

REFERENCE TITLE: 2008 tax corrections act.

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2103

Introduced by
Representatives Yarbrough, Farley: Murphy

AN ACT

AMENDING SECTIONS 4-205.08, 15-972, 15-994, 28-2054, 28-2062, 42-1124, 42-5061, 42-5064, 42-5151, 42-5159, 42-11153, 42-12152, 42-13054, 42-15006, 42-15204, 42-17053, 42-19001, 42-19002, 42-19153, 42-19157, 43-1022, 43-1075.01 AND 43-1163.01, ARIZONA REVISED STATUTES; REPEALING LAWS 2000, SEVENTH SPECIAL SESSION, CHAPTER 1, SECTION 37; RELATING TO TAXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 4-205.08, Arizona Revised Statutes, is amended to
3 read:
4 4-205.08. Domestic microbrewery license; issuance; regulatory
5 provisions; retail site
6 A. The director may issue a domestic microbrewery license to any
7 domestic microbrewery. Each location that engages in producing and bottling
8 these products must obtain a separate domestic microbrewery license. The
9 licensee may not transfer the domestic microbrewery license from person to
10 person or from location to location.
11 B. An applicant for a domestic microbrewery license, at the time of
12 filing the application for the license, shall accompany the application with
13 the license fee. Persons holding a domestic microbrewery license shall
14 report annually at the end of each calendar year, at such time and in such
15 manner as the director may prescribe, the amount of beer manufactured by them
16 during the calendar year and the amount delivered pursuant to subsection D,
17 paragraph 5, subdivision (b). If the total amount of beer manufactured or
18 delivered during the calendar year exceeds the amount permitted annually by
19 the license, the licensee shall apply for and receive a producer's license.
20 C. Notwithstanding any other statute, a licensed domestic microbrewery
21 may:
22 1. Sell beer produced or manufactured on the premises for consumption
23 on or off the premises.
24 2. Make sales and deliveries of beer to persons licensed to sell beer
25 under this title through wholesalers licensed under this title or as provided
26 in subsection D, paragraph 5, subdivision (a) or ~~subdivision~~ (b).
27 3. Make sales and deliveries of beer to persons licensed to sell beer
28 in another state if lawful under the laws of that state.
29 4. Serve beer produced or manufactured on the premises for the purpose
30 of sampling the beer.
31 D. A licensed domestic microbrewery is subject to all of the following
32 requirements:
33 1. The microbrewery shall produce not less than five thousand gallons
34 of beer in each calendar year following the first year of operation.
35 2. The microbrewery shall not produce more than six hundred twenty
36 thousand gallons of beer in a calendar year.
37 3. If retail operations are conducted in conjunction with the
38 microbrewery, these retail operations shall be conducted from the same site
39 as the location of the microbrewery.
40 4. The microbrewery may sell other spirituous liquor products if:
41 (a) The microbrewery holds an on-sale retail license.
42 (b) The retail sale of the spirituous liquor is on or adjacent to the
43 premises of the microbrewery.
44 5. The microbrewery may make sales and deliveries of beer that it has
45 produced to both:

1 (a) Retail licensees that are under common ownership with the
2 microbrewery in any amount.

3 (b) Other licensed retailers in an amount not to exceed ninety-three
4 thousand gallons in any calendar year.

5 E. A person who holds a domestic microbrewery license that meets the
6 requirements of this section and who is not otherwise engaged in the business
7 of a distiller, vintner, brewer, rectifier, blender or other producer of
8 spirituous liquor in any jurisdiction may hold other on-sale retail licenses.
9 Except as provided in subsection D, paragraph 5, subdivision (a), the person
10 shall purchase all spirituous liquor for sale at the other on-sale retail
11 premises from wholesalers who are licensed in this state.

12 F. A DOMESTIC MICROBREWERY THAT SELLS OR DELIVERS BEER PURSUANT TO
13 THIS SECTION SHALL:

14 1. PAY TO THE DEPARTMENT OF REVENUE ALL LUXURY TAXES IMPOSED PURSUANT
15 TO TITLE 42, CHAPTER 3 AND ALL TRANSACTION PRIVILEGE OR USE TAXES IMPOSED
16 PURSUANT TO TITLE 42, CHAPTER 5.

17 2. FILE ALL RETURNS OR REPORTS REQUIRED BY LAW.

18 G. A DELIVERY OF BEER BY A DOMESTIC MICROBREWERY TO A PURCHASER IN
19 THIS STATE IS A TRANSACTION DEEMED TO HAVE OCCURRED IN THIS STATE.

20 ~~F.~~ H. The director shall adopt rules in order to administer this
21 section.

22 Sec. 2. Section 15-972, Arizona Revised Statutes, is amended to read:
23 15-972. State limitation on homeowner property taxes;
24 additional state aid to school districts; definitions

25 A. Notwithstanding section 15-971, there shall be additional state aid
26 for education computed for school districts as provided in subsection B of
27 this section.

28 B. The clerk of the board of supervisors shall compute such additional
29 state aid for education as follows:

30 1. For a high school district or for a common school district within a
31 high school district which does not offer instruction in high school subjects
32 as provided in section 15-447:

33 (a) Determine the tax rate for primary property taxes for the school
34 district which would be levied in lieu of the provisions of this section.

35 (b) Determine the following percentage of the tax rate determined in
36 subdivision (a) of this paragraph:

37 (i) Thirty-five per cent through December 31, 2005.

38 (ii) Thirty-six per cent beginning from and after December 31, 2005
39 through December 31, 2006.

40 (iii) Thirty-seven per cent beginning from and after December 31, 2006
41 through December 31, 2007.

42 (iv) Thirty-eight per cent beginning from and after December 31, 2007
43 through December 31, 2008.

44 (v) Thirty-nine per cent beginning from and after December 31, 2008
45 through December 31, 2009.

1 (vi) Forty per cent beginning from and after December 31, 2009.
2 (c) Select the lesser of the amount determined in subdivision (b) of
3 this paragraph or the current qualifying tax rate for the district.
4 (d) Multiply the rate selected in subdivision (c) of this paragraph as
5 a rate per one hundred dollars assessed valuation by the assessed valuation
6 used for primary property taxes of the residential property in the school
7 district.

8 2. For a unified school district, for a common school district not
9 within a high school district or for a common school district which offers
10 instruction in high school subjects as provided in section 15-447:
11 (a) Determine the tax rate for primary property taxes for the school
12 district which would be levied in lieu of the provisions of this section.
13 (b) Determine the following percentage of the tax rate determined in
14 subdivision (a) of this paragraph:
15 (i) Thirty-five per cent through December 31, 2005.
16 (ii) Thirty-six per cent beginning from and after December 31, 2005
17 through December 31, 2006.
18 (iii) Thirty-seven per cent beginning from and after December 31, 2006
19 through December 31, 2007.
20 (iv) Thirty-eight per cent beginning from and after December 31, 2007
21 through December 31, 2008.
22 (v) Thirty-nine per cent beginning from and after December 31, 2008
23 through December 31, 2009.
24 (vi) Forty per cent beginning from and after December 31, 2009.
25 (c) Select the lesser of the amount determined in subdivision (b) of
26 this paragraph or the current qualifying tax rate for the district.
27 (d) Multiply the rate selected in subdivision (c) of this paragraph as
28 a rate per one hundred dollars assessed valuation by the assessed valuation
29 used for primary property taxes of the residential property in the district.

30 C. The clerk of the board of supervisors shall report to the
31 department of revenue not later than the Friday following the third Monday in
32 August of each year the amount by school district of additional state aid for
33 education and the data used for computing the amount as provided in
34 subsection B of this section. The department of revenue shall verify all of
35 the amounts and report to the county board of supervisors not later than
36 August 30 of each year the property tax rate or rates which shall be used for
37 property tax reduction as provided in subsection E of this section.

38 D. The board of supervisors shall reduce the property tax rate or
39 rates that would be levied in lieu of the provisions of this section by the
40 school district or districts on the assessed valuation used for primary
41 property taxes of the residential property in the school district or
42 districts by the rate or rates selected in subsection B, paragraph 1,
43 subdivision (c) and paragraph 2, subdivision (c) of this section. The excess
44 of the reduction in property taxes for a parcel of property resulting from
45 the reduction in the property tax rate pursuant to this subsection over the

1 amounts listed in this subsection shall be deducted from the amount of
2 additional state aid for education. The reduction in property taxes on a
3 parcel of property resulting from the reduction in the property tax rate
4 pursuant to this subsection shall not exceed the following amounts except as
5 provided in subsection I of this section:

- 6 1. Five hundred dollars through December 31, 2005.
- 7 2. Five hundred twenty dollars beginning from and after December 31,
8 2005 through December 31, 2006.
- 9 3. Five hundred forty dollars beginning from and after December 31,
10 2006 through December 31, 2007.
- 11 4. Five hundred sixty dollars beginning from and after December 31,
12 2007 through December 31, 2008.
- 13 5. Five hundred eighty dollars beginning from and after December 31,
14 2008 through December 31, 2009.
- 15 6. Six hundred dollars beginning from and after December 31, 2009.

16 E. Prior to the levying of taxes for school purposes the board of
17 supervisors shall determine whether the total primary property taxes to be
18 levied for all taxing jurisdictions on each parcel of residential property,
19 in lieu of the provisions of this subsection, violate article IX, section 18,
20 Constitution of Arizona. For those properties that qualify for property tax
21 exemptions pursuant to article IX, sections 2, 2.1 and 2.2, Constitution of
22 Arizona, eligibility for the credit is determined on the basis of the limited
23 property value that corresponds to the taxable assessed value after reduction
24 for the applicable exemption. If the board of supervisors determines that
25 such a situation exists, the board shall apply a credit against the primary
26 property taxes due from each such parcel in the amount in excess of article
27 IX, section 18, Constitution of Arizona. Such excess amounts shall also be
28 additional state aid for education for the school district or districts in
29 which such parcel of property is located.

30 F. The clerk of the board of supervisors shall report to the
31 department of revenue not later than September 5 of each year the amount by
32 school district of additional state aid for education and the data used for
33 computing the amount as provided in subsection B of this section. The
34 department of revenue shall verify all of the amounts and report to the board
35 of supervisors not later than September 10 of each year the property tax rate
36 which shall be used for property tax reduction as provided in subsection E of
37 this section.

