DOUGLAS A. DUCEY
GOVERNOR

STATE OF ARIZONA
OFFICE OF THE GOVERNOR

EXECUTIVE OFFICE

March 29, 2018

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on March 29, 2018:

HB 2035 deferred compensation plans; governing committee (Livingston)
HB 2156 legislative vacancy; appointment; time frame (Coleman)
HB 2196 certificates of necessity; hearings; duration (Carter)
HB 2242 fire districts; revisions; county islands (Farnsworth, E.)
HB 2258 diabetes; annual report (Carter)
HB 2412 leave of absence; day; definition (Shope)
HB 2477 high school mathematics; proficiency; notification (Udall)
HB 2505 converted entities; claims (Cobb)
HB 2513 hyperbaric oxygen therapy; veterans; fund (Finchem)
HB 2536 dual enrollment; homeschooled children (Bowers)
SB 1073 orthotics; prosthetic devices; valid prescription (Brophy McGee)
SB 1111 workers' compensation; opioids; dispensed medications (Fann)
SB 1204 trusts and estates (Worsley)
SB 1253 game and fish; licenses; fees (Griffin)
SB 1294 tax corrections act of 2018 (Farnsworth, D.)
SB 1401 ignition interlock device; installer; manufacturer (Worsley)
SB 1405 corporate income tax allocation; sales (Fann)
SB 1422 universities; tuition and fees (Griffin)

SB 1499 community facilities districts; directors (Smith)
SB 1502 ignition interlock device; incarceration credits (Smith)
SB 1518 department of child safety; reports (Brophy McGee)

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

Senate Engrossed

FILED

MICHELE REAGAN

SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 104

SENATE BILL 1294

AN ACT

AMENDING SECTIONS 20-224, 20-224.01, 20-224.03, 20-837, 20-1010, 20-1060 AND 20-1097.07, ARIZONA REVISED STATUTES; AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 96, SECTION 1, CHAPTER 258, SECTION 43 AND CHAPTER 340, SECTION 2; AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 96, SECTION 1, CHAPTER 139, SECTION 4, CHAPTER 258, SECTION 43 AND CHAPTER 340, SECTION 2; AMENDING SECTIONS 42-3401, 42-3406, 42-3462, 42-5005, 42-5014, 42-5061, 42-5159, 42-6108.01, 42-11132, 42-15010, 43-224 AND 43-309, ARIZONA REVISED STATUTES; REPEALING SECTION 43-568, ARIZONA REVISED STATUTES; AMENDING SECTION 43-901, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-902, 43-903 AND 43-904, ARIZONA REVISED STATUTES; PROVIDING FOR RENUMBERING; AMENDING SECTION 43-931, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-932 AND 43-933, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1021, 43-1022, 43-1024, 43-1043, 43-1074, 43-1074.01, 43-1076, 43-1083, 43-1083.03, 43-1121, 43-1122, 43-1123, 43-1124, 43-1127, 43-1130.01, 43-1161, 43-1162, 43-1164.04, 43-1168 AND 43-1603, ARIZONA REVISED STATUTES; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 20-224, Arizona Revised Statutes, is amended to read:

20-224. Premium tax; reports

A. On or before March 1 of each year, each authorized domestic insurer, each other insurer and each formerly authorized insurer referred to in section 20-206, subsection B shall file with the director a report in a form prescribed by the director showing total direct premium income including policy membership and other fees and all other considerations for insurance from all classes of business whether designated as a premium or otherwise received by it during the preceding calendar year on account of policies and contracts covering property, subjects or risks located, resident or to be performed in this state, after deducting from such total direct premium income applicable cancellations, returned premiums, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer and all policy dividends, refunds, savings coupons and other similar returns paid or credited to policyholders within this state and not reapplied as premiums for new, additional or extended insurance. No deduction shall be made of the cash surrender values of policies or contracts. Considerations received on annuity contracts, as well as the unabsorbed portion of any premium deposit, shall not be included in total direct premium income, and neither shall be subject to tax. The report shall separately indicate the total direct fire insurance premium income received from property located in the incorporated cities and towns certified by the office of the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company.

B. Coincident with the filing of the tax report, each insurer shall pay to the director for deposit, pursuant to sections 35-146 and 35-147, a tax on such net premiums at the following rates:

1. For fire insurance:

(a) On property located in a city or town certified by the office of the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company, .66 percent.

(b) On all other property, 2.2 percent.

2. For disability insurance, 2.0 percent.

3. For health care service plans, the rates prescribed under sections 20-837, 20-1010 and 20-1060.

4. For other insurance:

(a) For premiums received in calendar year 2016, 1.95 percent.

(b) For premiums received in calendar year 2017, 1.90 percent.

(c) For premiums received in calendar year 2018, 1.85 percent.

(d) For premiums received in calendar year 2019, 1.80 percent.

(e) For premiums received in calendar year 2020, 1.75 percent.

(f) For premiums received in calendar year 2021 and for each subsequent calendar year, 1.70 percent.

C. Any payments of tax pursuant to subsection F of this section shall be deducted from the tax payable pursuant to subsection B of this section. Each insurer shall reflect the cost savings attributable to the lower tax in fire insurance premiums charged on property located in an incorporated city or town certified by the office of the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company. No insurer shall be liable to the state or to any other person, or shall be subject to regulatory action, relating to the calculation or submittal of fire insurance premium taxes based in good faith on the office of the state fire marshal's certification.

D. Eighty-five percent of the tax paid under this section by an insurer on account of premiums received for fire insurance shall be separately specified in the report and shall be apportioned in the manner provided by sections 9-951, 9-952 and 9-972, except that all of the tax so allocated to a fund of a municipality or fire district that has no volunteer firefighters or pension obligations to volunteer firefighters shall be appropriated to the account of the municipality or fire district in the public safety personnel retirement system and all of the tax so allocated to a fund of a municipality or fire district that has both full-time paid firefighters and volunteer firefighters or pension obligations to full-time paid firefighters or volunteer firefighters shall be appropriated to the account of the municipality or fire district in the public safety personnel retirement system where it shall be reallocated by actuarial procedures proportionately to the municipality or fire district for the account of the full-time paid firefighters and to the municipality or fire district for the account of the volunteer firefighters. A municipality or fire district shall provide to the public safety personnel retirement system all information that the system deems necessary to perform the reallocation prescribed by this section. A full accounting of the reallocation shall be forwarded to the municipality or fire district and its local boards.

E. This section shall not apply to title insurance, and such insurers shall be taxed as provided in section 20-1566.

F. Any insurer that paid or is required to pay a tax of fifty thousand dollars or more on net premiums received during the preceding calendar year, pursuant to subsection B of this section and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of each month from March through August a report for that month, on a form prescribed by the director, accompanied by a payment in an amount equal to fifteen percent of the amount paid or required to be paid during the preceding calendar year pursuant to subsection B of this section and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and payable on or before the

fifteenth day of each month and shall be made to the director for deposit, pursuant to sections 35-146 and 35-147.

G. Except for the tax paid on fire insurance premiums pursuant to subsections B and D of this section, an insurer may claim a premium tax credit if the insurer qualifies for a credit pursuant to section 20-224.03, ~~20-224.04,~~ 20-224.06 or 20-224.07.

H. On receipt of a properly documented claim, a refund shall be provided to an insurer from available funds for the excess amount of any fire insurance premium improperly paid by the insurer. The insurer shall reflect the refund in the fire insurance premiums charged on the property that was charged the excessive amount.

I. On or before September 30 of each year, the director of insurance shall report to the directors of the joint legislative budget committee and the governor's office of strategic planning and budgeting on the amount of insurance premium tax credits established by sections 20-224.03, ~~20-224.04,~~ 20-224.05, 20-224.06 and 20-224.07 that were used during the previous fiscal year.

J. For the purposes of:

1. Subsection B of this section, fire insurance is one hundred percent of fire lines, forty percent of commercial multiple peril nonliability lines, thirty-five percent of homeowners' multiple peril lines, twenty-five percent of farm owners' multiple peril lines and twenty percent of allied lines.

2. Section 20-416, fire insurance is eighty-five percent of fire and allied lines.

K. From and after December 31, 2017, the director may require that reports and payments under this section be submitted electronically. If the director requires electronic submission, the director shall include on the department's official website a list of one or more acceptable third-party services through which an insurer must submit reports and payments.

Sec. 2. Section 20-224.01, Arizona Revised Statutes, is amended to read:

20-224.01. Additional premium tax; civil penalty

A. Coincident with the filing of the tax report as required in section 20-224, each insurer shall pay to the director, for deposit, pursuant to sections 35-146 and 35-147, a tax of .4312 ~~per cent~~ PERCENT of such net premiums received from all insurance carried for or on vehicles as defined in section 28-101, in addition to other applicable taxes.

B. The tax of .4312 ~~per cent~~ PERCENT of such net premiums received by the director and paid by an insurer on account of premiums received for insurance on certain vehicles as defined in section 28-101 shall be separately specified in the insurer's report required in section 20-224 and is appropriated to the public safety personnel retirement system and shall be transferred by the state treasurer to the board of trustees of

the public safety personnel retirement system for deposit in the highway patrol account. If the tax received is greater than the amount necessary to fund the highway patrol account, beginning in the 1991-1992 fiscal year the state treasurer shall deposit the excess in the Arizona highway patrol fund established ~~in~~ BY section 41-1752 in any amount required by legislative appropriation.

C. An insurer shall report and pay the taxes required by this section in the manner prescribed by section 20-224. An insurer who fails to pay the tax on or before the prescribed payment dates is subject to a civil penalty determined pursuant to section 20-225.

D. An insurer shall not claim a premium tax credit pursuant to section 20-224.03 ~~or 20-224.04~~ for the premium taxes paid pursuant to this section.

Sec. 3. Section 20-224.03, Arizona Revised Statutes, is amended to read:

20-224.03. Premium tax credit for new employment

A. For taxable years beginning from and after June 30, 2011, a credit is allowed against the premium tax liability imposed pursuant to section 20-224, 20-837, 20-1010, 20-1060 or 20-1097.07 for net increases in full-time employees residing in this state and hired in qualified employment positions in this state as computed and certified by the Arizona commerce authority pursuant to section 41-1525. For the purposes of this section and section 41-1525:

1. A tax credit is not allowed against the portion of the tax payable to the fire fighters' relief and pension fund pursuant to section 20-224 or the portion of the tax payable to the public safety personnel retirement system pursuant to section 20-224.01.

2. A reciprocal insurer and its attorney-in-fact are considered to be the same entity for the purposes of calculating the tax credit under this section.

B. Subject to subsection F of this section, the amount of the tax credit is equal to:

1. Three thousand dollars for each full-time employee hired in a qualified employment position in the first year or partial year of employment. Employees hired in the last ninety days of the taxable year are excluded for that taxable year and are considered to be new employees in the following taxable year.

2. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the second year of continuous employment.

3. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the third year of continuous employment.

C. The capital investment and the new qualified employment positions requirements of section 41-1525, subsection B must be

accomplished within twelve months after the start of the required capital investment. ~~No~~ A credit may NOT be claimed until both requirements are met. A business that meets the requirements of section 41-1525, subsection B for a location is eligible to claim first year credits for three years beginning with the taxable year in which those requirements are completed. Employees hired at the location before the beginning of the taxable year but during the twelve-month period allowed in this subsection are considered to be new employees for the taxable year in which all of those requirements are completed. The employees that are considered to be new employees for the taxable year under this subsection shall not be included in the average number of full-time employees during the immediately preceding taxable year until the taxable year in which all of the requirements of section 41-1525, subsection B are completed. An employee working at a temporary ~~work site~~ WORKSITE in this state while the designated location is under construction is considered to be working at the designated location if all of the following occur:

1. The employee is hired after the start of the required investment at the designated location.

2. The employee is hired to work at the designated location after it is completed.

3. The payroll for the employees destined for the designated location is segregated from other employees.

4. The employee is moved to the designated location within thirty days after its completion.

D. To qualify for a credit under this section, the insurer and the employment positions must meet the requirements prescribed by section 41-1525.

E. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

F. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created at the designated location or locations during the taxable year or the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year.

~~G. A taxpayer who claims a credit under section 20-224.04 shall not claim a credit under this section with respect to the same employment positions.~~

~~H.~~ G. If the allowable tax credit exceeds the state premium tax liability, the amount of the claim not used as an offset against the state premium tax liability may be carried forward as a tax credit against subsequent years' state premium tax liability for a period not exceeding five taxable years.

~~I.~~ H. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or if an insurance business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

~~J.~~ I. An insurer that claims a tax credit against state premium tax liability is not required to pay any additional retaliatory tax imposed pursuant to section 20-230 as a result of claiming that tax credit.

~~K.~~ J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection E and in the manner prescribed by section 41-1525, subsection F disqualifies the insurer from the credit under this section. The department of insurance shall require written evidence of the timely report to the Arizona commerce authority.

~~L.~~ K. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection H.

~~M.~~ L. The department may adopt rules necessary for the administration of this section.

~~N.~~ M. For the purposes of subsection B, paragraphs 2 and 3 of this section, if a full-time employee in the qualified employment position leaves during the taxable year, the employee may be replaced with another new full-time employee in the same employment position and the new employee will be treated as being in the employee's second or third full year of continuous employment for the purposes of the credit under this section if:

1. The total time the position was vacant from the date the employment position was originally filled to the end of the current tax year totals ninety days or less.

2. The new employee meets all of the same requirements as the original employee was required to meet.

Sec. 4. Section 20-837, Arizona Revised Statutes, is amended to read:

20-837. Tax exemption; exceptions

A. Every corporation doing business pursuant to this article is declared to be a nonprofit and benevolent institution and to be exempt from state, county, district, municipal and school taxes, including the taxes prescribed by this title, and excepting only the fees prescribed by section 20-167 and taxes on real and tangible personal property located within this state. Each corporation is subject to a state tax of 2.0 ~~per cent~~ PERCENT on net premiums that are received to effect or maintain the corporation's subscription contracts, except that the tax shall not apply with respect to any coverage concerning which the corporation's relationship is as administrative or fiscal agent for national, state or municipal government or any political subdivision or body thereof, and such tax shall not apply with respect to any premiums received from funds of national, state or municipal government or any political subdivision or body thereof. ~~Such~~ THE tax shall be determined, filed and reported in the manner prescribed in section 20-224. The failure by a corporation to pay the tax on or before the prescribed payment dates results in a civil penalty determined pursuant to section 20-225.

B. A corporation may claim a premium tax credit if the corporation qualifies for a credit pursuant to section 20-224.03 ~~or 20-224.04~~.

Sec. 5. Section 20-1010, Arizona Revised Statutes, is amended to read:

20-1010. Taxes

A. On the tax payment dates prescribed in section 20-224, each prepaid dental plan organization shall pay to the director for deposit, pursuant to sections 35-146 and 35-147, in a form prescribed by the director a tax for transacting a prepaid dental plan in the amount of 2.0 ~~per cent~~ PERCENT of prepaid net charges received from members.

B. The failure by an organization to pay the tax imposed by this section results in a civil penalty determined pursuant to section 20-225.

C. A prepaid dental plan organization may claim a premium tax credit if the organization qualifies for a credit pursuant to section 20-224.03 ~~or 20-224.04~~.

Sec. 6. Section 20-1060, Arizona Revised Statutes, is amended to read:

20-1060. Taxes; exemption

A. Except as provided in subsection C of this section, on the tax payment dates prescribed in section 20-224, each health care services organization shall pay to the director for deposit, pursuant to sections 35-146 and 35-147, in a form prescribed by the director a tax for transacting a health care plan in the amount of 2.0 ~~per cent~~ PERCENT of net charges received from enrollees.

B. The failure by an organization to pay the tax imposed by this section results in a civil penalty determined pursuant to section 20-225.

C. Payments received by health care services organizations from the UNITED STATES secretary of health and human services pursuant to a contract issued pursuant to 42 United States Code section 1395mm(g) are not taxable under this section.

