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MICHELE REAGAN
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CHAPTER 4

SENATE BILL 1446

AN ACT

AMENDING SECTIONS 9-467, 11-321, 32-1122, 32-1169 AND 42-5005, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5008.01; AMENDING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 263, SECTION 8; REPEALING SECTION 42-5009, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2014, CHAPTER 245, SECTION 3; AMENDING SECTIONS 42-5010, 42-5061, 42-5075, 42-5159 AND 42-6004, ARIZONA REVISED STATUTES; RELATING TO PRIME CONTRACTING TRANSACTION PRIVILEGE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 9-467, Arizona Revised Statutes, is amended to read:

9-467. Building permits; issuance; distribution of copies; subsequent owner

A. Any city or town requiring the issuance of a building permit shall transmit one copy of the permit to the county assessor and one copy to the director of the department of revenue. Permit copies shall provide the permit number, issue date and parcel number. On the issuance of the certificate of occupancy or the certificate of completion or on the expiration or cancellation of the permit, the assessor and the department of revenue shall be notified in writing or in electronic format of the permit number, parcel number, issue date and completion date.

~~B. If a contractor is employed for any construction exceeding the cost of ten thousand dollars, a building permit may not be issued unless the contractor holds a valid privilege tax license issued pursuant to section 42-5005 for engaging or continuing in the business of contracting.~~

B. A CITY OR TOWN MAY NOT REQUIRE AN APPLICANT FOR A BUILDING PERMIT TO HOLD A TRANSACTION PRIVILEGE TAX LICENSE OR BUSINESS LICENSE AS A CONDITION FOR ISSUING THE BUILDING PERMIT. A CITY OR TOWN MAY REQUIRE A PERSON THAT HAS BEEN ISSUED A BUILDING PERMIT AND THAT DOES NOT OTHERWISE HOLD A BUSINESS LICENSE FROM THE CITY OR TOWN TO APPLY FOR A BUSINESS LICENSE WITHIN THIRTY DAYS AFTER ISSUING THE BUILDING PERMIT.

C. If a person has constructed a building or an addition to a building without obtaining a building permit, a city or town shall not require a subsequent owner to obtain a permit for the construction or addition done by the prior owner before issuing a permit for a building addition except that nothing in this section shall be construed as prohibiting the enforcement of an applicable ordinance or code provision which affects the public health or safety.

Sec. 2. Section 11-321, Arizona Revised Statutes, is amended to read:

11-321. Building permits; issuance; distribution of copies; subsequent owner

A. Except in those cities and towns which have an ordinance relating to the issuance of building permits, the board of supervisors shall require a building permit for any construction of a building or an addition thereto exceeding a cost of one thousand dollars within its jurisdiction. The building permit shall be filed with the board of supervisors or its designated agent.

~~B. If a contractor is employed for any construction exceeding the cost of ten thousand dollars, a building permit may not be issued unless the contractor holds a valid privilege tax license issued pursuant to section 42-5005 for engaging or continuing in the business of contracting.~~

B. THE BOARD OF SUPERVISORS MAY NOT REQUIRE AN APPLICANT FOR A BUILDING PERMIT TO HOLD A TRANSACTION PRIVILEGE TAX LICENSE OR BUSINESS LICENSE AS A CONDITION FOR ISSUING THE BUILDING PERMIT.

C. Where deemed of public convenience, the supervisors shall permit the application for and the issuance of building permits by mail.

D. One copy of the building permit required by the terms of subsection A of this section shall be transmitted to the county assessor and one copy to the director of the department of revenue. The permit copy provided to the assessor and the department of revenue shall have the permit number, the issue date and the parcel number for which the permit is issued. On the issuance of the certificate of occupancy or the certificate of completion or on the expiration or cancellation of the permit, the assessor and the department of revenue shall be notified in writing or in electronic format of the permit number, parcel number, issue date and completion date.

E. If a person has constructed a building or an addition to a building without obtaining a building permit, a county shall not require a subsequent owner to obtain a permit for the construction or addition done by the prior owner before issuing a permit for a building addition except that nothing in this section shall be construed as prohibiting the enforcement of an applicable ordinance or code provision which affects the public health or safety.

Sec. 3. Section 32-1122, Arizona Revised Statutes, is amended to read:

32-1122. <u>Qualifications for license</u>

A. A contractor's license shall be issued only by act of the registrar of contractors. The registrar shall:

1. Classify and qualify applicants for a license.

2. If necessary, change the license classification of a licensee in the case of a title reclassification, with or without a bond rider for the purpose of continuing liability on the bond.

3. Conduct investigations the registrar deems necessary.

4. Establish written examinations if deemed necessary to protect the health and safety of the public.

B. To obtain or renew a license under this chapter, the applicant shall:

1. Submit to the registrar of contractors a verified application on forms that are prescribed by the registrar of contractors and that contain the following information and shall advise the registrar of any change in the information within thirty days:

(a) A designation of the classification of license that is sought by the applicant.

(b) If the applicant is an individual, the applicant's name and address.

(c) If the applicant is a partnership, the names and addresses of all partners with a designation of any limited partners.

(d) If the applicant is a corporation, an association or any other organization, the names and addresses of the president, vice-president, if any, secretary and treasurer or the names and addresses of the functional equivalent of these officers, the directors and the owners of twenty-five ~~per cent~~ PERCENT or more of the stock or beneficial interest.

(e) The name and address of the qualifying party.

(f) If the applicant is a corporation, evidence that the corporation is in good standing with the corporation commission.

(g) The address or location of the applicant's place of business and the mailing address if it is different from the applicant's place of business.

~~(h) The applicant's current privilege license number issued pursuant to section 42-5005.~~

~~(i)~~ (h) Proof that the applicant has complied with the statutes or rules governing workers' compensation insurance.

2. Submit the appropriate bond and fee required under this chapter.

C. To obtain a contractor's license under this chapter other than a residential contractor's license, the applicant shall submit a detailed statement of current financial condition containing information required by the registrar of contractors on a form furnished by or acceptable to the registrar of contractors. Notwithstanding any other law, a swimming pool contractor shall also submit a detailed statement of current financial condition as required by this subsection.

D. To obtain or renew a license under this chapter, each person shall be of good character and reputation. Lack of good character and reputation may be established by showing that a person has engaged in contracting without a license or committed any act that, if committed or done by any licensed contractor, would be grounds for suspension or revocation of a contractor's license or by showing that the person was named on a contractor's license that was suspended or revoked in another state.

E. To obtain a license under this chapter, a person shall not have had a license refused or revoked, within one year before the person's application, or shall not have engaged in the contracting business, nor shall the person have submitted a bid without first having been licensed within one year before the person's application, nor shall a person act as a contractor between the filing of the application and actual issuance of the license. The registrar may find any of those actions or circumstances to be excusable if there was reasonable doubt as to the need for licensure or the actions of the applicant did not result in an unremedied hardship or danger or loss to the public. A person who has been convicted of contracting without a license is not eligible to obtain a license under this chapter for one year after the date of the last conviction.

F. Before a license is issued, the qualifying party shall:

1. Have had a minimum of four years' practical or management trade experience, at least two of which must have been within the last ten years,

dealing specifically with the type of construction, or its equivalent, for which the applicant is applying for a license. Technical training in an accredited college or university or in a manufacturer's accredited training program may be substituted for a portion of such experience, but in no case may credited technical training exceed two years of the required four years' experience. The registrar of contractors may reduce the four years' practical or management experience requirement if in the registrar's opinion it has been conclusively shown by custom and usage in the particular industry or craft involved that the four-year requirement is excessive. The registrar may waive the work experience documentation and verification or the examination requirement if the records reflect that the qualifying party is currently or has previously been a qualifying party for a licensee in this state in the same classification within the preceding five years.

2. Successfully show, by written examination taken not more than two years before application, if required, qualification in the kind of work for which the applicant proposes to contract, the applicant's general knowledge of the building, safety, health and lien laws of the state, administrative principles of the contracting business and the rules adopted by the registrar of contractors pursuant to this chapter, demonstrate knowledge and understanding of construction plans and specifications applicable to the particular industry or craft and of the standards of construction work and techniques and practices in the particular industry or craft and demonstrate a general understanding of other related construction trades, in addition to any other matters as may be deemed appropriate by the registrar to determine that the qualifying party meets the requirements of this chapter. The registrar shall maintain multiple versions of examinations for each type of license that requires an examination.

G. No license shall be issued to a minor, to any partnership in which one of the partners is a minor or to any corporation in which a corporate officer is a minor.

H. Before receiving, renewing and holding a license pursuant to this chapter, the registrar may require a license applicant or licensee to submit to the registrar a full set of fingerprints and the fees required in section 41-1750. The registrar shall submit the fingerprints and fees to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

Sec. 4. Section 32-1169, Arizona Revised Statutes, is amended to read:

32-1169. <u>Local proof of valid license; violation</u>

A. Each county, city or other political subdivision or authority of this state or any agency, department, board or commission of this state which requires the issuance of a building permit as a condition precedent to the construction, alteration, improvement, demolition or repair of a building, structure or other improvement to real property for which a license is

required under this chapter, as part of the application procedures which it utilizes, shall require that each applicant for a building permit file a signed statement that the applicant is currently licensed under ~~the provisions of~~ this chapter with the applicant's license number ~~and the applicant's privilege license number required pursuant to section 42-5005~~. If the applicant purports to be exempt from the licensing requirements of this chapter, the statement shall contain the basis of the asserted exemption and the name and license number of any general, mechanical, electrical or plumbing contractor who will be employed on the work. The local issuing authority may require from the applicant a statement signed by the registrar to verify any purported exemption.

B. The filing of an application containing false or incorrect information concerning an applicant's contractor's license ~~or transaction privilege license~~ with the intent to avoid the licensing requirements of this chapter is unsworn falsification pursuant to section 13-2704.

Sec. 5. Section 42-5005, Arizona Revised Statutes, is amended to read:

42-5005. Transaction privilege tax and municipal privilege tax licenses; fees; renewal; revocation; violation; classification

A. Every person who receives gross proceeds of sales or gross income on which a transaction privilege tax is imposed by this article and who desires to engage or continue in business shall apply to the department for an annual transaction privilege tax license accompanied by a fee of twelve dollars. A person shall not engage or continue in business until the person has obtained a transaction privilege tax license.