38 G. The clerk of the board of supervisors shall report to the
39 department of revenue not later than September 30 of each year in writing the
40 following:

- 41 1. The data processing specifications used in the calculations
42 provided for in subsections B and E of this section.
- 43 2. At a minimum, copies of two actual tax bills for residential
44 property for each distinct tax area.

1 H. The department of revenue shall report to the state board of
2 education not later than October 12 of each year the amount by school
3 district of additional state aid for education as provided in this section.
4 The additional state aid for education provided in this section shall be
5 apportioned as provided in section 15-973, ~~except that payments for~~
6 ~~additional state aid for education for unsecured property shall be paid on~~
7 ~~the fifteenth day of the month based on claims submitted by the department of~~
8 ~~revenue. The department of revenue shall submit claims for unsecured~~
9 ~~property before the first day of each month for which payments are requested.~~

10 I. If a parcel of property is owned by a cooperative apartment
11 corporation or is owned by the tenants of a cooperative apartment corporation
12 as tenants in common, the reduction in the property taxes prescribed in
13 subsection D of this section shall not exceed the amounts listed in
14 subsection D of this section for each owner occupied housing unit on the
15 property. The assessed value used for determining the reduction in taxes for
16 the property is equal to the total assessed value of the property times the
17 ratio of the number of owner occupied housing units to the total number of
18 housing units on the property. For the purposes of this subsection,
19 "cooperative apartment corporation" means a corporation:

- 20 1. Having only one class of outstanding stock.
21 2. All of the stockholders of which are entitled, solely by reason of
22 their ownership of stock in the corporation, to occupy for dwelling purposes
23 apartments in a building owned or leased by such corporation and who are not
24 entitled, either conditionally or unconditionally, except upon a complete or
25 partial liquidation of the corporation, to receive any distribution not out
26 of earnings and profits of the corporation.
27 3. Eighty per cent or more of the gross income of which is derived
28 from tenant-stockholders. For the purposes of this paragraph, "gross income"
29 means gross income as defined by the United States internal revenue code, as
30 defined in section 43-105.

31 J. The total amount of state monies that may be spent in any fiscal
32 year for state aid for education in this section shall not exceed the amount
33 appropriated or authorized by section 35-173 for that purpose. This section
34 shall not be construed to impose a duty on an officer, agent or employee of
35 this state to discharge a responsibility or to create any right in a person
36 or group if the discharge or right would require an expenditure of state
37 monies in excess of the expenditure authorized by legislative appropriation
38 for that specific purpose.

- 39 K. For the purposes of this section: ~~—~~
40 1. "OWNER" INCLUDES ANY PURCHASER UNDER A CONTRACT OF SALE OR UNDER A
41 DEED OF TRUST.
42 2. "Residential property" ~~means residential property as defined in~~
43 ~~article IX, section 18, subsection (1), Constitution of Arizona, except that~~
44 ~~it does not mean leased or rented property that is listed as class four~~
45 ~~pursuant to section 42-12004~~ INCLUDES ALL OWNER OCCUPIED REAL PROPERTY AND

1 IMPROVEMENTS TO THE PROPERTY AND ALL OWNER OCCUPIED MOBILE HOMES THAT ARE
2 USED FOR RESIDENTIAL PURPOSES.

3 Sec. 3. Section 15-994, Arizona Revised Statutes, is amended to read:
4 15-994. State equalization assistance property tax levy

5 A. The board of supervisors of each county shall annually, at the time
6 of levying other taxes, levy a state equalization assistance property tax on
7 the property within the county. The tax levy for state equalization
8 assistance shall be at a rate determined pursuant to section 41-1276. The
9 tax levy provided for in this section shall not be subject to title 42,
10 chapter 17, articles 2 and 3. Except as provided in section 15-365, the
11 county treasurer shall apportion all monies collected from the state
12 equalization assistance property tax levy to the school districts within the
13 county in accordance with section 15-971, subsection C at the same time as
14 other tax levy monies are apportioned as provided in section 42-18001.

15 B. At the same time the county assessor is required to transmit values
16 to the county school superintendent as provided in section 42-17052, the
17 assessor of each county shall provide in electronic format to the
18 superintendent of public instruction the assessed valuation used for
19 determining the primary property tax rate and the secondary property tax rate
20 for each school district in the county. On or before January 15 the county
21 assessor of each county shall provide in electronic format to the
22 superintendent of public instruction the actual assessed valuation used for
23 determining the primary property tax rate and the secondary property tax rate
24 for each school district in the county including any revisions made due to
25 changes in the valuation of ~~unsecured~~ personal property after the tax rates
26 were determined.

27 Sec. 4. Section 28-2054, Arizona Revised Statutes, is amended to read:
28 28-2054. Certificate of title; application processing

29 A. The department shall file each application for a certificate of
30 title. When the department is satisfied that the application is genuine and
31 regular and that the applicant is entitled to a certificate, it shall
32 register the vehicle and the owner alphabetically under the name of the owner
33 and numerically under the serial number and under a distinctive title number
34 assigned to the vehicle and the owner.

35 B. In addition to all other requirements, if the application is for a
36 certificate of title to a mobile home the department shall not issue or
37 transfer a certificate of title on the mobile home if there are any
38 delinquent ~~unsecured~~ personal property taxes on the mobile home.

39 Sec. 5. Section 28-2062, Arizona Revised Statutes, is amended to read:
40 28-2062. Mobile home delinquent personal property tax list

41 A. The department shall prepare and maintain a list that identifies
42 each prior year for which outstanding delinquent ~~unsecured~~ personal property
43 taxes on mobile homes remain unpaid. The list shall contain:

44 1. The complete manufacturer's serial number, the brand name or model
45 and the name of the manufacturer of each mobile home.

1 2. The name and address of the current owners.
2 3. The year of levy, THE assessing county and one of the following
3 unique identifying numbers:
4 (a) The taxpayer identification number.
5 (b) The tax roll identification number of the outstanding delinquent
6 taxes for each mobile home.
7 4. Other information that the department may find necessary.
8 B. The department of revenue, each county assessor and each county
9 treasurer shall provide such cooperation and information as the department of
10 transportation requires in the preparation and maintenance of the listing
11 required by subsection A ~~of this section~~.
12 C. The department shall provide each county assessor who acts as a
13 registering officer for the department with copies of or access to the
14 listing prepared pursuant to subsection A ~~of this section~~.
15 Sec. 6. Section 42-1124, Arizona Revised Statutes, is amended to read:
16 42-1124. Failure to affix stamps or pay or account for tax;
17 forfeiture of commodity; sale of forfeited
18 commodity; effect of seizure and sale; request for
19 administrative hearing; definitions
20 A. If the department or its authorized agents or representatives
21 discover any luxury subject to tax under chapter 3 of this title to which
22 official stamps have not been affixed as required or on which the tax has not
23 been paid or accounted for, the department or its agent or representative may
24 seize and take possession of the luxury, and it is deemed forfeited to this
25 state. Except as provided in subsection D or E of this section, the
26 department shall within a reasonable time thereafter, pursuant to a notice
27 posted on the premises or by publication in a newspaper of general
28 circulation in the county where the sale is to take place, not fewer than
29 five days before the date of sale, offer for sale and sell the forfeited
30 luxuries. The department shall pay the proceeds of the sale into the state
31 general fund. The sale shall take place in the county which is most
32 convenient and economical. The department need not offer any property for
33 sale if, in its opinion, the probable cost of sale exceeds the value of the
34 property.
35 B. The seizure and sale do not relieve any person from the penalties
36 provided for violating this title.
37 C. The department of revenue may enter into an interagency agreement
38 with the department of transportation for the purpose of carrying out tobacco
39 enforcement under chapter 3 of this title at ports of entry.
40 D. All cigarettes that are seized for violations under this title
41 shall be forfeited to this state. All cigarettes that are forfeited to this
42 state pursuant to section 42-3210 or section 44-7111, section 6(b) shall be
43 destroyed. If a cigarette distributor defrauds this state by knowingly and
44 intentionally failing to keep or make any record, return, report or inventory
45 pertaining to cigarettes, by refusing to pay any luxury tax for cigarettes

1 subject to tax under chapter 3 of this title or by attempting to evade or
2 defeat any requirement of this title, the cigarette distributor shall forfeit
3 to this state all fixtures, equipment and all other materials and personal
4 property that are located on the premises of the cigarette distributor.
5 Alternatively, at the request of the department, the cigarette distributor
6 may be enjoined by an action commenced by the attorney general or a county
7 attorney in the name of the state from engaging or continuing in any business
8 for which a tax is imposed by this chapter until the tax has been paid and
9 until such person has complied with this title.

10 E. The department may sell or otherwise dispose of any cigarettes
11 forfeited to this state on such conditions as it deems most advantageous and
12 just under the circumstances, unless such cigarettes are forfeited pursuant
13 to section 42-3210 or section 44-7111, section 6(b). The department shall
14 deposit the proceeds of any sales made pursuant to this subsection in the
15 state general fund.

16 F. The department shall give notice of the seizure and forfeiture of
17 cigarettes described in this section by personal service or by certified mail
18 to all persons known by the department to have any right, title or interest
19 in the property. Notice shall include a description of the cigarettes
20 seized, the reason for the seizure and the time and place of the seizure.
21 The following ~~applies~~ **APPLY** to the notice under this subsection:

22 1. Except as provided in paragraph 2 of this subsection, the
23 department shall post and maintain an on-line notice of seizure and
24 forfeiture on its web site for a period of at least six months, beginning no
25 later than ten business days after the date of the personal service of the
26 notice to a person or the date of the mailing of the notice. The on-line
27 notice shall display the date on which the department posts the notice to the
28 web site, which shall serve as the date of publication of the notice.

29 2. An on-line notice is not required if the amount of cigarettes
30 seized is less than sixty-one cartons of two hundred cigarettes each.

31 G. Any person whose legal rights, duties or privileges are determined
32 by the notice of seizure and forfeiture may file a request for an
33 administrative hearing with the department on a form prescribed by the
34 department. The request for an administrative hearing shall contain a
35 statement of the petitioner's interest in the cigarettes and an explanation
36 of why the release or recovery of the cigarettes is warranted on the ground
37 that the cigarettes were erroneously or illegally seized.