D. A health care services organization may claim a premium tax credit if the organization qualifies for a credit pursuant to section 20-224.03 ~~or 20-224.04~~.

Sec. 7. Section 20-1097.07, Arizona Revised Statutes, is amended to read:

20-1097.07. Fees and taxes

A. Any prepaid legal insurance corporation licensed pursuant to this article shall pay those fees prescribed by section 20-167 and those taxes prescribed by section 20-224.

B. A prepaid legal insurance corporation may claim a premium tax credit if the corporation qualifies for a credit pursuant to section 20-224.03 ~~or 20-224.04~~.

Sec. 8. Section 42-2003, Arizona Revised Statutes, as amended by Laws 2017, chapter 96, section 1, chapter 258, section 43 and chapter 340, section 2, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

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

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

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

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

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

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

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

B. Confidential information may be disclosed to:

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

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

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.

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

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

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

(b) A state tax official of another state.

(c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.

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

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

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

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

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

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

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

(c) The collection of the taxpayer's civil liability.

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

(a) Regarding income tax or withholding tax.

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

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

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

11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.

12. The Arizona commerce authority for its use in:

(a) Qualifying renewable energy operations for the tax incentives under ~~sections~~ SECTION 42-12006~~, 43-1083.01 and 43-1164.01~~.

(b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.

(c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.

(d) Certifying computer data centers for tax relief under section 41-1519.

13. A prosecutor for purposes of section 32-1164, subsection C.

14. The office of the state fire marshal for use in determining compliance with and enforcing title 37, chapter 9, article 5.

15. The department of transportation for its use in administering taxes, surcharges and penalties prescribed by title 28.

16. The Arizona health care cost containment system administration for its use in administering nursing facility provider assessments.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:

1. One or more of the following circumstances must apply:

(a) The taxpayer is a party to the proceeding.

(b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.

(c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.

(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the taxpayer and directly affects the resolution of an issue in the proceeding.

2. Confidential information may not be disclosed under this subsection if the disclosure is prohibited by section 42-2002, subsection C or D.

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

E. The department, on the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a tobacco product distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3401.

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

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

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and any other tax collected by the department on behalf of any jurisdiction may be disclosed

to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by a county, city or town or who may be subject to audit by the department pursuant to section 42-6002. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes, including audits.

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

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

1. The state treasurer in order to comply with the requirements of section 42-5029, subsection A, paragraph 3.

2. The joint legislative income tax credit review committee, the joint legislative budget committee staff and the legislative staff in order to comply with the requirements of section 43-221.

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

K. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph 1, subdivision (a), item (ii), may be disclosed to law enforcement agencies for law enforcement purposes.

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

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

N. Except as provided in section 42-2002, subsection D, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only on a showing of good cause and that the party seeking the information has made demand on the taxpayer for the information.

O. This section does not prohibit the disclosure by the department of any information or documents submitted to the department by a bingo

licensee. Before disclosing the information the department shall obtain the name and address of the person requesting the information.

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

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

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

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

T. The department shall release to the attorney general confidential information as requested by the attorney general for purposes of determining compliance with or enforcing any of the following:

1. Any public health control law relating to tobacco sales as provided under title 36, chapter 6, article 14.

2. Any law relating to reduced cigarette ignition propensity standards as provided under title 37, chapter 9, article 5.

3. Sections 44-7101 and 44-7111, the master settlement agreement referred to in those sections and all agreements regarding disputes under the master settlement agreement.

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

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

2. Such a return or the return information relates or may relate to a transactional relationship between a person who is a party to the proceeding and the taxpayer that directly affects the resolution of an issue in the proceeding.

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

V. The department and attorney general may share the information specified in subsection T of this section with any of the following:

1. Federal, state or local agencies located in this state for the purposes of enforcement of the statutes or agreements specified in subsection T of this section or for the purposes of enforcement of corresponding laws of other states.

2. Indian tribes located in this state for the purposes of enforcement of the statutes or agreements specified in subsection T of this section.

3. A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

W. The department may provide the name and address of qualifying hospitals and qualifying health care organizations, as defined in section 42-5001, to a business classified and reporting transaction privilege tax under the utilities classification.

X. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection G any information relating to amounts subject to distribution required by section 42-5032.02. Information disclosed by the department under this subsection:

1. May only be used by the city, town or county for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

Y. Notwithstanding any other provision of this section, the department may not disclose information provided by an online lodging marketplace, as defined in section 42-5076, without the written consent of

the online lodging marketplace, and the information may be disclosed only pursuant to subsection A, paragraphs 1 through 6, subsection B, paragraphs 1, 2, 7 and 8 and subsections C and D of this section. Such information:

1. Is not subject to disclosure pursuant to title 39, relating to public records.

2. May not be disclosed to any agency of this state or of any county, city, town or other political subdivision of this state.

Sec. 9. Section 42-2003, Arizona Revised Statutes, as amended by Laws 2017, chapter 96, section 1, chapter 139, section 4, chapter 258, section 43 and chapter 340, section 2, is amended to read:

42-2003. Authorized disclosure of confidential information

A. Confidential information relating to:

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

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

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

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

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

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

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

B. Confidential information may be disclosed to:

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

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

3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.

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

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

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

(b) A state tax official of another state.

(c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.

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

(e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.

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

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

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

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

(c) The collection of the taxpayer's civil liability.

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

(a) Regarding income tax or withholding tax.

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

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

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

11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.

12. The Arizona commerce authority for its use in:

(a) Qualifying renewable energy operations for the tax incentives under ~~sections~~ SECTION 42-12006~~, 43-1083.01 and 43-1164.01~~.

(b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.

(c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.

(d) Certifying computer data centers for tax relief under section 41-1519.

13. A prosecutor for purposes of section 32-1164, subsection C.

14. The office of the state fire marshal for use in determining compliance with and enforcing title 37, chapter 9, article 5.

15. The department of transportation for its use in administering taxes, surcharges and penalties prescribed by title 28.

16. The Arizona health care cost containment system administration for its use in administering nursing facility provider assessments.

17. The department of education for the purpose of verifying income eligibility to be classified as a low-income student pursuant to section 15-2402, subsection M.

C. Confidential information may be disclosed in any state or federal judicial or administrative proceeding pertaining to tax administration pursuant to the following conditions:

1. One or more of the following circumstances must apply:

(a) The taxpayer is a party to the proceeding.

(b) The proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of the taxpayer's civil liability, with respect to any tax imposed under this title or title 43.

(c) The treatment of an item reflected on the taxpayer's return is directly related to the resolution of an issue in the proceeding.

(d) Return information directly relates to a transactional relationship between a person who is a party to the proceeding and the

taxpayer and directly affects the resolution of an issue in the proceeding.

2. Confidential information may not be disclosed under this subsection if the disclosure is prohibited by section 42-2002, subsection C or D.

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

E. The department, on the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a tobacco product distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3401.

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

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

H. Confidential information relating to transaction privilege tax, use tax, severance tax, jet fuel excise and use tax and any other tax collected by the department on behalf of any jurisdiction may be disclosed to any county, city or town tax official if the information relates to a taxpayer who is or may be taxable by a county, city or town or who may be subject to audit by the department pursuant to section 42-6002. Any taxpayer information released by the department to the county, city or town:

1. May only be used for internal purposes, including audits.

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

I. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

1. The state treasurer in order to comply with the requirements of section 42-5029, subsection A, paragraph 3.

2. The joint legislative income tax credit review committee, the joint legislative budget committee staff and the legislative staff in order to comply with the requirements of section 43-221.

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

K. Except as provided in section 42-2002, subsection C, confidential information, described in section 42-2001, paragraph 1, subdivision (a), item (ii), may be disclosed to law enforcement agencies for law enforcement purposes.

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

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

N. Except as provided in section 42-2002, subsection D, a court may order the department to disclose confidential information pertaining to a party to an action. An order shall be made only on a showing of good cause and that the party seeking the information has made demand on the taxpayer for the information.

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

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

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

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

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

T. The department shall release to the attorney general confidential information as requested by the attorney general for purposes of determining compliance with or enforcing any of the following:

1. Any public health control law relating to tobacco sales as provided under title 36, chapter 6, article 14.

2. Any law relating to reduced cigarette ignition propensity standards as provided under title 37, chapter 9, article 5.

3. Sections 44-7101 and 44-7111, the master settlement agreement referred to in those sections and all agreements regarding disputes under the master settlement agreement.

U. For proceedings before the department, the office of administrative hearings, the board of tax appeals or any state or federal court involving penalties that were assessed against a return preparer, an electronic return preparer or a payroll service company pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential information may be disclosed only before the judge or administrative law judge adjudicating the proceeding, the parties to the proceeding and the parties' representatives in the proceeding prior to its introduction into evidence in the proceeding. The confidential information may be introduced as evidence in the proceeding only if the taxpayer's name, the names of any dependents listed on the return, all social security numbers, the taxpayer's address, the taxpayer's signature and any attachments containing any of the foregoing information are redacted and if either:

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

2. Such a return or the return information relates or may relate to a transactional relationship between a person who is a party to the proceeding and the taxpayer that directly affects the resolution of an issue in the proceeding.

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is an issue for the period.

V. The department and attorney general may share the information specified in subsection T of this section with any of the following:

1. Federal, state or local agencies located in this state for the purposes of enforcement of the statutes or agreements specified in

subsection T of this section or for the purposes of enforcement of corresponding laws of other states.

2. Indian tribes located in this state for the purposes of enforcement of the statutes or agreements specified in subsection T of this section.

3. A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

W. The department may provide the name and address of qualifying hospitals and qualifying health care organizations, as defined in section 42-5001, to a business classified and reporting transaction privilege tax under the utilities classification.

X. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection G any information relating to amounts subject to distribution required by section 42-5032.02. Information disclosed by the department under this subsection:

1. May only be used by the city, town or county for internal purposes.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The city, town or county must agree with the department in writing that any release of confidential information that violates the confidentiality standards will result in the immediate suspension of any rights of the city, town or county to receive information under this subsection.

Y. Notwithstanding any other provision of this section, the department may not disclose information provided by an online lodging marketplace, as defined in section 42-5076, without the written consent of the online lodging marketplace, and the information may be disclosed only pursuant to subsection A, paragraphs 1 through 6, subsection B, paragraphs 1, 2, 7 and 8 and subsections C and D of this section. Such information:

1. Is not subject to disclosure pursuant to title 39, relating to public records.

2. May not be disclosed to any agency of this state or of any county, city, town or other political subdivision of this state.

Sec. 10. Section 42-3401, Arizona Revised Statutes, is amended to read:

42-3401. Tobacco distributor licenses; application; conditions; revocations, suspensions and cancellations

A. Every person acquiring or possessing for the purpose of making the initial sale or distribution in this state of any tobacco products on which a tax is imposed by this chapter shall obtain from the department a license to sell tobacco products. The application for the license shall be in the form provided by the department and shall be accompanied by a fee of twenty-five dollars for each place of business listed in the application. The form shall state that the identity of the applicant will be posted to the department's website for public inspection. The application for a license shall include the applicant's name and address, the applicant's principal place of business, all other places of business where the applicant's business is conducted for the purpose of making the initial sale or distribution of tobacco products in this state, including any location that maintains an inventory of tobacco products, and any other information required by the department. If the applicant is a firm, partnership, limited liability company, limited liability partnership or association, the applicant shall list the name and address of each of the applicant's members. If the applicant is a corporation, the application shall list the name and address of the applicant's officers and any person who directly or indirectly owns an aggregate amount of ten percent or more of the ownership interest in the corporation. If a licensee is a corporation, firm, partnership, limited liability company, limited liability partnership or association, the licensee under this subsection shall notify the department in writing within thirty days after any change in membership, legal entity status or ownership of more than fifty percent of the total ownership interest in a single transaction. If a licensee changes its business location, the licensee under this subsection shall notify the department within thirty days after a change in location. If the licensee is making a change in its business location by adding or replacing one or more additional places of business that are not currently listed on its application, the licensee must remit a fee of twenty-five dollars for each additional place of business.

B. For the purposes of subsection A of this section, an applicant with a controlling interest in more than one business engaged in activities as a distributor shall apply for a single license encompassing all such businesses and list each place of business in its application. For the purposes of this subsection, "controlling interest" means direct or indirect ownership of at least eighty percent of the voting shares of a corporation or of the interests in a company, business or person other than a corporation.

C. The department shall issue a license authorizing the applicant to acquire or possess tobacco products in this state on the condition that the applicant complies with this chapter and the rules of the department. The license:

1. Shall be nontransferable. A licensee may not transfer its license to a new owner when selling its business, and any court-appointed trustee, receiver or other person shall obtain a license in its own name in cases of liquidation, insolvency or bankruptcy or pursuant to a court order if the business remains in operation as a distributor of tobacco products. A licensee shall apply for a new license if it changes its legal entity status or otherwise changes the legal structure of its business.

2. Shall be valid for one year unless earlier revoked by the department.

3. Shall be displayed in a conspicuous place at the licensee's place of business. If the licensee operates from more than one place of business, the licensee must display a copy of its license in a conspicuous place at each location.

D. As a condition of licensure under this section, an applicant agrees to the following conditions:

1. A person may not hold or store any tobacco products, whether within or outside of this state, for sale or distribution in this state by or on behalf of a distributor at any place other than a location that has been disclosed to the department pursuant to subsection A of this section. This paragraph does not include a person holding or storing tobacco products by or on behalf of the distributor when the tobacco products are in transit to a distributor or retailer as part of a lawful sale.

2. All tobacco products held or stored, whether within or outside of this state, for sale or distribution in this state by or on behalf of a distributor:

(a) Shall be accessible to the department during normal business hours without a judicial warrant or prior written consent of the distributor.

(b) May not be held or stored at a residential location or in a vehicle.

E. A person who is convicted of an offense described in section 42-1127, subsection E is permanently ineligible to hold a license issued under this section.

F. The department may not issue or renew a license to an applicant and may revoke a license issued under subsection C of this section if any of the following applies:

1. The applicant or licensee owes one thousand dollars or more in delinquent taxes imposed on tobacco products under this chapter that are not under protest or subject to a payment agreement.

2. The department has revoked any license held by the applicant or licensee within the previous two years.

3. The applicant or licensee has been convicted of a crime that relates to stolen or counterfeit cigarettes.

4. The applicant or licensee has imported cigarettes into the United States for sale or distribution in violation of 19 United States Code section 1681a.

5. The applicant or licensee has imported cigarettes into the United States for sale or distribution without fully complying with the federal cigarette labeling and advertising act (P.L. 89-92; 79 Stat. 282; 15 United States Code section 1331).

6. The applicant or licensee is in violation of section 13-3711 or section 36-798.06, subsection A.

7. Pursuant to section 44-7111, section 6(a), the applicant or licensee is in violation of section 44-7111, section 3(c).

8. The civil rights of the applicant or licensee have been suspended under section 13-904. An applicant OR LICENSEE whose civil rights have been suspended will be ineligible to hold a license for a period of five years following the restoration of the applicant's or licensee's civil rights.

G. In addition to any other civil or criminal penalty and except as otherwise provided in this section, the department may DENY THE ISSUANCE OR RENEWAL OF OR suspend or revoke a license issued under subsection C of this section if the person violates any requirement under this title more than two times within a three-year period or fails to otherwise maintain the conditions of licensure in this section.

H. The department shall publish on its website the names of each person who is issued a license under subsection C of this section, including any trade names or business names used by the licensee. The department shall update the published names at least once each month.

I. A person may not apply for or hold a distributor's license if that person does not engage in the activities described in subsection A of this section. In addition to any other applicable penalty, the department may:

~~1. Revoke the license of any licensee that fails to file a return or report required under this chapter for twelve consecutive months.~~

~~2.~~ cancel the license of any licensee that fails to incur any tax liability under this chapter for twelve consecutive months.

J. Any suspension, revocation, cancellation or denial of a license issued under this section by the department must comply with section 41-1092.11, subsection B.

