribution.
37 Transformers and control equipment used at transmission substation sites
38 constitute equipment used in producing or transmitting electrical power.

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

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

1 7. Aircraft, navigational and communication instruments and other
2 accessories and related equipment sold to:

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

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

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

17 9. Rolling stock, rails, ties and signal control equipment used
18 directly to transport persons or property.

19 10. Machinery or equipment used directly to drill for oil or gas or
20 used directly in the process of extracting oil or gas from the earth for
21 commercial purposes.

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

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

30 13. New machinery and equipment consisting of tractors, tractor-drawn
31 implements, self-powered implements, machinery and equipment necessary for
32 extracting milk, and machinery and equipment necessary for cooling milk and
33 livestock, and drip irrigation lines not already exempt under paragraph 6 of
34 this subsection and that are used for commercial production of agricultural,
35 horticultural, viticultural and floricultural crops and products in this
36 state. ~~IN~~ FOR THE PURPOSES OF this paragraph:

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

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

42 14. Machinery or equipment used in research and development. ~~IN~~ FOR
43 THE PURPOSES OF this paragraph, "research and development" means basic and
44 applied research in the sciences and engineering, and designing, developing
45 or testing prototypes, processes or new products, including research and

1 development of computer software that is embedded in or an integral part of
2 the prototype or new product or that is required for machinery or equipment
3 otherwise exempt under this section to function effectively. Research and
4 development do not include manufacturing quality control, routine consumer
5 product testing, market research, sales promotion, sales service, research in
6 social sciences or psychology, computer software research that is not
7 included in the definition of research and development, or other
8 nontechnological activities or technical services.

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

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

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

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

30 (a) Any direct broadcast satellite television or data transmission
31 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
32 100.

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

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

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

44 For THE purposes of subdivision (b) of this paragraph, "test period" means
45 the three hundred sixty-five day period beginning on the later of the date on

1 which the tangible personal property is purchased or the date on which the
2 direct broadcast satellite television or data transmission service first
3 transmits information to its customers.

4 17. Clean rooms that are used for manufacturing, processing,
5 fabrication or research and development, as defined in paragraph 14 of this
6 subsection, of semiconductor products. For THE purposes of this paragraph,
7 "clean room" means all property that comprises or creates an environment
8 where humidity, temperature, particulate matter and contamination are
9 precisely controlled within specified parameters, without regard to whether
10 the property is actually contained within that environment or whether any of
11 the property is affixed to or incorporated into real property. Clean room:

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

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

20 18. Machinery and equipment that are used directly in the feeding of
21 poultry, the environmental control of housing for poultry, the movement of
22 eggs within a production and packaging facility or the sorting or cooling of
23 eggs. This exemption does not apply to vehicles used for transporting eggs.

24 19. Machinery or equipment, including related structural components,
25 that is employed in connection with manufacturing, processing, fabricating,
26 job printing, refining, mining, natural gas pipelines, metallurgical
27 operations, telecommunications, producing or transmitting electricity or
28 research and development and that is used directly to meet or exceed rules or
29 regulations adopted by the federal energy regulatory commission, the United
30 States environmental protection agency, the United States nuclear regulatory
31 commission, the Arizona department of environmental quality or a political
32 subdivision of this state to prevent, monitor, control or reduce land, water
33 or air pollution.

34 20. Machinery and equipment that are used in the commercial production
35 of livestock, livestock products or agricultural, horticultural, viticultural
36 or floricultural crops or products in this state and that are used directly
37 and primarily to prevent, monitor, control or reduce air, water or land
38 pollution.

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

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

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

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

8 22. Qualifying equipment that is purchased from and after June 30, 2004
9 through June 30, 2014 by a qualified business for harvesting, transporting or
10 the initial processing of forest products, including biomass, as provided in
11 section 41-1516. To qualify for this exemption, the qualified business must
12 obtain and present its certification from the department of commerce at the
13 time of purchase.

14 23. MACHINERY, EQUIPMENT AND OTHER TANGIBLE PERSONAL PROPERTY USED
15 DIRECTLY IN MOTION PICTURE PRODUCTION BY A MOTION PICTURE PRODUCTION
16 COMPANY. TO QUALIFY FOR THIS DEDUCTION, AT THE TIME OF PURCHASE, THE MOTION
17 PICTURE PRODUCTION COMPANY MUST PRESENT TO THE RETAILER ITS CERTIFICATE THAT
18 IS ISSUED PURSUANT TO SECTION 42-5009, SUBSECTION H AND THAT ESTABLISHES ITS
19 QUALIFICATION FOR THE DEDUCTION.