38 H. The seizure and forfeiture of cigarettes **OR OTHER TOBACCO PRODUCTS**
39 by the department is an appealable agency action as defined in section
40 41-1092 and is governed by title 41, chapter 6, article 10 and section
41 42-1251, except that:

42 1. A request for an administrative hearing that is filed under
43 subsection G of this section is deemed to be timely filed if the request is
44 filed with the department within ten days after the date of personal service
45 on the petitioner or the date of mailing the notice to the petitioner. Any

1 person not served personally or by mail shall file the request within ten
2 days after the date of publication of the notice. The failure of a person to
3 file a timely request constitutes a bar to that person's right to any
4 interest in the cigarettes **OR OTHER TOBACCO PRODUCTS**, except insofar as the
5 rights of that person may be established in an action filed by the department
6 under this chapter.

7 2. If a request for an administrative hearing is not filed with the
8 department at the expiration of ten days after the notice has been personally
9 served, mailed or published, the department's determination is final. If a
10 timely request for an administrative hearing has been filed with the
11 department, the department shall request a hearing by the office of
12 administrative hearings and the department shall suspend action until the
13 final order of the department has been issued. An order that is issued by
14 the office of administrative hearings shall be the final order of the
15 department thirty days after the petitioner receives the decision unless a
16 decision by the director is issued pursuant to section 42-1251. If the
17 director issues a decision, that decision is the final order of the
18 department.

19 I. For the purposes of this section, "cigarette" and "cigarette
20 distributor" have the same meanings prescribed in section 42-3001.

21 Sec. 7. Section 42-5061, Arizona Revised Statutes, is amended to read:
22 42-5061. Retail classification; definitions

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

28 1. Professional or personal service occupations or businesses which
29 involve sales or transfers of tangible personal property only as
30 inconsequential elements.

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

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

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

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

43 6. Business activity which is properly included in any other business
44 classification which is taxable under article ~~1~~ 2 of this chapter.

45 7. The sale of stocks and bonds.

- 1 8. Drugs and medical oxygen, including delivery hose, mask or tent,
2 regulator and tank, on the prescription of a member of the medical, dental or
3 veterinarian profession who is licensed by law to administer such substances.
- 4 9. Prosthetic appliances as defined in section 23-501 prescribed or
5 recommended by a health professional licensed pursuant to title 32, chapter
6 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 7 10. Insulin, insulin syringes and glucose test strips.
- 8 11. Prescription eyeglasses or contact lenses.
- 9 12. Hearing aids as defined in section 36-1901.
- 10 13. Durable medical equipment which has a centers for medicare and
11 medicaid services common procedure code, is designated reimbursable by
12 medicare, is prescribed by a person who is licensed under title 32, chapter
13 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
14 customarily used to serve a medical purpose, is generally not useful to a
15 person in the absence of illness or injury and is appropriate for use in the
16 home.
- 17 14. Sales to nonresidents of this state for use outside this state if
18 the vendor ships or delivers the tangible personal property out of this
19 state.
- 20 15. Food, as provided in and subject to the conditions of article 3 of
21 this chapter and section 42-5074.
- 22 16. Items purchased with United States department of agriculture food
23 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
24 958) or food instruments issued under section 17 of the child nutrition act
25 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
26 section 1786).
- 27 17. Textbooks by any bookstore that are required by any state
28 university or community college.
- 29 18. Food and drink to a person who is engaged in business which is
30 classified under the restaurant classification and which provides such food
31 and drink without monetary charge to its employees for their own consumption
32 on the premises during the employees' hours of employment.
- 33 19. Articles of food, drink or condiment and accessory tangible
34 personal property to a school district if such articles and accessory
35 tangible personal property are to be prepared and served to persons for
36 consumption on the premises of a public school within the district during
37 school hours.
- 38 20. Lottery tickets or shares pursuant to title 5, chapter 5,
39 article 1.
- 40 21. The sale of precious metal bullion and monetized bullion to the
41 ultimate consumer, but the sale of coins or other forms of money for
42 manufacture into jewelry or works of art is subject to the tax. For the
43 purposes of this paragraph:
44 (a) "Monetized bullion" means coins and other forms of money which are
45 manufactured from gold, silver or other metals and which have been or are

1 used as a medium of exchange in this or another state, the United States or a
2 foreign nation.

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

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

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

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

18 25. Tangible personal property sold to:

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

20 (b) A qualifying health care organization as defined in section
21 42-5001 if the tangible personal property is used by the organization solely
22 to provide health and medical related educational and charitable services.

23 (c) A qualifying health care organization as defined in section
24 42-5001 if the organization is dedicated to providing educational,
25 therapeutic, rehabilitative and family medical education training for blind,
26 visually impaired and multihandicapped children from the time of birth to age
27 twenty-one.

28 (d) A qualifying community health center as defined in section
29 42-5001.

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

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

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

43 27. Tangible personal property sold to a person that is subject to tax
44 under this article by reason of being engaged in business classified under
45 the prime contracting classification under section 42-5075, or to a

1 subcontractor working under the control of a prime contractor that is subject
2 to tax under article 1 of this chapter, if the property so sold is any of the
3 following:

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

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

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

12 28. The sale of a motor vehicle to:

13 (a) A nonresident of this state if the purchaser's state of residence
14 does not allow a corresponding use tax exemption to the tax imposed by
15 article 1 of this chapter and if the nonresident has secured a special ninety
16 day nonresident registration permit for the vehicle as prescribed by sections
17 28-2154 and 28-2154.01.

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

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

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

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

37 32. Sales of tangible personal property by a nonprofit organization
38 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
39 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
40 sponsors or operates a rodeo featuring primarily farm and ranch animals and
41 no part of the organization's net earnings inures to the benefit of any
42 private shareholder or individual.

43 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
44 propagative material to persons who use those items to commercially produce

1 agricultural, horticultural, viticultural or floricultural crops in this
2 state.

3 34. Machinery, equipment, technology or related supplies that are only
4 useful to assist a person who is physically disabled as defined in section
5 46-191, has a developmental disability as defined in section 36-551 or has a
6 head injury as defined in section 41-3201 to be more independent and
7 functional.

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

11 36. Sales of natural gas or liquefied petroleum gas used to propel a
12 motor vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 50. Sales of alternative fuel vehicles if the vehicle was manufactured
12 as a diesel fuel vehicle and converted to operate on alternative fuel and
13 equipment that is installed in a conventional diesel fuel motor vehicle to
14 convert the vehicle to operate on an alternative fuel, as defined in section
15 1-215.

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

19 52. Sales of tangible personal property to be incorporated or installed
20 as part of environmental response or remediation activities under section
21 42-5075, subsection B, paragraph 6.

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

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

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

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

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

1 3. Tangible personal property sold to persons engaged in business
2 classified under the telecommunications classification and consisting of
3 central office switching equipment, switchboards, private branch exchange
4 equipment, microwave radio equipment and carrier equipment including optical
5 fiber, coaxial cable and other transmission media which are components of
6 carrier systems.

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

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

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

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

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

26 (b) Any foreign government for use by such government outside of this
27 state.

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (b) "Soundstage complex" means a facility of multiple stages including
45 production offices, construction shops and related areas, prop and costume

1 shops, storage areas, parking for production vehicles and areas that are
2 leased to businesses that complement the production needs and orientation of
3 the overall facility.

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

7 (a) Any direct broadcast satellite television or data transmission
8 service that operates pursuant to 47 Code of Federal Regulations ~~parts~~ PART
9 25 ~~and 100~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 22. Qualifying equipment that is purchased from and after June 30, 2004
31 through June 30, 2014 by a qualified business under section 41-1516 for
32 harvesting or the initial processing of qualifying forest products removed
33 from qualifying projects as defined in section 41-1516. To qualify for this
34 deduction, the qualified business at the time of purchase must present its
35 certification approved by the department.

36 23. Machinery, equipment and other tangible personal property used
37 directly in motion picture production by a motion picture production company.
38 To qualify for this deduction, at the time of purchase, the motion picture
39 production company must present to the retailer its certificate that is
40 issued pursuant to section 42-5009, subsection H and that establishes its
41 qualification for the deduction.

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

44 1. Expendable materials. For the purposes of this paragraph,
45 expendable materials do not include any of the categories of tangible

1 personal property specified in subsection B of this section regardless of the
2 cost or useful life of that property.

3 2. Janitorial equipment and hand tools.

4 3. Office equipment, furniture and supplies.

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

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

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

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

15 D. In addition to the deductions from the tax base prescribed by
16 subsection A of this section, there shall be deducted from the tax base the
17 gross proceeds of sales or gross income derived from sales of machinery,
18 equipment, materials and other tangible personal property used directly and
19 predominantly to construct a qualified environmental technology
20 manufacturing, producing or processing facility as described in section
21 41-1514.02. This subsection applies for ten full consecutive calendar or
22 fiscal years after the start of initial construction.

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

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

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

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

43 I. A person who engages in manufacturing, baling, crating, boxing,
44 barreling, canning, bottling, sacking, preserving, processing or otherwise
45 preparing for sale or commercial use any livestock, agricultural or

1 horticultural product or any other product, article, substance or commodity
2 and who sells the product of such business at retail in this state is deemed,
3 as to such sales, to be engaged in business classified under the retail
4 classification. This subsection does not apply to businesses classified
5 under the:

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

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

- 18 1. Sales made directly to the United States government or its
19 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 20 2. Sales made directly to a manufacturer, modifier, assembler or
21 repairer if such sales are of any ingredient or component part of products
22 sold directly to the United States government or its departments or agencies
23 by the manufacturer, modifier, assembler or repairer.
- 24 3. Overhead materials or other tangible personal property that is used
25 in performing a contract between the United States government and a
26 manufacturer, modifier, assembler or repairer, including property used in
27 performing a subcontract with a government contractor who is a manufacturer,
28 modifier, assembler or repairer, to which title passes to the government
29 under the terms of the contract or subcontract.
- 30 4. Sales of overhead materials or other tangible personal property to
31 a manufacturer, modifier, assembler or repairer if the gross proceeds of
32 sales or gross income derived from the property by the manufacturer,
33 modifier, assembler or repairer will be exempt under paragraph 3 of this
34 subsection.