B. A person desiring to engage or continue in business within a city or town that imposes a municipal privilege tax shall apply to the department of revenue for an annual municipal privilege tax license accompanied by a fee of up to fifty dollars, as established by ordinance of the city or town. The person shall submit the fee with each new license application. The person may not engage or continue in business until the person has obtained a municipal privilege tax license. The department must collect, hold, pay and manage the fees in trust for the city or town and may not use the monies for any other purposes.

C. A transaction privilege tax license is valid only for the calendar year in which it is issued, but it may be renewed for the following calendar year. There is no fee for the renewal of the transaction privilege tax license. The transaction privilege tax license must be renewed at the same time and in the manner as the municipal privilege tax license renewal.

D. A municipal privilege tax license is valid only for the calendar year in which it is issued, but it may be renewed for the following calendar year by the payment of a license renewal fee of up to fifty dollars. The renewal fee is due and payable on January 1 and is considered delinquent if not received on or before the last business day of January. The department

must collect, hold, pay and manage the fees in trust for the city or town and may not use the monies for any other purposes.

E. A licensee that remains in business after the municipal privilege tax license has expired is subject to the payment of the license renewal fee and the civil penalty prescribed in section 42-1125, subsection R.

F. If the applicant is not in arrears in payment of any tax imposed by this article, the department shall issue a license authorizing the applicant to engage and continue in business on the condition that the applicant complies with this article. The license number shall be continuous.

G. The transaction privilege tax license and the municipal privilege tax license are not transferable on a COMPLETE change of ownership or change of location of the business. For the purposes of this subsection:

1. "Location" means the business address appearing in the application for the license and on the transaction privilege tax or municipal privilege tax license.

2. "Ownership" means any right, title or interest in the business.

3. "Transferable" means the ability to convey or change the right or privilege to engage or continue in business by virtue of the issuance of the transaction privilege tax or municipal privilege tax license.

H. When the ownership or location of a business on which a transaction privilege tax or municipal privilege tax is imposed has been changed within the meaning of subsection G of this section, the licensee shall surrender the license to the department. The license shall be reissued to the new owners or for the new location on application by the taxpayer and payment of the twelve-dollar fee for a transaction privilege tax license and a fee of up to fifty dollars per jurisdiction for a municipal privilege tax license. The department must collect, hold, pay and manage the fees in trust for the city or town and may not use the monies for any other purposes.

I. A person who is engaged in or conducting a business in two or more locations or under two or more business names shall procure a transaction privilege tax license for each location or business name regardless of whether all locations or business names are reported on a consolidated return under a single transaction privilege tax license number. This requirement shall not be construed as conflicting with section 42-5020.

J. A person who is engaged in or conducting a business in two or more locations or under two or more business names shall procure a municipal privilege tax license for each location or business name regardless of whether all locations or business names are reported on a consolidated return.

K. A person who is engaged in or conducting business at two or more locations or under two or more business names and who files a consolidated return under a single transaction privilege tax license number as provided by section 42-5020 is required to pay only a single municipal privilege tax license renewal fee for each local jurisdiction pursuant to subsection D of this section. A person who is engaged in or conducting business at two or

more locations or under two or more business names and who does not file a consolidated return under a single license number is required to pay a license renewal fee for each location or license in a local jurisdiction.

L. If a person violates this article or any rule adopted under this article, the department upon hearing may revoke any transaction privilege tax or municipal privilege tax license issued to the person. The department shall provide ten days' written notice of the hearing, stating the time and place and requiring the person to appear and show cause why the license or licenses should not be revoked. The department shall provide written notice to the person of the revocation of the license. The notices may be served personally or by mail pursuant to section 42-5037. After revocation, the department shall not issue a new license to the person unless the person presents evidence satisfactory to the department that the person will comply with this article and with the rules adopted under this article. The department may prescribe the terms under which a revoked license may be reissued.

M. A person who violates any provision of this section is guilty of a class 3 misdemeanor.

Sec. 6. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5008.01, to read:

42-5008.01. <u>Liability for amounts equal to retail transaction privilege tax due</u>

A. A PERSON THAT IS EITHER A PRIME CONTRACTOR SUBJECT TO TAX UNDER SECTION 42-5075 OR A SUBCONTRACTOR WORKING UNDER THE CONTROL OF SUCH A PRIME CONTRACTOR, THAT PURCHASES TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER THE RETAIL CLASSIFICATION UNDER SECTION 42-5061, SUBSECTION A, PARAGRAPH 27 OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (g) AT THE TIME OF PURCHASE, AND THAT INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL PROPERTY INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O IS LIABLE FOR AN AMOUNT EQUAL TO ANY TAX THAT A SELLER WOULD HAVE BEEN REQUIRED TO PAY UNDER SECTION 42-5061 AND THIS ARTICLE AS FOLLOWS:

1. THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND REPORTED BASED ON THE LOCATION OF THE PROJECT AND THE TAXES IMPOSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

2. ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST OF TANGIBLE PERSONAL PROPERTY PROVIDED IN SECTION 42-5075 APPLY TO THE TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO THE PROJECT.

3. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5075, WITHOUT REGARD TO SECTION 42-5075, SUBSECTION O.

4. THE AMOUNT OF LIABILITY SHALL BE REPORTED WITHIN THE REPORTING PERIOD THAT INCLUDES THE MONTH IN WHICH THE PERSON INCORPORATES OR FABRICATES THE TANGIBLE PERSONAL PROPERTY INTO THE PROJECT.

5. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS SUBSECTION. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

B. A PERSON THAT PURCHASED TANGIBLE PERSONAL PROPERTY, THE PURCHASE PRICE OF WHICH WAS EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5061, SUBSECTION A, PARAGRAPH 27 OR WAS EXCLUDED FROM THE USE TAX UNDER SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (g) AT THE TIME OF PURCHASE, WHOSE TRANSACTION PRIVILEGE TAX LICENSE HAS BEEN CANCELED AND THAT SUBSEQUENTLY USES, CONSUMES, SELLS OR DISCARDS THE TANGIBLE PERSONAL PROPERTY IS LIABLE FOR AN AMOUNT OF TAX DETERMINED UNDER THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION:

1. IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, OR OTHERWISE USED OR CONSUMED BY THE PERSON, THE AMOUNT OF LIABILITY SHALL BE CALCULATED AND REPORTED BASED ON THE PERSON'S PURCHASE PRICE OF THE TANGIBLE PERSONAL PROPERTY, THE LOCATION OF THE PROJECT, USE OR CONSUMPTION AND THE TAXES IMPOSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

2. IF THE TANGIBLE PERSONAL PROPERTY IS SOLD IN A MANNER THAT IS NOT SUBJECT TO TAX UNDER THIS CHAPTER OR IS DISCARDED, THE AMOUNT SHALL BE CALCULATED AND REPORTED BASED ON THE PAYMENT RECEIVED BY THE PERSON, THE LOCATION OF THE PERSON'S PRINCIPAL PLACE OF BUSINESS IN THIS STATE AND THE TAXES IMPOSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

3. THE PERSON IS NOT LIABLE UNDER THIS SUBSECTION FOR ANY AMOUNT IF THE PERSON DISCARDS THE TANGIBLE PERSONAL PROPERTY AND DOES NOT RECEIVE PAYMENT OF ANY KIND.

4. THE AMOUNT OF LIABILITY SHALL BE REPORTED ON OR BEFORE THE BUSINESS DAY PRECEDING THE LAST BUSINESS DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE PERSON USES THE TANGIBLE PERSONAL PROPERTY IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION. NO AMOUNT IS DUE UNDER THIS SUBSECTION AT ANY TIME THAT THE PERSON STORES THE TANGIBLE PERSONAL PROPERTY WITHOUT USING IT IN A MANNER DESCRIBED IN PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

5. ALL DEDUCTIONS, EXEMPTIONS AND EXCLUSIONS FOR THE COST OF TANGIBLE PERSONAL PROPERTY PROVIDED IN SECTION 42-5075 APPLY TO THE TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O.

6. THIS SUBSECTION DOES NOT APPLY TO TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO ANY PROJECT UNDER A CONTRACT THAT WOULD OTHERWISE BE EXCLUDED FROM THE TAX BASE UNDER SECTION 42-5075, WITHOUT REGARD TO SECTION 42-5075, SUBSECTION O.

7. THE PERSON IS NOT LIABLE FOR THE AMOUNT IF THE CONTRACTOR WHO HIRED THE PERSON EXECUTES AND PROVIDES TO THE PERSON A CERTIFICATE STATING THAT THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR ANY AMOUNT DUE UNDER THIS SUBSECTION FOR TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O. THE DEPARTMENT SHALL PRESCRIBE THE FORM OF THE CERTIFICATE. IF THE PERSON HAS REASON TO BELIEVE THAT THE INFORMATION CONTAINED ON THE CERTIFICATE IS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DISREGARD THE CERTIFICATE. THE CONTRACTOR PROVIDING THE CERTIFICATE IS LIABLE FOR THE AMOUNT THAT OTHERWISE WOULD BE DUE FROM THE PERSON UNDER THIS SUBSECTION.

C. A PERSON THAT FAILS TO REPORT OR PAY ANY AMOUNT DUE UNDER SUBSECTION A OR B OF THIS SECTION IS LIABLE FOR INTEREST IN A MANNER CONSISTENT WITH SECTION 42-1123 AND PENALTIES IN A MANNER CONSISTENT WITH SECTION 42-1125.

D. IF A PERSON HAS PAID AN AMOUNT DESCRIBED IN THIS SECTION ON TANGIBLE PERSONAL PROPERTY THAT THE PERSON REASONABLY BELIEVED TO BE DESCRIBED SECTION 42-5075, SUBSECTION O AND A FINAL DETERMINATION IS MADE THAT SECTION 42-5075, SUBSECTION O DOES NOT APPLY, THE PERSON IS ENTITLED TO AN OFFSET FOR THE AMOUNT PAID UNDER THIS SECTION AGAINST THE AMOUNT OF TAX LIABILITY ASSESSED UNDER THIS CHAPTER AND CHAPTER 6 OF THIS TITLE.

