

REFERENCE TITLE: sales tax on medical marijuana

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HB 2557

Introduced by
Representatives Farley, Ash, Chabin, Wheeler, Senators Cajero Bedford,
Schapira: Representatives Court, McLain, Proud, Tovar, Senators Aboud,
Nelson, Sinema

AN ACT

AMENDING SECTIONS 42-5010, 42-5029 AND 42-5061, ARIZONA REVISED STATUTES;
AMENDING TITLE 42, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING
SECTION 42-5077; AMENDING SECTIONS 42-5155 AND 43-1072.01, ARIZONA REVISED
STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-5010, Arizona Revised Statutes, is amended to
3 read:

4 42-5010. Rates; distribution base

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

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

- 10 (a) Transporting classification.
- 11 (b) Utilities classification.
- 12 (c) Telecommunications classification.
- 13 (d) Pipeline classification.
- 14 (e) Private car line classification.
- 15 (f) Publication classification.
- 16 (g) Job printing classification.
- 17 (h) Prime contracting classification.
- 18 (i) Owner builder sales classification.
- 19 (j) Amusement classification.
- 20 (k) Restaurant classification.
- 21 (l) Personal property rental classification.
- 22 (m) Retail classification.

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

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

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

32 5. THREE HUNDRED PER CENT OF THE TAX BASE AS COMPUTED FOR THE BUSINESS
33 OF EVERY PERSON ENGAGING OR CONTINUING IN THIS STATE IN THE NONPROFIT MEDICAL
34 MARIJUANA DISPENSARY CLASSIFICATION DESCRIBED IN SECTION 42-5077.

35 B. Twenty per cent of the tax revenues collected at the rate
36 prescribed by subsection A, paragraph 1 of this section from persons on
37 account of engaging in business under the business classifications listed in
38 subsection A, paragraph 1, subdivisions (a) through (i) of this section is
39 designated as distribution base for purposes of section 42-5029.

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

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

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

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

13 G. NONE OF THE TAX REVENUES COLLECTED FROM PERSONS ON ACCOUNT OF
14 ENGAGING IN BUSINESS UNDER THE NONPROFIT MEDICAL MARIJUANA DISPENSARY
15 CLASSIFICATION LISTED IN SUBSECTION A, PARAGRAPH 5 OF THIS SECTION IS
16 DESIGNATED AS DISTRIBUTION BASE FOR THE PURPOSES OF SECTION 42-5029.

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

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

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

41 1. Any increase in the rate of tax that is levied by this article or
42 article 2 of this chapter enacted by the legislature or by a vote of the
43 people does not apply for a period of one hundred twenty days from the date
44 of the tax rate increase to the gross proceeds of sales or gross income from
45 the business of the taxpayer with respect to written contracts entered into

1 before the effective date of the tax rate increase unless the taxpayer has
2 entered into a contract that contains a provision that entitles the taxpayer
3 to recover from the purchaser the amount of the additional tax levied.

4 2. ~~The provisions of~~ This subsection ~~apply~~ APPLIES without regard to
5 the accounting method used by the taxpayer to report the taxes imposed under
6 article 2 of this chapter.

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

9 Sec. 2. Section 42-5029, Arizona Revised Statutes, is amended to read:

10 42-5029. Remission and distribution of monies; definition

11 A. The department shall deposit, pursuant to sections 35-146 and
12 35-147, all revenues collected under this article and articles 4, 5 and 8 of
13 this chapter pursuant to section 42-1116, separately accounting for:

14 1. Payments of estimated tax under section 42-5014, subsection D.

15 2. Revenues collected pursuant to section 42-5070.

16 3. Revenues collected under this article and article 5 of this chapter
17 from and after June 30, 2000 from sources located on Indian reservations in
18 this state.

19 4. Revenues collected pursuant to section 42-5010, subsection ~~G~~ H and
20 section 42-5155, subsection D.