20 C. The exemptions provided by subsection B of this section do not
21 include:

22 1. Expendable materials. For THE purposes of this paragraph,
23 expendable materials do not include any of the categories of tangible
24 personal property specified in subsection B of this section regardless of the
25 cost or useful life of that property.

26 2. Janitorial equipment and hand tools.

27 3. Office equipment, furniture and supplies.

28 4. Tangible personal property used in selling or distributing
29 activities, other than the telecommunications transmissions described in
30 subsection B, paragraph 16 of this section.

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

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

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

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

40 1. Revenues received from sales of ancillary services, electric
41 distribution services, electric generation services, electric transmission
42 services and other services related to providing electricity to a retail
43 electric customer who is located outside this state for use outside this
44 state if the electricity is delivered to a point of sale outside this state.

1 2. Revenues received from providing electricity, including ancillary
2 services, electric distribution services, electric generation services,
3 electric transmission services and other services related to providing
4 electricity with respect to which the transaction privilege tax imposed under
5 section 42-5063 has been paid.

6 E. The tax levied by this article does not apply to:

7 1. The storage, use or consumption in Arizona of machinery, equipment,
8 materials or other tangible personal property if used directly and
9 predominantly to construct a qualified environmental technology
10 manufacturing, producing or processing facility, as described in section
11 41-1514.02. This paragraph applies for ten full consecutive calendar or
12 fiscal years after the start of initial construction.

13 2. The purchase of electricity by a qualified environmental technology
14 manufacturer, producer or processor as defined in section 41-1514.02 that is
15 used directly in environmental technology manufacturing, producing or
16 processing. This paragraph shall apply for fifteen full consecutive calendar
17 or fiscal years from the date the first paper manufacturing machine is placed
18 in service. In the case of an environmental technology manufacturer,
19 producer or processor who does not manufacture paper, the time period shall
20 begin with the date the first manufacturing, processing or production
21 equipment is placed in service.

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

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

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

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

35 1. "Aircraft" includes:

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

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

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

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

5 Sec. 10. Section 43-222, Arizona Revised Statutes, is amended to read:
6 43-222. Income tax credit review schedule

7 Each year the joint legislative income tax credit review committee
8 shall review the following income tax credits:

9 1. In 2004, sections 43-1081.01, 43-1083, 43-1084 and 43-1170.01.

10 2. In 2005, sections 43-1087, 43-1088 and 43-1175.

11 3. In 2006, sections 43-1073, 43-1089, 43-1089.01, 43-1089.02,
12 43-1090, 43-1176 and 43-1181.

13 4. In 2007, sections 43-1077, 43-1078, 43-1079, 43-1080, 43-1165,
14 43-1166, 43-1167 and 43-1169.

15 5. In 2008, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and
16 43-1178.

17 6. In 2009, sections 43-1076 and 43-1162.

18 7. IN 2010, SECTIONS 43-1075 AND 43-1163.

19 Sec. 11. Section 43-1021, Arizona Revised Statutes, is amended to
20 read:

21 43-1021. Additions to Arizona gross income

22 In computing Arizona adjusted gross income, the following amounts shall
23 be added to Arizona gross income:

24 1. A beneficiary's share of the fiduciary adjustment to the extent
25 that the amount determined by section 43-1333 increases the beneficiary's
26 Arizona gross income.

27 2. An amount equal to the "ordinary income portion" of a lump sum
28 distribution that was excluded from federal adjusted gross income pursuant to
29 section 402(d) of the internal revenue code.

30 3. The amount of interest income received on obligations of any state,
31 territory or possession of the United States, or any political subdivision
32 thereof, located outside the state of Arizona, reduced, for tax years
33 beginning from and after December 31, 1996, by the amount of any interest on
34 indebtedness and other related expenses that were incurred or continued to
35 purchase or carry those obligations and that are not otherwise deducted or
36 subtracted in arriving at Arizona gross income.

37 4. Annuity income received during the taxable year to the extent that
38 the sum of the proceeds received from such annuity in all taxable years prior
39 to and including the current taxable year exceeds the total consideration and
40 premiums paid by the taxpayer. This paragraph applies only to those
41 annuities with respect to which the first payment was received prior to
42 December 31, 1978.

43 5. The excess of a partner's share of partnership taxable income
44 required to be included under chapter 14, article 2 of this title over the

1 income required to be reported under section 702(a)(8) of the internal
2 revenue code.

3 6. The excess of a partner's share of partnership losses determined
4 pursuant to section 702(a)(8) of the internal revenue code over the losses
5 allowable under chapter 14, article 2 of this title.