Sec. 7. Section 42-5009, Arizona Revised Statutes, as amended by Laws 2014, chapter 263, section 8, is amended to read:

42-5009. <u>Certificates establishing deductions; liability for making false certificate</u>

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

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

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

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

C. The department may prescribe a form for the certificate described in subsection A of this section. Under such rules as it may prescribe, the

department may also describe transactions with respect to which a person is not entitled to rely solely on the information contained in the certificate provided for in subsection A of this section but must instead obtain such additional information as required by the rules in order to be entitled to the deduction.

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

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

F. The department may prescribe a form for a certificate used to establish entitlement to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3. Under rules the department may prescribe, the department may also require additional information for the seller to be entitled to the deduction. If a seller is entitled to the deductions described in section 42-5061, subsection A, paragraph 46 and section 42-5063, subsection B, paragraph 3, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that would entitle the seller to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as

tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029.

G. If a seller claims a deduction under section 42-5061, subsection A, paragraph 25 and establishes entitlement to the deduction with an exemption letter that the purchaser received from the department and the exemption letter was based on a contingent event, the department may require the purchaser that received the exemption letter to establish the satisfaction of the contingent event within a reasonable time. If the purchaser cannot establish the satisfaction of the event, the purchaser is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article if the seller had not been furnished the exemption letter. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter. The amount shall be treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029. For the purposes of this subsection, "reasonable time" means a time limitation that the department determines and that does not exceed the time limitations pursuant to section 42-1104.

H. The department shall prescribe forms for certificates used to establish the satisfaction of the criteria necessary to qualify the sale of a motor vehicle for the deductions described in section 42-5061, subsection A, paragraph 14, paragraph 28, subdivision (a) and paragraph 44 and subsection ~~U~~ V. Except as provided in subsection J of this section, to establish entitlement to these deductions, a motor vehicle dealer shall retain:

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

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

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

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

I. Notwithstanding subsection A, paragraph 2 of this section, if a motor vehicle dealer has established entitlement to a deduction by complying with subsection H of this section, the department may require the purchaser who executed the certificate to establish the accuracy and completeness of the information contained in the certificate that entitled the motor vehicle dealer to the deduction. If the purchaser cannot establish the accuracy and completeness of the information, the purchaser is liable in an amount equal

to any tax, penalty and interest that the motor vehicle dealer would have been required to pay under this article and under articles IV and V of the model city tax code as defined in section 42-6051. Payment of the amount under this subsection exempts the purchaser from liability for any tax imposed under article 4 of this chapter and any tax imposed under article VI of the model city tax code as defined in section 42-6051. The amount shall be treated as tax revenues collected from the motor vehicle dealer in order to designate the distribution base for purposes of section 42-5029.

J. To establish entitlement to the deduction described in section 42-5061, subsection A, paragraph ~~45~~ 44, a public consignment auction dealer as defined in section 28-4301 shall submit the valid certificate prescribed by subsection H of this section to the department and retain a copy for its records.

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

L. The department shall prescribe a form for a certificate to be used by a ~~contractor~~ PERSON that is not ~~otherwise~~ subject to tax under section 42-5075~~, subsection O~~ when THE PERSON IS ENGAGED BY A CONTRACTOR THAT IS SUBJECT TO TAX UNDER SECTION 42-5075 FOR A PROJECT THAT IS TAXABLE UNDER SECTION 42-5075. THE CERTIFICATE PERMITS THE PERSON purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement to provide documentation to a retailer that the sale of tangible personal property qualifies for the deduction under section 42-5061, subsection A, paragraph 27, SUBDIVISION (b). A prime contractor shall obtain the certificate from the department and shall provide a copy to any ~~contractor~~ SUCH PERSON working on the project ~~that does not have a transaction privilege tax license by reason of not being subject to tax under section 42-5075, subsection O~~. The prime contractor shall obtain a new certificate for each project to which this subsection applies. For the purposes of this subsection, the following apply:

1. The ~~contractor~~ PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 may use the certificate issued pursuant to this subsection only with respect to tangible personal property that will be incorporated into a project for which the gross receipts are subject to tax under section 42-5075.

2. The department shall issue the certificate to the prime contractor on receiving sufficient documentation to establish that the prime contractor meets the requirements of this subsection.

3. If ~~a contractor~~ ANY PERSON uses the certificate provided under this subsection to purchase tangible personal property to be used in a ~~nontaxable contract~~ PROJECT THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075, the ~~contractor~~ PERSON is liable in an amount equal to any tax, penalty and interest that the seller would have been required to pay under this article

if the seller had not complied with subsection A of this section. Payment of the amount under this section exempts the ~~contractor~~ PERSON from liability for any tax imposed under article 4 of this chapter. The amount shall be ~~treated as tax revenues collected from the seller in order to designate the distribution base for purposes of section 42-5029~~ SOURCED UNDER SECTION 42-5040, SUBSECTION A, PARAGRAPH 2.

M. Notwithstanding any other law, compliance with subsection L of this section by a ~~contractor~~ PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 entitles the ~~contractor~~ PERSON TO THE EXEMPTION ALLOWED BY SECTION 465, SUBSECTION (k) OF THE MODEL CITY TAX CODE WHEN purchasing tangible personal property to be incorporated or fabricated by the person into any real property, structure, project, development or improvement ~~to the exemption provided in section 465, subsection (k) of the model city tax code~~.

Sec. 8. Repeal

Section 42-5009, Arizona Revised Statutes, as amended by Laws 2014, chapter 245, section 3, is repealed.

Sec. 9. Section 42-5010, Arizona Revised Statutes, is amended to read:

42-5010. Rates; distribution base

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

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

(a) Transporting classification.

(b) Utilities classification.

(c) Telecommunications classification.

(d) Pipeline classification.

(e) Private car line classification.

(f) Publication classification.

(g) Job printing classification.

(h) Prime contracting classification.

(i) Amusement classification.

(j) Restaurant classification.

(k) Personal property rental classification.

(l) Retail classification AND AMOUNTS EQUAL TO RETAIL TRANSACTION PRIVILEGE TAX DUE PURSUANT TO SECTION 42-5008.01.

2. Five and one-half ~~per cent~~ PERCENT of the tax base as computed for the business of every person engaging or continuing in this state in the transient lodging classification described in section 42-5070.

3. Three and one-eighth ~~per cent~~ PERCENT of the tax base as computed for the business of every person engaging or continuing in this state in the mining classification described in section 42-5072.

4. Zero ~~per cent~~ PERCENT of the tax base as computed for the business of every person engaging or continuing in this state in the commercial lease classification described in section 42-5069.

B. Except as provided by subsection J of this section, twenty ~~per cent~~ PERCENT of the tax revenues collected at the rate prescribed by subsection A, paragraph 1 of this section from persons on account of engaging in business under the business classifications listed in subsection A, paragraph 1, subdivisions (a) through (h) of this section is designated as distribution base for purposes of section 42-5029.

C. Forty ~~per cent~~ PERCENT of the tax revenues collected at the rate prescribed by subsection A, paragraph 1 of this section from persons on account of engaging in business under the business classifications listed in subsection A, paragraph 1, subdivisions (i) through (l) of this section is designated as distribution base for purposes of section 42-5029.

D. Thirty-two ~~per cent~~ PERCENT of the tax revenues collected from persons on account of engaging in business under the business classification listed in subsection A, paragraph 3 of this section is designated as distribution base for purposes of section 42-5029.

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

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

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

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

I. For taxpayers taxable under this chapter other than prime contractors taxable pursuant to section 42-5075:

1. Any increase in the rate of tax that is levied by this article or article 2 of this chapter enacted by the legislature or by a vote of the people does not apply for a period of one hundred twenty days from the date of the tax rate increase to the gross proceeds of sales or gross income from the business of the taxpayer with respect to written contracts entered into before the effective date of the tax rate increase unless the taxpayer has entered into a contract that contains a provision that entitles the taxpayer to recover from the purchaser the amount of the additional tax levied.

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

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

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

Sec. 10. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

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

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

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

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

4. Sales of tangible personal property by any nonprofit organization organized and operated exclusively for charitable purposes and recognized by

the United States internal revenue service under section 501(c)(3) of the internal revenue code.

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

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

7. The sale of stocks and bonds.

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

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

10. Insulin, insulin syringes and glucose test strips.

11. Prescription eyeglasses or contact lenses.

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

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

14. Sales of motor vehicles to nonresidents of this state for use outside this state if the motor vehicle dealer ships or delivers the motor vehicle to a destination out of this state.

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

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

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

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

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

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

21. The sale of cash equivalents and the sale of precious metal bullion and monetized bullion to the ultimate consumer, but the sale of coins or other forms of money for manufacture into jewelry or works of art is subject to the tax and the gross proceeds of sales or gross income derived from the redemption of any cash equivalent by the holder as a means of payment for goods or services that are taxable under this article is subject to the tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items or intangibles, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and may be redeemed in full or in part for tangible personal property, intangibles or services. Cash equivalents include gift cards, stored value cards, gift certificates, vouchers, traveler's checks, money orders or other instruments, orders or electronic mechanisms, such as an electronic code, personal identification number or digital payment mechanism, or any other prepaid intangible right to acquire tangible personal property, intangibles or services in the future, whether from the seller of the cash equivalent or from another person. Cash equivalents do not include either of the following:

(i) Items or intangibles that are sold to one or more persons, through which a value is not denominated in money.

(ii) Prepaid calling cards or prepaid authorization numbers for telecommunications services made taxable by subsection Q of this section.

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

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

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

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

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

25. Tangible personal property sold to:

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

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

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

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

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

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

(g) A qualifying health sciences educational institution as defined in section 42-5001.

(h) ANY PERSON REPRESENTING OR WORKING ON BEHALF OF ANOTHER PERSON DESCRIBED IN SUBDIVISIONS (a) THROUGH (g) OF THIS PARAGRAPH IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O.