21 B. The department shall credit payments of estimated tax to an
22 estimated tax clearing account and each month shall transfer all monies in
23 the estimated tax clearing account to a fund designated as the transaction
24 privilege and severance tax clearing account. The department shall credit
25 all other payments to the transaction privilege and severance tax clearing
26 account, separately accounting for the monies designated as distribution base
27 under sections 42-5010, 42-5164, 42-5205 and 42-5353. Each month the
28 department shall report to the state treasurer the amount of monies collected
29 pursuant to this article and articles 4, 5 and 8 of this chapter.

30 C. On notification by the department, the state treasurer shall
31 distribute the monies deposited in the transaction privilege and severance
32 tax clearing account in the manner prescribed by this section and by sections
33 42-5164, 42-5205 and 42-5353, after deducting warrants drawn against the
34 account pursuant to sections 42-1118 and 42-1254.

35 D. Of the monies designated as distribution base the department shall:

36 1. Pay twenty-five per cent to the various incorporated municipalities
37 in this state in proportion to their population to be used by the
38 municipalities for any municipal purpose.

39 2. Pay 38.08 per cent to the counties in this state by averaging the
40 following proportions:

41 (a) The proportion that the population of each county bears to the
42 total state population.

43 (b) The proportion that the distribution base monies collected during
44 the calendar month in each county under this article, section 42-5164,
45 subsection B, section 42-5205, subsection B and section 42-5353 bear to the

1 total distribution base monies collected under this article, section 42-5164,
2 subsection B, section 42-5205, subsection B and section 42-5353 throughout
3 the state for the calendar month.

4 3. Pay an additional 2.43 per cent to the counties in this state as
5 follows:

6 (a) Average the following proportions:

7 (i) The proportion that the assessed valuation used to determine
8 secondary property taxes of each county, after deducting that part of the
9 assessed valuation that is exempt from taxation at the beginning of the month
10 for which the amount is to be paid, bears to the total assessed valuations
11 used to determine secondary property taxes of all the counties after
12 deducting that portion of the assessed valuations that is exempt from
13 taxation at the beginning of the month for which the amount is to be paid.
14 Property of a city or town that is not within or contiguous to the municipal
15 corporate boundaries and from which water is or may be withdrawn or diverted
16 and transported for use on other property is considered to be taxable
17 property in the county for purposes of determining assessed valuation in the
18 county under this item.

19 (ii) The proportion that the distribution base monies collected during
20 the calendar month in each county under this article, section 42-5164,
21 subsection B, section 42-5205, subsection B and section 42-5353 bear to the
22 total distribution base monies collected under this article, section 42-5164,
23 subsection B, section 42-5205, subsection B and section 42-5353 throughout
24 the state for the calendar month.

25 (b) If the proportion computed under subdivision (a) of this paragraph
26 for any county is greater than the proportion computed under paragraph 2 of
27 this subsection, the department shall compute the difference between the
28 amount distributed to that county under paragraph 2 of this subsection and
29 the amount that would have been distributed under paragraph 2 of this
30 subsection using the proportion computed under subdivision (a) of this
31 paragraph and shall pay that difference to the county from the amount
32 available for distribution under this paragraph. Any monies remaining after
33 all payments under this subdivision shall be distributed among the counties
34 according to the proportions computed under paragraph 2 of this subsection.

35 4. After any distributions required by sections 42-5030, 42-5030.01,
36 42-5031, 42-5032 and 42-5032.01, and after making any transfer to the water
37 quality assurance revolving fund as required by section 49-282, subsection B,
38 credit the remainder of the monies designated as distribution base to the
39 state general fund. From this amount:

40 (a) The legislature shall annually appropriate to:

41 (i) The department of revenue sufficient monies to administer and
42 enforce this article and articles 5 and 8 of this chapter.

43 (ii) The department of economic security monies to be used for the
44 purposes stated in title 46, chapter 1.

1 (iii) The firearms safety and ranges fund established by section
2 17-273, fifty thousand dollars derived from the taxes collected from the
3 retail classification pursuant to section 42-5061 for the current fiscal
4 year.