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

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

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

1 1. A manufacturer's cash rebate on the sales price of a motor vehicle
2 if the buyer assigns the buyer's right in the rebate to the retailer.
3 2. The waste tire disposal fee imposed pursuant to section 44-1302.
4 N. There shall be deducted from the tax base the amount received from
5 sales of solar energy devices. The retailer shall register with the
6 department as a solar energy retailer. By registering, the retailer
7 acknowledges that it will make its books and records relating to sales of
8 solar energy devices available to the department for examination.
9 O. In computing the tax base in the case of the sale or transfer of
10 wireless telecommunications equipment as an inducement to a customer to enter
11 into or continue a contract for telecommunications services that are taxable
12 under section 42-5064, gross proceeds of sales or gross income does not
13 include any sales commissions or other compensation received by the retailer
14 as a result of the customer entering into or continuing a contract for the
15 telecommunications services.
16 P. For the purposes of this section, a sale of wireless
17 telecommunications equipment to a person who holds the equipment for sale or
18 transfer to a customer as an inducement to enter into or continue a contract
19 for telecommunications services that are taxable under section 42-5064 is
20 considered to be a sale for resale in the regular course of business.
21 Q. Retail sales of prepaid calling cards or prepaid authorization
22 numbers for telecommunications services, including sales of reauthorization
23 of a prepaid card or authorization number, are subject to tax under this
24 section.
25 R. For the purposes of this section, the diversion of gas from a
26 pipeline by a person engaged in the business of:
27 1. Operating a natural or artificial gas pipeline, for the sole
28 purpose of fueling compressor equipment to pressurize the pipeline, is not a
29 sale of the gas to the operator of the pipeline.
30 2. Converting natural gas into liquefied natural gas, for the sole
31 purpose of fueling compressor equipment used in the conversion process, is
32 not a sale of gas to the operator of the compressor equipment.
33 S. If a seller is entitled to a deduction pursuant to subsection B,
34 paragraph 16, subdivision (b) of this section, the department may require the
35 purchaser to establish that the requirements of subsection B, paragraph 16,
36 subdivision (b) of this section have been satisfied. If the purchaser cannot
37 establish that the requirements of subsection B, paragraph 16, subdivision
38 (b) of this section have been satisfied, the purchaser is liable in an amount
39 equal to any tax, penalty and interest which the seller would have been
40 required to pay under article 1 of this chapter if the seller had not made a
41 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
42 section. Payment of the amount under this subsection exempts the purchaser
43 from liability for any tax imposed under article 4 of this chapter and
44 related to the tangible personal property purchased. The amount shall be
45 treated as transaction privilege tax to the purchaser and as tax revenues

1 collected from the seller to designate the distribution base pursuant to
2 section 42-5029.

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

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

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

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

23 V. For the purposes of this section:

24 1. "Aircraft" includes:

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

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

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

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

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

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

43 2. "Manufacturer" means a person who is principally engaged in the
44 fabrication, production or manufacture of products, wares or articles for use

1 from raw or prepared materials, imparting to those materials new forms,
2 qualities, properties and combinations.

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

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

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

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

23 Sec. 8. Section 42-5064, Arizona Revised Statutes, is amended to read:
24 42-5064. Telecommunications classification; definitions

25 A. The telecommunications classification is comprised of the business
26 of providing intrastate telecommunications services. The telecommunications
27 classification does not include:

28 1. Sales of intrastate telecommunications services by a cable
29 television system as defined in section 9-505 or by a microwave television
30 transmission system that transmits television programming to multiple
31 subscribers and that is operated pursuant to 47 Code of Federal Regulations
32 parts 21 and 74.

33 2. Sales of internet access services to the person's subscribers and
34 customers.

35 B. The tax base for the telecommunications classification is the gross
36 proceeds of sales or gross income derived from the business, including the
37 gross income derived from tolls, subscriptions and services on behalf of
38 subscribers or from the publication of a directory of the names of
39 subscribers. However, the gross proceeds of sales or gross income derived
40 from the following shall be deducted from the tax base:

41 1. Sales of intrastate telecommunications services to:

42 (a) Other persons engaged in businesses classified under the
43 telecommunications classification for use in such business.

44 (b) A direct broadcast satellite television or data transmission
45 service that operates pursuant to 47 Code of Federal Regulations ~~parts~~ PART

1 25 ~~and 100~~ for use in its direct broadcast satellite television or data
2 transmission operation by a facility described in section 42-5061, subsection
3 B, paragraph 16, subdivision (b).

4 2. End user common line charges established by federal communications
5 commission regulations (47 Code of Federal Regulations section 69.104(a)).

6 3. Carrier access charges established by federal communications
7 commission regulations (47 Code of Federal Regulations sections 69.105(a)
8 through 69.118).

9 4. Sales of direct broadcast satellite television services pursuant to
10 47 Code of Federal Regulations ~~parts~~ PART 25 ~~and 100~~ by a direct broadcast
11 satellite television service that operates pursuant to 47 Code of Federal
12 Regulations ~~parts~~ PART 25 ~~and 100~~.

13 5. Telecommunications services purchased with a prepaid calling card,
14 or a prepaid authorization number for telecommunications services, that is
15 taxable under section 42-5061.

16 C. A person that is engaged in a transient lodging business subject to
17 taxation under section 42-5070 and that provides telephone, fax or internet
18 access services to its customers at an additional charge, which is separately
19 stated on the customer invoice, is considered to be engaged in business
20 subject to taxation under this section for the purposes of taxing the gross
21 proceeds of sales or gross income derived from providing those services.

22 D. The gross proceeds of sales or gross income derived from a bundled
23 transaction of services that are taxable pursuant to section 42-5023 are
24 subject to the following:

25 1. A telecommunications service provider who can reasonably identify
26 the portion of the sales price of the bundled transaction derived from
27 charges for nontaxable services is subject to tax only on the gross proceeds
28 of sales or gross income derived from the taxable services. For the purposes
29 of this section, the telecommunications service provider may elect to
30 reasonably identify the portion of the sales price of the bundled transaction
31 derived from charges for nontaxable services by using allocation percentages
32 derived from the telecommunications service provider's entire service area,
33 including territories outside of this state. On request, the department may
34 require the telecommunications service provider to provide this allocation
35 information. The reasonableness of the allocation is subject to audit by the
36 department.

37 2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the
38 telecommunications service provider shall waive the right to file a claim for
39 a refund of taxes paid on the bundled transaction if the taxes paid are based
40 on the allocation percentage the telecommunications service provider had
41 determined to be reasonable at the beginning of the tax period at issue.

42 3. The burden of proof is on the telecommunications service provider
43 to establish that the gross proceeds of sales or gross income is derived from
44 charges for nontaxable services.

- 1 E. For the purposes of this section:
2 1. "Bundled transaction" means a sale of multiple services in which
3 both of the following apply:
4 (a) The sale consists of both taxable and nontaxable services.
5 (b) The telecommunications service provider charges a customer one
6 sales price for all services that are sold instead of separately charging for
7 each individual service.
8 2. "Internet" means the computer and telecommunications facilities
9 that comprise the interconnected worldwide network of networks that employ
10 the transmission control protocol or internet protocol, or any predecessor or
11 successor protocol, to communicate information of all kinds by wire or radio.
12 3. "Internet access" means a service that enables users to access
13 content, information, electronic mail or other services over the internet.
14 Internet access does not include telecommunications services provided by a
15 common carrier.
16 4. "Intrastate telecommunications services" means transmitting signs,
17 signals, writings, images, sounds, messages, data or other information of any
18 nature by wire, radio waves, light waves or other electromagnetic means if
19 the information transmitted originates and terminates in this state.
20 Sec. 9. Section 42-5151, Arizona Revised Statutes, is amended to read:
21 42-5151. Definitions
22 In this article, unless the context otherwise requires:
23 1. "Ancillary services" means those services so designated in federal
24 energy regulatory commission order 888 adopted in 1996 that include the
25 services necessary to support the transmission of electricity from resources
26 to loads while maintaining reliable operation of the transmission system
27 according to good utility practice.
28 2. "Electric distribution service" means distributing electricity to
29 retail electric customers through the use of electric distribution
30 facilities.
31 3. "Electric generation service" means providing electricity for sale
32 to retail electric customers but excluding electric distribution or
33 transmission services.
34 4. "Electric transmission service" means transmitting electricity to
35 retail electric customers or to electric distribution facilities so
36 classified by the federal energy regulatory commission or, to the extent
37 permitted by law, so classified by the Arizona corporation commission.
38 5. "Electric utility services" means the business of providing
39 electric ancillary services, electric distribution services, electric
40 generation services, electric transmission services and other services
41 related to providing electricity.
42 6. "Electricity" means electric energy, electric capacity or electric
43 capacity and energy.

1 7. "Electricity supplier" means a person, whether acting in a
2 principal, agent or other capacity, that offers to sell electricity to a
3 retail electric customer in this state.

4 8. "Natural gas" means natural or artificial gas, and includes methane
5 and propane gas, the natural gas commodity, natural gas pipeline capacity or
6 natural gas commodity and pipeline capacity.

7 9. "Natural gas utility services" means the business of selling
8 natural gas or providing natural gas transportation services or other
9 services related to providing natural gas.

10 10. "Notice" means written notice served personally or by certified
11 mail and addressed to the last known address of the person to whom such
12 notice is given.

13 11. "Other services" includes metering, meter reading services, billing
14 and collecting services.

15 12. "Person" means an individual, firm, partnership, joint venture,
16 association, corporation, estate, trust, receiver or syndicate, this state or
17 a county, city, municipality, district or other political subdivision or
18 agency thereof.

19 13. "Purchase" means any transfer, exchange or barter, conditional or
20 otherwise, in any manner or by any means, of tangible personal property for a
21 consideration, including transactions by which the possession of property is
22 transferred but the seller retains the title as security for payment.

23 14. "Purchase price" or "sales price" means the total amount for which
24 tangible personal property is sold, including any services that are a part of
25 the sale, valued in money, whether paid in money or otherwise, and any amount
26 for which credit is given to the purchaser by the seller without any
27 deduction on account of the cost of the property sold, materials used, labor
28 or services performed, interest charged, losses or other expenses, but does
29 not include:

30 (a) Discounts allowed and taken.

31 (b) Charges for labor or services in installing, remodeling or
32 repairing.

33 (c) Freight costs billed to and collected from a purchaser by a
34 retailer for tangible personal property which, on the order of the retailer,
35 is shipped directly from a manufacturer or wholesaler to the purchaser.

36 (d) Amounts attributable to federal excise taxes imposed by 26 United
37 States Code section 4001, 4051 or ~~4091~~ 4081 on sales of heavy trucks and
38 trailers and automobiles or on sales of use fuel, as defined in section
39 28-5601.

40 (e) The value of merchandise that is traded in on the purchase of new
41 or pre-owned merchandise when the trade-in allowance is deducted from the
42 sales price of the new or pre-owned merchandise before the completion of the
43 sale.