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

27. Tangible personal property sold to:

(a) A person that is subject to tax under this article by reason of being engaged in business classified ~~under the prime contracting classification~~ under section 42-5075 or to a subcontractor working under the control of a ~~prime contractor that is subject to tax under article 1 of this chapter~~ PERSON ENGAGED IN BUSINESS CLASSIFIED UNDER SECTION 42-5075, if the property so sold is any of the following:

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

(ii) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O.

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

(b) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 AND THAT HAS BEEN PROVIDED A COPY OF A CERTIFICATE UNDER SECTION 42-5009, SUBSECTION L, IF THE PROPERTY SO SOLD IS INCORPORATED OR FABRICATED BY THE PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT DESCRIBED IN THE CERTIFICATE.

28. The sale of a motor vehicle to:

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

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

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

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

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

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

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

34. Machinery, equipment, technology or related supplies that are only useful to assist a person ~~who has~~ WITH a physical disability as defined in section 46-191~~,~~ OR A PERSON WHO has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

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

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

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

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

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

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

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

40. Sales of food, drink and condiment for consumption within the premises of any prison, jail or other institution under the jurisdiction of

1 the state department of corrections, the department of public safety, the
2 department of juvenile corrections or a county sheriff.
3 41. A motor vehicle and any repair and replacement parts and tangible
4 personal property becoming a part of such motor vehicle sold to a motor
5 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
6 and who is engaged in the business of leasing or renting such property.
7 42. Livestock and poultry feed, salts, vitamins and other additives for
8 livestock or poultry consumption that are sold to 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 43. Sales of implants used as growth promotants and injectable
13 medicines, not already exempt under paragraph 8 of this subsection, for
14 livestock or poultry owned by or in possession of persons who are engaged in
15 producing livestock, poultry, or livestock or poultry products or who are
16 engaged in feeding livestock or poultry commercially. For the purposes of
17 this paragraph, "poultry" includes ratites.
18 44. Sales of motor vehicles at auction to nonresidents of this state
19 for use outside this state if the vehicles are shipped or delivered out of
20 this state, regardless of where title to the motor vehicles passes or its
21 free on board point.
22 45. Tangible personal property sold to a person engaged in business and
23 subject to tax under the transient lodging classification if the tangible
24 personal property is a personal hygiene item or articles used by human beings
25 for food, drink or condiment, except alcoholic beverages, that are furnished
26 without additional charge to and intended to be consumed by the transient
27 during the transient's occupancy.
28 46. Sales of alternative fuel, as defined in section 1-215, to a used
29 oil fuel burner who has received a permit to burn used oil or used oil fuel
30 under section 49-426 or 49-480.
31 47. Sales of materials that are purchased by or for publicly funded
32 libraries including school district libraries, charter school libraries,
33 community college libraries, state university libraries or federal, state,
34 county or municipal libraries for use by the public as follows:
35 (a) Printed or photographic materials, beginning August 7, 1985.
36 (b) Electronic or digital media materials, beginning July 17, 1994.
37 48. Tangible personal property sold to a commercial airline and
38 consisting of food, beverages and condiments and accessories used for serving
39 the food and beverages, if those items are to be provided without additional
40 charge to passengers for consumption in flight. For the purposes of this
41 paragraph, "commercial airline" means a person holding a federal certificate
42 of public convenience and necessity or foreign air carrier permit for air
43 transportation to transport persons, property or United States mail in
44 intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

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

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

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

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

58. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the

qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

59. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

60. SALES OF TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, THAT IS LOCATED WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT THE INDIAN RESERVATION WAS ESTABLISHED.

(b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

(c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF THE INDIAN TRIBE.

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

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification, INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

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

(b) Any foreign government.

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

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

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

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

11. Buses or other urban mass transit vehicles that are used directly to transport persons or property for hire or pursuant to a governmentally

adopted and controlled urban mass transportation program and that are sold to bus companies holding a federal certificate of convenience and necessity or operated by any city, town or other governmental entity or by any person contracting with such governmental entity as part of a governmentally adopted and controlled program to provide urban mass transportation.

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

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

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

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

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

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

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

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

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

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

transmission services during the test period were transmitted by the facility to or on behalf of those services.

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

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

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

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

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

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

19. Machinery and equipment that are sold to a person engaged in the commercial production of livestock, livestock products or agricultural, horticultural, viticultural or floricultural crops or products in this state, ~~and that~~ INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION O, IF THE MACHINERY AND EQUIPMENT are used directly and primarily to prevent, monitor, control or reduce air, water or land pollution.

1 20. Machinery or equipment that enables a television station to
2 originate and broadcast or to receive and broadcast digital television
3 signals and that was purchased to facilitate compliance with the
4 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
5 Code section 336) and the federal communications commission order issued
6 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
7 not exempt any of the following:
8 (a) Repair or replacement parts purchased for the machinery or
9 equipment described in this paragraph.
10 (b) Machinery or equipment purchased to replace machinery or equipment
11 for which an exemption was previously claimed and taken under this paragraph.
12 (c) Any machinery or equipment purchased after the television station
13 has ceased analog broadcasting, or purchased after November 1, 2009,
14 whichever occurs first.
15 21. Qualifying equipment that is purchased from and after June 30, 2004
16 through June 30, 2024 by a qualified business under section 41-1516 for
17 harvesting or processing qualifying forest products removed from qualifying
18 projects as defined in section 41-1516. To qualify for this deduction, the
19 qualified business at the time of purchase must present its certification
20 approved by the department.
21 C. The deductions provided by subsection B of this section do not
22 include sales of:
23 1. Expendable materials. For the purposes of this paragraph,
24 expendable materials do not include any of the categories of tangible
25 personal property specified in subsection B of this section regardless of the
26 cost or useful life of that property.
27 2. Janitorial equipment and hand tools.
28 3. Office equipment, furniture and supplies.
29 4. Tangible personal property used in selling or distributing
30 activities, other than the telecommunications transmissions described in
31 subsection B, paragraph 15 of this section.
32 5. Motor vehicles required to be licensed by this state, except buses
33 or other urban mass transit vehicles specifically exempted pursuant to
34 subsection B, paragraph 11 of this section, without regard to the use of such
35 motor vehicles.
36 6. Shops, buildings, docks, depots and all other materials of whatever
37 kind or character not specifically included as exempt.
38 7. Motors and pumps used in drip irrigation systems.
39 8. Machinery and equipment or other tangible personal property used by
40 a contractor in the performance of a contract.
41 D. In addition to the deductions from the tax base prescribed by
42 subsection A of this section, there shall be deducted from the tax base the
43 gross proceeds of sales or gross income derived from sales of machinery,
44 equipment, materials and other tangible personal property used directly and
45 predominantly to construct a qualified environmental technology

manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

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

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

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

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

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

1. Transporting classification.
2. Utilities classification.
3. Telecommunications classification.
4. Pipeline classification.
5. Private car line classification.
6. Publication classification.
7. Job printing classification.
8. Prime contracting classification.
9. Restaurant classification.

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

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

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

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

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

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

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

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

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

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

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

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

P. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract

for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

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

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

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

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

S. For the purposes of this section, the transfer of title or possession of coal from an owner or operator of a power plant to a person in the business of refining coal is not a sale of coal if both of the following apply:

1. The transfer of title or possession of the coal is for the purpose of refining the coal.

2. The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this paragraph, "coal refining process" means the application of a coal additive system that aids in the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

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

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

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

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

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

W. For the purposes of this section:

1. "Aircraft" includes:

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

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

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

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

X. For the purposes of subsection J of this section:

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

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

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

4. "Overhead materials" means tangible personal property, the gross proceeds of sales or gross income derived from that would otherwise be

included in the retail classification, and that are used or consumed in the performance of a contract, the cost of which is charged to an overhead expense account and allocated to various contracts based on generally accepted accounting principles and consistent with government contract accounting standards.

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

6. "Subcontract" means an agreement between a contractor and any person who is not an employee of the contractor for furnishing of supplies or services that, in whole or in part, are necessary to the performance of one or more government contracts, or under which any portion of the contractor's obligation under one or more government contracts is performed, undertaken or assumed and that includes provisions causing title to overhead materials or other tangible personal property used in the performance of the subcontract to pass to the government or that includes provisions incorporating such title passing clauses in a government contract into the subcontract. ~~For the purposes of this paragraph, "contractor" has its ordinary and common meaning and does not have the meaning prescribed by section 42-5001.~~

Sec. 11. Section 42-5075, Arizona Revised Statutes, is amended to read:

42-5075. Prime contracting classification; exemptions; definitions

A. The prime contracting classification is comprised of the business of prime contracting and ~~dealership of manufactured buildings~~ THE BUSINESS OF MANUFACTURED BUILDING DEALER. Sales for resale to another ~~dealership of~~ manufactured ~~buildings~~ BUILDING DEALER are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter. ~~The proceeds from alteration and repairs to a used manufactured building are taxable under this section.~~

B. The tax base for the prime contracting classification is sixty-five ~~per cent~~ PERCENT of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

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

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

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

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

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

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

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

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

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

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

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

1 This paragraph does not include asbestos removal or the construction or use
2 of ancillary structures such as maintenance sheds, offices or storage
3 facilities for unattached equipment, pollution control equipment, facilities
4 or other control items required or to be used by a person to prevent or
5 control contamination before it reaches the environment.
6 7. The gross proceeds of sales or gross income that is derived from a
7 contract for the installation, assembly, repair or maintenance of machinery,
8 equipment or other tangible personal property that is either deducted from
9 the tax base of the retail classification under section 42-5061, subsection B
10 or that is exempt from use tax under section 42-5159, subsection B and that
11 has independent functional utility, pursuant to the following provisions:
12 (a) The deduction provided in this paragraph includes the gross
13 proceeds of sales or gross income derived from all of the following:
14 (i) Any activity performed on machinery, equipment or other tangible
15 personal property with independent functional utility.
16 (ii) Any activity performed on any tangible personal property relating
17 to machinery, equipment or other tangible personal property with independent
18 functional utility in furtherance of any of the purposes provided for under
19 subdivision (d) of this paragraph.
20 (iii) Any activity that is related to the activities described in
21 items (i) and (ii) of this subdivision, including inspecting the installation
22 of or testing the machinery, equipment or other tangible personal property.
23 (b) The deduction provided in this paragraph does not include gross
24 proceeds of sales or gross income from the portion of any contracting
25 activity that consists of the development of, or modification to, real
26 property in order to facilitate the installation, assembly, repair,
27 maintenance or removal of machinery, equipment or other tangible personal
28 property that is either deducted from the tax base of the retail
29 classification under section 42-5061, subsection B or exempt from use tax
30 under section 42-5159, subsection B.
31 (c) The deduction provided in this paragraph shall be determined
32 without regard to the size or useful life of the machinery, equipment or
33 other tangible personal property.
34 (d) For the purposes of this paragraph, "independent functional
35 utility" means that the machinery, equipment or other tangible personal
36 property can independently perform its function without attachment to real
37 property, other than attachment for any of the following purposes:
38 (i) Assembling the machinery, equipment or other tangible personal
39 property.
40 (ii) Connecting items of machinery, equipment or other tangible
41 personal property to each other.
42 (iii) Connecting the machinery, equipment or other tangible personal
43 property, whether as an individual item or as a system of items, to water,
44 power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other similar nonpermanent connections to either real property or real property improvements.