K. Notwithstanding any other law, for the purposes of subsection F, paragraphs 1 and 2 of this section, section 42-1127, subsection C and section 42-3461, subsection B, if a distributor has listed in its application more than one place of business, any suspension, revocation,

cancellation, DENIAL or nonrenewal of the distributor's license shall apply only with effect to remove the place of business or business location at which the activity occurred from the distributor's license. If such a removal occurs, the distributor shall be subject to restrictions that the department prescribes by rule.

Sec. 11. Section 42-3406, Arizona Revised Statutes, is amended to read:

42-3406. Refunds and rebates of tobacco taxes; supporting documentation; distributor's burden of proof

A. Except as otherwise provided under subsection B of this section or by the department for a refund or redemption ~~issued~~ under section 42-3008 or 42-3460, a distributor requesting any refund or rebate of taxes paid on tobacco products pursuant to article 2, 6, 7 or 9 of this chapter shall establish entitlement to the refund or rebate by obtaining a report executed by the retailer that purchased the tobacco products on which the distributor paid taxes, indicating the name and address of the retailer and the quantities of tobacco products sold, separately identified by the tax category of tobacco product and the necessary facts to establish the appropriate amount of refund or rebate. The report is subject to the following conditions:

1. The report shall be provided in the form and manner prescribed by the department. Under such rules as it may prescribe, the department may identify transactions for which a distributor may not rely solely on the information in the retailer's report but must instead obtain additional information as required by the rules in order to be entitled to the refund or rebate.

2. The burden of proof for the refund or rebate is on the distributor, but if the distributor complies in all other respects with this section, the department may require the retailer that caused the execution of the report to establish the accuracy and completeness of the information required to be contained in the report that would entitle the distributor to the refund or rebate. If the retailer cannot establish the accuracy and completeness of the information, the retailer is liable in an amount equal to any tax, penalty and interest that the distributor would have been liable for under this chapter if the distributor had not otherwise complied with this section. Payment of the amount under this section by the retailer exempts the distributor from liability for the underlying tax, penalty and interest. All amounts paid by a retailer under this paragraph shall be treated as tax revenues collected from the distributor in order to designate the distribution base for the purposes of this chapter.

B. In its discretion and in circumstances ~~where~~ IN WHICH a retailer is uncooperative, NONRESPONSIVE or no longer in business, the department may accept proof other than a report described in subsection A of this section if the distributor shows, to the satisfaction of the department,

that it exercised ordinary business care and prudence but was unable to furnish a report executed by the retailer. Acceptable forms of proof presented by the distributor pursuant to this subsection must consist of books, records or papers maintained by the distributor or retailer in the regular course of business.

Sec. 12. Section 42-3462, Arizona Revised Statutes, is amended to read:

42-3462. Cigarette and roll-your-own tobacco; filing requirements; definition

A. Each distributor shall file a return in a form prescribed by the department for each place of business on or before the twentieth day of the month next succeeding the month for which the return is filed. The return shall contain all of the following:

1. The brand names and quantities of each brand of cigarettes and roll-your-own tobacco in possession at the beginning and end of the reporting period.

2. The brand names and quantities of each brand of cigarettes and roll-your-own tobacco received during the reporting period and the name and address of each person from whom each product was received.

3. The brand names and quantities of each brand of cigarettes and roll-your-own tobacco distributed or shipped into this state or between locations in this state during the reporting period, except for sales directly to consumers, and the name and address of each person to whom each product was distributed or shipped, with reference to the dates of distribution or shipment and corresponding invoice numbers from the invoices documenting the distribution or shipments.

4. The brand names and quantities of each brand of cigarettes and roll-your-own tobacco distributed or shipped to any destination wherever located, including the quantities reported under paragraph 3 of this subsection during the reporting period, except for sales directly to consumers, and the name and address of each person to whom each product was distributed or shipped, with reference to the dates of distribution or shipment and corresponding invoice numbers from the invoices documenting the distribution or shipments.

5. The brand names and quantities of each brand of cigarettes and roll-your-own tobacco sold to consumers that are itemized to show sales to consumers in this state and sale to consumers outside of this state.

6. Copies of the customs certificates with respect to such cigarettes and roll-your-own tobacco required to be submitted by 19 United States Code section 1681a(c).

7. The name and address of each nonparticipating manufacturer of each brand of cigarettes and roll-your-own tobacco identified by the distributor in the return.

8. The number of individual cigarettes and ounces of roll-your-own tobacco of each brand of each nonparticipating manufacturer sold in this

state by the distributor during the preceding month, separately stating each of the following:

(a) The number of cigarette packages sold and the number of individual cigarettes in each package.

(b) The number of roll-your-own tobacco containers sold and the number of ounces of roll-your-own tobacco in each container.

9. The amount of luxury taxes paid or to be paid on the cigarettes and roll-your-own tobacco prescribed in paragraph 8 of this subsection, separately stating each of the following:

(a) The amount of luxury taxes paid by purchasing and affixing tax stamps to cigarette packages.

(b) The amount of luxury taxes to be paid for roll-your-own tobacco containers.

(c) Any other amount of excise taxes to be paid on the cigarettes.

10. The number of individual cigarettes and ounces of roll-your-own tobacco of each brand of each nonparticipating manufacturer received by the distributor, separately stating each of the following:

(a) The number of cigarette packages received and the number of individual cigarettes in each package.

(b) The number of roll-your-own tobacco containers received and the number of ounces of roll-your-own tobacco in each container.

11. The number of individual cigarettes and ounces of roll-your-own tobacco of each brand of each nonparticipating manufacturer that the distributor exported from this state without payment of Arizona luxury taxes, separately stating each of the following:

(a) The number of cigarette packages exported and the number of individual cigarettes in each package.

(b) The number of roll-your-own tobacco containers exported and the number of ounces of roll-your-own tobacco in each container.

12. The number of individual cigarettes and ounces of roll-your-own tobacco of each brand of each nonparticipating manufacturer for which the distributor obtained a refund under section 42-3008, separately stating each of the following:

(a) The number of cigarette packages for which the distributor obtained a refund and the number of individual cigarettes in each package.

(b) The number of roll-your-own tobacco containers for which the distributor obtained a refund and the number of ounces of roll-your-own tobacco in each container.

13. The invoice, in the form and manner prescribed by the department, for the following transactions:

(a) The distributor's purchase or acquisition of any nonparticipating manufacturer's cigarettes received or sold by the tobacco distributor in this state.

(b) The distributor's export, if any, of any nonparticipating manufacturer's cigarettes from this state.

B. ~~A~~ ANY person who sells, ships or transfers cigarettes and roll-your-own tobacco ~~for sale, shipment or transfer~~ into or within this state shall file a monthly report with the department on the tenth day of each month AFTER THE SALE, SHIPMENT OR TRANSFER in the form and manner prescribed by section 42-3053, subsection C. The report shall contain information regarding each shipment of cigarettes and roll-your-own tobacco into OR WITHIN this state during the previous calendar month, including the date of shipment, the name and address of the person to whom the shipment was made and the name, address and telephone number of the person OR SERVICE delivering the shipment to the recipient on behalf of the seller. The report shall also include the brand names and quantities of cigarettes and roll-your-own tobacco contained in each shipment, with invoices or references to invoice number documenting each shipment.

C. Distributor reports that are submitted under subsection A of this section shall be itemized to disclose the quantity of reported cigarettes bearing tax stamps of this state, tax exempt stamps of this state, stamps of another state and unstamped cigarettes. The distributor reports shall also include, if applicable, the following:

1. The quantity of Arizona tax and tax exempt stamps that were not affixed to cigarettes.

2. The quantity of Arizona tax and tax exempt stamps that the distributor possessed at the beginning and end of the reporting period.

3. The quantity of each type of Arizona stamp received during the reporting period.

4. The quantity of each type of Arizona stamp applied during the reporting period.

D. The department may adopt rules requiring additional information in the monthly reports as necessary for the purposes of enforcing this article.

E. For the purposes of this section, "manufacturer" has the same meaning prescribed in section 42-3451.

Sec. 13. 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. For the purposes of this chapter and chapter 6 of this title, an online lodging marketplace, as defined in section 42-5076, may register with the department for a license for the payment of taxes levied by this state and one or more counties, cities, towns or special taxing districts, at the election of the online lodging marketplace, for taxes due from an online lodging operator on any online lodging transaction facilitated by the online lodging marketplace, subject to sections 42-5076 and 42-6009.

M. For the purposes of this chapter and chapter 6 of this title, a person who is licensed pursuant to title 32, chapter 20 and who files an electronic consolidated tax return for individual real properties under management on behalf of the property owners may be licensed with the department for the payment of taxes levied by this state and by any county, city or town with respect to those properties. THERE IS NO FEE FOR A LICENSE ISSUED PURSUANT TO THIS SUBSECTION.

N. 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.

O. The department may revoke any transaction privilege tax or municipal privilege tax license issued to any person who fails for thirteen consecutive months to make and file a return required by this article on or before the due date or the due date as extended by the department unless the failure is due to a reasonable cause and not due to wilful neglect.

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

Sec. 14. Section 42-5014, Arizona Revised Statutes, is amended to read:

42-5014. Return and payment of tax; estimated tax; extensions; abatements

A. Except as provided in subsection B, C, D, E or F of this section, the taxes levied under this article:

1. Are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of the month next succeeding the month in which the tax accrues.

2. Are delinquent as follows:

(a) For taxpayers that are required or elect to file and pay electronically in any month, if not received by the department on or before the last business day of the month.

(b) For all other taxpayers, if not received by the department on or before the business day preceding the last business day of the month.

B. The department, for any taxpayer whose estimated annual liability for taxes imposed or administered by this article or chapter 6 of this title is between two thousand dollars and eight thousand dollars, shall authorize such taxpayer to pay such taxes on a quarterly basis. The department, for any taxpayer whose estimated annual liability for taxes imposed by this article is less than two thousand dollars, shall authorize such taxpayer to pay such taxes on an annual basis. For the purposes of this subsection, the taxes due under this article:

1. For taxpayers that are authorized to pay on a quarterly basis, are due and payable monthly in the form required by section 42-5018 for

the amount of the tax, to the department, on or before the twentieth day of the month next succeeding the quarter in which the tax accrues.

2. For taxpayers that are authorized to pay on an annual basis, are due and payable monthly in the form required by section 42-5018 for the amount of the tax, to the department, on or before the twentieth day of January next succeeding the year in which the tax accrues.

3. Are delinquent as follows:

(a) For taxpayers that are required or elect to file and pay electronically in any quarter, if not received by the department on or before the last business day of the month.

(b) For all other taxpayers that are required to file and pay quarterly, if not received by the department on or before the business day preceding the last business day of the month.

(c) For taxpayers that are required or elect to file and pay electronically on an annual basis, if not received by the department on or before the last business day of January.

(d) For all other taxpayers that are required to file and pay annually, if not received by the department on or before the business day preceding the last business day of January.

C. The department may require a taxpayer whose business is of a transient character to file the return and remit the taxes imposed by this article on a daily, a weekly or a transaction by transaction basis, and those returns and payments are due and payable on the date fixed by the department without a grace period otherwise allowed by this section. For the purposes of this subsection, "business of a transient character" means sales activity by a taxpayer not regularly engaged in selling within the state conducted from vehicles, portable stands, rented spaces, structures or booths, or concessions at fairs, carnivals, circuses, festivals or similar activities for not more than thirty consecutive days.

D. If the business entity under which a taxpayer reports and pays income tax under title 43 has an annual total tax liability under this article, article 6 of this chapter and chapter 6, article 3 of this title of one million dollars or more, based on the actual tax liability in the preceding calendar year, regardless of the number of offices at which the taxes imposed by this article, article 6 of this chapter or chapter 6, article 3 of this title are collected, or if the taxpayer can reasonably anticipate such liability in the current year, the taxpayer shall report on a form prescribed by the department and pay an estimated tax payment each June. Any other taxpayer may voluntarily elect to pay the estimated tax payment pursuant to this subsection. The payment shall be made on or before June 20 and is delinquent if not received by the department on or before the business day preceding the last business day of June for those taxpayers electing to file by mail, or delinquent if not received by the department on the business day preceding the last business day of June for those taxpayers electing to file in person. The estimated tax paid shall

be credited against the taxpayer's tax liability under this article, article 6 of this chapter and chapter 6, article 3 of this title for the month of June for the current calendar year. The estimated tax payment shall equal either:

1. One-half of the actual tax liability under this article plus one-half of any tax liability under article 6 of this chapter and chapter 6, article 3 of this title for May of the current calendar year.

2. The actual tax liability under this article plus any tax liability under article 6 of this chapter and chapter 6, article 3 of this title for the first fifteen days of June of the current calendar year.

E. An online lodging marketplace, as defined in section 42-5076, that is registered with the department pursuant to section 42-5005, subsection L:

1. Shall remit to the department the applicable taxes payable pursuant to section 42-5076 and chapter 6 of this title with respect to each online lodging transaction, as defined in section 42-5076, facilitated by the online lodging marketplace.

2. Shall report the taxes monthly and remit the aggregate total amounts for each of the respective taxing jurisdictions.

3. Shall not be required to list or otherwise identify any individual online lodging operator, as defined in section 42-5076, on any return or any attachment to a return.

F. A person who is licensed pursuant to title 32, chapter 20 and who is licensed with the department pursuant to section 42-5005, subsection M shall:

1. File a consolidated return monthly with respect to all managed properties for which the licensee files an electronic consolidated tax return pursuant to section 42-6013.

2. Remit to the department the aggregate total amount of the applicable taxes payable pursuant to this chapter and chapter 6 of this title for all of the respective taxing jurisdictions with respect to the managed properties.

G. The taxpayer shall prepare a return showing the amount of the tax for which the taxpayer is liable for the preceding month, and shall mail or deliver the return to the department in the same manner and time as prescribed for the payment of taxes in subsection A of this section. If the taxpayer fails to file the return in the manner and time as prescribed for the payment of taxes in subsection A of this section, the amount of the tax required to be shown on the return is subject to the penalty imposed pursuant to section 42-1125, subsection ~~A~~ X, without any reduction for taxes paid on or before the due date of the return. The return shall be verified by the oath of the taxpayer or an authorized agent or as prescribed by the department pursuant to section 42-1105, subsection B.

H. Any person who is taxable under this article and who makes cash and credit sales shall report such cash and credit sales separately and on making application may obtain from the department an extension of time for payment of taxes due on the credit sales. The extension shall be granted by the department under such rules as the department prescribes. When the extension is granted, the taxpayer shall thereafter include in each monthly report all collections made on such credit sales during the month next preceding and shall pay the taxes due at the time of filing such report.

I. The returns required under this article shall be made on forms prescribed by the department and shall capture data with sufficient specificity to meet the needs of all taxing jurisdictions.

J. Any person who is engaged in or conducting business in two or more locations or under two or more business names shall file the return required under this article using an electronic filing program established by the department.

K. For taxable periods beginning from and after December 31, 2017, any taxpayer with an annual total tax liability under this chapter and chapter 6 of this title of twenty thousand dollars or more, based on the actual tax liability in the preceding calendar year, regardless of the number of offices at which the taxes imposed by this chapter or chapter 6 of this title are collected, or a taxpayer that can reasonably anticipate that liability in the current year, shall file the return required under this article using an electronic filing program established by the department.

L. For taxable periods beginning from and after December 31, 2018, any taxpayer with an annual total tax liability under this chapter and chapter 6 of this title of ten thousand dollars or more, based on the actual tax liability in the preceding calendar year, regardless of the number of offices at which the taxes imposed by this chapter or chapter 6 of this title are collected, or a taxpayer that can reasonably anticipate that liability in the current year, shall file the return required under this article using an electronic filing program established by the department.

M. For taxable periods beginning from and after December 31, 2019, any taxpayer with an annual total tax liability under this chapter and chapter 6 of this title of five thousand dollars or more, based on the actual tax liability in the preceding calendar year, regardless of the number of offices at which the taxes imposed by this chapter or chapter 6 of this title are collected, or a taxpayer that can reasonably anticipate that liability in the current year, shall file the return required under this article using an electronic filing program established by the department.