6 7. The amount by which the adjusted basis of property described in
7 this paragraph and computed pursuant to the internal revenue code exceeds the
8 adjusted basis of such property computed pursuant to this title and the
9 income tax act of 1954, as amended. This paragraph shall apply to all
10 property which is held for the production of income and which is sold or
11 otherwise disposed of during the taxable year, except depreciable property
12 used in a trade or business.

13 8. The amount of depreciation or amortization of costs of any capital
14 investment that is deducted pursuant to section 167 or 179 of the internal
15 revenue code by a qualified defense contractor with respect to which an
16 election is made to amortize pursuant to section 43-1024.

17 9. The amount of gain from the sale or other disposition of a capital
18 investment which a qualified defense contractor has elected to amortize
19 pursuant to section 43-1024.

20 10. Amounts withdrawn from the Arizona state retirement system, the
21 corrections officer retirement plan, the public safety personnel retirement
22 system, the elected officials' retirement plan or a county or city retirement
23 plan by an employee upon termination of employment before retirement to the
24 extent they were deducted in arriving at Arizona taxable income in any year.

25 11. That portion of the net operating loss included in federal adjusted
26 gross income which has already been taken as a net operating loss for Arizona
27 purposes or which is separately taken as a subtraction under the special net
28 operating loss transition rule.

29 12. Any nonitemized amount deducted pursuant to section 170 of the
30 internal revenue code representing contributions to an educational
31 institution which denies admission, enrollment or board and room
32 accommodations on the basis of race, color or ethnic background except those
33 institutions primarily established for the education of American Indians.

34 13. The amount paid as taxes on property in this state with respect to
35 which a credit is claimed under section 43-1078.

36 14. Amounts withdrawn from a medical savings account by the individual
37 during the taxable year computed pursuant to section 220(f) of the internal
38 revenue code and not included in federal adjusted gross income.

39 15. Any amount of agricultural water conservation expenses that were
40 deducted pursuant to the internal revenue code for which a credit is claimed
41 under section 43-1084.

42 16. The amount by which the depreciation or amortization computed under
43 the internal revenue code with respect to property for which a credit was
44 taken under section 43-1080 exceeds the amount of depreciation or

1 amortization computed pursuant to the internal revenue code on the Arizona
2 adjusted basis of the property.

3 17. The amount by which the adjusted basis computed under the internal
4 revenue code with respect to property for which a credit was claimed under
5 section 43-1080 and which is sold or otherwise disposed of during the taxable
6 year exceeds the adjusted basis of the property computed under section
7 43-1080.

8 18. The amount by which the depreciation or amortization computed under
9 the internal revenue code with respect to property for which a credit was
10 taken under either section 43-1081 or 43-1081.01 exceeds the amount of
11 depreciation or amortization computed pursuant to the internal revenue code
12 on the Arizona adjusted basis of the property.

13 19. The amount by which the adjusted basis computed under the internal
14 revenue code with respect to property for which a credit was claimed under
15 either section 43-1081 or 43-1081.01 and which is sold or otherwise disposed
16 of during the taxable year exceeds the adjusted basis of the property
17 computed under section 43-1081 or 43-1081.01, as applicable.

18 20. The deduction referred to in section 1341(a)(4) of the internal
19 revenue code for restoration of a substantial amount held under a claim of
20 right.

21 21. The amount by which a net operating loss carryover or capital loss
22 carryover allowable pursuant to section 1341(b)(5) of the internal revenue
23 code exceeds the net operating loss carryover or capital loss carryover
24 allowable pursuant to section 43-1029, subsection F.

25 22. Any amount deducted pursuant to section 170 of the internal revenue
26 code representing contributions to a school tuition organization or a public
27 school for which a credit is claimed under section 43-1089 or 43-1089.01.

28 23. Any amount deducted in computing Arizona gross income as expenses
29 for installing solar stub outs or electric vehicle recharge outlets in this
30 state with respect to which a credit is claimed pursuant to section 43-1090.

31 24. Any wage expenses deducted pursuant to the internal revenue code
32 for which a credit is claimed under section 43-1087 and representing net
33 increases in qualified employment positions for employment of temporary
34 assistance for needy families recipients.

35 25. Any amount deducted for conveying ownership or development rights
36 of property to an agricultural preservation district under section 48-5702
37 for which a credit is claimed under section 43-1081.02.

38 26. The amount of any depreciation allowance allowed pursuant to
39 section 167(a) of the internal revenue code to the extent not previously
40 added.

41 27. With respect to property for which an expense deduction was taken
42 pursuant to section 179 of the internal revenue code, the amount in excess of
43 twenty-five thousand dollars.