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

(a) Section 42-5061, subsection A, paragraph 25, 29 or 58.

(b) Section 42-5061, subsection B.

(c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b), (c), (d), (e), (f), ~~(i),~~ (j), (k) ~~or~~, (l), (m) OR (n) or paragraph 54.

(d) Section 42-5159, subsection B.

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

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

11. The gross proceeds of sales or gross income that is derived from the installation, assembly, repair or maintenance of clean rooms that are deducted from the tax base of the retail classification pursuant to section 42-5061, subsection B, paragraph 16.

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

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

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

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

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

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

18. The gross proceeds of sales or gross income received from a contract for the construction of any building, or other structure, project, development or improvement owned by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 if actual construction begins before January 1, 2024. To qualify for this deduction, the prime contractor must obtain a letter of qualification from the Arizona commerce authority before beginning work under the contract.

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

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

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

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

~~20. The gross proceeds of sales or gross income derived from a contract with the owner of real property for the maintenance, repair or replacement of existing property if the contract does not include modification activities. For the purposes of this paragraph, each contract or project is independent of another contract. A contractor that has gross proceeds of sales or gross income derived from a contract that is not subject to tax under this~~

~~paragraph is subject to tax on a contract that includes modification activities.~~

~~21.~~ 20. The gross proceeds of sales or gross income derived from a contract entered into for the construction of a mixed waste processing facility that is located on a municipal solid waste landfill and that is constructed for the purpose of recycling solid waste or producing renewable energy from landfill waste. For the purposes of this paragraph:

(a) "Mixed waste processing facility" means a solid waste facility that is owned, operated or used for the treatment, processing or disposal of solid waste, recyclable solid waste, conditionally exempt small quantity generator waste or household hazardous waste. For the purposes of this subdivision, "conditionally exempt small quantity generator waste", "household hazardous waste" and "solid waste facility" have the same meanings prescribed in section 49-701, except that solid waste facility does include a site that stores, treats or processes paper, glass, wood, cardboard, household textiles, scrap metal, plastic, vegetative waste, aluminum, steel or other recyclable material.

(b) "Municipal solid waste landfill" has the same meaning prescribed in section 49-701.

(c) "Recycling" means collecting, separating, cleansing, treating and reconstituting recyclable solid waste that would otherwise become solid waste, but does not include incineration or other similar processes.

(d) "Renewable energy" has the same meaning prescribed in section 41-1511.

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

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

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

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

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

3. The department may prescribe a form for the certificate described in paragraph 1, subdivision (b) of this subsection. The department may also adopt rules that describe the transactions with respect to which a person is

not entitled to rely solely on the information contained in the certificate provided in paragraph 1, subdivision (b) of this subsection but must instead obtain such additional information as required in order to be entitled to the deduction.

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

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

E. Amounts received by a contractor for a project are excluded from the contractor's gross proceeds of sales or gross income derived from the business if the person who hired the contractor executes and provides a certificate to the contractor stating that the person providing the certificate is a prime contractor and is liable for the tax under article 1 of this chapter. The department shall prescribe the form of the certificate. If the contractor has reason to believe that the information contained on the certificate is erroneous or incomplete, the department may disregard the certificate. If the person who provides the certificate is not liable for the tax as a prime contractor, that person is nevertheless deemed to be the prime contractor in lieu of the contractor and is subject to the tax under this section on the gross receipts or gross proceeds received by the contractor.

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

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

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

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

J. EXCEPT AS PROVIDED IN SUBSECTION O OF THIS SECTION, the gross proceeds of sales or gross income derived from landscaping activities are subject to tax under this section. Landscaping includes installing lawns, grading or leveling ground, installing gravel or boulders, planting trees and other plants, felling trees, removing or mulching tree stumps, removing other imbedded plants, building ~~or modifying~~ irrigation berms, ~~repairing sprinkler or watering systems,~~ installing railroad ties and installing underground sprinkler or watering systems.

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

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

M. The following apply in determining the taxable situs of sales of manufactured buildings:

1. For sales in this state where the manufactured building dealer contracts to deliver the building to a setup site or to perform the setup in this state, the taxable situs is the setup site.

2. For sales in this state where the manufactured building dealer does not contract to deliver the building to a setup site or does not perform the setup, the taxable situs is the location of the dealership where the building is delivered to the buyer.

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

N. The gross proceeds of sales or gross income attributable to a written contract for design phase services or professional services, executed before modification begins and with terms, conditions and pricing of all of these services separately stated in the contract from those for construction phase services, is not subject to tax under this section, regardless of whether the services are provided sequential to or concurrent with prime contracting activities that are subject to tax under this section. This subsection does not include the gross proceeds of sales or gross income attributable to construction phase services. For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

(i) Master schedule updates.

(ii) Modification work cash flow projection updates.

(iii) Site reports made on a periodic basis.

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

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

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

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

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

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

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

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

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

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

(e) Preparing preliminary estimates of costs of modification work before completion of the final design of the project, including an estimate or schedule of values for any of the following:

(i) Labor, materials, machinery and equipment, tools, water, heat, utilities, transportation and other facilities and services used in the execution and completion of modification work, regardless of whether they are temporary or permanent or whether they are incorporated in the modifications.

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

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

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

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

(vi) Any bond and insurance premiums.

(vii) Any applicable taxes.

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

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

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

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

O. The gross proceeds of sales or gross income derived from a contract with the owner of real property or ~~the person owning the~~ improvements to ~~the~~ real property for the maintenance, repair, replacement or alteration of existing property is not subject to tax under this section if the contract does not include modification activities, except as specified in this subsection. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity ~~that is essential to the completion of the maintenance, repair, replacement or alteration contract~~ does not subject the ~~entire~~ contract OR ANY PART OF THE CONTRACT to tax under this

section. For the purposes of this subsection: ~~, each contract or project is independent of any other contract.~~

1. TANGIBLE PERSONAL PROPERTY THAT IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN THIS SUBSECTION MAY BE SUBJECT TO THE AMOUNT PRESCRIBED IN SECTION 42-5008.01.

2. EACH CONTRACT IS INDEPENDENT OF ANY OTHER CONTRACT, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES INCLUDED IN THE CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT, WITH THE TAX TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO FOLLOW THE TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE SUBSEQUENT CHANGE ORDER DIRECTLY RELATES.

P. NOTWITHSTANDING SUBSECTION O OF THIS SECTION, A CONTRACT THAT PRIMARILY INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS SUBJECT TO TITLE 28, CHAPTER 19, 20 OR 22 OR TITLE 34, CHAPTER 2 OR 6 IS TAXABLE UNDER THIS SECTION, EVEN IF THE CONTRACT ALSO INCLUDES VERTICAL IMPROVEMENTS. AGENCIES THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE PROVISIONS SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THIS SECTION. THIS SUBSECTION DOES NOT APPLY TO CONTRACTS WITH:

1. COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, SPECIAL HEALTH CARE DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS, THEME PARK DISTRICTS, REGIONAL ATTRACTION DISTRICTS OR REVITALIZATION DISTRICTS.

2. ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN PARAGRAPH 1 OF THIS SUBSECTION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE MODIFICATION, MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND.

~~P.~~ Q. Notwithstanding subsection ~~Q~~ R, paragraph ~~8~~ 10 of this section, a person owning real property who enters into a contract for sale of the real property, who is responsible to the new owner of the property for modifications made to the property in the period subsequent to the transfer of title and who receives a consideration for the modifications is considered a prime contractor solely for purposes of taxing the gross proceeds of sale or gross income received for the modifications made subsequent to the transfer of title. The original owner's gross proceeds of sale or gross income received for the modifications shall be determined according to the following methodology:

1. If any part of the contract for sale of the property specifies amounts to be paid to the original owner for the modifications to be made in

the period subsequent to the transfer of title, the amounts are included in the original owner's gross proceeds of sale or gross income under this section. Proceeds from the sale of the property that are received after transfer of title and that are unrelated to the modifications made subsequent to the transfer of title are not considered gross proceeds of sale or gross income from the modifications.

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

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

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

~~Q.~~ R. For the purposes of this section:

1. "ALTERATION" MEANS AN ACTIVITY OR ACTION THAT CAUSES A DIRECT PHYSICAL CHANGE TO EXISTING PROPERTY. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) FOR EXISTING PROPERTY THAT IS PROPERLY CLASSIFIED AS CLASS TWO PROPERTY UNDER SECTION 42-12002, PARAGRAPH 1, SUBDIVISION (c) OR PARAGRAPH 2, SUBDIVISION (c) AND THAT IS USED FOR RESIDENTIAL PURPOSES, CLASS THREE PROPERTY UNDER SECTION 42-12003 OR CLASS FOUR PROPERTY UNDER 42-12004, THIS PARAGRAPH DOES NOT APPLY IF THE CONTRACT AMOUNT IS MORE THAN TWENTY-FIVE PERCENT OF THE MOST RECENT FULL CASH VALUE ESTABLISHED UNDER CHAPTER 13, ARTICLE 2 OF THIS TITLE AS OF THE DATE OF ANY BID FOR THE WORK OR THE DATE OF THE CONTRACT, WHICHEVER VALUE IS HIGHER.