N. For taxable periods beginning from and after December 31, 2020, any taxpayer with an annual total tax liability under this chapter and

chapter 6 of this title of five hundred dollars or more, based on the actual tax liability in the preceding calendar year, regardless of the number of offices at which the taxes imposed by this chapter or chapter 6 of this title are collected, or a taxpayer that can reasonably anticipate that liability in the current year, shall file the return required under this article using an electronic filing program established by the department.

O. Any taxpayer that is required to report and pay using an electronic filing program established by the department may apply to the director, on a form prescribed by the department, for an annual waiver from the electronic filing requirement. The director may grant a waiver, which may be renewed, if any of the following applies:

1. The taxpayer has no computer.

2. The taxpayer has no internet access.

3. Any other circumstance considered to be worthy by the director.

P. A waiver is not required if the return cannot be electronically filed for reasons beyond the taxpayer's control, including situations in which the taxpayer was instructed by either the internal revenue service or the department of revenue to file by paper.

Q. The department, for good cause, may extend the time for making any return required by this article and may grant such reasonable additional time within which to make the return as it deems proper, but the time for filing the return shall not be extended beyond the first day of the third month next succeeding the regular due date of the return.

R. The department, with the approval of the attorney general, may abate small tax balances if the administration costs exceed the amount of tax due.

S. For the purposes of subsection D of this section, "taxpayer" means the business entity under which the business reports and pays state income taxes regardless of the number of offices at which the taxes imposed by this article, article 6 of this chapter or chapter 6, article 3 of this title are collected.

Sec. 15. 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 and as 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)~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PURSUANT TO THE FOOD AND NUTRITION ACT OF 2008 (P.L. 88-525; 78 STAT 703; 7 UNITED STATES CODE SECTIONS 2011 THROUGH 2036b) BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE 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; P.L. 111-296; 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 P 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 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 section 42-5075 or to a subcontractor working under the control of a person engaged in business

classified under section 42-5075, if the property so sold is any of the following:

(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.

(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 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 the state department of corrections, the department of public safety, the department of juvenile corrections or a county sheriff.

41. 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.

42. Sales of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives for livestock or poultry consumption that are sold to persons for use or consumption by their own livestock or poultry, for use or consumption in the businesses of farming, ranching and producing or feeding livestock, poultry, or livestock or poultry products or for use or consumption in noncommercial boarding of livestock. For the purposes of this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

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

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

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. 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.

54. 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.

55. 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.

56. 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.

57. Computer data center equipment sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. 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.

58. 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.

59. 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.

60. Sales of works of fine art, as defined in section 44-1771, at an art auction or gallery in this state to nonresidents of this state for

use outside this state if the vendor ships or delivers the work of fine art to a destination outside this state.

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:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction

with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding 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.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(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 agricultural aircraft, 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, 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.

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 deduction, the qualified business at the time of purchase must present its certification approved by the department.

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

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 other tangible personal property used by a contractor in the performance of a contract.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and 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. 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.

G. 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.

H. 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:

1. Agricultural producers who are owners, proprietors or tenants of agricultural lands, orchards, farms or gardens where agricultural products are grown, raised or prepared for market and who are marketing their own agricultural products.

2. Businesses classified under the:

(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) Restaurant classification.

I. 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.

J. There shall be deducted from the tax base fifty 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 I of this section.

K. The department shall require every person claiming a deduction provided by subsection I or J 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.

L. 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.

M. 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.

N. 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.

O. 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.

P. 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.

Q. 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.

R. 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.

S. 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 that 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.

T. 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.

U. 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.

V. For the purposes of this section:

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "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.

3. "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.

4. "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.

W. For the purposes of subsection I 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.

Sec. 16. 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. Purchases of:

(a) Livestock and poultry to persons engaging in the businesses of farming, ranching or producing livestock or poultry.

(b) Livestock and poultry feed, salts, vitamins and other additives sold to persons for use or consumption in the businesses of farming, ranching and producing or feeding livestock or poultry or for use or consumption in noncommercial boarding of livestock. 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 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 this chapter by reason of being engaged in business classified under section 42-5075, or a subcontractor working under the control of a 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 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.

(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.

(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.

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

(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.

(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.

(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.

(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), 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.

(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 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.

16. 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.

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

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

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

21. 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, 13, 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.

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

23. 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)~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM PURSUANT TO THE FOOD AND NUTRITION ACT OF 2008 (P.L. 88-525; 78 STAT 703; 7 UNITED STATES CODE SECTIONS 2011 THROUGH 2036b) BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE 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; P.L. 111-296; 42 United States Code section 1786).

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

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

26. Food, drink or condiment and accessory tangible personal property that are acquired for use by or provided to a school district or charter school if they are to be either served or prepared and served to persons for consumption on the premises of a public school in the school district or on the premises of the charter school during school hours.

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

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

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

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper 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 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 sold to the owner, operator or qualified colocation tenant of a computer data center that is certified by the Arizona commerce authority under section 41-1519 or an authorized agent of the owner, operator or qualified colocation tenant during the qualification period for use in the qualified computer data center. 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.

57. Cash equivalents, precious metal bullion and monetized bullion purchased by the ultimate consumer, but coins or other forms of money for manufacture into jewelry or works of art are subject to tax, and tangible personal property that is purchased through the redemption of any cash equivalent by the holder as a means of payment for goods that are subject to tax under this article is subject to tax. For the purposes of this paragraph:

(a) "Cash equivalents" means items, whether or not negotiable, that are sold to one or more persons, through which a value denominated in money is purchased in advance and that 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 tangible instruments or orders. Cash equivalents do not include either of the following:

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

(ii) Prepaid calling cards for telecommunications services.

(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.

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:

(i) Holding, or exempted by federal law from obtaining, a federal certificate of public convenience and necessity for use as, in conjunction

with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(ii) That is certificated or licensed under federal aviation administration regulations (14 Code of Federal Regulations part 121 or 135) as a scheduled or unscheduled carrier of persons for hire for use as or in conjunction with or becoming part of an aircraft to be used to transport persons for hire in intrastate, interstate or foreign commerce.

(iii) Holding 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.

(iv) Operating an aircraft to transport persons in any manner for compensation or hire, or for use in a fractional ownership program that meets the requirements of federal aviation administration regulations (14 Code of Federal Regulations part 91, subpart K), including as an air carrier, a foreign air carrier or a commercial operator or under a restricted category, within the meaning of 14 Code of Federal Regulations, regardless of whether the operation or aircraft is regulated or certified under part 91, 119, 121, 133, 135, 136 or 137, or another part of 14 Code of Federal Regulations.

(v) That will lease or otherwise transfer operational control, within the meaning of federal aviation administration operations specification A008, or its successor, of the aircraft, instruments or accessories to one or more persons described in item (i), (ii), (iii) or (iv) of this subdivision, subject to section 42-5009, subsection Q.

(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. 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 agricultural aircraft, 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, including production by 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.

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.

22. Machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This paragraph applies for ten full consecutive calendar or fiscal years after the start of initial construction.

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, natural gas or liquefied petroleum gas by:

1. A qualified manufacturing or smelting business. A utility that claims this deduction shall report each month, on a form prescribed by the department, the name and address of each qualified manufacturing or smelting business for which this deduction is taken. This paragraph applies to gas transportation services. For the purposes of this paragraph:

(a) "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.

(b) "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 job printing, publishing, packaging, mining, generating electricity or operating a restaurant.

(c) "Qualified manufacturing or smelting business" means one of the following:

(i) A business that manufactures or smelts tangible products in this state, of which at least fifty-one percent of the manufactured or smelted products will be exported out of state for incorporation into another product or sold out of state for a final sale.

(ii) A business that derives at least fifty-one percent of its gross income from the sale of manufactured or smelted products manufactured or smelted by the business.

(iii) A business that uses at least fifty-one percent of its square footage in this state for manufacturing or smelting and business activities directly related to manufacturing or smelting.

(iv) A business that employs at least fifty-one percent of its workforce in this state in manufacturing or smelting and business activities directly related to manufacturing or smelting.

(v) A business that uses at least fifty-one percent of the value of its capitalized assets in this state, as reflected on the business's books and records, for manufacturing or smelting and business activities directly related to manufacturing or smelting.

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

2. A business that operates an international operations center in this state and that is certified by the Arizona commerce authority pursuant to section 41-1520.

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

1. "Agricultural aircraft" means an aircraft that is built for agricultural use for the aerial application of pesticides or fertilizer or for aerial seeding.

2. "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.

3. "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. 17. Section 42-6108.01, Arizona Revised Statutes, is amended to read:

42-6108.01. Tax on hotels

A. The qualified electors residing in a county having a population of less than two million but more than five hundred thousand persons, by majority vote at an election held in the county, may levy and, if levied, the department of revenue shall collect a tax on the gross proceeds of sales or gross income from the business of every person engaging or continuing in a business taxed under chapter 5 of this title and classified under section 42-5070 OR 42-5076 within the county. A tax under this section:

1. Is in addition to taxes imposed by chapter 5 of this title~~,~~ AND section 42-6108 and any tax imposed by a city or town in the county.

2. Applies in both incorporated and unincorporated areas of the county.

B. If levied, the tax shall be levied under this section beginning on the first day of the first month beginning ninety days after the election to levy the tax. The tax shall be in effect for thirty years. The tax may be extended by majority vote of the qualified electors residing in the county at an election held in the county for a period of not more than ten years.

C. The rate of the tax is one per cent of the tax base prescribed by section 42-5070 OR 42-5076.

D. Each month the state treasurer shall credit the net revenues collected pursuant to this section to the tourism fund established by section 41-2306.

Sec. 18. Section 42-11132, Arizona Revised Statutes, is amended to read:

42-11132. Property leased to educational institutions

A. Property, buildings and fixtures that are leased to a ~~not-for-profit~~ NONPROFIT charter school and that are used for educational instruction in any grade or program through grade twelve shall be classified as class nine property pursuant to section 42-12009. If only part of a parcel of real property or improvements to real property is leased for operation of a charter school, only the portion so leased qualifies as class nine property.

B. Property, buildings and fixtures that are owned by an educational, a religious or a charitable organization, institution or

association and leased to a ~~not for profit~~ NONPROFIT educational organization, institution or association are exempt from taxation if the property is used for educational instruction in any grade or program through grade twelve.

C. If the educational, religious or charitable organization, institution or association that owns the property files with the assessor evidence of the organization's, INSTITUTION'S OR ASSOCIATION'S tax exempt status under section 501(c)(3) of the internal revenue code and an affidavit by the educational organization, institution or association that it uses the property for educational instruction as described in subsection B of this section, the property qualifies for the tax exemption under this section and is exempt from the requirement of filing subsequent affidavits under section 42-11152 until all or part of the property is conveyed to a new owner or is no longer used for educational purposes. At that time the EDUCATIONAL, religious or charitable organization, institution or association must notify the assessor of the change in writing.

Sec. 19. Section 42-15010, Arizona Revised Statutes, is amended to read:

42-15010. Applying assessment percentages

A. In preparing the tax rolls, the county assessor shall apply the appropriate percentage to the full cash value or limited property value of property, as applicable, to show the assessed valuation.

B. IF A PARCEL OF PROPERTY HAS MORE THAN ONE PERCENTAGE APPLIED TO ITS FULL CASH VALUE UNDER THIS SECTION DUE TO MULTIPLE USES, THE COUNTY ASSESSOR SHALL APPLY THE PERCENTAGE TO THE LIMITED PROPERTY VALUE OF THE PARCEL IN THE SAME PROPORTION AND IN THE SAME MANNER AS THE PARCEL'S FULL CASH VALUE.

Sec. 20. Section 43-224, Arizona Revised Statutes, is amended to read:

43-224. Individual and corporate income tax credits; annual report; termination of unused credits

A. On or before September 30 of each year, the department shall report to the directors of the joint legislative budget committee and the governor's office of strategic planning and budgeting on the amount of individual income tax credits and corporate income tax credits that were claimed in the previous fiscal year.

B. Except as provided by subsection C of this section, if, in any four consecutive reports under subsection A of this section, an individual or corporate income tax credit was not claimed by or allowed to any individual or corporate taxpayer, the director of the department of revenue shall:

1. Terminate the recognition and servicing of that credit for taxable years beginning from and after December 31 of the year in which the ~~second~~ FOURTH report is issued.

2. Issue a public announcement, including on the department's website, of the termination of the credit under authority of this section.

3. Notify the governor's office of strategic planning and budgeting, the president of the senate, the speaker of the house of representatives, the joint legislative budget committee and the legislative council.

4. Include the repeal of all statutes relating to the terminated credit in technical tax correction legislation for enactment in the next regular session of the legislature. If the legislature fails to enact this legislation, the director shall rescind the termination of the credit.

C. The director may not terminate under subsection B of this section the recognition and servicing of any income tax credit that is subject by law to preapproval by the Arizona commerce authority unless over any period of four consecutive calendar years both of the following conditions occur with respect to the credit:

1. The department has not received notice of preapproval of any applicant or project for the credit from the Arizona commerce authority.

2. In the report issued under subsection A of this section, the credit was not claimed by or allowed to any taxpayer.

Sec. 21. Section 43-309, Arizona Revised Statutes, is amended to read:

43-309. Joint returns of husband and wife

If a husband and wife are required to file a return pursuant to section 43-301, they may file a joint return under the following conditions:

1. ~~No~~ A joint return shall NOT be made if husband and wife have different taxable years. If such taxable years begin on the same day and end on different days because of the death of either or of both, ~~then~~ the joint return may be made with respect to the taxable year of each. Such AN exception ~~shall~~ DOES not apply if the surviving spouse remarried before the close of ~~his~~ THE SURVIVING SPOUSE'S taxable year~~, nor~~ OR if the taxable year of either spouse is a fractional part of a year under section 43-931~~, subsection A~~.

2. In the case of the death of one or both spouses, the joint return with respect to the decedent may be made only by ~~his~~ THE DECEDENT'S executor or administrator, except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both ~~himself~~ THE SURVIVING SPOUSE and the decedent if all of the following apply:

(a) ~~No~~ A return for the taxable year has NOT been made by the decedent.

(b) ~~No~~ AN executor or administrator has NOT been appointed.

(c) ~~No~~ AN executor or administrator is NOT appointed before the last day prescribed by law for filing the return of the surviving

spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm ~~such~~ THE joint return by making, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute ~~his~~ THE SURVIVOR'S separate return.

3. For THE purposes of this section, the status as husband and wife of two individuals having taxable years beginning on the same day shall be determined:

(a) If both have the same taxable year, as of the close of such year.

(b) If one dies before the close of the taxable year of the other, as of the time of such death.

Sec. 22. Repeal

Section 43-568, Arizona Revised Statutes, is repealed.

Sec. 23. Section 43-901, Arizona Revised Statutes, is amended to read:

43-901. Taxable income computation

Taxable income shall be computed ~~upon the basis of the taxpayer's annual accounting period, fiscal year or calendar year as the case may be in accordance with the method of accounting regularly employed in keeping the books of such taxpayer. If no such method of accounting has been so employed or if the method employed does not reflect the proper income, the computation shall be made in accordance with such method as in the opinion of the department does reflect the proper income. If the taxpayer's annual accounting period is other than a fiscal year or if the taxpayer has no annual accounting period or does not keep books, the taxable income shall be computed on the basis of the calendar year~~ ON THE BASIS OF THE TAXPAYER'S TAXABLE YEAR AS DEFINED IN SECTION 441 OF THE INTERNAL REVENUE CODE.

Sec. 24. Repeal

Sections 43-902, 43-903 and 43-904, Arizona Revised Statutes, are repealed.

Sec. 25. Renumber

Section 43-905, Arizona Revised Statutes, is renumbered as a new section 43-902.