1 28. THE AMOUNT OF ANY DEDUCTIONS THAT ARE CLAIMED IN COMPUTING FEDERAL
2 ADJUSTED GROSS INCOME REPRESENTING EXPENSES FOR WHICH A CREDIT IS CLAIMED
3 UNDER SECTION 43-1075.

4 Sec. 12. Title 43, chapter 10, article 5, Arizona Revised Statutes, is
5 amended by adding section 43-1075, to read:

6 43-1075. Credit for motion picture production costs:
7 definitions

8 A. BEGINNING FROM AND AFTER DECEMBER 31, 2005 THROUGH DECEMBER 31,
9 2010, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR MOTION
10 PICTURE PRODUCTION COSTS PAID BY A MOTION PICTURE PRODUCTION COMPANY IN THIS
11 STATE THAT ARE DIRECTLY ATTRIBUTABLE TO THE PRODUCTION OF A MOTION PICTURE IN
12 THIS STATE. THE AMOUNT OF THE CREDIT IS EQUAL TO A PERCENTAGE OF THE AMOUNT
13 OF MOTION PICTURE PRODUCTION COSTS PAID IN THIS STATE AS FOLLOWS:

<u>PRODUCTION COSTS</u>	<u>PERCENTAGE CREDIT</u>
\$250,000 - \$1,000,000	10%
\$1,000,001 - \$3,000,000	15%
MORE THAN \$3,000,000	20%

18 B. THE DEPARTMENT SHALL NOT ALLOW IN ANY YEAR TAX CREDITS THAT EXCEED
19 THE AGGREGATE AMOUNT PRESCRIBED IN SECTION 41-1517.

20 C. THE DEPARTMENT SHALL NOT ALLOW A CREDIT UNDER THIS SECTION TO A
21 TAXPAYER WHO HAS A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT UNDER THIS
22 TITLE OR TITLE 42.

23 D. TO QUALIFY FOR A CREDIT UNDER THIS SECTION THE MOTION PICTURE
24 PRODUCTION COMPANY MUST:

25 1. EMPLOY RESIDENTS OF THIS STATE IN PRODUCTION AS FOLLOWS:

26 (a) IN 2006, TWENTY-FIVE PER CENT OF FULL-TIME EMPLOYEES WORKING IN
27 THIS STATE MUST BE RESIDENTS OF THIS STATE.

28 (b) IN 2007, THIRTY-FIVE PER CENT OF FULL-TIME EMPLOYEES WORKING IN
29 THIS STATE MUST BE RESIDENTS OF THIS STATE.

30 (c) IN 2008 AND EVERY SUBSEQUENT TAXABLE YEAR THEREAFTER, FIFTY PER
31 CENT OF FULL-TIME EMPLOYEES WORKING IN THIS STATE MUST BE RESIDENTS OF THIS
32 STATE.

33 2. INCLUDE IN THE PRODUCTION CREDITS FOR EACH COMMERCIAL MOTION
34 PICTURE, OTHER THAN A COMMERCIAL ADVERTISEMENT, AN ACKNOWLEDGEMENT THAT THE
35 PRODUCTION WAS FILMED IN ARIZONA.

36 3. RECEIVE PREAPPROVAL AND POSTAPPROVAL FROM THE DEPARTMENT OF
37 COMMERCE PURSUANT TO SECTION 41-1517.

38 E. CO-OWNERS OF A MOTION PICTURE PRODUCTION COMPANY, INCLUDING
39 PARTNERS IN A PARTNERSHIP, MEMBERS OF A LIMITED LIABILITY COMPANY AND
40 SHAREHOLDERS OF AN S CORPORATION AS DEFINED IN SECTION 1361 OF THE INTERNAL
41 REVENUE CODE, MAY ALLOCATE THE CREDIT ALLOWED UNDER THIS SECTION AMONG THE
42 CO-OWNERS ON ANY BASIS WITHOUT REGARD TO THEIR PROPORTIONAL OWNERSHIP
43 INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF THE MOTION
44 PICTURE PRODUCTION COMPANY MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
45 ALLOWED FOR A SOLE OWNER OF THE COMPANY.

1 F. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES
2 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO
3 TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM
4 NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE
5 CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

6 G. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION
7 MAY BE SOLD OR OTHERWISE TRANSFERRED UNDER THE FOLLOWING CONDITIONS:

8 1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND
9 A TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME
10 CONDITIONS OF THIS SUBSECTION.

11 2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF
12 THE TRANSFER TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE SALE OR
13 TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO
14 ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS,
15 WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

16 (a) THE NAME OF THE MOTION PICTURE PRODUCTION COMPANY.

17 (b) THE DATE OF THE TRANSFER.