(b) FOR ALL EXISTING PROPERTY OTHER THAN EXISTING PROPERTY DESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH, THIS PARAGRAPH DOES NOT APPLY IF ANY OF THE FOLLOWING IS TRUE:

(i) THE CONTRACT AMOUNT IS MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS.

(ii) THE SCOPE OF WORK DIRECTLY RELATES TO MORE THAN FORTY PERCENT OF THE EXISTING SQUARE FOOTAGE OF THE EXISTING PROPERTY.

(iii) THE SCOPE OF WORK INVOLVES EXPANDING THE SQUARE FOOTAGE OF MORE THAN TEN PERCENT OF THE EXISTING PROPERTY.

(c) PROJECT ELEMENTS MAY NOT BE ARTIFICIALLY SEPARATED FROM A CONTRACT TO CAUSE A PROJECT TO QUALIFY AS AN ALTERATION. THE DEPARTMENT HAS THE

BURDEN OF PROOF THAT PROJECT ELEMENTS HAVE BEEN ARTIFICIALLY SEPARATED FROM A CONTRACT.

(d) IF A PROJECT FOR WHICH THE OWNER AND THE PERSON PERFORMING THE WORK REASONABLY BELIEVED, AT THE INCEPTION OF THE CONTRACT, WOULD BE TREATED AS AN ALTERATION UNDER THIS PARAGRAPH AND, ON COMPLETION OF THE PROJECT, THE PROJECT EXCEEDED THE APPLICABLE THRESHOLD DESCRIBED IN EITHER SUBDIVISION (a) OR (b) OF THIS PARAGRAPH BY NO MORE THAN TWENTY-FIVE PERCENT OF THE APPLICABLE THRESHOLD FOR ANY REASON, THE WORK PERFORMED UNDER THE CONTRACT QUALIFIES AS AN ALTERATION.

(e) A CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED AS PART OF THE ORIGINAL CONTRACT, AND THE CONTRACT AMOUNT SHALL INCLUDE ANY AMOUNT ATTRIBUTABLE TO A CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT.

(f) ALTERATION DOES NOT INCLUDE MAINTENANCE, REPAIR OR REPLACEMENT.

~~1.~~ 2. "Contracting" means engaging in business as a contractor.

~~2.~~ 3. "Contractor" is synonymous with the term "builder" and means any person or organization that undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does personally or by or through others, modify any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement, or to do any part of such a project, including the erection of scaffolding or other structure or works in connection with such a project, and includes subcontractors and specialty contractors. For all purposes of taxation or deduction, this definition shall govern without regard to whether or not such contractor is acting in fulfillment of a contract.

~~3.~~ 4. "Manufactured building" means a manufactured home, mobile home or factory-built building, as defined in section 41-2142.

~~4.~~ 5. "Manufactured building dealer" means a dealer who either:

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

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

~~5.~~ 6. "Modification" means construction, ~~improvement, movement,~~ GRADING AND LEVELING GROUND, wreckage or demolition. MODIFICATION DOES NOT INCLUDE:

(a) ANY PROJECT DESCRIBED IN SUBSECTION O OF THIS SECTION.

(b) ANY WRECKAGE OR DEMOLITION OF EXISTING PROPERTY, OR ANY OTHER ACTIVITY THAT IS A NECESSARY COMPONENT OF A PROJECT DESCRIBED IN SUBSECTION O OF THIS SECTION.

(c) ANY MOBILIZATION OR DEMOBILIZATION RELATED TO A PROJECT DESCRIBED IN SUBSECTION O OF THIS SECTION, SUCH AS THE ERECTION OR REMOVAL OF TEMPORARY FACILITIES TO BE USED BY THOSE PERSONS WORKING ON THE PROJECT.

~~6.~~ 7. "Modify" means to ~~construct, improve, move, wreck or demolish~~ MAKE A MODIFICATION OR CAUSE A MODIFICATION TO BE MADE.

8. "OWNER" MEANS THE PERSON THAT HOLDS TITLE TO THE REAL PROPERTY OR IMPROVEMENTS TO REAL PROPERTY THAT IS THE SUBJECT OF THE WORK, AS WELL AS AN AGENT OF THE TITLE HOLDER AND ANY PERSON WITH THE AUTHORITY TO PERFORM OR AUTHORIZE WORK ON THE REAL PROPERTY OR IMPROVEMENTS, INCLUDING A TENANT AND A PROPERTY MANAGER. FOR THE PURPOSES OF SUBSECTION O OF THIS SECTION, A PERSON WHO IS HIRED BY A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, OR A SUBCONTRACTOR OF A GENERAL CONTRACTOR THAT IS HIRED BY AN OWNER, IS CONSIDERED TO BE HIRED BY THE OWNER.

~~7.~~ 9. "Prime contracting" means engaging in business as a prime contractor.

~~8.~~ 10. "Prime contractor" means a contractor who supervises, performs or coordinates the modification of any building, highway, road, railroad, excavation, manufactured building or other structure, project, development or improvement including the contracting, if any, with any subcontractors or specialty contractors and who is responsible for the completion of the contract. Except as provided in subsections E and ~~P~~ Q of this section, a person who owns real property, who engages one or more contractors to modify that real property and who does not itself modify that real property is not a prime contractor within the meaning of this paragraph regardless of the existence of a contract for sale or the subsequent sale of that real property.

11. "REPLACEMENT" MEANS THE REMOVAL OF ONE COMPONENT OR SYSTEM OF EXISTING PROPERTY OR TANGIBLE PERSONAL PROPERTY INSTALLED IN EXISTING PROPERTY, INCLUDING MACHINERY OR EQUIPMENT, AND THE INSTALLATION OF A NEW COMPONENT OR SYSTEM OR NEW TANGIBLE PERSONAL PROPERTY, INCLUDING MACHINERY OR EQUIPMENT, THAT PROVIDES THE SAME OR UPGRADED DESIGN OR FUNCTIONALITY, REGARDLESS OF THE CONTRACT AMOUNT.

~~9.~~ 12. "Sale of a used manufactured building" does not include a lease of a used manufactured building.

Sec. 12. Section 42-5159, Arizona Revised Statutes, is amended to read:

42-5159. Exemptions

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

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

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

imposed by this article, the tax imposed by this article is reduced by the amount of the tax already imposed by the other state.

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

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

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

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

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

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

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

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

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

12. Materials that are purchased by or for publicly funded libraries including school district libraries, charter school libraries, community

college libraries, state university libraries or federal, state, county or municipal libraries for use by the public as follows:

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

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

13. Tangible personal property purchased by:

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

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

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

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

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

(f) A nonprofit charitable organization that has qualified under section 501(c)(3) of the United States internal revenue code and that engages in and uses such property exclusively in programs for persons with mental or physical disabilities if the programs are exclusively for training, job placement, rehabilitation or testing.

(g) A person that is subject to tax under ~~article 1 of~~ this chapter by reason of being engaged in business classified ~~under the prime contracting classification~~ under section 42-5075, or a subcontractor working under the control of a ~~prime contractor~~ PERSON THAT IS ENGAGED IN BUSINESS CLASSIFIED UNDER SECTION 42-5075, if the tangible personal property is any of the following:

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

(ii) INCORPORATED OR FABRICATED BY THE PERSON INTO ANY PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O.

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

(h) A PERSON THAT IS NOT SUBJECT TO TAX UNDER SECTION 42-5075 AND THAT HAS BEEN PROVIDED A COPY OF A CERTIFICATE DESCRIBED IN SECTION 42-5009, SUBSECTION L, IF THE PROPERTY PURCHASED IS INCORPORATED OR FABRICATED BY THE PERSON INTO THE REAL PROPERTY, STRUCTURE, PROJECT, DEVELOPMENT OR IMPROVEMENT DESCRIBED IN THE CERTIFICATE.

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

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

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

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

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

~~(m)~~ (n) A qualifying health sciences educational institution as defined in section 42-5001.

(o) A PERSON REPRESENTING OR WORKING ON BEHALF OF ANY PERSON DESCRIBED IN SUBDIVISION (a), (b), (c), (d), (e), (f), (i), (j), (k), (m) OR (n) OF THIS PARAGRAPH, IF THE TANGIBLE PERSONAL PROPERTY IS INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O.

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

15. Tangible personal property sold by:

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

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

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo

1 featuring primarily farm and ranch animals and no part of the organization's
2 net earnings inures to the benefit of any private shareholder or individual.
3 16. Drugs and medical oxygen, including delivery hose, mask or tent,
4 regulator and tank, on the prescription of a member of the medical, dental or
5 veterinarian profession who is licensed by law to administer such substances.
6 17. Prosthetic appliances, as defined in section 23-501, prescribed or
7 recommended by a person who is licensed, registered or otherwise
8 professionally credentialed as a physician, dentist, podiatrist,
9 chiropractor, naturopath, homeopath, nurse or optometrist.
10 18. Prescription eyeglasses and contact lenses.
11 19. Insulin, insulin syringes and glucose test strips.
12 20. Hearing aids as defined in section 36-1901.
13 21. Durable medical equipment that has a centers for medicare and
14 medicaid services common procedure code, is designated reimbursable by
15 medicare, is prescribed by a person who is licensed under title 32, chapter
16 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
17 used to serve a medical purpose, is generally not useful to a person in the
18 absence of illness or injury and is appropriate for use in the home.
19 22. Food, as provided in and subject to the conditions of article 3 of
20 this chapter and section 42-5074.
21 23. Items purchased with United States department of agriculture food
22 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
23 958) or food instruments issued under section 17 of the child nutrition act
24 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
25 section 1786).
26 24. Food and drink provided without monetary charge by a taxpayer that
27 is subject to section 42-5074 to its employees for their own consumption on
28 the premises during the employees' hours of employment.
29 25. Tangible personal property that is used or consumed in a business
30 subject to section 42-5074 for human food, drink or condiment, whether
31 simple, mixed or compounded.
32 26. Food, drink or condiment and accessory tangible personal property
33 that are acquired for use by or provided to a school district or charter
34 school if they are to be either served or prepared and served to persons for
35 consumption on the premises of a public school in the school district or on
36 the premises of the charter school during school hours.
37 27. Lottery tickets or shares purchased pursuant to title 5, chapter
38 5.1, article 1.
39 28. Textbooks, sold by a bookstore, that are required by any state
40 university or community college.
41 29. Magazines, other periodicals or other publications produced by this
42 state to encourage tourist travel.
43 30. Paper machine clothing, such as forming fabrics and dryer felts,
44 purchased by a paper manufacturer and directly used or consumed in paper
45 manufacturing.