Sec. 26. Section 43-931, Arizona Revised Statutes, is amended to read:

43-931. Change of accounting period; computation of income; due date of return

~~A. If a taxpayer, with the approval of the department, changes the basis of computing taxable income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If~~

~~the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.~~

~~B.~~ If a separate return is made under ~~subsection A~~ SECTION 443 OF THE INTERNAL REVENUE CODE on account of a change in the accounting period, and in all other cases ~~where~~ IN WHICH a separate return is required or permitted by TREASURY regulations ~~prescribed by the department~~ to be made for a fractional part of a year, the income shall be computed on the basis of the period for which the separate return is made. The due date of the separate return for ~~such~~ THE period is the fifteenth day of the fourth month following the close of ~~such~~ THAT period unless the short period return is due to a change in ownership of a corporation, in which case the due date shall be determined pursuant to ~~26 Code of Federal Regulations section 1.1502-76~~ TREASURY REGULATIONS.

Sec. 27. Repeal

Sections 43-932 and 43-933, Arizona Revised Statutes, are repealed.

Sec. 28. Renumber

Section 43-934, Arizona Revised Statutes, is renumbered as a new section 43-932.

Sec. 29. Section 43-1021, Arizona Revised Statutes, is amended to read:

43-1021. Addition to Arizona gross income

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

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

2. An amount equal to the ordinary income portion of a lump sum distribution that was excluded from federal adjusted gross income pursuant to the special rule for individuals who attained fifty years of age before January 1, 1986 under Public Law 99-514, section 1122(h)(3).

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

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

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

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

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

7. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under section 43-1080 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

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

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

10. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1074.02, 43-1081 or 43-1081.01 and that is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1074.02, 43-1081 or 43-1081.01, as applicable.

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

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

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

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

~~15. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code in a taxable~~

~~year beginning before January 1, 2013, the amount in excess of twenty-five thousand dollars.~~

~~16.~~ 15. The amount of a nonqualified withdrawal, as defined in section 15-1871, from a college savings plan established pursuant to section 529 of the internal revenue code that is made to a distributee to the extent the amount is not included in computing federal adjusted gross income, except that the amount added under this paragraph shall not exceed the difference between the amount subtracted under section 43-1022 in prior taxable years and the amount added under this section in any prior taxable years.

~~17.~~ 16. The amount of discharge of indebtedness income that is deferred and excluded from the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

~~18.~~ 17. The amount of any previously deferred original issue discount that was deducted in computing federal adjusted gross income in the current year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously subtracted from Arizona gross income pursuant to section 43-1022, paragraph ~~23~~ 22.

~~19.~~ 18. Amounts that are considered to be income under section 43-1032, subsection D because the amount is withdrawn from a long-term health care savings account and not used to pay the taxpayer's long-term health care expenses.

~~20.~~ 19. If a subtraction is or has been taken by the taxpayer under section 43-1024, in the current or a prior taxable year for the full amount of eligible access expenditures paid or incurred to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8, any amount of eligible access expenditures that is recognized under the internal revenue code, including any amount that is amortized according to federal amortization schedules, and that is included in computing taxable income for the current taxable year.

~~21.~~ 20. For taxable years beginning from and after December 31, 2017, the amount of any net capital loss included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress for the payment of debts, public charges, taxes and dues.

(b) "Specie" means coins having precious metal content.

Sec. 30. Section 43-1022, Arizona Revised Statutes, is amended to read:

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law.

(b) The Arizona state retirement system, the corrections officer retirement plan, the public safety personnel retirement system, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.

3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.

4. Interest income received on obligations of the United States, less any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, which were incurred or continued to purchase or carry such obligations.

5. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

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

7. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

8. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

9. The amount of prizes or winnings less than five thousand dollars in a single taxable year from any of the state lotteries established and operated pursuant to title 5, chapter 5.1, article 1.

10. The amount of exploration expenses that is determined pursuant to section 617 of the internal revenue code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.

11. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.

12. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the national guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.

13. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed three thousand dollars. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed three thousand dollars. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.

14. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

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

16. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income.

17. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.

18. The amount authorized by section 43-1030 relating to holocaust survivors.

19. For property placed in service:

(a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had

been made for each applicable class of property in the year the property was placed in service.

(b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the depreciation claimed to date for the purposes of this title the same as it would have been if subdivision (c) of this paragraph had applied for the entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.

(c) In taxable years beginning from and after December 31, 2013 through December 31, 2015, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(d) In taxable years beginning from and after December 31, 2015 through December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been fifty-five percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

(e) In taxable years beginning from and after December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been the full amount allowed pursuant to section 168(k) of the internal revenue code.

20. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 14 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

~~21. With respect to property for which an adjustment was made under section 43-1021, paragraph 15, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph 15 in the year in which the amount was adjusted under section 43-1021, paragraph 15 and in each of the following four years.~~

~~22.~~ 21. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:

(a) Two thousand dollars for a single individual or a head of household.

(b) Four thousand dollars for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed four thousand dollars.

~~23.~~ 22. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

~~24.~~ 23. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal adjusted gross income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously added to Arizona gross income pursuant to section 43-1021, paragraph ~~17~~ 16.

~~25.~~ 24. The portion of the net operating loss carryforward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carryforward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).

~~26.~~ 25. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41-1518.

~~27.~~ 26. An amount of any net long-term capital gain included in federal adjusted gross income for the taxable year that is derived from an investment in an asset acquired after December 31, 2011, as follows:

(a) For taxable years beginning from and after December 31, 2012 through December 31, 2013, ten percent of the net long-term capital gain included in federal adjusted gross income.

(b) For taxable years beginning from and after December 31, 2013 through December 31, 2014, twenty percent of the net long-term capital gain included in federal adjusted gross income.

(c) For taxable years beginning from and after December 31, 2014, twenty-five percent of the net long-term capital gain included in federal adjusted gross income. For the purposes of this paragraph, a transferee that receives an asset by gift or at the death of a transferor is considered to have acquired the asset when the asset was acquired by the transferor. If the date an asset is acquired cannot be verified, a subtraction under this paragraph is not allowed.

~~28.~~ 27. If an individual is not claiming itemized deductions pursuant to section 43-1042, the amount of premium costs for long-term care insurance, as defined in section 20-1691.

~~29.~~ 28. With respect to a long-term health care savings account established pursuant to section 43-1032, the amount deposited by the taxpayer in the account during the taxable year to the extent that the taxpayer's contributions are included in the taxpayer's federal adjusted gross income.

~~30.~~ 29. The amount of eligible access expenditures paid or incurred during the taxable year to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8 as provided by section 43-1024.

~~31.~~ 30. For taxable years beginning from and after December 31, 2017, the amount of any net capital gain included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress for the payment of debts, public charges, taxes and dues.

(b) "Specie" means coins having precious metal content.

Sec. 31. Section 43-1024, Arizona Revised Statutes, is amended to read:

43-1024. Americans with disabilities act access expenditures

A. For taxable years beginning from and after December 31, 2017, in computing Arizona adjusted gross income, a subtraction is allowed under section 43-1022, paragraph ~~30~~ 29 for eligible business access expenditures paid or incurred by the taxpayer during the taxable year in order to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8 by retrofitting developed real property that was originally placed in service at least ten years before the current taxable year.

B. For the purposes of this section, eligible business access expenditures Include reasonable and necessary amounts paid or incurred to:

1. Remove any barriers that prevent a business from being accessible to or usable by individuals with disabilities.

2. Provide qualified interpreters or other methods of making audio materials available to hearing-impaired individuals.

3. Provide qualified readers, taped texts and other effective methods of making visually delivered materials available to individuals with visual impairments.

4. Acquire or modify equipment or devices for individuals with disabilities.

5. Provide other similar services, modifications, materials or equipment.

C. A taxpayer who has been cited for noncompliance with the Americans with disabilities act of 1990 or title 41, chapter 9, article 8 by either federal or state enforcement officials is ineligible for a subtraction under this section for any expenditure required to cure the cited violation.

Sec. 32. Section 43-1043, Arizona Revised Statutes, is amended to read:

43-1043. Personal exemptions; annual adjustment

A. For taxable years ~~prior to~~ BEFORE 2017, there shall be allowed as an exemption, in the case of:

1. A single individual, a personal exemption of two thousand one hundred dollars.

2. A head of a household or a married individual, a personal exemption of four thousand two hundred dollars under this paragraph. A husband and wife shall receive but one personal exemption of four thousand two hundred dollars. If the husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

3. A married couple who claim at least one dependent, an exemption of six thousand three hundred dollars. If the husband and wife make separate returns, the personal exemption may be taken by either or divided between them. An exemption under this paragraph is in lieu of the exemption under paragraph 2 of this subsection.

B. For taxable years beginning from and after December 31, 2016 through December 31, 2017, there is allowed as an exemption, in the case of:

1. A single individual, a personal exemption of two thousand one hundred fifty dollars.

2. A head of a household or a married individual, a personal exemption of four thousand three hundred dollars under this paragraph. A husband and wife shall receive but one personal exemption of four thousand three hundred dollars. If the husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

3. A married couple who claim at least one dependent, an exemption of six thousand four hundred fifty dollars. If the husband and wife make separate returns, the personal exemption may be taken by either or divided between them. An exemption under this paragraph is in lieu of the exemption under paragraph 2 of this subsection.

C. For taxable years beginning from and after December 31, 2017 through December 31, 2018, there is allowed as an exemption, in the case of:

1. A single individual, a personal exemption of two thousand two hundred dollars.

2. A head of a household or a married individual, a personal exemption of four thousand four hundred dollars under this paragraph. A husband and wife shall receive but one personal exemption of four thousand four hundred dollars. If the husband and wife make separate returns, the personal exemption may be taken by either or divided between them.

3. A married couple who claim at least one dependent, an exemption of six thousand six hundred dollars. If the husband and wife make separate returns, the personal exemption may be taken by either or divided between them. An exemption under this paragraph is in lieu of the exemption under paragraph 2 of this subsection.

D. For taxable years beginning from and after December 31, 2018, the department shall adjust the dollar amounts prescribed for each of the exemptions in subsection C of this section according to the average annual change in the metropolitan Phoenix consumer price index published by the United States bureau of labor statistics. THE REVISED DOLLAR AMOUNTS SHALL BE RAISED TO THE NEAREST WHOLE DOLLAR. THE DESIGNATED DOLLAR AMOUNTS MAY NOT BE REVISED BELOW THE AMOUNTS ALLOWED BY THE PERSONAL EXEMPTION IN THE PRIOR TAXABLE YEAR.

Sec. 33. Section 43-1074, Arizona Revised Statutes, is amended to read:

43-1074. Credit for new employment

A. For taxable years beginning from and after June 30, 2011, a credit is allowed against the taxes imposed by this title for net increases in full-time employees residing in this state and hired in qualified employment positions in this state as computed and certified by the Arizona commerce authority pursuant to section 41-1525.

B. Subject to subsection F of this section, the amount of the credit is equal to:

1. Three thousand dollars for each full-time employee hired in a qualified employment position in the first year or partial year of employment. Employees hired in the last ninety days of the taxable year are excluded for that taxable year and are considered to be new employees in the following taxable year.

2. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the second year of continuous employment.

3. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the third year of continuous employment.

C. The capital investment and the new qualified employment positions requirements of section 41-1525, subsection B must be accomplished within twelve months after the start of the required capital investment. ~~No~~ A credit may NOT be claimed until both requirements are met. A business that meets the requirements of section 41-1525, subsection B for a location is eligible to claim first year credits for three years beginning with the taxable year in which those requirements are completed. Employees hired at the location before the beginning of the taxable year but during the twelve-month period allowed in this subsection are considered to be new employees for the taxable year in which all of those requirements are completed. The employees that are considered to be new employees for the taxable year under this subsection shall not be included in the average number of full-time employees during the immediately preceding taxable year until the taxable year in which all of the requirements of section 41-1525, subsection B are completed. An employee working at a temporary ~~work site~~ WORKSITE in this state while the designated location is under construction is considered to be working at the designated location if all of the following occur:

1. The employee is hired after the start of the required investment at the designated location.

2. The employee is hired to work at the designated location after it is completed.

3. The payroll for the employees destined for the designated location is segregated from other employees.

4. The employee is moved to the designated location within thirty days after its completion.

D. To qualify for a credit under this section, the taxpayer and the employment positions must meet the requirements prescribed by section 41-1525.

E. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

F. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created at the designated location or locations during the taxable year or the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year.

~~G. A taxpayer who claims a credit under section 43-1079 or 43-1083.01 shall not claim a credit under this section with respect to the same employment positions.~~

~~H.~~ G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against the income taxes may be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding five taxable years.

~~I.~~ H. Co-owners of a business, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

~~J.~~ I. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

~~K.~~ J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection E, and in the manner prescribed by section 41-1525, subsection F disqualifies the taxpayer from the credit under this section. The department shall require written evidence of the timely report to the Arizona commerce authority.

~~L.~~ K. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection H.

~~M.~~ L. For the purposes of subsection B, paragraphs 2 and 3 of this section, if a full-time employee in the qualified employment position leaves during the taxable year, the employee may be replaced with another new full-time employee in the same employment position and the new employee will be treated as being in ~~their~~ THE EMPLOYEE'S second or third full year of continuous employment for the purposes of the credit under this section if:

1. The total time the position was vacant from the date the employment position was originally filled to the end of the current tax year totals ninety days or less.

2. The new employee meets all of the same requirements as the original employee was required to meet.

Sec. 34. Section 43-1074.01, Arizona Revised Statutes, is amended to read:

43-1074.01. Credit for increased research activities

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is based on the excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code and is computed as follows:

(a) If the excess is two million five hundred thousand dollars or less:

(i) For taxable years ~~through December 31, 2017, the credit is equal to twenty percent of that amount.~~

~~(ii) For taxable years beginning from and after December 31, 2017 through~~ BEGINNING BEFORE December 31, 2021, the credit is equal to twenty-four percent of that amount.

~~(iii)~~ (ii) For taxable years beginning from and after December 31, 2021, the credit is equal to twenty percent of that amount.

(b) If the excess is over two million five hundred thousand dollars:

(i) For taxable years ~~through December 31, 2017, the credit is equal to five hundred thousand dollars plus eleven percent of any amount exceeding two million five hundred thousand dollars.~~

~~(ii) For taxable years beginning from and after December 31, 2017, through~~ BEGINNING BEFORE December 31, 2021, the credit is equal to six hundred thousand dollars plus fifteen percent of any amount exceeding two million five hundred thousand dollars.

~~(iii)~~ (ii) For taxable years beginning from and after December 31, 2021, the credit is equal to five hundred thousand dollars plus eleven percent of any amount exceeding two million five hundred thousand dollars.

(c) For taxable years beginning from and after December 31, 2011, an additional credit amount is allowed if the taxpayer made basic research payments during the taxable year to a university under the jurisdiction of the Arizona board of regents. The additional credit amount is equal to ten percent of the excess, if any, of the basic research payments over the qualified organization base period amount for the taxable year. The department shall not allow credit amounts under this subdivision and section 43-1168, subsection A, paragraph 1, subdivision (d) that exceed, in the aggregate, a combined total of ten million dollars in any calendar year. Subject to that limit, on application by the taxpayer, the department shall certify credit amounts under this subdivision and section 43-1168, subsection A, paragraph 1, subdivision (d) based on priority

placement established by the date that the taxpayer filed the application. For taxable years beginning from and after December 31, 2014, any basic research payments used to determine the additional credit under this subdivision must first receive certification from the Arizona commerce authority pursuant to section 41-1507.01. The additional credit amount under this subdivision shall not exceed the amount allowed based on actual basic research payments or the department's certification, whichever is less. If an application, if certified in full, would exceed the ten million dollar limit, the department shall certify only an amount within that limit. After the limit is attained, the department shall deny any subsequent applications regardless of whether other certified amounts are not actually claimed as a credit or other taxpayers fail to qualify to actually claim certified amounts. Notwithstanding subsections B and C of this section, any amount of the additional credit under this subdivision that exceeds the taxes otherwise due under this title is not refundable, but may be carried forward to the next five consecutive taxable years. For the purposes of this subdivision, "basic research payments" and "qualified organization base period amount" have the same meanings prescribed by section 41(e) of the internal revenue code without regard to whether the taxpayer is or is not a corporation.