18 (c) THE AMOUNT OF THE TRANSFER.

19 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE
20 REMAINING BALANCE AFTER THE TRANSFER.

21 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

22 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

23 3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH
24 THE CREDIT CAN BE USED. THE CARRYFORWARD PERIOD OF TIME UNDER SUBSECTION F
25 OF THIS SECTION FOR A CREDIT THAT IS SOLD OR TRANSFERRED BEGINS ON THE DATE
26 THE CREDIT WAS ORIGINALLY EARNED.

27 4. IF A TRANSFEROR WAS NOT QUALIFIED OR WAS DISQUALIFIED FROM USING
28 THE CREDIT AT THE TIME OF THE TRANSFER, THE DEPARTMENT SHALL EITHER DISALLOW
29 THE CREDIT CLAIMED BY A TRANSFEREE OR RECAPTURE THE CREDIT FROM THE
30 TRANSFEREE THROUGH ANY AUTHORIZED COLLECTION METHOD. THE TRANSFEREE'S
31 RECOURSE IS AGAINST THE TRANSFEROR.

32 5. IN THE CASE OF ANY FAILURE TO COMPLY WITH THIS SUBSECTION, THE
33 DEPARTMENT SHALL DISALLOW THE TAX CREDIT UNTIL THE TAXPAYER IS IN FULL
34 COMPLIANCE.

35 H. THE DEPARTMENT SHALL MAINTAIN ANNUAL DATA ON THE TOTAL AMOUNT OF
36 MONIES CREDITED PURSUANT TO THIS SECTION, AND SHALL PROVIDE THOSE DATA TO THE
37 DEPARTMENT OF COMMERCE ON REQUEST.

38 I. THE DEPARTMENT, WITH THE COOPERATION OF THE DEPARTMENT OF COMMERCE,
39 SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY
40 TO EFFECTUATE THE PURPOSES OF THIS SECTION.

41 J. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR
42 STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL
43 REVENUE CODE.

1 K. FOR THE PURPOSES OF THIS SECTION, "MOTION PICTURE" AND "MOTION
2 PICTURE PRODUCTION COMPANY" HAVE THE SAME MEANING PRESCRIBED IN SECTION
3 41-1517.

4 Sec. 13. Section 43-1121, Arizona Revised Statutes, is amended to
5 read:

6 43-1121. Additions to Arizona gross income; corporations

7 In computing Arizona taxable income for a corporation, the following
8 amounts shall be added to Arizona gross income:

9 1. The amounts computed pursuant to section 43-1021, paragraphs 3
10 through 9, 12, 26 and 27.

11 2. The amount of dividend income received from corporations and
12 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal
13 revenue code.

14 3. Taxes which are based on income paid to states, local governments
15 or foreign governments and which were deducted in computing federal taxable
16 income.

17 4. Expenses and interest relating to tax-exempt income on indebtedness
18 incurred or continued to purchase or carry obligations the interest on which
19 is wholly exempt from the tax imposed by this title. Financial institutions,
20 as defined in section 6-101, shall be governed by section 43-961,
21 paragraph 2.

22 5. Commissions, rentals and other amounts paid or accrued to a
23 domestic international sales corporation controlled by the payor corporation
24 if the domestic international sales corporation is not required to report its
25 taxable income to this state because its income is not derived from or
26 attributable to sources within this state. If the domestic international
27 sales corporation is subject to article 4 of this chapter, the department
28 shall prescribe by rule the method of determining the portion of the
29 commissions, rentals and other amounts which are paid or accrued to the
30 controlled domestic international sales corporation and which shall be
31 deducted by the payor. "Control" for purposes of this paragraph means direct
32 or indirect ownership or control of fifty per cent or more of the voting
33 stock of the domestic international sales corporation by the payor
34 corporation.

35 6. Federal income tax refunds received during the taxable year to the
36 extent they were deducted in arriving at Arizona taxable income in a previous
37 year.

38 7. The amount of net operating loss taken pursuant to section 172 of
39 the internal revenue code.

40 8. The amount of exploration expenses determined pursuant to section
41 617 of the internal revenue code to the extent that they exceed seventy-five
42 thousand dollars and to the extent that the election is made to defer those
43 expenses not in excess of seventy-five thousand dollars.

44 9. Amortization of costs incurred to install pollution control devices
45 and deducted pursuant to the internal revenue code or the amount of deduction

1 for depreciation taken pursuant to the internal revenue code on pollution
2 control devices for which an election is made pursuant to section 43-1129.

3 10. The amount of depreciation or amortization of costs of child care
4 facilities deducted pursuant to section 167 or 188 of the internal revenue
5 code for which an election is made to amortize pursuant to section 43-1130.