1 15. "Retail electric customer" means a person who purchases electricity
2 for that person's own use, including use in that person's trade or business,
3 and not for resale, redistribution or retransmission.

4 16. "Retail natural gas customer" means a person who purchases natural
5 gas for that person's own use, including use in that person's trade or
6 business, and not for resale, redistribution or retransmission.

7 17. "Retailer" includes:

8 (a) Every person engaged in the business of making sales of tangible
9 personal property for storage, use or other consumption or in the business of
10 making sales at auction of tangible personal property owned by that person or
11 others for storage, use or other consumption. If in the opinion of the
12 department it is necessary for the efficient administration of this article
13 to regard any salesmen, representatives, peddlers or canvassers as the agents
14 of the dealers, distributors, supervisors or employers under whom they
15 operate or from whom they obtain the tangible personal property sold by them,
16 regardless of whether they are making sales on their own behalf or on behalf
17 of such dealers, distributors, supervisors or employers, the department may
18 so regard them and may regard the dealers, distributors, supervisors or
19 employers as retailers for purposes of this article.

20 (b) A person who solicits orders for tangible personal property by
21 mail if the solicitations are substantial and recurring or if the retailer
22 benefits from any banking, financing, debt collection, telecommunication,
23 television shopping system, cable, optic, microwave or other communication
24 system or marketing activities occurring in this state or benefits from the
25 location in this state of authorized installation, servicing or repair
26 facilities.

27 18. "SOLAR DAYLIGHTING" MEANS A DEVICE THAT IS SPECIFICALLY DESIGNED TO
28 CAPTURE AND REDIRECT THE VISIBLE PORTION OF THE SOLAR BEAM, WHILE CONTROLLING
29 THE INFRARED PORTION, FOR USE IN ILLUMINATING INTERIOR BUILDING SPACES IN
30 LIEU OF ARTIFICIAL LIGHTING.

31 19. "SOLAR ENERGY DEVICE" MEANS A SYSTEM OR SERIES OF MECHANISMS
32 DESIGNED PRIMARILY TO PROVIDE HEATING, TO PROVIDE COOLING, TO PRODUCE
33 ELECTRICAL POWER, TO PRODUCE MECHANICAL POWER, TO PROVIDE SOLAR DAYLIGHTING
34 OR TO PROVIDE ANY COMBINATION OF THE FOREGOING BY MEANS OF COLLECTING AND
35 TRANSFERRING SOLAR GENERATED ENERGY INTO SUCH USES BY EITHER ACTIVE OR
36 PASSIVE MEANS, INCLUDING WIND GENERATOR SYSTEMS THAT PRODUCE ELECTRICITY.
37 SOLAR ENERGY SYSTEMS MAY ALSO HAVE THE CAPABILITY OF STORING SOLAR ENERGY FOR
38 FUTURE USE. PASSIVE SYSTEMS SHALL CLEARLY BE DESIGNED AS A SOLAR ENERGY
39 DEVICE, SUCH AS A TROMBE WALL, AND NOT MERELY AS A PART OF A NORMAL
40 STRUCTURE, SUCH AS A WINDOW.

41 ~~18.~~ 20. "Storage" means keeping or retaining tangible personal
42 property purchased from a retailer for any purpose except sale in the regular
43 course of business or subsequent use solely outside this state.

44 ~~19.~~ 21. "Taxpayer" means any retailer or person storing, using or
45 consuming tangible personal property the storage, use or consumption of which

1 is subject to the tax imposed by this article when such tax was not paid to a
2 retailer.

3 ~~20.~~ 22. "Use or consumption" means the exercise of any right or power
4 over tangible personal property incidental to owning the property except
5 holding for sale or selling the property in the regular course of business.

6 ~~21.~~ 23. "Utility business" means a person that is engaged in the
7 business of providing electric utility services to retail electric customers
8 or natural gas utility services to retail natural gas customers.

9 Sec. 10. Section 42-5159, Arizona Revised Statutes, is amended to
10 read:

11 42-5159. Exemptions

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

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

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

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

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

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

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

44 7. Purchases of implants used as growth promotants and injectable
45 medicines, not already exempt under paragraph 16 of this subsection, for

1 livestock and poultry owned by, or in possession of, persons who are engaged
2 in producing livestock, poultry, or livestock or poultry products, or who are
3 engaged in feeding livestock or poultry commercially. For the purposes of
4 this paragraph, "poultry" includes ratites.

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

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

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

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

20 12. Materials that are purchased by or for publicly funded libraries
21 including school district libraries, charter school libraries, community
22 college libraries, state university libraries or federal, state, county or
23 municipal libraries for use by the public as follows:

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

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

26 13. Tangible personal property purchased by:

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

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

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

37 (d) A qualifying health care organization, as defined in section
38 42-5001, if the tangible personal property is used by the organization solely
39 to provide health and medical related educational and charitable services.

40 (e) A qualifying health care organization as defined in section
41 42-5001 if the organization is dedicated to providing educational,
42 therapeutic, rehabilitative and family medical education training for blind,
43 visually impaired and multihandicapped children from the time of birth to age
44 twenty-one.

1 (f) A nonprofit charitable organization that has qualified under
2 section 501(c)(3) of the United States internal revenue code and that engages
3 in and uses such property exclusively in programs for mentally or physically
4 handicapped persons if the programs are exclusively for training, job
5 placement, rehabilitation or testing.

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

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

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

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

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

23 (i) A qualifying community health center as defined in section
24 42-5001.

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

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

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

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

- 1 15. Tangible personal property sold by:
- 2 (a) Any nonprofit organization organized and operated exclusively for
- 3 charitable purposes and recognized by the United States internal revenue
- 4 service under section 501(c)(3) of the internal revenue code.
- 5 (b) A nonprofit organization that is exempt from taxation under
- 6 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
- 7 organization is associated with a major league baseball team or a national
- 8 touring professional golfing association and no part of the organization's
- 9 net earnings inures to the benefit of any private shareholder or individual.
- 10 (c) A nonprofit organization that is exempt from taxation under
- 11 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
- 12 internal revenue code if the organization sponsors or operates a rodeo
- 13 featuring primarily farm and ranch animals and no part of the organization's
- 14 net earnings inures to the benefit of any private shareholder or individual.
- 15 16. Drugs and medical oxygen, including delivery hose, mask or tent,
- 16 regulator and tank, on the prescription of a member of the medical, dental or
- 17 veterinarian profession who is licensed by law to administer such substances.
- 18 17. Prosthetic appliances, as defined in section 23-501, prescribed or
- 19 recommended by a person who is licensed, registered or otherwise
- 20 professionally credentialed as a physician, dentist, podiatrist,
- 21 chiropractor, naturopath, homeopath, nurse or optometrist.
- 22 18. Prescription eyeglasses and contact lenses.
- 23 19. Insulin, insulin syringes and glucose test strips.
- 24 20. Hearing aids as defined in section 36-1901.
- 25 21. Durable medical equipment which has a centers for medicare and
- 26 medicaid services common procedure code, is designated reimbursable by
- 27 medicare, is prescribed by a person who is licensed under title 32, chapter
- 28 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
- 29 used to serve a medical purpose, is generally not useful to a person in the
- 30 absence of illness or injury and is appropriate for use in the home.
- 31 22. Food, as provided in and subject to the conditions of article 3 of
- 32 this chapter and section 42-5074.
- 33 23. Items purchased with United States department of agriculture food
- 34 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
- 35 958) or food instruments issued under section 17 of the child nutrition act
- 36 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
- 37 section 1786).
- 38 24. Food and drink provided without monetary charge by a taxpayer which
- 39 is subject to section 42-5074 to its employees for their own consumption on
- 40 the premises during the employees' hours of employment.
- 41 25. Tangible personal property that is used or consumed in a business
- 42 subject to section 42-5074 for human food, drink or condiment, whether
- 43 simple, mixed or compounded.
- 44 26. Food, drink or condiment and accessory tangible personal property
- 45 that are acquired for use by or provided to a school district or charter

1 school if they are to be either served or prepared and served to persons for
2 consumption on the premises of a public school in a school district during
3 school hours.

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

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

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

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

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

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

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

28 (b) Public educational institutions.

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

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

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

39 35. Liquid, solid or gaseous chemicals used in manufacturing,
40 processing, fabricating, mining, refining, metallurgical operations, research
41 and development and, beginning on January 1, 1999, printing, if using or
42 consuming the chemicals, alone or as part of an integrated system of
43 chemicals, involves direct contact with the materials from which the product
44 is produced for the purpose of causing or permitting a chemical or physical
45 change to occur in the materials as part of the production process. This

1 paragraph does not include chemicals that are used or consumed in activities
2 such as packaging, storage or transportation but does not affect any
3 exemption for such chemicals that is otherwise provided by this section. For
4 the purposes of this paragraph, "printing" means a commercial printing
5 operation and includes job printing, engraving, embossing, copying and
6 bookbinding.

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

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

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

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

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

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

41 40. Through December 31, 1994, tangible personal property sold pursuant
42 to a personal property liquidation transaction, as defined in section
43 42-5061. From and after December 31, 1994, tangible personal property sold
44 pursuant to a personal property liquidation transaction, as defined in
45 section 42-5061, if the gross proceeds of the sales were included in the

1 measure of the tax imposed by article 1 of this chapter or if the personal
2 property liquidation was a casual activity or transaction.

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

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

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

17 44. Alternative fuel vehicles if the vehicle was manufactured as a
18 diesel fuel vehicle and converted to operate on alternative fuel and
19 equipment that is installed in a conventional diesel fuel motor vehicle to
20 convert the vehicle to operate on an alternative fuel, as defined in section
21 1-215.

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

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

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

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

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

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

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

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

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

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

17 3. Tangible personal property sold to persons engaged in business
18 classified under the telecommunications classification under section 42-5064
19 and consisting of central office switching equipment, switchboards, private
20 branch exchange equipment, microwave radio equipment and carrier equipment
21 including optical fiber, coaxial cable and other transmission media which are
22 components of carrier systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 15. Machinery and equipment that are purchased by or on behalf of the
43 owners of a soundstage complex and primarily used for motion picture,
44 multimedia or interactive video production in the complex. This paragraph
45 applies only if the initial construction of the soundstage complex begins

1 after June 30, 1996 and before January 1, 2002 and the machinery and
2 equipment are purchased before the expiration of five years after the start
3 of initial construction. For the purposes of this paragraph:

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

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

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

18 (a) Any direct broadcast satellite television or data transmission
19 service that operates pursuant to 47 Code of Federal Regulations ~~parts~~ PART
20 25 ~~and 100~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 22. Qualifying equipment that is purchased from and after June 30, 2004
43 through June 30, 2014 by a qualified business under section 41-1516 for
44 harvesting or the initial processing of qualifying forest products removed
45 from qualifying projects as defined in section 41-1516. To qualify for this

1 exemption, the qualified business must obtain and present its certification
2 from the department of commerce at the time of purchase.