2. Qualified research includes only research conducted in this state, including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including partners in a partnership and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 2000.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection C of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research

expenses. A taxpayer who carries forward any amount of credit under this subsection may not thereafter claim a refund of any amount of the credit under subsection C of this section.

C. For taxable years beginning from and after December 31, 2009, if a taxpayer who claims a credit under this section employs fewer than one hundred fifty persons in the taxpayer's trade or business and if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, in lieu of carrying the excess amount of credit forward to subsequent taxable years under subsection B of this section, the taxpayer may elect to receive a refund as follows:

1. The taxpayer must apply to the Arizona commerce authority for qualification for the refund pursuant to section 41-1507 and submit a copy of the authority's certificate of qualification to the department of revenue with the taxpayer's income tax return.

2. The amount of the refund is limited to seventy-five percent of the amount by which the allowable credit under this section exceeds the taxpayer's tax liability under this title for the taxable year. The remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

~~D. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1085.01 for the same expenses.~~

Sec. 35. Section 43-1076, Arizona Revised Statutes, is amended to read:

43-1076. Credit for employment by a healthy forest enterprise

A. ~~In addition to the credit allowed by section 43-1076.01,~~ For taxable years beginning from and after December 31, 2004 through December 31, 2024, a credit is allowed against the taxes imposed by this title for net increases in qualified employment positions by a qualified business that is certified by the Arizona commerce authority as a healthy forest enterprise pursuant to section 41-1516.

B. Subject to subsection E of this section, the amount of the credit is equal to:

1. One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed five hundred dollars per qualified employment position, in the first year or partial year of employment.

2. One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand dollars per

qualified employment position, in the second year of continuous employment.

3. One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand five hundred dollars per qualified employment position, in the third year of continuous employment.

C. To qualify for a credit under this section:

1. The business must employ at least one new full-time employee in a qualified employment position in the first taxable year in which the credit is claimed.

2. Each employee with respect to whom a credit is claimed must reside in this state on the date of hire.

3. A qualified employment position must meet all of the following requirements:

(a) The position must be full-time employment for a minimum of one thousand five hundred fifty hours per year, unless a shorter period of employment is due to forest closures or weather conditions beyond the taxpayer's control.

(b) The job duties must primarily involve or directly support harvesting, transporting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 into a product having commercial value.

(c) The employer must pay compensation at least equal to the wage offer by county as computed annually by the department of economic security research administration division.

(d) The employee must have been employed for at least ninety days during the first taxable year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. A qualified employment position that is filled during the last ninety days of the taxable year is considered to be a new qualified employment position for the next taxable year.

(e) The employee has not been previously employed by the taxpayer within twelve months before the current date of hire.

4. The employer shall provide health insurance coverage for employees as follows:

(a) The employer shall pay:

(i) At least twenty-five ~~per cent~~ PERCENT of the premium or membership cost of the insurance program in the third year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least twenty-five ~~per cent~~ PERCENT of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(ii) At least forty ~~per cent~~ PERCENT of the premium or membership cost in the fourth year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least forty ~~per~~

~~cent~~ PERCENT of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(iii) At least fifty ~~per cent~~ PERCENT of the premium or membership cost of the insurance program in the fifth and each subsequent year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least fifty ~~per cent~~ PERCENT of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(b) An employer shall not reduce the amount of health insurance coverage provided to employees before certification by the Arizona commerce authority.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was allowed and claimed by the taxpayer on the original first and second year tax returns.

E. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created during the taxable year or the difference between the average number of full-time employees in the current taxable year and the average number of full-time employees during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed two hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 43-1074 ~~or 43-1079~~ may not claim a credit under this section with respect to the same employees.

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes may be carried forward as a tax credit against subsequent years' income tax liability for the period not to exceed five taxable years, provided the business maintains its certification under section 41-1516.

H. Co-owners of a business, including partners in a partnership and shareholders of an S corporation as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

I. If a qualified business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for one or more qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a business that had qualified for first or second year credits or changes ownership through

reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets the other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

J. If, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1516 other than for reasons beyond the control of the business as determined by the Arizona commerce authority, the credits allowed the business pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits under this subsection is computed by increasing the amount of taxes imposed in the year following the year in which the qualification of the business was terminated or revoked by an amount determined by multiplying the full amount of all credits previously allowed under this section by a percentage determined as follows:

1. If the initial credit under this section was allowed for the taxable year immediately preceding the taxable year in which the certification of qualification of a business is terminated or revoked, one hundred ~~per cent~~ PERCENT.

2. If the initial credit under this section was allowed two taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, eighty ~~per cent~~ PERCENT.

3. If the initial credit under this section was allowed three taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, sixty ~~per cent~~ PERCENT.

4. If the initial credit under this section was allowed four taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, forty ~~per cent~~ PERCENT.

5. If the initial credit under this section was allowed five taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, twenty ~~per cent~~ PERECNT.

Sec. 36. Section 43-1083, Arizona Revised Statutes, is amended to read:

43-1083. Credit for solar energy devices

A. A credit is allowed against the taxes imposed by this title for each resident who is not a dependent of another taxpayer for installing a solar energy device, as defined in section 42-5001, during the taxable

year in the taxpayer's residence located in this state. The credit is equal to twenty-five ~~per cent~~ PERCENT of the cost of the device.

B. The maximum credit in a taxable year may not exceed one thousand dollars. The person who provides the solar energy device shall furnish the taxpayer with an accounting of the cost to the taxpayer. A taxpayer may claim the credit under this section only once in a tax year and may not cumulate over different tax years tax credits under this section exceeding, in the aggregate, one thousand dollars for the same residence.

C. If the allowable tax credit exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the claim not used to offset taxes under this title may be carried forward for not more than five consecutive taxable years as a credit against subsequent years' income tax liability.

D. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

E. The credit allowed under this section is in lieu of any allowance for state tax purposes for exhaustion, wear and tear of the solar energy device under section 167 of the internal revenue code.

F. To qualify for the credit under this section the solar energy device and its installation shall meet the requirements of title 44, chapter 11, article 11.

G. A solar hot water heater plumbing stub out that was installed by the builder of a house or dwelling unit before title was conveyed to the taxpayer does not qualify for a credit under this section~~, but the taxpayer may claim a credit for the device under section 43-1090 or 43-1176 under the circumstances, conditions and limitations prescribed by section 43-1090, subsection C or 43-1176, subsection C, as applicable~~.

Sec. 37. Section 43-1083.03, Arizona Revised Statutes, is amended to read:

43-1083.03. Credit for qualified facilities

A. For taxable years beginning from and after December 31, 2012 through December 31, 2022, a credit is allowed against the taxes imposed by this title for qualifying investment and employment in expanding or locating a qualified facility in this state. To qualify for the credit, after June 30, 2012 the taxpayer must invest in a new qualified facility or expand an existing qualified facility in this state and produce new full-time employment positions where the job duties are performed at the location of the qualifying investment. The taxpayer must meet the employee compensation and employee health benefit requirements prescribed by section 41-1512.

B. The amount of the credit is computed as follows:

1. Ten percent of the lesser of:

(a) The total qualifying investment in the qualified facility.

(b) Two hundred thousand dollars for each net new full-time employment position at the qualified facility.

2. The amount of the credit shall not exceed the postapproval amount determined by the Arizona commerce authority under section 41-1512, subsection P.

3. Subject to subsections G and J of this section:

(a) The credit amount computed under paragraph 1 of this subsection is apportioned, and the taxpayer shall claim the credit in five equal annual installments in each of five consecutive taxable years.

(b) The taxpayer may claim all five annual installments of a credit that was preapproved before January 1, 2023 by the Arizona commerce authority notwithstanding any intervening repeal or other termination of the credit.

C. To claim the credit the taxpayer must:

1. Conduct a business that qualifies under section 41-1512.

2. Receive preapproval and postapproval from the Arizona commerce authority pursuant to section 41-1512.

3. Submit to the department a copy of a current and valid certification of qualification issued to the taxpayer by the Arizona commerce authority.

D. To be counted for the purposes of the credit, an employee must have been employed at the qualified facility for at least ninety days during the taxable year in a permanent full-time employment position of at least one thousand seven hundred fifty hours per year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. To be counted for the purposes of the credit during the first taxable year of employment, the employee must not have been previously employed by the taxpayer within twelve months before the current date of hire. The terms of employment must comply in all cases with the requirements of section 41-1512 and be certified by the Arizona commerce authority.

E. Co-owners of a business, including partners in a partnership, members of a limited liability company and shareholders of an S corporation, as defined in section 1361 of the internal revenue code, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the

excess refund may be treated as a tax deficiency pursuant to section 42-1108.

G. Except as provided by subsection H of this section, if, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1512, other than for reasons beyond the control of the business as determined by the Arizona commerce authority, the taxpayer is disqualified from credits under this section in subsequent taxable years. On a determination that the taxpayer has committed fraud or relocated outside of this state within five taxable years after first receiving a credit pursuant to this section, the credits allowed the taxpayer in all taxable years pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification under section 41-1512. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits is computed by increasing the amount of taxes imposed in the year following the year of termination or revocation by the full amount of all credits previously allowed under this section.

H. A taxpayer who claims a credit under section 43-1074~~, 43-1079 or 43-1083.01~~ may not claim a credit under this section with respect to the same full-time employment positions.

I. The department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The department of revenue and the Arizona commerce authority shall collaborate in adopting rules as necessary to avoid duplication and contradictory requirements while accomplishing the intent and purposes of this section.

J. Each taxable year after the postapproval of the credit under section 41-1512, subsection P, when the taxpayer files the taxpayer's income tax return, the taxpayer shall:

1. Notify the department, on a form prescribed by the department, of any full-time employment position for which a credit was claimed under this section and that was vacant for more than one hundred fifty days from the date the full-time employment position was originally filled to the end of that taxable year. The period that a full-time employment position was vacant may not include the period before the full-time employment position was filled for the first time.

2. Reduce the portion of the credit claimed for the taxable year pursuant to subsection B, paragraph 3 of this section by four thousand dollars for each full-time employment position reported pursuant to paragraph 1 of this subsection.

Sec. 38. Section 43-1121, Arizona Revised Statutes, is amended to read:

43-1121. Additions to Arizona gross income; corporations

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

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

2. The excess of a partner's share of partnership taxable income required to be included under chapter 14, article 2 of this title over the income required to be reported under section 702(a)(8) of the internal revenue code.

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

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

~~5. With respect to property for which an expense deduction was taken pursuant to section 179 of the internal revenue code in a taxable year beginning before January 1, 2013, the amount in excess of twenty-five thousand dollars.~~

~~6.~~ 5. The amount of discharge of indebtedness income that is deferred and excluded from the computation of federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

~~7.~~ 6. The amount of any previously deferred original issue discount that was deducted in computing federal taxable income in the current year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was previously subtracted from Arizona gross income pursuant to section 43-1122, paragraph ~~7~~ 6.

~~8.~~ 7. The amount of dividend income received from corporations and allowed as a deduction pursuant to sections 243~~, 244~~ and 245 of the internal revenue code.

~~9.~~ 8. Taxes that are based on income paid to states, local governments or foreign governments and that were deducted in computing federal taxable income.

~~10.~~ 9. Expenses and interest relating to tax-exempt income on indebtedness incurred or continued to purchase or carry obligations the

interest on which is wholly exempt from the tax imposed by this title. Financial institutions, as defined in section 6-101, shall be governed by section 43-961, paragraph 2.

~~11.~~ 10. Commissions, rentals and other amounts paid or accrued to a domestic international sales corporation controlled by the payor corporation if the domestic international sales corporation is not required to report its taxable income to this state because its income is not derived from or attributable to sources within this state. If the domestic international sales corporation is subject to article 4 of this chapter, the department shall prescribe by rule the method of determining the portion of the commissions, rentals and other amounts that are paid or accrued to the controlled domestic international sales corporation and that shall be deducted by the payor. For the purposes of this paragraph, "control" means direct or indirect ownership or control of fifty percent or more of the voting stock of the domestic international sales corporation by the payor corporation.

~~12.~~ 11. The amount of net operating loss taken pursuant to section 172 of the internal revenue code.

~~13.~~ 12. The amount of exploration expenses determined pursuant to section 617 of the internal revenue code to the extent that they exceed seventy-five thousand dollars and to the extent that the election is made to defer those expenses not in excess of seventy-five thousand dollars.

~~14.~~ 13. Amortization of costs incurred to install pollution control devices and deducted pursuant to the internal revenue code or the amount of deduction for depreciation taken pursuant to the internal revenue code on pollution control devices for which an election is made pursuant to section 43-1129.

~~15.~~ 14. The amount of depreciation or amortization of costs of child care facilities deducted pursuant to section 167 or 188 of the internal revenue code for which an election is made to amortize pursuant to section 43-1130.

~~16.~~ 15. The loss of an insurance company that is exempt under section 43-1201 to the extent that it is included in computing Arizona gross income on a consolidated return pursuant to section 43-947.

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

~~18.~~ 17. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under section 43-1169 and that is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1169.

~~19.~~ 18. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1170 or 43-1170.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

~~20.~~ 19. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under either section 43-1170 or 43-1170.01 and that is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1170 or 43-1170.01, as applicable.

~~21.~~ 20. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

~~22.~~ 21. The amount by which a capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the capital loss carryover allowable pursuant to section 43-1130.01, subsection F.

~~23.~~ 22. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1175 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

~~24.~~ 23. Any amount of expenses that were deducted pursuant to the internal revenue code and for which a credit is claimed under section 43-1178.

~~25.~~ 24. The amount of any deduction that is claimed in computing Arizona gross income and that represents a donation of a school site for which a credit is claimed under section 43-1181.

~~26.~~ 25. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization for which a credit is claimed under section 43-1183 or 43-1184.

~~27.~~ 26. If a subtraction is or has been taken by the taxpayer under section 43-1124, in the current or a prior taxable year for the full amount of eligible access expenditures paid or incurred to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8, any amount of eligible access expenditures that is recognized under the internal revenue code, including any amount that is amortized according to federal amortization schedules, and that is included in computing Arizona taxable income for the current taxable year.

~~28.~~ 27. For taxable years beginning from and after December 31, 2017, the amount of any net capital loss included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress for the payment of debts, public charges, taxes and dues.

(b) "Specie" means coins having precious metal content.

Sec. 39. Section 43-1122, Arizona Revised Statutes, is amended to read:

43-1122. Subtractions from Arizona gross income; corporations

In computing Arizona taxable income for a corporation, the following amounts shall be subtracted from Arizona gross income:

1. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under chapter 14, article 2 of this title.

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

3. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

4. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.

5. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1121, paragraph 4 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current taxable year or prior taxable years.

~~6. With respect to property for which an adjustment was made under section 43-1121, paragraph 5, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1121, paragraph 5 in the year in which the amount was adjusted under section 43-1121, paragraph 5 and in each of the following four years.~~

~~7.~~ 6. The amount of any original issue discount that was deferred and not allowed to be deducted in computing federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5).

~~8.~~ 7. The amount of previously deferred discharge of indebtedness income that is included in the computation of federal taxable income in the current taxable year pursuant to section 108(i) of the internal revenue code as added by section 1231 of the American recovery and reinvestment act of 2009 (P.L. 111-5), to the extent that the amount was

previously added to Arizona gross income pursuant to section 43-1121, paragraph ~~6~~ 5.

~~9.~~ 8. With respect to a financial institution as defined in section 6-101, expenses and interest relating to tax-exempt income disallowed pursuant to section 265 of the internal revenue code.

~~10.~~ 9. Dividends received from another corporation owned or controlled directly or indirectly by a recipient corporation. For the purposes of this paragraph, "control" means direct or indirect ownership or control of fifty percent or more of the voting stock of the payor corporation by the recipient corporation. Dividends shall have the meaning provided in section 316 of the internal revenue code. This subtraction shall apply without regard to section 43-961, paragraph 2 and article 4 of this chapter.