6 11. Arizona state income tax refunds received, to the extent the amount
7 of the refunds is not already included in Arizona gross income, if a tax
8 benefit was derived by deduction of this amount in a prior year.

9 12. The amount paid as taxes on property in this state by a qualified
10 defense contractor with respect to which a credit is claimed under section
11 43-1166.

12 13. The loss of an insurance company that is exempt under section
13 43-1201 to the extent that it is included in computing Arizona gross income
14 on a consolidated return pursuant to section 43-947.

15 14. The amount by which the depreciation or amortization computed under
16 the internal revenue code with respect to property for which a credit was
17 taken under section 43-1169 exceeds the amount of depreciation or
18 amortization computed pursuant to the internal revenue code on the Arizona
19 adjusted basis of the property.

20 15. The amount by which the adjusted basis computed under the internal
21 revenue code with respect to property for which a credit was claimed under
22 section 43-1169 and which is sold or otherwise disposed of during the taxable
23 year exceeds the adjusted basis of the property computed under section
24 43-1169.

25 16. The amount by which the depreciation or amortization computed under
26 the internal revenue code with respect to property for which a credit was
27 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
28 depreciation or amortization computed pursuant to the internal revenue code
29 on the Arizona adjusted basis of the property.

30 17. The amount by which the adjusted basis computed under the internal
31 revenue code with respect to property for which a credit was claimed under
32 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
33 of during the taxable year exceeds the adjusted basis of the property
34 computed under section 43-1170 or 43-1170.01, as applicable.

35 18. The deduction referred to in section 1341(a)(4) of the internal
36 revenue code for restoration of a substantial amount held under a claim of
37 right.

38 19. The amount by which a capital loss carryover allowable pursuant to
39 section 1341(b)(5) of the internal revenue code exceeds the capital loss
40 carryover allowable pursuant to section 43-1130.01, subsection F.

41 20. Any amount deducted in computing Arizona taxable income as expenses
42 for installing solar stub outs or electric vehicle recharge outlets in this
43 state with respect to which a credit is claimed pursuant to section 43-1176.

44 21. Any wage expenses deducted pursuant to the internal revenue code
45 for which a credit is claimed under section 43-1175 and representing net

1 increases in qualified employment positions for employment of temporary
2 assistance for needy families recipients.

3 22. Any amount of expenses that were deducted pursuant to the internal
4 revenue code and for which a credit is claimed under section 43-1178.

5 23. Any amount deducted for conveying ownership or development rights
6 of property to an agricultural preservation district under section 48-5702
7 for which a credit is claimed under section 43-1180.

8 24. The amount of any deduction that is claimed in computing Arizona
9 gross income and that represents a donation of a school site for which a
10 credit is claimed under section 43-1181.

11 25. THE AMOUNT OF ANY DEDUCTIONS THAT ARE CLAIMED IN COMPUTING FEDERAL
12 TAXABLE INCOME REPRESENTING EXPENSES FOR WHICH A CREDIT IS CLAIMED UNDER
13 SECTION 43-1163.

14 Sec. 14. Title 43, chapter 11, article 6, Arizona Revised Statutes, is
15 amended by adding section 43-1163, to read:

16 43-1163. Credit for motion picture production costs;
17 definitions

18 A. BEGINNING FROM AND AFTER DECEMBER 31, 2005 THROUGH DECEMBER 31,
19 2010, A CREDIT IS ALLOWED AGAINST THE TAXES IMPOSED BY THIS TITLE FOR MOTION
20 PICTURE PRODUCTION COSTS PAID BY A MOTION PICTURE PRODUCTION COMPANY IN THIS
21 STATE THAT ARE DIRECTLY ATTRIBUTABLE TO THE PRODUCTION OF A MOTION PICTURE IN
22 THIS STATE. THE AMOUNT OF THE CREDIT IS EQUAL TO A PERCENTAGE OF THE AMOUNT
23 OF MOTION PICTURE PRODUCTION COSTS PAID IN THIS STATE AS FOLLOWS:

24 <u>PRODUCTION COSTS</u>	24 <u>PERCENTAGE CREDIT</u>
25 \$250,000 - \$1,000,000	25 10%
26 \$1,000,001 - \$3,000,000	26 15%
27 MORE THAN \$3,000,000	27 20%

28 B. THE DEPARTMENT SHALL NOT ALLOW IN ANY YEAR TAX CREDITS THAT EXCEED
29 THE AGGREGATE AMOUNT PRESCRIBED IN SECTION 41-1517.