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

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

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

(b) Public educational institutions.

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

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

34. Machinery, equipment, technology or related supplies that are only useful to assist a person ~~who has~~ WITH a physical disability as defined in section 46-191~~,~~ OR A PERSON WHO has a developmental disability as defined in section 36-551 or has a head injury as defined in section 41-3201 to be more independent and functional.

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

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

37. A motor vehicle and any repair and replacement parts and tangible personal property becoming a part of such motor vehicle sold to a motor

carrier who is subject to a fee prescribed in title 28, chapter 16, article 4 and who is engaged in the business of leasing or renting such property.

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

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

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

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

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

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

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

43. Tangible personal property purchased by a commercial airline and consisting of food, beverages and condiments and accessories used for serving the food and beverages, if those items are to be provided without additional charge to passengers for consumption in flight. For the purposes of this

paragraph, "commercial airline" means a person holding a federal certificate of public convenience and necessity or foreign air carrier permit for air transportation to transport persons, property or United States mail in intrastate, interstate or foreign commerce.

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

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

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

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

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

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

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

49. Prepared food, drink or condiment donated by a restaurant as classified in section 42-5074, subsection A to a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

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

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

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

51. Motor vehicle fuel and use fuel to a qualified business under section 41-1516 for off-road use in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

52. Repair parts installed in equipment used directly by a qualified business under section 41-1516 in harvesting, processing or transporting qualifying forest products removed from qualifying projects as defined in section 41-1516.

53. Renewable energy credits or any other unit created to track energy derived from renewable energy resources. For the purposes of this paragraph, "renewable energy credit" means a unit created administratively by the corporation commission or governing body of a public power entity to track kilowatt hours of electricity derived from a renewable energy resource or the kilowatt hour equivalent of conventional energy resources displaced by distributed renewable energy resources.

54. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

55. Coal acquired from an owner or operator of a power plant by a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

56. TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN SECTION 42-5075, SUBSECTION O, THAT IS LOCATED WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT THE INDIAN RESERVATION WAS ESTABLISHED.

(b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

(c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES

DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF THE INDIAN TRIBE.

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

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

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

3. Tangible personal property sold to persons engaged in business classified under the telecommunications classification under section 42-5064, INCLUDING A PERSON REPRESENTING OR WORKING ON BEHALF OF SUCH A PERSON IN A MANNER DESCRIBED IN SECTION 42-5075, SUBSECTION O, and consisting of central office switching equipment, switchboards, private branch exchange equipment, microwave radio equipment and carrier equipment including optical fiber, coaxial cable and other transmission media that are components of carrier systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. Machinery or equipment, including related structural components, that is employed in connection with manufacturing, processing, fabricating, job printing, refining, mining, natural gas pipelines, metallurgical operations, telecommunications, producing or transmitting electricity or

research and development and that is used directly to meet or exceed rules or regulations adopted by the federal energy regulatory commission, the United States environmental protection agency, the United States nuclear regulatory commission, the Arizona department of environmental quality or a political subdivision of this state to prevent, monitor, control or reduce land, water or air pollution.

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

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

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

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

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

21. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2024 by a qualified business under section 41-1516 for harvesting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516. To qualify for this exemption, the qualified business must obtain and present its certification from the Arizona commerce authority at the time of purchase.

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

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

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

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

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to

subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

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

7. Motors and pumps used in drip irrigation systems.

8. Machinery and equipment or tangible personal property used by a contractor in the performance of a contract.

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

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

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

E. The tax levied by this article does not apply to the purchase of solar energy devices from a retailer that is registered with the department as a solar energy retailer or a solar energy contractor.

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

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

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

G. The tax levied by this article does not apply to the purchase price of electricity or natural gas by a business that is principally engaged in manufacturing or smelting operations and that uses at least fifty-one ~~per cent~~ PERCENT of the electricity or natural gas in the manufacturing or smelting operations. This subsection does not apply to gas transportation services. For the purposes of this subsection:

1. "Gas transportation services" means the services of transporting natural gas to a natural gas customer or to a natural gas distribution facility if the natural gas was purchased from a supplier other than the utility.

2. "Manufacturing" means the performance as a business of an integrated series of operations that places tangible personal property in a form, composition or character different from that in which it was acquired and transforms it into a different product with a distinctive name, character or use. Manufacturing does not include processing, fabricating, job printing, mining, generating electricity or operating a restaurant.

3. "Principally engaged" means at least fifty-one ~~per cent~~ PERCENT of the business is a manufacturing or smelting operation.

4. "Smelting" means to melt or fuse a metalliferous mineral, often with an accompanying chemical change, usually to separate the metal.

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

1. "Aircraft" includes:

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

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

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

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

Sec. 13. Section 42-6004, Arizona Revised Statutes, is amended to read:

42-6004. Exemption from municipal tax

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

1. Exhibition events in this state sponsored, conducted or operated by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

2. Interstate telecommunications services, which include that portion of telecommunications services, such as subscriber line service, allocable by federal law to interstate telecommunications service.

3. Sales of warranty or service contracts.

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

5. Interest on finance contracts.

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

7. Sales of food or other items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786) but may impose such a tax on other sales of food. If a city, town or special taxing district exempts sales of food from its tax or imposes a different transaction privilege rate on the gross proceeds of sales or gross income from sales of food and nonfood items, it shall use the definition of food prescribed by rule adopted by the department pursuant to section 42-5106.

8. Orthodontic devices dispensed by a dental professional who is licensed under title 32, chapter 11 to a patient as part of the practice of dentistry.

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

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

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

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

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

12. Leasing real property between affiliated companies, businesses, persons or reciprocal insurers. For the purposes of this paragraph:

(a) "Affiliated companies, businesses, persons or reciprocal insurers" means the lessor holds a controlling interest in the lessee, the lessee holds a controlling interest in the lessor, affiliated persons hold a controlling interest in both the lessor and the lessee, or an unrelated person holds a controlling interest in both the lessor and lessee.

(b) "Affiliated persons" means members of the individual's family or persons who have ownership or control of a business entity.

(c) "Controlling interest" means direct or indirect ownership of at least eighty ~~per cent~~ PERCENT of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

(d) "Members of the individual's family" means the individual's spouse and brothers and sisters, whether by whole or half blood, including adopted persons, ancestors and lineal descendants.

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

13. The gross proceeds of sales or gross income derived from a contract for the installation, assembly, repair or maintenance of machinery, equipment or other tangible personal property THAT IS described in section 42-5061, subsection B and that has independent functional utility, pursuant to the following provisions:

(a) The deduction provided in this paragraph includes the gross proceeds of sales or gross income derived from all of the following:

(i) Any activity performed on machinery, equipment or other tangible personal property with independent functional utility.

(ii) Any activity performed on any tangible personal property relating to machinery, equipment or other tangible personal property with independent functional utility in furtherance of any of the purposes provided for under subdivision (d) of this paragraph.

(iii) Any activity that is related to the activities described in items (i) and (ii) of this subdivision, including inspecting the installation of or testing the machinery, equipment or other tangible personal property.

(b) The deduction provided in this paragraph does not include gross proceeds of sales or gross income from the portion of any contracting activity that consists of the development of, or modification to, real property in order to facilitate the installation, assembly, repair, maintenance or removal of machinery, equipment or other tangible personal property described in section 42-5061, subsection B.

(c) The deduction provided in this paragraph shall be determined without regard to the size or useful life of the machinery, equipment or other tangible personal property.

(d) For the purposes of this paragraph, "independent functional utility" means that the machinery, equipment or other tangible personal property can independently perform its function without attachment to real property, other than attachment for any of the following purposes:

(i) Assembling the machinery, equipment or other tangible personal property.

(ii) Connecting items of machinery, equipment or other tangible personal property to each other.

(iii) Connecting the machinery, equipment or other tangible personal property, whether as an individual item or as a system of items, to water, power, gas, communication or other services.

(iv) Stabilizing or protecting the machinery, equipment or other tangible personal property during operation by bolting, burying or performing other dissimilar nonpermanent connections to either real property or real property improvements.

14. The leasing or renting of certified ignition interlock devices installed pursuant to the requirements prescribed by section 28-1461. For the purposes of this paragraph, "certified ignition interlock device" has the same meaning prescribed in section 28-1301.

15. Computer data center equipment purchased by the owner, operator or qualified colocation tenant of the computer data center or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in a computer data center that is certified by the Arizona commerce authority under section 41-1519. To qualify for this deduction, at the time of purchase, the owner, operator or qualified colocation tenant must present to the retailer its certificate that is issued pursuant to section 41-1519 and that establishes its qualification for the deduction. For the purposes of this paragraph, "computer data center", "computer data center equipment", "qualification period" and "qualified colocation tenant" have the same meanings prescribed in section 41-1519.