~~11.~~ 10. Interest income received on obligations of the United States.

~~12.~~ 11. The amount of dividend income from foreign corporations.

~~13.~~ 12. The amount of net operating loss allowed by section 43-1123.

~~14.~~ 13. The amount of any state income tax refunds received that were included as income in computing federal taxable income.

~~15.~~ 14. The amount of expense recapture included in income pursuant to section 617 of the internal revenue code for mine exploration expenses.

~~16.~~ 15. The amount of deferred exploration expenses allowed by section 43-1127.

~~17.~~ 16. The amount of exploration expenses related to the exploration of oil, gas or geothermal resources, computed in the same manner and on the same basis as a deduction for mine exploration pursuant to section 617 of the internal revenue code. This computation is subject to the adjustments contained in section 43-1121, paragraph ~~13~~ 12 and paragraphs ~~15~~ 14 and ~~16~~ 15 of this section relating to exploration expenses.

~~18.~~ 17. The amortization of pollution control devices allowed by section 43-1129.

~~19.~~ 18. The amount of amortization of the cost of child care facilities pursuant to section 43-1130.

~~20.~~ 19. The amount of income from a domestic international sales corporation required to be included in the income of its shareholders pursuant to section 995 of the internal revenue code.

~~21.~~ 20. The income of an insurance company that is exempt under section 43-1201 to the extent that it is included in computing Arizona gross income on a consolidated return pursuant to section 43-947.

~~22.~~ 21. The amount by which a capital loss carryover allowable pursuant to section 43-1130.01, subsection F exceeds the capital loss

carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.

~~23.~~ 22. An amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section ~~168(k)(2)(D)(iii)~~ 168(k)(7) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

~~24.~~ 23. The amount of eligible access expenditures paid or incurred during the taxable year to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8 as provided by section 43-1124.

~~25.~~ 24. For taxable years beginning from and after December 31, 2017, the amount of any net capital gain included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:

(a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States Constitution or Congress for the payment of debts, public charges, taxes and dues.

(b) "Specie" means coins having precious metal content.

Sec. 40. Section 43-1123, Arizona Revised Statutes, is amended to read:

43-1123. Net operating loss; definition

A. For the purposes of this section, "net operating loss" means:

1. In the case of a taxpayer who has a net operating loss for the taxable year within the meaning of section 172(c) of the internal revenue code, the amount of the net operating loss increased by the subtractions specified in section 43-1122, except the subtraction allowed in section 43-1122, paragraph ~~13~~ 12, and reduced by the additions specified in section 43-1121.

2. In the case of a taxpayer not described in paragraph 1 of this subsection, any excess of the subtractions specified in section 43-1122, except the subtraction allowed in section 43-1122, paragraph ~~13~~ 12, over the sum of the Arizona gross income plus the additions specified in section 43-1121.

B. If for any taxable year the taxpayer has a net operating loss:

1. Such net operating loss shall be a net operating loss carryover for:

(a) Each of the five succeeding taxable years for net operating losses arising in taxable periods through December 31, 2011.

(b) Each of the twenty succeeding taxable years for net operating losses arising in taxable periods beginning from and after December 31, 2011.

2. The carryover in the case of each such succeeding taxable year, other than the first succeeding taxable year, shall be the excess, if any,

of the amount of such net operating loss over the sum of the taxable income for each of the intervening years computed by determining the net operating loss subtraction for each intervening taxable year, without regard to such net operating loss or to the net operating loss for any succeeding taxable year.

C. The amount of the net operating loss subtraction shall be the aggregate of the net operating loss carryovers to the taxable year.

Sec. 41. Section 43-1124, Arizona Revised Statutes, is amended to read:

43-1124. Americans with disabilities act access expenditures

A. For taxable years beginning from and after December 31, 2017, in computing Arizona taxable income, a subtraction is allowed under section 43-1122, paragraph ~~24~~ 23 for eligible business access expenditures paid or incurred by the taxpayer during the taxable year in order to comply with the requirements of the Americans with disabilities act of 1990 (P.L. 101-336) or title 41, chapter 9, article 8 by retrofitting developed real property that was originally placed in service at least ten years before the current taxable year.

B. For the purposes of this section, eligible business access expenditures include reasonable and necessary amounts paid or incurred to:

1. Remove any barriers that prevent a business from being accessible to or usable by individuals with disabilities.

2. Provide qualified interpreters or other methods of making audio materials available to hearing-impaired individuals.

3. Provide qualified readers, taped texts and other effective methods of making visually delivered materials available to individuals with visual impairments.

4. Acquire or modify equipment or devices for individuals with disabilities.

5. Provide other similar services, modifications, materials or equipment.

C. A taxpayer that has been cited for noncompliance with the Americans with disabilities act of 1990 or title 41, chapter 9, article 8 by either federal or state enforcement officials is ineligible for a subtraction under this section for any expenditure required to cure the cited violation.

Sec. 42. Section 43-1127, Arizona Revised Statutes, is amended to read:

43-1127. Deferred exploration expenses

The amount of exploration expenses added to Arizona gross income pursuant to section 43-1121, paragraph ~~13~~ 12 may be subtracted on a ratable basis as the units of produced ores or minerals discovered or explored by reason of such expenditures are sold. An election made for any taxable year shall be binding for that year.

Sec. 43. Section 43-1130.01, Arizona Revised Statutes, is amended to read:

43-1130.01. Restoration of a substantial amount held under claim of right; computation of tax

A. This section applies if:

1. An item of income was included in gross income for a prior taxable year or years because it appeared that the taxpayer had an unrestricted right to the item.

2. A deduction would be allowable under the internal revenue code or this title for the taxable year, without application of section 1341(b)(3) of the internal revenue code or section 43-1121, paragraph ~~21~~ 20, because after the close of the prior taxable year or years it was established that the taxpayer did not have an unrestricted right to all or part of the item.

3. The amount of the deduction exceeds three thousand dollars.

B. If all of the conditions in subsection A of this section apply, the tax imposed by this chapter for the taxable year is an amount equal to the tax for the taxable year computed without the deduction, minus the decrease in tax under this chapter for the prior taxable year or years that would result solely from excluding the item or portion of the item from gross income for the prior taxable year or years.

C. If the decrease in tax exceeds the tax imposed by this chapter for the taxable year, computed without the deduction, the excess is considered to be a payment of tax on the last day prescribed by law for the payment of tax for the taxable year and shall be refunded or credited in the same manner as if it were an overpayment for the taxable year.

D. Subsection B of this section does not apply to any deduction that is allowable with respect to an item that was included in gross income by reason of the sale or other disposition of stock in trade of the taxpayer, or other property of a kind that would properly have been included in the inventory of the taxpayer on hand at the close of the prior taxable year, or property that is held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. This subsection does not apply if the deduction arises out of refunds or repayments with respect to rates made by a regulated public utility that is listed in section 7701(a)(33)(A) through (H) of the internal revenue code, if the refunds or repayments are:

1. Required to be made by the government, political subdivision, agency or instrumentality referred to in that section.

2. Required to be made by an order of a court.

3. Made in settlement of litigation or under threat or imminence of litigation.

E. If the exclusion under subsection B of this section results in:

1. A net operating loss for the prior taxable year or years for purposes of computing the decrease in tax for the prior year or years under subsection B of this section:

(a) The loss shall be carried over under this chapter to the same extent and in the same manner as provided under section 43-1123, and under prior law.

(b) ~~No~~ A carryover beyond the taxable year may NOT be taken into account.

2. A capital loss for the prior taxable year or years, for purposes of computing the decrease in tax for the prior taxable year or years under subsection B of this section:

(a) The loss shall be:

(i) Carried over under this chapter to the same extent and in the same manner as was provided under prior law for taxable years beginning on or before December 31, 1987.

(ii) Carried back and carried over to the same extent and in the same manner as provided under section 1212 of the internal revenue code for taxable years beginning from and after December 31, 1987.

(b) ~~No~~ A carryover beyond the taxable year may NOT be taken into account.

F. In computing Arizona taxable income for taxable years subsequent to the current taxable year, the net operating loss or capital loss determined in subsection E of this section shall be taken into account to the same extent and in the same manner as a net operating loss or capital loss sustained for prior taxable years.

Sec. 44. Section 43-1161, Arizona Revised Statutes, is amended to read:

43-1161. Credit for new employment

A. For taxable years beginning from and after June 30, 2011, a credit is allowed against the taxes imposed by this title for net increases in full-time employees residing in this state and hired in qualified employment positions in this state as computed and certified by the Arizona commerce authority pursuant to section 41-1525.

B. Subject to subsection F of this section, the amount of the credit is equal to:

1. Three thousand dollars for each full-time employee hired in a qualified employment position in the first year or partial year of employment. Employees hired in the last ninety days of the taxable year are excluded for that taxable year and are considered to be new employees in the following taxable year.

2. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the second year of continuous employment.

3. Three thousand dollars for each full-time employee in a qualified employment position for the full taxable year in the third year of continuous employment.

C. The capital investment and the new qualified employment positions requirements of section 41-1525, subsection B must be accomplished within twelve months after the start of the required capital investment. ~~No~~ A credit may NOT be claimed until both requirements are met. A business that meets the requirements of section 41-1525, subsection B for a location is eligible to claim first year credits for three years beginning with the taxable year in which those requirements are completed. Employees hired at the location before the beginning of the taxable year but during the twelve-month period allowed in this subsection are considered to be new employees for the taxable year in which all of those requirements are completed. The employees that are considered to be new employees for the taxable year under this subsection shall not be included in the average number of full-time employees during the immediately preceding taxable year until the taxable year in which all of the requirements of section 41-1525, subsection B are completed. An employee working at a temporary ~~work site~~ WORKSITE in this state while the designated location is under construction is considered to be working at the designated location if all of the following occur:

1. The employee is hired after the start of the required investment at the designated location.

2. The employee is hired to work at the designated location after it is completed.

3. The payroll for the employees destined for the designated location is segregated from other employees.

4. The employee is moved to the designated location within thirty days after its completion.

D. To qualify for a credit under this section, the taxpayer and the employment positions must meet the requirements prescribed by section 41-1525.

E. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was claimed and allowed in the first year.

F. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created at the designated location or locations during the taxable year or the difference between the average number of full-time employees in this state in the current taxable year and the average number of full-time employees in this state during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed the difference between the average number of full-time employees in this state in the current taxable year

and the average number of full-time employees in this state during the immediately preceding taxable year.

~~G. A taxpayer that claims a credit under section 43-1164.01 or 43-1167 shall not claim a credit under this section with respect to the same employment positions.~~

~~H.~~ G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against the income taxes may be carried forward as a tax credit against subsequent years' income tax liability for a period not exceeding five taxable years.

~~I.~~ H. Co-owners of a business, including corporate partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

~~J.~~ I. If the business is sold or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for the qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a taxpayer that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

~~K.~~ J. A failure to timely report and certify to the Arizona commerce authority the information prescribed by section 41-1525, subsection E, and in the manner prescribed by section 41-1525, subsection F disqualifies the taxpayer from the credit under this section. The department shall require written evidence of the timely report to the Arizona commerce authority.

~~L.~~ K. A tax credit under this section is subject to recovery for a violation described in section 41-1525, subsection H.

~~M.~~ L. For the purposes of subsection B, paragraphs 2 and 3 of this section, if a full-time employee in the qualified employment position leaves during the taxable year, the employee may be replaced with another new full-time employee in the same employment position and the new employee will be treated as being in ~~their~~ THE EMPLOYEE'S second or third full year of continuous employment for the purposes of the credit under this section if:

1. The total time the position was vacant from the date the employment position was originally filled to the end of the current tax year totals ninety days or less.

2. The new employee meets all of the same requirements as the original employee was required to meet.

Sec. 45. Section 43-1162, Arizona Revised Statutes, is amended to read:

43-1162. Credit for employment by a healthy forest enterprise

A. For taxable years beginning from and after December 31, 2004 through December 31, 2024, a credit is allowed against the taxes imposed by this title for net increases in qualified employment positions by a qualified business that is certified by the Arizona commerce authority as a healthy forest enterprise pursuant to section 41-1516.

B. Subject to subsection E of this section, the amount of the credit is equal to:

1. One-fourth of the taxable wages paid to an employee in a qualified employment position, not to exceed five hundred dollars per qualified employment position, in the first year or partial year of employment.

2. One-third of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand dollars per qualified employment position, in the second year of continuous employment.

3. One-half of the taxable wages paid to an employee in a qualified employment position, not to exceed one thousand five hundred dollars per qualified employment position, in the third year of continuous employment.

C. To qualify for a credit under this section:

1. The business must employ at least one new full-time employee in a qualified employment position in the first taxable year in which the credit is claimed.

2. Each employee with respect to whom a credit is claimed must reside in this state on the date of hire.

3. A qualified employment position must meet all of the following requirements:

(a) The position must be full-time employment for a minimum of one thousand five hundred fifty hours per year, unless a shorter period of employment is due to forest closures or weather conditions beyond the taxpayer's control.

(b) The job duties must primarily involve or directly support harvesting, transporting or processing qualifying forest products removed from qualifying projects as defined in section 41-1516 into a product having commercial value.

(c) The employer must pay compensation at least equal to the wage offer by county as computed annually by the department of economic security research administration division.

(d) The employee must have been employed for at least ninety days during the first taxable year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during

the next taxable year. A qualified employment position that is filled during the last ninety days of the taxable year is considered to be a new qualified employment position for the next taxable year.

(e) The employee has not been previously employed by the taxpayer within twelve months before the current date of hire.

4. The employer shall provide health insurance coverage for employees as follows:

(a) The employer shall pay:

(i) At least twenty-five ~~per cent~~ PERCENT of the premium or membership cost of the insurance program in the third year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least twenty-five ~~per cent~~ PERCENT of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(ii) At least forty ~~per cent~~ PERCENT of the premium or membership cost in the fourth year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least forty ~~per cent~~ PERCENT of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(iii) At least fifty ~~per cent~~ PERCENT of the premium or membership cost of the insurance program in the fifth and each subsequent year the taxpayer claims a credit under this section. If the taxpayer is self-insured, the taxpayer must pay at least fifty ~~per cent~~ PERCENT of a predetermined fixed cost per employee for an insurance program that is payable whether or not the employee has filed claims.

(b) An employer shall not reduce the amount of health insurance coverage provided to employees before certification by the Arizona commerce authority.

D. A credit is allowed for employment in the second and third year only for qualified employment positions for which a credit was allowed and claimed by the taxpayer on the original first and second year tax returns.

E. The net increase in the number of qualified employment positions is the lesser of the total number of filled qualified employment positions created during the taxable year or the difference between the average number of full-time employees in the current taxable year and the average number of full-time employees during the immediately preceding taxable year. The net increase in the number of qualified employment positions computed under this subsection may not exceed two hundred qualified employment positions per taxpayer each year.

F. A taxpayer who claims a credit under section 43-1161 ~~or 43-1167~~ may not claim a credit under this section with respect to the same employees.

G. If the allowable tax credit exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset

against income taxes may be carried forward as a tax credit against subsequent years' income tax liability for the period not to exceed five taxable years, provided the business maintains its certification under section 41-1516.

H. Co-owners of a business, including partners in a partnership, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all such owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

I. If a qualified business changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim first year credits only for one or more qualified employment positions that it created and filled with an eligible employee after the purchase or reorganization was complete. If a person purchases a business that had qualified for first or second year credits or changes ownership through reorganization, stock purchase or merger, the new taxpayer may claim the second or third year credits if it meets the other eligibility requirements of this section. Credits for which a taxpayer qualified before the changes described in this subsection are terminated and lost at the time the changes are implemented.