3 23. Machinery, equipment and other tangible personal property used
4 directly in motion picture production by a motion picture production company.
5 To qualify for this exemption, at the time of purchase, the motion picture
6 production company must present to the retailer its certificate that is
7 issued pursuant to section 42-5009, subsection H and that establishes its
8 qualification for the exemption.

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

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

15 2. Janitorial equipment and hand tools.

16 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

40 1. The storage, use or consumption in Arizona of machinery, equipment,
41 materials or other tangible personal property if used directly and
42 predominantly to construct a qualified environmental technology
43 manufacturing, producing or processing facility, as described in section
44 41-1514.02. This paragraph applies for ten full consecutive calendar or
45 fiscal years after the start of initial construction.

1 2. The purchase of electricity by a qualified environmental technology
2 manufacturer, producer or processor as defined in section 41-1514.02 that is
3 used directly in environmental technology manufacturing, producing or
4 processing. This paragraph shall apply for fifteen full consecutive calendar
5 or fiscal years from the date the first paper manufacturing machine is placed
6 in service. In the case of an environmental technology manufacturer,
7 producer or processor who does not manufacture paper, the time period shall
8 begin with the date the first manufacturing, processing or production
9 equipment is placed in service.

10 3. THE PURCHASE OF SOLAR ENERGY DEVICES FROM A RETAILER THAT IS
11 REGISTERED WITH THE DEPARTMENT AS A SOLAR ENERGY RETAILER OR A SOLAR ENERGY
12 CONTRACTOR.

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

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

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

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

26 1. "Aircraft" includes:

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

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

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

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

40 Sec. 11. Section 42-11153, Arizona Revised Statutes, is amended to
41 read:

42 42-11153. Deadline for filing affidavit

43 A. Except as provided in section 42-11109, subsection B, section
44 42-11110, subsection B, ~~and~~ section 42-11111, subsection H, SECTION 42-11131,
45 SUBSECTION C and section 42-11132, subsection ~~A~~ B, a failure by a taxpayer

1 who is entitled to an exemption to make an affidavit or furnish evidence
2 required by this article between the first Monday in January and March 1 of
3 each year constitutes a waiver of the exemption.

4 B. If a widow, widower or disabled person whose property is exempt
5 from tax under section 42-11111, or an organization that is exempt from
6 federal income tax under section 501(c) of the internal revenue code and is
7 exempt from property tax under article 3 of this chapter, submits a petition
8 after the deadlines prescribed by subsection A of this section, the person or
9 organization may have the waiver redeemed by the county board of supervisors
10 at any regular meeting, except that no taxes that were due and payable before
11 the petition was submitted may be refunded or abated.

12 Sec. 12. Section 42-12152, Arizona Revised Statutes, is amended to
13 read:

14 42-12152. Criteria for classification of property used for
15 agricultural purposes

16 A. Property is not eligible for classification as property used for
17 agricultural purposes unless it meets the following criteria:

18 1. The primary use of the property is as agricultural land and the
19 property has been in active production according to generally accepted
20 agricultural practices for at least seven of the last ten years. Property
21 that has been in active production may be:

22 (a) Inactive for a period of not more than twelve months as a result
23 of acts of God.

24 (b) Inactive as a result of participation in:

25 (i) A federal farm program ~~requiring~~ THAT ALLOWS VOLUNTARY LAND
26 conserving use acreage or acreage conservation ~~requirements~~, or both.

27 (ii) A scheduled crop rotation program.

28 (c) Inactive or partially inactive due to a temporary reduction in or
29 transfer of the available water supply or irrigation district water
30 allotments for agriculture use in the farm unit.

31 (d) Grazing land that is inactive or partially inactive due to reduced
32 carrying capacity or generally accepted range management practices.

33 2. There is a reasonable expectation of operating profit, exclusive of
34 land cost, from the agricultural use of the property.

35 3. If the property consists of noncontiguous parcels, the
36 noncontiguous parcels must be managed and operated on a unitary basis and
37 each parcel must make a functional contribution to the agricultural use of
38 the property.

39 B. If feedlot or dairy operations that are in active production are
40 moved to another property at which the operations are in active production,
41 the requirement that the property be in active production for at least seven
42 of the last ten years does not apply to the property to which the operations
43 are moved for the first seven years after the operations are moved.

1 Sec. 13. Section 42-13054, Arizona Revised Statutes, is amended to
2 read:

3 42-13054. Taxable value of personal property; depreciated
4 values of personal property in class one and class
5 two (P)

6 A. The taxable value of personal property that is valued by the county
7 assessor is the result of acquisition cost less any appropriate depreciation
8 as prescribed by tables adopted by the department. The taxable value shall
9 not exceed the market value.

10 B. Except as provided in subsection C of this section and
11 notwithstanding any other statute, the assessor shall adjust the depreciation
12 schedules prescribed by the department as follows to determine the valuation
13 of personal property:

14 1. For personal property that is initially classified during tax year
15 1994 through tax year 2007 as class one, paragraph 8, 9, 10 or 13 pursuant to
16 section 42-12001 and personal property that is initially classified during
17 tax year 1995 through tax year 2007 as class two (P) pursuant to section
18 42-12002:

19 (a) For the first tax year of assessment, the assessor shall use
20 thirty-five per cent of the scheduled depreciated value.

21 (b) For the second tax year of assessment, the assessor shall use
22 fifty-one per cent of the scheduled depreciated value.

23 (c) For the third tax year of assessment, the assessor shall use
24 sixty-seven per cent of the scheduled depreciated value.

25 (d) For the fourth tax year of assessment, the assessor shall use
26 eighty-three per cent of the scheduled depreciated value.

27 (e) For the fifth and subsequent tax years of assessment, the assessor
28 shall use the scheduled depreciated value as prescribed in the department's
29 guidelines.

30 2. For personal property that is initially classified during or after
31 tax year 2008 as class one, paragraph 8, 9, 10 or 13 pursuant to section
32 42-12001 and **PERSONAL PROPERTY THAT IS INITIALLY CLASSIFIED DURING OR AFTER**
33 **TAX YEAR 2008** as class two (P) pursuant to section 42-12002:

34 (a) For the first tax year of assessment, the assessor shall use
35 thirty per cent of the scheduled depreciated value.

36 (b) For the second tax year of assessment, the assessor shall use
37 forty-six per cent of the scheduled depreciated value.

38 (c) For the third tax year of assessment, the assessor shall use
39 sixty-two per cent of the scheduled depreciated value.

40 (d) For the fourth tax year of assessment, the assessor shall use
41 seventy-eight per cent of the scheduled depreciated value.

42 (e) For the fifth tax year of assessment, the assessor shall use
43 ninety-four per cent of the scheduled depreciated value.

1 (f) For the sixth and subsequent tax years of assessment, the assessor
2 shall use the scheduled depreciated value as prescribed in the department's
3 guidelines.

4 C. The additional depreciation prescribed in subsection B of this
5 section:

6 1. Does not apply to any property valued by the department.

7 2. Shall not reduce the valuation below the minimum value prescribed
8 by the department for property in use.

9 Sec. 14. Section 42-15006, Arizona Revised Statutes, is amended to
10 read:

11 42-15006. Assessed valuation of class six property

12 The assessed valuation of class six property described in
13 section 42-12006 is based on the following percentages to the full cash value
14 or limited valuation of class six property, as applicable:

15 1. Property described in section 42-12006, paragraphs 1, 2, 3, 5, 6,
16 ~~and 7~~ **AND 8**, five per cent.

17 2. Property described in section 42-12006, paragraph 4:

18 (a) For primary property tax purposes, five per cent.

19 (b) Except as provided in subdivision (c), for secondary property tax
20 purposes:

21 (i) Twenty-five per cent through December 31, 2006.

22 (ii) Twenty-four per cent beginning from and after December 31, 2006
23 through December 31, 2007.

24 (iii) Twenty-three per cent beginning from and after December 31, 2007
25 through December 31, 2008.

26 (iv) Twenty-two per cent beginning from and after December 31, 2008
27 through December 31, 2009.

28 (v) Twenty-one per cent beginning from and after December 31, 2009
29 through December 31, 2010.

30 (vi) Twenty per cent beginning from and after December 31, 2010.

31 (c) If subdivision (b) is finally adjudicated to be invalid, for
32 secondary property tax purposes, five per cent.

33 Sec. 15. Section 42-15204, Arizona Revised Statutes, is amended to
34 read:

35 42-15204. Transition from personal property to real property
36 roll

37 After the affidavit of affixture has been recorded, the mobile home
38 shall remain on the ~~unsecured~~ **PERSONAL** property tax roll until the next real
39 and ~~secured~~ **PERSONAL** property tax ~~roll is~~ **ROLLS ARE** prepared, at which time
40 ~~it~~ **THE MOBILE HOME** shall be transferred **FROM THE PERSONAL PROPERTY TAX ROLL**
41 to the real ~~and-secured~~ property tax roll and shall be considered for all
42 purposes to be a fixture and a real property improvement.

1 Sec. 16. Section 42-17053, Arizona Revised Statutes, is amended to
2 read:

3 42-17053. Estimate of personal property tax roll

4 A. When a tax rate is to be determined and taxes are levied, the
5 county assessor shall make an estimate of the personal property to be added
6 to the tax roll for purposes of computing the property tax rates pursuant to
7 section 42-17151.

8 B. The estimate shall be at least equal to the prior year's taxable
9 personal property value, except that if the assessor has verifiable
10 information that an item or items on the personal property ~~rolls~~ TAX ROLL
11 during the current tax year will not be in the county during the next tax
12 year, the assessor shall not include that item or items in the estimate under
13 this section.

14 Sec. 17. Section 42-19001, Arizona Revised Statutes, is amended to
15 read:

16 42-19001. Powers of county assessor

17 ~~A.~~ In administering this chapter the assessor has the same authority
18 that is granted to county assessors under chapters 13 and 15 of this title
19 and all other authority that is granted to county assessors under any law of
20 this state and that does not conflict with this chapter.