30 C. THE DEPARTMENT SHALL NOT ALLOW A CREDIT UNDER THIS SECTION TO A
31 TAXPAYER WHO HAS A DELINQUENT TAX BALANCE OWING TO THE DEPARTMENT UNDER THIS
32 TITLE OR TITLE 42.

33 D. TO QUALIFY FOR A CREDIT UNDER THIS SECTION THE MOTION PICTURE
34 PRODUCTION COMPANY MUST:

35 1. EMPLOY RESIDENTS OF THIS STATE IN PRODUCTION AS FOLLOWS:

36 (a) IN 2006, TWENTY-FIVE PER CENT OF FULL-TIME EMPLOYEES WORKING IN
37 THIS STATE MUST BE RESIDENTS OF THIS STATE.

38 (b) IN 2007, THIRTY-FIVE PER CENT OF FULL-TIME EMPLOYEES WORKING IN
39 THIS STATE MUST BE RESIDENTS OF THIS STATE.

40 (c) IN 2008 AND EVERY SUBSEQUENT TAXABLE YEAR THEREAFTER, FIFTY PER
41 CENT OF FULL-TIME EMPLOYEES WORKING IN THIS STATE MUST BE RESIDENTS OF THIS
42 STATE.

43 2. INCLUDE IN THE PRODUCTION CREDITS FOR EACH COMMERCIAL MOTION
44 PICTURE, OTHER THAN A COMMERCIAL ADVERTISEMENT, AN ACKNOWLEDGEMENT THAT THE
45 PRODUCTION WAS FILMED IN ARIZONA.

1 3. RECEIVE PREAPPROVAL AND POSTAPPROVAL FROM THE DEPARTMENT OF
2 COMMERCE PURSUANT TO SECTION 41-1517.

3 E. CO-OWNERS OF A MOTION PICTURE PRODUCTION COMPANY, INCLUDING
4 CORPORATE PARTNERS IN A PARTNERSHIP AND MEMBERS OF A LIMITED LIABILITY
5 COMPANY, MAY ALLOCATE THE CREDIT ALLOWED UNDER THIS SECTION AMONG THE
6 CO-OWNERS ON ANY BASIS WITHOUT REGARD TO THEIR PROPORTIONAL OWNERSHIP
7 INTEREST. THE TOTAL OF THE CREDITS ALLOWED ALL SUCH OWNERS OF THE MOTION
8 PICTURE PRODUCTION COMPANY MAY NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
9 ALLOWED FOR A SOLE OWNER OF THE COMPANY.

10 F. IF THE ALLOWABLE TAX CREDIT FOR A TAXPAYER EXCEEDS THE TAXES
11 OTHERWISE DUE UNDER THIS TITLE ON THE CLAIMANT'S INCOME, OR IF THERE ARE NO
12 TAXES DUE UNDER THIS TITLE, THE TAXPAYER MAY CARRY THE AMOUNT OF THE CLAIM
13 NOT USED TO OFFSET THE TAXES UNDER THIS TITLE FORWARD FOR NOT MORE THAN FIVE
14 CONSECUTIVE TAXABLE YEARS' INCOME TAX LIABILITY.

15 G. ALL OR PART OF ANY UNCLAIMED AMOUNT OF CREDIT UNDER THIS SECTION
16 MAY BE SOLD OR OTHERWISE TRANSFERRED TO A PERSON WHO HAS TAX LIABILITY UNDER
17 THIS TITLE UNDER THE FOLLOWING CONDITIONS:

18 1. A SINGLE SALE OR TRANSFER MAY INVOLVE ONE OR MORE TRANSFEREES, AND
19 A TRANSFEREE MAY IN TURN RESELL OR TRANSFER THE CREDIT SUBJECT TO THE SAME
20 CONDITIONS OF THIS SUBSECTION.

21 2. BOTH THE TRANSFEROR AND TRANSFEREE MUST SUBMIT A WRITTEN NOTICE OF
22 THE TRANSFER TO THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE SALE OR
23 TRANSFER. THE TRANSFEREE'S NOTICE SHALL INCLUDE A PROCESSING FEE EQUAL TO
24 ONE PER CENT OF THE TRANSFEREE'S TAX CREDIT BALANCE OR TWO HUNDRED DOLLARS,
25 WHICHEVER IS LESS. THE NOTICE SHALL INCLUDE:

26 (a) THE NAME OF THE MOTION PICTURE PRODUCTION COMPANY.

27 (b) THE DATE OF THE TRANSFER.

28 (c) THE AMOUNT OF THE TRANSFER.

29 (d) THE TRANSFEROR'S TAX CREDIT BALANCE BEFORE THE TRANSFER AND THE
30 REMAINING BALANCE AFTER THE TRANSFER.