16. The gross proceeds of sales or gross income derived from a contract with the owner of real property or ~~the person owning the~~ improvements to ~~the~~ real property for the maintenance, repair, ~~or~~ replacement or alteration of existing property ~~is not subject to tax under this section if the contract does not include modification activities~~, except as specified in this paragraph. The gross proceeds of sales or gross income derived from a de minimis amount of modification activity ~~that is essential to the completion of the maintenance, repair, replacement or alteration contract~~ does not subject the ~~entire~~ contract OR ANY PART OF THE CONTRACT to tax ~~under this section~~. For the purposes of this paragraph:

(a) Each contract ~~or project~~ is independent of another contract, EXCEPT THAT ANY CHANGE ORDER THAT DIRECTLY RELATES TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT SHALL BE TREATED THE SAME AS THE ORIGINAL CONTRACT UNDER THIS CHAPTER, REGARDLESS OF THE AMOUNT OF MODIFICATION ACTIVITIES INCLUDED IN THE CHANGE ORDER. IF A CHANGE ORDER DOES NOT DIRECTLY RELATE TO THE SCOPE OF WORK OF THE ORIGINAL CONTRACT, THE CHANGE ORDER SHALL BE TREATED AS A NEW CONTRACT, WITH THE TAX TREATMENT OF ANY SUBSEQUENT CHANGE ORDER TO FOLLOW THE TAX TREATMENT OF THE CONTRACT TO WHICH THE SCOPE OF WORK OF THE SUBSEQUENT CHANGE ORDER DIRECTLY RELATES.

~~(b) "Modification" means construction, alteration, addition, subtraction, improvement, movement, wreckage or demolition.~~

(b) ANY TERM NOT DEFINED IN THIS PARAGRAPH THAT IS DEFINED IN SECTION 42-5075 HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5075.

(c) THIS PARAGRAPH DOES NOT APPLY TO A CONTRACT THAT PRIMARILY INVOLVES SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND AND THAT IS SUBJECT TO TITLE 28, CHAPTER 19, 20 OR 22 OR TITLE 34, CHAPTER 2 OR 6 EVEN IF THE CONTRACT ALSO INCLUDES VERTICAL IMPROVEMENTS. IF A CITY OR TOWN IMPOSES A TAX ON CONTRACTS THAT ARE SUBJECT TO PROCUREMENT PROCESSES UNDER THOSE PROVISIONS, THE CITY OR TOWN SHALL INCLUDE IN THE REQUEST FOR PROPOSALS A NOTICE TO BIDDERS WHEN THOSE PROJECTS ARE SUBJECT TO THE TAX. THIS SUBDIVISION DOES NOT APPLY TO CONTRACTS WITH:

(i) COMMUNITY FACILITIES DISTRICTS, FIRE DISTRICTS, COUNTY TELEVISION IMPROVEMENT DISTRICTS, COMMUNITY PARK MAINTENANCE DISTRICTS, COTTON PEST CONTROL DISTRICTS, HOSPITAL DISTRICTS, PEST ABATEMENT DISTRICTS, HEALTH

SERVICE DISTRICTS, AGRICULTURAL IMPROVEMENT DISTRICTS, COUNTY FREE LIBRARY DISTRICTS, COUNTY JAIL DISTRICTS, COUNTY STADIUM DISTRICTS, SPECIAL HEALTH CARE DISTRICTS, PUBLIC HEALTH SERVICES DISTRICTS, THEME PARK DISTRICTS, REGIONAL ATTRACTION DISTRICTS OR REVITALIZATION DISTRICTS.

(ii) ANY SPECIAL TAXING DISTRICT NOT SPECIFIED IN ITEM (i) OF THIS SUBDIVISION IF THE DISTRICT DOES NOT SUBSTANTIALLY ENGAGE IN THE MODIFICATION, MAINTENANCE, REPAIR, REPLACEMENT OR ALTERATION OF SURFACE OR SUBSURFACE IMPROVEMENTS TO LAND.

17. Monitoring services relating to an alarm system as defined in section 32-101.

18. Tangible personal property, job printing or publications sold to or purchased by, or tangible personal property leased, rented or licensed for use to or by, a qualifying health sciences educational institution as defined in section 42-5001.

19. The transfer of title or possession of coal back and forth between an owner or operator of a power plant and a person who is responsible for refining coal if both of the following apply:

(a) The transfer of title or possession of the coal is for the purpose of refining the coal.

(b) The title or possession of the coal is transferred back to the owner or operator of the power plant after completion of the coal refining process. For the purposes of this subdivision, "coal refining process" means the application of a coal additive system that aids the reduction of power plant emissions during the combustion of coal and the treatment of flue gas.

20. The gross proceeds of sales or gross income from sales of low or reduced cost articles of food or drink to eligible elderly~~, disabled~~ or homeless persons OR PERSONS WITH A DISABILITY by a business subject to tax under section 42-5074 that contracts with the department of economic security and that is approved by the food and nutrition service of the United States department of agriculture pursuant to the supplemental nutrition assistance program established by the food and nutrition act of 2008 (P.L. 110-246; 122 Stat. 1651; 7 United States Code sections 2011 through 2036a), if the purchases are made with the benefits issued pursuant to the supplemental nutrition assistance program.

21. TANGIBLE PERSONAL PROPERTY INCORPORATED OR FABRICATED INTO A PROJECT DESCRIBED IN PARAGRAPH 16 OF THIS SUBSECTION, THAT IS LOCATED WITHIN THE EXTERIOR BOUNDARIES OF AN INDIAN RESERVATION FOR WHICH THE OWNER, AS DEFINED IN SECTION 42-5075, OF THE PROJECT IS AN INDIAN TRIBE OR AN AFFILIATED INDIAN. FOR THE PURPOSES OF THIS PARAGRAPH:

(a) "AFFILIATED INDIAN" MEANS AN INDIVIDUAL NATIVE AMERICAN INDIAN WHO IS DULY REGISTERED ON THE TRIBAL ROLLS OF THE INDIAN TRIBE FOR WHOSE BENEFIT THE INDIAN RESERVATION WAS ESTABLISHED.

(b) "INDIAN RESERVATION" MEANS ALL LANDS THAT ARE WITHIN THE LIMITS OF AREAS SET ASIDE BY THE UNITED STATES FOR THE EXCLUSIVE USE AND OCCUPANCY OF

AN INDIAN TRIBE BY TREATY, LAW OR EXECUTIVE ORDER AND THAT ARE RECOGNIZED AS INDIAN RESERVATIONS BY THE UNITED STATES DEPARTMENT OF THE INTERIOR.

(c) "INDIAN TRIBE" MEANS ANY ORGANIZED NATION, TRIBE, BAND OR COMMUNITY THAT IS RECOGNIZED AS AN INDIAN TRIBE BY THE UNITED STATES DEPARTMENT OF THE INTERIOR AND INCLUDES ANY ENTITY FORMED UNDER THE LAWS OF THAT INDIAN TRIBE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 14. Legislative intent

This act is intended to clarify and simplify the transaction privilege tax reform measures enacted by Laws 2014, chapter 263 until such time as the prime contracting transaction privilege tax classification can be repealed.

Sec. 15. Exemption from rulemaking

For the purposes of this act, the department of revenue is exempt from the rulemaking requirements of title 41, chapter 6, Arizona Revised Statutes, through December 31, 2015.

Sec. 16. Retroactivity; persons canceling transaction privilege tax prime contracting licenses; safe harbor; change orders; transition; application; definition

A. This act applies retroactively to from and after December 31, 2014.

B. With respect to any person canceling a transaction privilege tax license for the purposes of section 42-5075, Arizona Revised Statutes, on or before the last day of the first month that occurs at least sixty days after the enactment date of this act, the following provisions apply, and the department of revenue shall provide written guidelines that include these provisions in addition to any forms necessary to effectuate this act. For any materials on hand that the person purchased exempt from tax under section 42-5061, subsection A, paragraph 27 or section 42-5159, subsection A, paragraph 13, subdivision (g), Arizona Revised Statutes, with no intent to evade taxation, the person may make a reasonable estimation of the value of all such items on hand at the time the tax license is canceled. If the reasonable estimate of the value is:

1. Ten thousand dollars or less, the person is not liable for any tax or similar amounts that otherwise would be due by law.

2. More than ten thousand dollars, the person is not liable for any tax or similar amounts that otherwise would be due by law on the first ten thousand dollars, and the value in excess of ten thousand dollars is subject to tax in an amount determined, reported and paid pursuant to any of the following:

(a) Pursuant to section 42-5008.01, subsection B, Arizona Revised Statutes.

(b) In a single payment, based on any tax that the seller would have been required to pay under title 42, chapter 5 or 6, Arizona Revised Statutes, if the seller were located at the person's principal place of business in this state.

(c) In twelve equal monthly installments to be reported and paid to the department beginning immediately following the month in which the person's license is canceled, based on any tax that the seller would have been required to pay under title 42, chapter 5 or 6, Arizona Revised Statutes, if the seller were located at the person's principal place of business in this state.

C. For contracts that are bid or entered into or for any other binding obligation executed on or before the last day of the first month that occurs at least sixty days after the enactment date of this act:

1. A person may treat the contract as a contract that is taxable under section 42-5075, Arizona Revised Statutes.

2. A person shall be held harmless from any additional tax, penalty and interest if the department of revenue determines, under audit, that the person's good faith treatment of the contract, as either subject to tax under section 42-5075, Arizona Revised Statutes, or excluded from tax under section 42-5075, subsection O, Arizona Revised Statutes, was incorrect.

D. The treatment of change orders under this act does not alter or affect the treatment of change orders in any other context, including with respect to the application of changes in the rate of tax.

E. For the purposes of this section, "enactment date" means the date the governor signs this act or the date the secretary of state receives the transmission of the unsigned act from the governor pursuant to article V, section 7, Constitution of Arizona.

Sec. 17. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

APPROVED BY THE GOVERNOR FEBRUARY 24, 2015

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 24, 2015

Passed the House February 19, 2015,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

with emergency

Speaker of the House

Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate February 19, 2015,

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

with Emergency

President of the Senate

Susan Reeves

Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

20th day of February, 2015,

at 9:37 o'clock A. M.

Secretary to the Governor

Approved this 24th day of

February, 2015,

at 10:53 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this ~~2:4th~~ 24th day of Feb, 2015,

at 3:49 o'clock P M.

Michele Reagan

Secretary of State

S.B. 1446