

House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 120

HOUSE BILL 2259

AN ACT

AMENDING SECTIONS 42-5061 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to
3 read:

4 42-5061. Retail classification; definitions

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

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

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

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

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

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

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

27 7. The sale of stocks and bonds.

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

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

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

35 11. Prescription eyeglasses or contact lenses.

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

37 13. Durable medical equipment which has a centers for medicare and
38 medicaid services common procedure code, is designated reimbursable by
39 medicare, is prescribed by a person who is licensed under title 32, chapter
40 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
41 customarily used to serve a medical purpose, is generally not useful to a
42 person in the absence of illness or injury and is appropriate for use in the
43 home.

1 14. Sales to nonresidents of this state for use outside this state if
2 the vendor ships or delivers the tangible personal property out of this
3 state.

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

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

11 17. Textbooks by any bookstore that are required by any state
12 university or community college.

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

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

22 20. Lottery tickets or shares pursuant to title 5, chapter 5.1,
23 article 1.

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

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

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

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

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

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

4 25. Tangible personal property sold to:

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

6 (b) A qualifying health care organization as defined in section
7 42-5001 if the tangible personal property is used by the organization solely
8 to provide health and medical related educational and charitable services.

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

14 (d) A qualifying community health center as defined in section
15 42-5001.

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

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

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

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

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

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

39 28. The sale of a motor vehicle to:

40 (a) A nonresident of this state if the purchaser's state of residence
41 does not allow a corresponding use tax exemption to the tax imposed by
42 article 1 of this chapter and if the nonresident has secured a special ninety
43 day nonresident registration permit for the vehicle as prescribed by sections
44 28-2154 and 28-2154.01.

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

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

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

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

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

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

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

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

38 36. Sales of natural gas or liquefied petroleum gas used to propel a
39 motor vehicle.

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

43 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
44 sold to a qualified environmental technology manufacturer, producer or

1 processor as defined in section 41-1514.02 and directly used or consumed in
2 the generation or provision of on-site power or energy solely for
3 environmental technology manufacturing, producing or processing or
4 environmental protection. This paragraph shall apply for twenty full
5 consecutive calendar or fiscal years from the date the first paper
6 manufacturing machine is placed in service. In the case of an environmental
7 technology manufacturer, producer or processor who does not manufacture
8 paper, the time period shall begin with the date the first manufacturing,
9 processing or production equipment is placed in service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 52. Sales of tangible personal property to be incorporated or installed
5 as part of environmental response or remediation activities under section
6 42-5075, subsection B, paragraph 6.

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

12 54. Through August 31, 2014, sales of Arizona centennial medallions by
13 the historical advisory commission.

14 55. Application services that are designed to assess or test student
15 learning or to promote curriculum design or enhancement purchased by or for
16 any school district, charter school, community college or state university.
17 For the purposes of this paragraph:

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

20 (b) "Curriculum design or enhancement" means planning, implementing or
21 reporting on courses of study, lessons, assignments or other learning
22 activities.

23 56. Sales of motor vehicle fuel and use fuel to a qualified business
24 under section 41-1516 for off-road use in harvesting, processing or
25 transporting qualifying forest products removed from qualifying projects as
26 defined in section 41-1516.

27 57. Sales of repair parts installed in equipment used directly by a
28 qualified business under section 41-1516 in harvesting, processing or
29 transporting qualifying forest products removed from qualifying projects as
30 defined in section 41-1516.

31 58. Sales or other transfers of renewable energy credits or any other
32 unit created to track energy derived from renewable energy resources. For
33 the purposes of this paragraph, "renewable energy credit" means a unit
34 created administratively by the corporation commission or governing body of a
35 public power utility to track kilowatt hours of electricity derived from a
36 renewable energy resource or the kilowatt hour equivalent of conventional
37 energy resources displaced by distributed renewable energy resources.

38 59. ORTHODONTIC DEVICES DISPENSED BY A DENTAL PROFESSIONAL WHO IS
39 LICENSED UNDER TITLE 32, CHAPTER 11 TO A PATIENT AS PART OF THE PRACTICE OF
40 DENTISTRY.

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

1 1. Machinery, or equipment, used directly in manufacturing,
2 processing, fabricating, job printing, refining or metallurgical operations.
3 The terms "manufacturing", "processing", "fabricating", "job printing",
4 "refining" and "metallurgical" as used in this paragraph refer to and include
5 those operations commonly understood within their ordinary meaning.
6 "Metallurgical operations" includes leaching, milling, precipitating,
7 smelting and refining.

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

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

20 4. Machinery, equipment or transmission lines used directly in
21 producing or transmitting electrical power, but not including distribution.
22 Transformers and control equipment used at transmission substation sites
23 constitute equipment used in producing or transmitting electrical power.