21 ~~B. The duty of the county assessor to determine the valuation of~~
22 ~~unsecured personal property continues throughout the year.~~

23 Sec. 18. Section 42-19002, Arizona Revised Statutes, is amended to
24 read:

25 42-19002. Personal property tax roll

26 A. The county assessor shall enter the valuation of personal property
27 ~~of persons owning real property in the county of a value of less than two~~
28 ~~hundred dollars~~ on a THE personal property tax roll.

29 B. The personal property tax roll shall include:

30 1. The name and residence of the person who owns the personal property
31 or who possesses the property and reports the property for taxation, if the
32 person is known. If the name of the owner of the property is not known, the
33 property shall be listed, valued and entered on the roll to "unknown owner".

34 2. A description of the property sufficient to identify it.

35 3. The location of the property.

36 4. The rate of taxation levied against the property.

37 C. The roll shall be in a proper format for extending the tax levied
38 on the property.

39 D. The county assessor may administratively designate on the roll
40 which property is subject to ~~the provisions of~~ section 42-17153, subsection B
41 and to section 42-19117 when forwarding the roll to the board of supervisors.

42 Sec. 19. Section 42-19153, Arizona Revised Statutes, is amended to
43 read:

44 42-19153. Application and exemptions

45 This article does not apply to:

1 1. A mobile home with respect to which an affidavit of affixture has
2 been recorded pursuant to section 42-15203 and that has been placed on the
3 real ~~and secured personal~~ property tax roll.

4 2. Any trailer that is eight feet or less in width and less than
5 thirty-two feet in length and that is not used as a place of residence or for
6 a commercial purpose. A license tax in lieu of ad valorem property taxes is
7 assessed on those trailers in the same manner as on other vehicles.

8 3. A mobile home that is properly licensed in another state and that
9 is owned by a bona fide tourist in this state. This article does apply to a
10 mobile home or trailer that is located in this state and that is owned by a
11 resident of this state. For THE purposes of this paragraph, "resident"
12 includes:

13 (a) A person, except a tourist or out-of-state student, who owns,
14 leases or rents a dwelling in this state and occupies it as a place of
15 residence.

16 (b) A person who, regardless of domicile, remains in this state for a
17 consecutive period of six months or more.

18 (c) A person who engages in a trade, profession or occupation in this
19 state or who accepts employment in this state in other than seasonal
20 agricultural work.

21 (d) A person who places a child in a public school without paying
22 nonresident tuition.

23 (e) A person who declares that the person is a resident of this state
24 for the purpose of obtaining or paying at resident rates a state license or
25 tuition fees at an educational institution that is maintained by public
26 monies.

27 (f) Any individual, partnership, company, firm, corporation or
28 association that maintains a main office, a branch office or warehouse
29 facilities in this state and that bases and operates motor vehicles in this
30 state.

31 Sec. 20. Section 42-19157, Arizona Revised Statutes, is amended to
32 read:

33 42-19157. Collection of delinquent taxes

34 Except as otherwise prescribed by this article, if a person who is
35 liable for paying tax under this article evades or is delinquent in paying
36 the tax, the tax shall be collected in the manner and by the officers
37 prescribed by this chapter for collecting delinquent taxes on ~~unsecured~~
38 personal property. For delinquent tax report purposes, those officers shall
39 use the method and procedures of identifying mobile homes as prescribed by
40 the department of transportation.

41 Sec. 21. Section 43-1022, Arizona Revised Statutes, is amended to
42 read:

43 43-1022. Subtractions from Arizona gross income

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

- 1 1. The amount of exemptions allowed by section 43-1023.
- 2 2. Benefits, annuities and pensions in an amount totaling not more
3 than two thousand five hundred dollars received from one or more of the
4 following:
 - 5 (a) The United States government service retirement and disability
6 fund, retired or retainer pay of the uniformed services of the United States,
7 the United States foreign service retirement and disability system and any
8 other retirement system or plan established by federal law.
 - 9 (b) The Arizona state retirement system, the corrections officer
10 retirement plan, the public safety personnel retirement system, the elected
11 officials' retirement plan, an optional retirement program established by the
12 Arizona board of regents under section 15-1628, an optional retirement
13 program established by a community college district board under section
14 15-1451 or a retirement plan established for employees of a county, city or
15 town in this state.
- 16 3. A beneficiary's share of the fiduciary adjustment to the extent
17 that the amount determined by section 43-1333 decreases the beneficiary's
18 Arizona gross income.
- 19 4. The amount of any distributions from an individual retirement
20 account as provided for in section 408 of the internal revenue code or from a
21 qualified retirement plan of a self-employed individual as provided for in
22 section 401 of the internal revenue code to the extent that total adjustments
23 made pursuant to this paragraph in all tax years do not exceed the total of
24 all contributions made by the taxpayer to such plans prior to December 31,
25 1975, which were included in computing Arizona taxable income.
- 26 5. The amount of income on an installment receivable which is
27 recognized pursuant to the internal revenue code and which has already been
28 recognized on the death of the taxpayer for purposes of this title for tax
29 years ending before January 1, 1990.
- 30 6. Interest income received on obligations of the United States, less
31 any interest on indebtedness, or other related expenses, and deducted in
32 arriving at Arizona gross income, which were incurred or continued to
33 purchase or carry such obligations.
- 34 7. The amount of any income tax refunds which were received from
35 states other than Arizona and which were included as income in computing
36 federal adjusted gross income.
- 37 8. Annuity income included in federal adjusted gross income pursuant
38 to section 72 of the internal revenue code if the first payment with respect
39 to such annuity was received prior to December 31, 1978.
- 40 9. The excess of a partner's share of income required to be included
41 under section 702(a)(8) of the internal revenue code over the income required
42 to be included under chapter 14, article 2 of this title.
- 43 10. The excess of a partner's share of partnership losses determined
44 pursuant to chapter 14, article 2 of this title over the losses allowable
45 under section 702(a)(8) of the internal revenue code.

1 11. The amount by which the adjusted basis of property described in
2 this paragraph and computed pursuant to this title and the income tax act of
3 1954, as amended, exceeds the adjusted basis of such property computed
4 pursuant to the internal revenue code. This paragraph shall apply to all
5 property which is held for the production of income and which is sold or
6 otherwise disposed of during the taxable year other than depreciable property
7 used in a trade or business.

8 12. The amount allowed by section 43-1024 for amortization, by a
9 qualified defense contractor certified by the department of commerce under
10 section 41-1508, of a capital investment for private commercial activities.

11 13. The amount of gain included in federal adjusted gross income on the
12 sale or other disposition of a capital investment that a qualified defense
13 contractor has elected to amortize pursuant to section 43-1024.

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

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

22 16. The amount of prizes or winnings less than five thousand dollars in
23 a single taxable year from any of the state lotteries established and
24 operated pursuant to title 5, chapter 5, article 1, except that all such
25 winnings before March 22, 1983, including periodic distributions from such
26 winnings made after March 22, 1983, may be subtracted.

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

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

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

41 20. The amount of unreimbursed medical and hospital costs, adoption
42 counseling, legal and agency fees and other nonrecurring costs of adoption
43 not to exceed three thousand dollars. In the case of a husband and wife who
44 file separate returns, the subtraction may be taken by either taxpayer or may
45 be divided between them, but the total subtractions allowed both husband and

1 wife shall not exceed three thousand dollars. The subtraction under this
2 paragraph may be taken for the costs that are described in this paragraph and
3 that are incurred in prior years, but the subtraction may be taken only in
4 the year during which the final adoption order is granted.

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

7 22. With respect to a medical savings account established pursuant to
8 section 43-1028:

9 (a) An eligible individual may subtract:

10 (i) The amount of contributions made by the individual's employer
11 during the taxable year to the individual's medical savings account pursuant
12 to section 43-1028 to the extent that the employer contributions are included
13 in the individual's federal adjusted gross income.

14 (ii) The amount deposited by the individual in the account during the
15 taxable year to the extent that the individual's contributions are included
16 in the individual's federal adjusted gross income.

17 (b) The individual's employer may subtract the amount of contributions
18 made by the employer to a medical savings account established on the
19 individual's behalf to the extent that the contributions are not deductible
20 under the internal revenue code.

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

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

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

32 26. The amount authorized by section 43-1030 relating to holocaust
33 survivors.

34 27. The amount authorized by section 43-1031 for constructing an energy
35 efficient residence.

36 28. An amount equal to the depreciation allowable pursuant to section
37 167(a) of the internal revenue code for the taxable year computed as if the
38 election described in section 168(k)(2)(D)(iii) of the internal revenue code
39 had been made for each applicable class of property in the year the property
40 was placed in service.

41 29. With respect to property that is sold or otherwise disposed of
42 during the taxable year by a taxpayer that complied with section 43-1021,
43 paragraph 26 with respect to that property, the amount of depreciation that
44 has been allowed pursuant to section 167(a) of the internal revenue code to

1 the extent that the amount has not already reduced Arizona taxable income in
2 the current or prior taxable years.

3 30. With respect to property for which an adjustment was made under
4 section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of
5 the adjustment pursuant to section 43-1021, paragraph 27 in the year in which
6 the amount was adjusted under section 43-1021, paragraph 27 and in each of
7 the following four years.

8 31. For taxable years beginning from and after December 31, 2007
9 through December 31, 2012, the amount contributed during the taxable year to
10 college savings plans established pursuant to section 529 of the Internal
11 Revenue Code to the extent that the contributions were not deducted in
12 computing federal adjusted gross income. The amount subtracted shall not
13 exceed:

14 (a) Seven hundred fifty dollars for a single individual or a head of
15 household.

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

21 32. TO THE EXTENT NOT ALREADY EXCLUDED FROM ARIZONA GROSS INCOME UNDER
22 THE INTERNAL REVENUE CODE, THE AMOUNT AUTHORIZED BY SECTION 43-1032 FOR
23 DISPLACED PUPILS CHOICE GRANTS.

24 Sec. 22. Section 43-1075.01, Arizona Revised Statutes, is amended to
25 read:

26 43-1075.01. Credit for motion picture infrastructure projects:
27 definition

28 A. A credit is allowed against the taxes imposed by this title for
29 investments in motion picture infrastructure projects in this state as
30 provided by section 41-1517.01. The amount of the credit is fifteen per cent
31 of the total base investment in the project during the taxable year as
32 approved and reported by the department of commerce pursuant to section
33 41-1517.01, subsection F. The taxpayer may apply the credit against income
34 taxes for the taxable year in which the motion picture infrastructure project
35 is completed as provided by section 41-1517.01, subsection F.