J. If, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1516 other than for reasons beyond the control of the business as determined by the Arizona commerce authority, the credits allowed the business pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits under this subsection is computed by increasing the amount of taxes imposed in the year following the year in which the qualification of the business was terminated or revoked by an amount determined by multiplying the full amount of all credits previously allowed under this section by a percentage determined as follows:

1. If the initial credit under this section was allowed for the taxable year immediately preceding the taxable year in which the certification of qualification of a business is terminated or revoked, one hundred ~~per cent~~ PERCENT.

2. If the initial credit under this section was allowed two taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, eighty ~~per cent~~ PERCENT.

3. If the initial credit under this section was allowed three taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, sixty ~~per cent~~ PERCENT.

4. If the initial credit under this section was allowed four taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, forty ~~per cent~~ PERCENT.

5. If the initial credit under this section was allowed five taxable years before the taxable year in which the certification of qualification of a business is terminated or revoked, twenty ~~per cent~~ PERCENT.

Sec. 46. Section 43-1164.04, Arizona Revised Statutes, is amended to read:

43-1164.04. Credit for qualified facilities

A. For taxable years beginning from and after December 31, 2012 through December 31, 2022, a credit is allowed against the taxes imposed by this title for qualifying investment and employment in expanding or locating a qualified facility in this state. To qualify for the credit, after June 30, 2012 the taxpayer must invest in a new qualified facility or expand an existing qualified facility in this state and produce new full-time employment positions where the job duties are performed at the location of the qualifying investment. The taxpayer must meet the employee compensation and employee health benefit requirements prescribed by section 41-1512.

B. The amount of the credit is computed as follows:

1. Ten percent of the lesser of:

(a) The total qualifying investment in the qualified facility.

(b) Two hundred thousand dollars for each net new full-time employment position at the qualified facility.

2. The amount of the credit shall not exceed the postapproval amount determined by the Arizona commerce authority under section 41-1512, subsection P.

3. Subject to subsections G and J of this section:

(a) The credit amount computed under paragraph 1 of this subsection is apportioned, and the taxpayer shall claim the credit in five equal annual installments in each of five consecutive taxable years.

(b) The taxpayer may claim all five annual installments of a credit that was preapproved before January 1, 2023 by the Arizona commerce authority notwithstanding any intervening repeal or other termination of the credit.

C. To claim the credit the taxpayer must:

1. Conduct a business that qualifies under section 41-1512.

2. Receive preapproval and postapproval from the Arizona commerce authority pursuant to section 41-1512.

3. Submit to the department a copy of a current and valid certification of qualification issued to the taxpayer by the Arizona commerce authority.

D. To be counted for the purposes of the credit, an employee must have been employed at the qualified facility for at least ninety days during the taxable year in a permanent full-time employment position of at least one thousand seven hundred fifty hours per year. An employee who is hired during the last ninety days of the taxable year shall be considered a new employee during the next taxable year. To be counted for the purposes of the credit during the first taxable year of employment, the employee must not have been previously employed by the taxpayer within twelve months before the current date of hire. The terms of employment must comply in all cases with the requirements of section 41-1512 and be certified by the Arizona commerce authority.

E. Co-owners of a business, including corporate partners in a partnership and members of a limited liability company, may each claim only the pro rata share of the credit allowed under this section based on the ownership interest. The total of the credits allowed all owners of the business may not exceed the amount that would have been allowed for a sole owner of the business.

F. If the allowable tax credit for a taxable year exceeds the income taxes otherwise due on the claimant's income, or if there are no state income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be paid to the taxpayer in the same manner as a refund under section 42-1118. Refunds made pursuant to this subsection are subject to setoff under section 42-1122. If the department determines that a refund is incorrect or invalid, the excess refund may be treated as a tax deficiency pursuant to section 42-1108.

G. Except as provided by subsection H of this section, if, within five taxable years after first receiving a credit pursuant to this section, the certification of qualification of a business is terminated or revoked under section 41-1512, other than for reasons beyond the control of the business as determined by the Arizona commerce authority, the taxpayer is disqualified from credits under this section in subsequent taxable years. On a determination that the taxpayer has committed fraud or relocated outside of this state within five taxable years after first receiving a credit pursuant to this section, the credits allowed the taxpayer in all taxable years pursuant to this section are subject to recapture pursuant to this subsection. This subsection applies only in the case of the termination or revocation of a certification of qualification under section 41-1512. This subsection does not apply if, in any taxable year, a taxpayer otherwise does not qualify for or fails to claim the credit under this section. The recapture of credits is computed by increasing the amount of taxes imposed in the year following the year of termination or revocation by the full amount of all credits previously allowed under this section.

H. A taxpayer who claims a credit under section 43-1161~~, 43-1164.01 or 43-1167~~ may not claim a credit under this section with respect to the same full-time employment positions.

I. The department of revenue shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The department of revenue and the Arizona commerce authority shall collaborate in adopting rules as necessary to avoid duplication and contradictory requirements while accomplishing the intent and purposes of this section.

J. Each taxable year after the postapproval of the credit under section 41-1512, subsection P, when the taxpayer files the taxpayer's income tax return, the taxpayer shall:

1. Notify the department, on a form prescribed by the department, of any full-time employment position for which a credit was claimed under this section and that was vacant for more than one hundred fifty days from the date the full-time employment position was originally filled to the end of that taxable year. The period that a full-time employment position was vacant may not include the period before the full-time employment position was filled for the first time.

2. Reduce the portion of the credit claimed for the taxable year pursuant to subsection B, paragraph 3 of this section by four thousand dollars for each full-time employment position reported pursuant to paragraph 1 of this subsection.

Sec. 47. Section 43-1168, Arizona Revised Statutes, is amended to read:

43-1168. Credit for increased research activity

A. A credit is allowed against the taxes imposed by this title in an amount determined pursuant to section 41 of the internal revenue code, except that:

1. The amount of the credit is computed as follows:

(a) Add:

(i) The excess, if any, of the qualified research expenses for the taxable year over the base amount as defined in section 41(c) of the internal revenue code.

(ii) The basic research payments determined under section 41(e)(1)(A) of the internal revenue code.

(b) If the sum computed under subdivision (a) of this paragraph is two million five hundred thousand dollars or less:

~~(i) For taxable years through December 31, 2017, the credit is equal to twenty percent of that amount.~~

~~(ii) For taxable years beginning from and after December 31, 2017 through~~ BEGINNING BEFORE December 31, 2021, the credit is equal to twenty-four percent of that amount.

~~(iii)~~ (ii) For taxable years beginning from and after December 31, 2021, the credit is equal to twenty percent of that amount.

(c) If the sum computed under subdivision (a) of this paragraph is over two million five hundred thousand dollars:

(i) For taxable years ~~through December 31, 2017, the credit is equal to five hundred thousand dollars plus eleven percent of any amount exceeding two million five hundred thousand dollars.~~

~~(ii) For taxable years beginning from and after December 31, 2017, through~~ BEGINNING BEFORE December 31, 2021, the credit is equal to six hundred thousand dollars plus fifteen percent of any amount exceeding two million five hundred thousand dollars.

~~(iii)~~ (ii) For taxable years beginning from and after December 31, 2021, the credit is equal to five hundred thousand dollars plus eleven percent of any amount exceeding two million five hundred thousand dollars.

(d) For taxable years beginning from and after December 31, 2011, an additional credit amount is allowed if the taxpayer made basic research payments during the taxable year to a university under the jurisdiction of the Arizona board of regents. The additional credit amount is equal to ten percent of the excess, if any, of the basic research payments over the qualified organization base period amount for the taxable year. The department shall not allow credit amounts under this subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision (c) that exceed, in the aggregate, a combined total of ten million dollars in any calendar year. Subject to that limit, on application by the taxpayer, the department shall certify credit amounts under this subdivision and section 43-1074.01, subsection A, paragraph 1, subdivision (c) based on priority placement established by the date that the taxpayer filed the application. For taxable years beginning from and after December 31, 2014, any basic research payments used to determine the additional credit under this subdivision must first receive certification from the Arizona commerce authority pursuant to section 41-1507.01. The additional credit amount under this subdivision shall not exceed the amount allowed based on actual basic research payments or the department's certification, whichever is less. If an application, if certified in full, would exceed the ten million dollar limit, the department shall certify only an amount within that limit. After the limit is attained, the department shall deny any subsequent applications regardless of whether other certified amounts are not actually claimed as a credit or other taxpayers fail to qualify to actually claim certified amounts. Notwithstanding subsections B and D of this section, any amount of the additional credit under this subdivision that exceeds the taxes otherwise due under this title is not refundable, but may be carried forward to the next five consecutive taxable years. For the purposes of this subdivision, "basic research payments" and "qualified organization base period amount" have the same meanings prescribed by section 41(e) of the internal revenue code.

2. Qualified research includes only research conducted in this state, including research conducted at a university in this state and paid for by the taxpayer.

3. If two or more taxpayers, including corporate partners in a partnership, share in the eligible expenses, each taxpayer is eligible to receive a proportionate share of the credit.

4. The credit under this section applies only to expenses incurred from and after December 31, 1993.

5. The termination provisions of section 41 of the internal revenue code do not apply.

B. Except as provided by subsection D of this section, if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, the amount of the credit not used to offset taxes may be carried forward to the next fifteen consecutive taxable years. The amount of credit carryforward from taxable years beginning from and after December 31, 2000 through December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The amount of credit carryforward from taxable years beginning from and after December 31, 2002 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title minus the credit under this section for the current taxable year's qualified research expenses. A taxpayer that carries forward any amount of credit under this subsection may not thereafter claim a refund of any amount of the credit under subsection D of this section.

C. If a taxpayer has qualified research expenses that are carried forward from taxable years beginning before January 1, 2001, the amount of the expenses carried forward shall be converted to a credit carryforward by multiplying the amount of the qualified expenses carried forward by twenty percent. A credit carryforward determined under this subsection may be carried forward to not more than fifteen years from the year in which the expenses were incurred. The amount of credit carryforward from taxable years beginning before January 1, 2001 that may be used under this subsection in any taxable year may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses. The total amount of credit carryforward from taxable years beginning before January 1, 2003 that may be used in any taxable year under subsection B and this subsection may not exceed the taxpayer's tax liability under this title or five hundred thousand dollars, whichever is less, minus the credit under this section for the current taxable year's qualified research expenses.

D. For taxable years beginning from and after December 31, 2009, if a taxpayer that claims a credit under this section employs fewer than one hundred fifty persons in the taxpayer's trade or business and if the allowable credit under this section exceeds the taxes otherwise due under this title on the claimant's income, or if there are no taxes due under this title, in lieu of carrying the excess amount of credit forward to subsequent taxable years under subsection B of this section, the taxpayer may elect to receive a refund as follows:

1. The taxpayer must apply to the Arizona commerce authority for qualification for the refund pursuant to section 41-1507 and submit a copy of the authority's certificate of qualification to the department of revenue with the taxpayer's income tax return.

2. The amount of the refund is limited to seventy-five percent of the amount by which the allowable credit under this section exceeds the taxpayer's tax liability under this title for the taxable year. The remainder of the excess amount of the credit is waived.

3. The refund shall be paid in the manner prescribed by section 42-1118.

4. The refund is subject to setoff under section 42-1122.

5. If the department determines that a credit refunded pursuant to this subsection is incorrect or invalid, the excess credit issued may be treated as a tax deficiency pursuant to section 42-1108.

~~E. A taxpayer that claims a credit for increased research and development activity under this section shall not claim a credit under section 43-1164.02 for the same expenses.~~

Sec. 48. Section 43-1603, Arizona Revised Statutes, is amended to read:

43-1603. Operational requirements for school tuition organizations; notice; qualified schools

A. A certified school tuition organization must be established to receive contributions from taxpayers for the purposes of income tax credits under sections 43-1089 and 43-1089.03 and to pay educational scholarships or tuition grants to allow students to attend any qualified school of their parents' choice.

B. To be eligible for certification and retain certification, the school tuition organization:

1. Must allocate at least ninety percent of its annual revenue from contributions made for the purposes of sections 43-1089 and 43-1089.03 for educational scholarships or tuition grants.

2. Shall not limit the availability of educational scholarships or tuition grants to only students of one school.

3. May allow donors to recommend student beneficiaries, but shall not award, designate or reserve scholarships solely on the basis of donor recommendations.

4. Shall not allow donors to designate student beneficiaries as a condition of any contribution to the organization, or facilitate, encourage or knowingly permit the exchange of beneficiary student designations in violation of section 43-1089, subsection F, SECTION 43-1089.03, SUBSECTION F AND 43-1089.04, SUBSECTION E.

5. Shall include on the organization's website, if one exists, the percentage and total dollar amount of educational scholarships and tuition grants awarded during the previous fiscal year to:

(a) Students whose family income meets the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced-price lunches.

(b) Students whose family income exceeds the threshold prescribed by subdivision (a) of this paragraph but does not exceed one hundred eighty-five percent of the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced-price lunches.

6. Must not award educational scholarships or tuition grants to students who are simultaneously enrolled in a district school or charter school and a qualified school.

C. A school tuition organization shall include the following notice in any printed materials soliciting donations, in applications for scholarships and on its website, if one exists:

Notice

A school tuition organization cannot award, restrict or reserve scholarships solely on the basis of a donor's recommendation.

A taxpayer may not claim a tax credit if the taxpayer agrees to swap donations with another taxpayer to benefit either taxpayer's own dependent.

D. In evaluating applications and awarding, designating or reserving scholarships, a school tuition organization:

1. Shall not award, designate or reserve a scholarship solely on the recommendation of any person contributing money to the organization, but may consider the recommendation among other factors.

2. Shall consider the financial need of applicants.

E. A taxpayer's contribution to a school tuition organization that exceeds the amount of the credit allowed by section 43-1089 but does not exceed the amount of the credit allowed by section 43-1089.03 is considered a contribution pursuant to section 43-1089.03. A school tuition organization must use at least ninety percent of contributions made pursuant to section 43-1089.03 for educational scholarships or tuition grants for students to whom any of the following applies:

1. Attended a governmental primary or secondary school as ~~a~~ full-time ~~student~~ STUDENTS as defined in section 15-901 or attended a

preschool program that offers services to students with disabilities at a governmental school for at least ninety days of the prior fiscal year and transferred from a governmental school to a qualified school.

2. ~~Enrolls~~ ENROLL in a qualified school in a kindergarten program or a preschool program that offers services to students with disabilities.

3. ~~Is~~ ARE the dependent of a member of the armed forces of the United States who is stationed in this state pursuant to military orders.

4. Received an educational scholarship or tuition grant under paragraph 1, 2 or 3 of this subsection or under chapter 15 of this title if the student continues to attend a qualified school in a subsequent year.

F. In awarding educational scholarships or tuition grants from contributions made pursuant to section 43-1089.03, a school tuition organization shall give priority to students and siblings of students on a waiting list for scholarships if the school tuition organization maintains a waiting list.

G. If an individual educational scholarship or tuition grant exceeds the school's tuition, the amount in excess shall be returned to the school tuition organization that made the award or grant. The school tuition organization may allocate the returned monies as a multiyear award for that student and report the award pursuant to section 43-1604, paragraph 5, subdivision (b) or may allocate the returned monies for educational scholarships or tuition grants for other students.

Sec. 49. Conditional enactment

Section 42-2003, Arizona Revised Statutes, as amended by Laws 2017, chapter 96, section 1, chapter 139, section 4, chapter 258, section 43 and chapter 340, section 2 and this act, is effective only if Laws 2017, chapter 139, the subject of referendum petition R-02-2018, is approved by a vote of the people at the next general election or fails to be referred to the voters at the next general election.

APPROVED BY THE GOVERNOR MARCH 29, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2018

Passed the House March 27, 2018, by the following vote: 58 Ayes, 0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 21, 2018, by the following vote: 30 Ayes, 0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this 28th day of March, 2018, at 10:23 o'clock A. M.

Secretary to the Governor

Approved this 29th day of March, 2018, at 12:07 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State this 29 day of March, 2018, at 3:04 o'clock P. M.

Secretary of State

S.B. 1294