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

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

31 7. Aircraft, navigational and communication instruments and other
32 accessories and related equipment sold to:

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

39 (b) Any foreign government.

40 (c) Persons who are not residents of this state and who will not use
41 such property in this state other than in removing such property from this
42 state. This subdivision also applies to corporations that are not
43 incorporated in this state, regardless of maintaining a place of business in
44 this state, if the principal corporate office is located outside this state

1 and the property will not be used in this state other than in removing the
2 property from this state.

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

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

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

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

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

20 13. New machinery and equipment consisting of tractors, tractor-drawn
21 implements, self-powered implements, machinery and equipment necessary for
22 extracting milk, and machinery and equipment necessary for cooling milk and
23 livestock, and drip irrigation lines not already exempt under paragraph 6 of
24 this subsection and that are used for commercial production of agricultural,
25 horticultural, viticultural and floricultural crops and products in this
26 state. For the purposes of this paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

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

42 18. Machinery or equipment, including related structural components,
43 that is employed in connection with manufacturing, processing, fabricating,
44 job printing, refining, mining, natural gas pipelines, metallurgical

1 operations, telecommunications, producing or transmitting electricity or
2 research and development and that is used directly to meet or exceed rules or
3 regulations adopted by the federal energy regulatory commission, the United
4 States environmental protection agency, the United States nuclear regulatory
5 commission, the Arizona department of environmental quality or a political
6 subdivision of this state to prevent, monitor, control or reduce land, water
7 or air pollution.

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

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

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

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

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

27 21. Qualifying equipment that is purchased from and after June 30, 2004
28 through June 30, 2024 by a qualified business under section 41-1516 for
29 harvesting or processing qualifying forest products removed from qualifying
30 projects as defined in section 41-1516. To qualify for this deduction, the
31 qualified business at the time of purchase must present its certification
32 approved by the department.

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

35 1. Expendable materials. For the purposes of this paragraph,
36 expendable materials do not include any of the categories of tangible
37 personal property specified in subsection B of this section regardless of the
38 cost or useful life of that property.

39 2. Janitorial equipment and hand tools.

40 3. Office equipment, furniture and supplies.

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

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

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

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

8 D. In addition to the deductions from the tax base prescribed by
9 subsection A of this section, there shall be deducted from the tax base the
10 gross proceeds of sales or gross income derived from sales of machinery,
11 equipment, materials and other tangible personal property used directly and
12 predominantly to construct a qualified environmental technology
13 manufacturing, producing or processing facility as described in section
14 41-1514.02. This subsection applies for ten full consecutive calendar or
15 fiscal years after the start of initial construction.

16 E. In computing the tax base, gross proceeds of sales or gross income
17 from retail sales of heavy trucks and trailers does not include any amount
18 attributable to federal excise taxes imposed by 26 United States Code section
19 4051.

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

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

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

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

- 44 1. Transporting classification.

- 1 2. Utilities classification.
- 2 3. Telecommunications classification.
- 3 4. Pipeline classification.
- 4 5. Private car line classification.
- 5 6. Publication classification.
- 6 7. Job printing classification.
- 7 8. Prime contracting classification.
- 8 9. Owner builder sales classification.
- 9 10. Restaurant classification.

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

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

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

18 3. Overhead materials or other tangible personal property that is used
19 in performing a contract between the United States government and a
20 manufacturer, modifier, assembler or repairer, including property used in
21 performing a subcontract with a government contractor who is a manufacturer,
22 modifier, assembler or repairer, to which title passes to the government
23 under the terms of the contract or subcontract.

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

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

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

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

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

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

43 N. There shall be deducted from the tax base the amount received from
44 sales of solar energy devices. The retailer shall register with the

1 department as a solar energy retailer. By registering, the retailer
2 acknowledges that it will make its books and records relating to sales of
3 solar energy devices available to the department for examination.

4 O. In computing the tax base in the case of the sale or transfer of
5 wireless telecommunications equipment as an inducement to a customer to enter
6 into or continue a contract for telecommunications services that are taxable
7 under section 42-5064, gross proceeds of sales or gross income does not
8 include any sales commissions or other compensation received by the retailer
9 as a result of the customer entering into or continuing a contract for the
10 telecommunications services.

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

16 Q. Retail sales of prepaid calling cards or prepaid authorization
17 numbers for telecommunications services, including sales of reauthorization
18 of a prepaid card or authorization number, are subject to tax under this
19 section.

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

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

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

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

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

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

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

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

21 V. For the purposes of this section:

22 1. "Aircraft" includes:

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

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

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

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

37 W. For the purposes of subsection J of this section:

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

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

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

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

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

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

21 Sec. 2. Section 42-6004, Arizona Revised Statutes, is amended to read:

22 42-6004. Exemption from municipal tax

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

25 1. Exhibition events in this state sponsored, conducted or operated by
26 a nonprofit organization that is exempt from taxation under section
27 501(c)(3), 501(c)(4) 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 2. Interstate telecommunications services, which include that portion
32 of telecommunications services, such as subscriber line service, allocable by
33 federal law to interstate telecommunications service.