31 (e) ALL TAX IDENTIFICATION NUMBERS FOR BOTH TRANSFEROR AND TRANSFEREE.

32 (f) ANY OTHER INFORMATION REQUIRED BY RULE.

33 3. A SALE OR TRANSFER OF THE CREDIT DOES NOT EXTEND THE TIME IN WHICH
34 THE CREDIT CAN BE USED. THE CARRYFORWARD PERIOD OF TIME UNDER SUBSECTION F
35 OF THIS SECTION FOR A CREDIT THAT IS SOLD OR TRANSFERRED BEGINS ON THE DATE
36 THE CREDIT WAS ORIGINALLY EARNED.

37 4. A TRANSFEREE SHALL APPLY THE CREDIT IN THE SAME MANNER AS THE
38 PERSON ORIGINALLY AWARDED THE CREDIT.

39 5. IF A TRANSFEROR WAS NOT QUALIFIED OR WAS DISQUALIFIED FROM USING
40 THE CREDIT AT THE TIME OF THE TRANSFER, THE DEPARTMENT SHALL EITHER DISALLOW
41 THE CREDIT CLAIMED BY A TRANSFEREE OR RECAPTURE THE CREDIT FROM THE
42 TRANSFEREE THROUGH ANY AUTHORIZED COLLECTION METHOD. THE TRANSFEREE'S
43 RECOURSE IS AGAINST THE TRANSFEROR.

1 6. IN THE CASE OF ANY FAILURE TO COMPLY WITH THIS SUBSECTION, THE
2 DEPARTMENT SHALL DISALLOW THE TAX CREDIT UNTIL THE TAXPAYER IS IN FULL
3 COMPLIANCE.

4 H. THE DEPARTMENT SHALL MAINTAIN ANNUAL DATA ON THE TOTAL AMOUNT OF
5 MONIES CREDITED PURSUANT TO THIS SECTION, AND SHALL PROVIDE THOSE DATA TO THE
6 DEPARTMENT OF COMMERCE ON REQUEST.

7 I. THE DEPARTMENT, WITH THE COOPERATION OF THE DEPARTMENT OF COMMERCE,
8 SHALL ADOPT RULES AND PUBLISH AND PRESCRIBE FORMS AND PROCEDURES AS NECESSARY
9 TO EFFECTUATE THE PURPOSES OF THIS SECTION.

10 J. THE CREDIT ALLOWED BY THIS SECTION IS IN LIEU OF ANY ALLOWANCE FOR
11 STATE TAX PURPOSES OF A DEDUCTION OF THOSE EXPENSES ALLOWED BY THE INTERNAL
12 REVENUE CODE.

13 K. FOR THE PURPOSES OF THIS SECTION, "MOTION PICTURE" AND "MOTION
14 PICTURE PRODUCTION COMPANY" HAVE THE SAME MEANING PRESCRIBED IN SECTION
15 41-1517.

16 Sec. 15. Income tax credit for motion picture production costs:
17 purpose

18 Pursuant to section 43-223, Arizona Revised Statutes, the legislature
19 enacts sections 43-1075 and 43-1163, Arizona Revised Statutes, as added by
20 this act, to promote and stimulate the production of commercial motion
21 pictures in this state.

22 Sec. 16. Severability

23 If a provision of this act or its application to any person or
24 circumstance is held invalid, the invalidity does not affect other provisions
25 or applications of the act that can be given effect without the invalid
26 provision or application, and to this end the provisions of this act are
27 severable.

28 Sec. 17. Rules

29 Before the effective date of this act, the department of commerce may
30 begin the process of adopting rules to implement section 41-1517, Arizona
31 Revised Statutes, as added by this act. The rules shall not become effective
32 until on or after the effective date of section 41-1517, Arizona Revised
33 Statutes.

34 Sec. 18. Effective date

35 Sections 43-1075 and 43-1163, Arizona Revised Statutes, as added by
36 this act, are effective from and after December 31, 2005.

APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.

Passed the House May 6, 2005

by the following vote: 49 Ayes,

7 Nays, 4 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate March 3, 2005

by the following vote: 21 Ayes,

8 Nays, 1 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

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1347

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate May 6, 2005,

by the following vote: 20 Ayes,

6 Nays, 4 Not Voting

John Blumenthal
President of the Senate

Loni Scott
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13th day of May, 2005,

at 8:38 o'clock a. M.

Wendy Leffler
Secretary to the Governor

Approved this 20 day of

May, 2005,

at 12:30 o'clock P. M.

Jan Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2005,

at 3:03 o'clock P. M.

Janice K. Brewer
Secretary of State

S.B. 1347