36 B. The department shall not allow:

37 1. Tax credits for any taxable year under this section and section
38 43-1163.01 that would violate the aggregate limits prescribed by section
39 41-1517.01, subsection C.

40 2. A tax credit under this section to a taxpayer who has a delinquent
41 tax balance owing to the department under this title or title 42.

42 C. An applicant, at its expense, may voluntarily enter into a limited
43 managed audit agreement pursuant to title 42, chapter 2, article 7 that
44 includes an audit of its base investment and other requirements prescribed by
45 section 41-1517.01 and by this section to confirm the amount of any credit

1 under this section. The request to enter into the audit must be made after
 2 the applicant receives ~~postcertification~~ APPROVAL for the credit pursuant to
 3 section ~~41-1517~~ 41-1517.01, subsection ~~0-~~ F. The audit must be conducted by
 4 the applicant's authorized representative, as defined in section 42-2301, who
 5 is an independent certified public accountant licensed in this state. The
 6 certified public accountant and the firm the certified public accountant is
 7 affiliated with shall not regularly perform services for the taxpayer or its
 8 affiliates. If the director accepts the findings of the audit and issues a
 9 notice of determination pursuant to section 42-2303 and the taxpayer timely
 10 files its income tax return with the appropriate credit claim forms, the
 11 credit amount accepted is not subject to recapture, disallowance, reduction
 12 or denial with respect to either the taxpayer or any subsequent transferee of
 13 the credit, and subsection F, paragraph 4 of this section does not apply.
 14 The director's notice of determination shall include a written certificate to
 15 the taxpayer stating the amount of the credit and that the credit is not
 16 subject to recapture from a transferee. This subsection does not prevent the
 17 recapture of a credit if the taxpayer failed to disclose material information
 18 during the audit or falsified its books or records or otherwise engaged in an
 19 action that prevented an accurate audit.

20 D. Co-owners of a business, including partners in a partnership,
 21 members of a limited liability company and shareholders of an S corporation
 22 as defined in section 1361 of the internal revenue code, may allocate the
 23 credit allowed under this section among the co-owners on any basis without
 24 regard to their proportional ownership interest. The total of the credits
 25 allowed all such owners may not exceed the amount that would have been
 26 allowed for a sole owner of the company.

27 E. If the allowable tax credit for a taxpayer exceeds the taxes
 28 otherwise due under this title on the claimant's income, or if there are no
 29 taxes due under this title, the taxpayer may carry the amount of the claim
 30 not used to offset the taxes under this title forward for not more than five
 31 consecutive taxable years' income tax liability.

32 F. All or part of any unclaimed amount of credit under this section
 33 may be sold or otherwise transferred under the following conditions:

34 1. A single sale or transfer may involve one or more transferees, and
 35 a transferee may in turn resell or transfer the credit subject to the same
 36 conditions of this subsection.

37 2. Both the transferor and transferee must submit a written notice of
 38 the transfer to the department within thirty days after the sale or transfer.
 39 The transferee's notice shall include a processing fee equal to one per cent
 40 of the transferee's tax credit balance or two hundred dollars, whichever is
 41 less. The notice shall include:

- 42 (a) The name of the taxpayer.
- 43 (b) The date of the transfer.
- 44 (c) The amount of the transfer.

1 (d) The transferor's tax credit balance before the transfer and the
2 remaining balance after the transfer.

3 (e) All tax identification numbers for both transferor and transferee.

4 (f) Any other information required by rule.

5 3. A sale or transfer of the credit does not extend the time in which
6 the credit can be used. The carryforward period of time under subsection E
7 of this section for a credit that is sold or transferred begins on the date
8 the credit was originally earned.

9 4. Except as provided by subsection C of this section, if a transferor
10 was not qualified or was disqualified from using the credit at the time of
11 the transfer, the department shall either disallow the credit claimed by a
12 transferee or recapture the credit from the transferee through any authorized
13 collection method. The transferee's recourse is against the transferor.

14 5. In the case of any failure to comply with this subsection, the
15 department shall disallow the tax credit until the taxpayer is in full
16 compliance.

17 G. The department OF REVENUE shall maintain annual data on the total
18 amount of monies credited pursuant to this section, and shall provide that
19 data to the department of commerce on request.

20 H. The department of revenue, with the cooperation of the department
21 of commerce, shall adopt rules and publish and prescribe forms and procedures
22 as necessary to effectuate the purposes of this section.

23 I. A taxpayer who claims a credit for motion picture infrastructure
24 projects under this section shall not claim a credit under section 43-1075
25 for the same costs.

26 J. The credit allowed by this section is in lieu of any allowance for
27 state tax purposes of a deduction of those expenses allowed by the internal
28 revenue code.

29 K. For the purposes of this section, "motion picture infrastructure
30 project" has the same meaning ~~as defined~~ PRESCRIBED in section 41-1517.01.

31 Sec. 23. Section 43-1163.01, Arizona Revised Statutes, is amended to
32 read:

33 43-1163.01. Credit for motion picture infrastructure projects;
34 definition

35 A. A credit is allowed against the taxes imposed by this title for
36 investments in motion picture infrastructure projects in this state as
37 provided by section 41-1517.01. The amount of the credit is fifteen per cent
38 of the total base investment in the project during the taxable year as
39 approved and reported by the department of commerce pursuant to section
40 41-1517.01, subsection F. The taxpayer may apply the credit against income
41 taxes for the taxable year in which the motion picture infrastructure project
42 is completed as provided by section 41-1517.01, subsection F.

1 B. The department shall not allow:
2 1. Tax credits for any taxable year under this section and section
3 43-1075.01 that would violate the aggregate limits prescribed by section
4 41-1517.01, subsection C.
5 2. A tax credit under this section to a taxpayer that has a delinquent
6 tax balance owing to the department under this title or title 42.
7 C. An applicant, at its expense, may voluntarily enter into a limited
8 managed audit agreement pursuant to title 42, chapter 2, article 7 that
9 includes an audit of its base investment and other requirements prescribed by
10 section 41-1517.01 and by this section to confirm the amount of any credit
11 under this section. The request to enter into the audit must be made after
12 the applicant receives ~~postcertification~~ APPROVAL for the credit pursuant to
13 section ~~41-1517~~ 41-1517.01, subsection ~~0~~ F. The audit must be conducted by
14 the applicant's authorized representative, as defined ~~by~~ IN section 42-2301,
15 who is an independent certified public accountant licensed in this state.
16 The certified public accountant and the firm the certified public accountant
17 is affiliated with shall not regularly perform services for the taxpayer or
18 its affiliates. If the director accepts the findings of the audit and issues
19 a notice of determination pursuant to section 42-2303 and the taxpayer timely
20 files its income tax return with the appropriate credit claim forms, the
21 credit amount accepted is not subject to recapture, disallowance, reduction
22 or denial with respect to either the taxpayer or any subsequent transferee of
23 the credit, and subsection F, paragraph 4 of this section does not apply.
24 The director's notice of determination shall include a written certificate to
25 the taxpayer stating the amount of the credit and that the credit is not
26 subject to recapture from a transferee. This subsection does not prevent the
27 recapture of a credit if the taxpayer failed to disclose material information
28 during the audit or falsified its books or records or otherwise engaged in an
29 action that prevented an accurate audit.
30 D. Co-owners of a business, including corporate partners in a
31 partnership and members of a limited liability company, may allocate the
32 credit allowed under this section among the co-owners on any basis without
33 regard to their proportional ownership interest. The total of the credits
34 allowed all such owners may not exceed the amount that would have been
35 allowed for a sole owner of the company.
36 E. If the allowable tax credit for a taxpayer exceeds the taxes
37 otherwise due under this title on the claimant's income, or if there are no
38 taxes due under this title, the taxpayer may carry the amount of the claim
39 not used to offset the taxes under this title forward for not more than five
40 consecutive taxable years' income tax liability.
41 F. All or part of any unclaimed amount of credit under this section
42 may be sold or otherwise transferred under the following conditions:
43 1. A single sale or transfer may involve one or more transferees, and
44 a transferee may in turn resell or transfer the credit subject to the same
45 conditions of this subsection.

1 2. Both the transferor and transferee must submit a written notice of
2 the transfer to the department within thirty days after the sale or transfer.
3 The transferee's notice shall include a processing fee equal to one per cent
4 of the transferee's tax credit balance or two hundred dollars, whichever is
5 less. The notice shall include:
6 (a) The name of the taxpayer.
7 (b) The date of the transfer.
8 (c) The amount of the transfer.
9 (d) The transferor's tax credit balance before the transfer and the
10 remaining balance after the transfer.
11 (e) All tax identification numbers for both transferor and transferee.
12 (f) Any other information required by rule.
13 3. A sale or transfer of the credit does not extend the time in which
14 the credit can be used. The carryforward period of time under subsection E
15 of this section for a credit that is sold or transferred begins on the date
16 the credit was originally earned.
17 4. Except as provided by subsection C of this section, if a transferor
18 was not qualified or was disqualified from using the credit at the time of
19 the transfer, the department shall either disallow the credit claimed by a
20 transferee or recapture the credit from the transferee through any authorized
21 collection method. The transferee's recourse is against the transferor.
22 5. In the case of any failure to comply with this subsection, the
23 department shall disallow the tax credit until the taxpayer is in full
24 compliance.
25 G. The department OF REVENUE shall maintain annual data on the total
26 amount of monies credited pursuant to this section, and shall provide that
27 data to the department of commerce on request.
28 H. The department of revenue, with the cooperation of the department
29 of commerce, shall adopt rules and publish and prescribe forms and procedures
30 as necessary to effectuate the purposes of this section.
31 I. A taxpayer that claims a credit for motion picture infrastructure
32 projects under this section shall not claim a credit under section 43-1163
33 for the same costs.
34 J. The credit allowed by this section is in lieu of any allowance for
35 state tax purposes of a deduction of those expenses allowed by the internal
36 revenue code.
37 K. For the purposes of this section, "motion picture infrastructure
38 project" has the same meaning ~~as defined~~ PRESCRIBED in section 41-1517.01.
39 Sec. 24. Repeal
40 Laws 2000, seventh special session, chapter 1, section 37 is repealed.
41 Sec. 25. Retroactivity
42 Section 42-15006, Arizona Revised Statutes, as amended by this act,
43 applies retroactively to property tax years beginning from and after December
44 31, 2006.