34 3. Sales of warranty or service contracts.

35 4. Sales of motor vehicles to nonresidents of this state for use
36 outside this state if the vendor ships or delivers the motor vehicle to a
37 destination outside this state.

38 5. Interest on finance contracts.

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

40 7. Sales of food or other items purchased with United States
41 department of agriculture food stamp coupons issued under the food stamp act
42 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
43 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
44 section 4302; 42 United States Code section 1786) but may impose such a tax

1 on other sales of food. If a city, town or special taxing district exempts
2 sales of food from its tax or imposes a different transaction privilege rate
3 on the gross proceeds of sales or gross income from sales of food and nonfood
4 items, it shall use the definition of food prescribed by rule adopted by the
5 department pursuant to section 42-5106.

6 8. ORTHODONTIC DEVICES DISPENSED BY A DENTAL PROFESSIONAL WHO IS
7 LICENSED UNDER TITLE 32, CHAPTER 11 TO A PATIENT AS PART OF THE PRACTICE OF
8 DENTISTRY.

9 ~~8.~~ 9. Sales of internet access services to the person's subscribers
10 and customers. For the purposes of this paragraph:

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

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

19 ~~9.~~ 10. The gross proceeds of sales or gross income retained by the
20 Arizona exposition and state fair board from ride ticket sales at the annual
21 Arizona state fair.

22 ~~10.~~ 11. Through August 31, 2014, sales of Arizona centennial
23 medallions by the historical advisory commission.

24 ~~11.~~ 12. The gross proceeds of sales or gross income derived from a
25 commercial lease in which a reciprocal insurer or a corporation leases real
26 property to an affiliated corporation. For the purposes of this paragraph:

27 (a) "Affiliated corporation" means a corporation that meets one of the
28 following conditions:

29 (i) The corporation owns or controls at least eighty per cent of the
30 lessor.

31 (ii) The corporation is at least eighty per cent owned or controlled
32 by the lessor.

33 (iii) The corporation is at least eighty per cent owned or controlled
34 by a corporation that also owns or controls at least eighty per cent of the
35 lessor.

36 (iv) The corporation is at least eighty per cent owned or controlled
37 by a corporation that is at least eighty per cent owned or controlled by a
38 reciprocal insurer.

39 (b) For the purposes of subdivision (a) of this paragraph, ownership
40 and control are determined by reference to the voting shares of a
41 corporation.

42 (c) "Reciprocal insurer" has the same meaning prescribed in section
43 20-762.

1 ~~12.~~ 13. The gross proceeds of sales or gross income derived from a
2 commercial lease in which a corporation leases real property to a corporation
3 of which at least eighty per cent of the voting shares of each corporation
4 are owned by the same shareholders.

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

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

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

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

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

23 4. Incarcerating or detaining in a privately operated prison, jail or
24 detention facility prisoners who are under the jurisdiction of the United
25 States, this state or any other state or a political subdivision of this
26 state or of any other state.

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

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

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

35 (b) The attributable amount is equal to the total amount of
36 development fees paid by the taxpayer or by a contractor providing services
37 to the taxpayer and the total development fees credited in exchange for the
38 construction of, contribution to or dedication of real property for providing
39 public infrastructure, public safety or other public services necessary to
40 the development. The real property must be the subject of the development
41 fees.

42 (c) "Development fees" means fees imposed to offset capital costs of
43 providing public infrastructure, public safety or other public services to a

1 development and authorized pursuant to section 9-463.05, section 11-1102 or
2 title 48 regardless of the jurisdiction to which the fees are paid.

3 D. A city, town or other taxing jurisdiction shall not levy a
4 transaction privilege, sales, use, franchise or other similar tax or fee,
5 however denominated, in excess of one-tenth of one per cent of the value of
6 the entire product mined, smelted, extracted, refined, produced or prepared
7 for sale, profit or commercial use, on persons engaged in the business of
8 mineral processing, except to the extent that the tax is computed on the
9 gross proceeds or gross income from sales at retail.

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

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

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

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

19 Sec. 3. Retroactivity

20 This act applies retroactively to taxable periods beginning from and
21 after September 30, 2007.

APPROVED BY THE GOVERNOR APRIL 17, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2013.

Passed the House February 27, 20 13

Passed the Senate April 15, 20 13

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

16 day of April, 20 13

at 2:40 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 17th day of

April

at 11:35 o'clock A-M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 17th day of April, 20 13

at 4:09 o'clock P M.

[Signature]
Secretary of State

H.B. 2259