5 (b) Subject to separate initial legislative authorization, each year
6 the state treasurer shall transfer to the tourism fund an amount equal to the
7 sum of the following:

8 (i) Three and one-half per cent of the gross revenues derived from the
9 transient lodging classification pursuant to section 42-5070 during the
10 preceding fiscal year.

11 (ii) Three per cent of the gross revenues derived from the amusement
12 classification pursuant to section 42-5073 during the preceding fiscal year.

13 (iii) Two per cent of the gross revenues derived from the restaurant
14 classification pursuant to section 42-5074 during the preceding fiscal year.

15 E. If approved by the qualified electors voting at a statewide general
16 election, all monies collected pursuant to section 42-5010, subsection ~~G~~ H
17 and section 42-5155, subsection D shall be distributed each fiscal year
18 pursuant to this subsection. The monies distributed pursuant to this
19 subsection are in addition to any other appropriation, transfer or other
20 allocation of public or private monies from any other source and shall not
21 supplant, replace or cause a reduction in other school district, charter
22 school, university or community college funding sources. The monies shall be
23 distributed as follows:

24 1. If there are outstanding state school facilities revenue bonds
25 pursuant to title 15, chapter 16, article 7, each month one-twelfth of the
26 amount that is necessary to pay the fiscal year's debt service on outstanding
27 state school improvement revenue bonds for the current fiscal year shall be
28 transferred each month to the school improvement revenue bond debt service
29 fund established by section 15-2084. The total amount of bonds for which
30 these monies may be allocated for the payment of debt service shall not
31 exceed a principal amount of eight hundred million dollars exclusive of
32 refunding bonds and other refinancing obligations.

33 2. After any transfer of monies pursuant to paragraph 1 of this
34 subsection, twelve per cent of the remaining monies collected during the
35 preceding month shall be transferred to the technology and research
36 initiative fund established by section 15-1648 to be distributed among the
37 universities for the purpose of investment in technology and research-based
38 initiatives.

39 3. After the transfer of monies pursuant to paragraph 1 of this
40 subsection, three per cent of the remaining monies collected during the
41 preceding month shall be transferred to the workforce development account
42 established in each community college district pursuant to section 15-1472
43 for the purpose of investment in workforce development programs.

1 4. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
2 subsection, one-twelfth of the amount a community college that is owned,
3 operated or chartered by a qualifying Indian tribe on its own Indian
4 reservation would receive pursuant to section 15-1472, subsection D,
5 paragraph 2 if it were a community college district shall be distributed each
6 month to the treasurer or other designated depository of a qualifying Indian
7 tribe. Monies distributed pursuant to this paragraph are for the exclusive
8 purpose of providing support to one or more community colleges owned,
9 operated or chartered by a qualifying Indian tribe and shall be used in a
10 manner consistent with section 15-1472, subsection B. For the purposes of
11 this paragraph, "qualifying Indian tribe" has the same meaning as defined in
12 section 42-5031.01, subsection D.

13 5. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
14 subsection, one-twelfth of the following amounts shall be transferred each
15 month to the department of education for the increased cost of basic state
16 aid under section 15-971 due to added school days and associated teacher
17 salary increases enacted in 2000:

- 18 (a) In fiscal year 2001-2002, \$15,305,900.
- 19 (b) In fiscal year 2002-2003, \$31,530,100.
- 20 (c) In fiscal year 2003-2004, \$48,727,700.
- 21 (d) In fiscal year 2004-2005, \$66,957,200.
- 22 (e) In fiscal year 2005-2006 and each fiscal year thereafter,
23 \$86,280,500.

24 6. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
25 subsection, seven million eight hundred thousand dollars is appropriated each
26 fiscal year, to be paid in monthly installments, to the department of
27 education to be used for school safety as provided in section 15-154 and two
28 hundred thousand dollars is appropriated each fiscal year, to be paid in
29 monthly installments to the department of education to be used for the
30 character education matching grant program as provided in section 15-154.01.

31 7. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
32 subsection, no more than seven million dollars may be appropriated by the
33 legislature each fiscal year to the department of education to be used for
34 accountability purposes as described in section 15-241 and title 15, chapter
35 9, article 8.

36 8. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
37 subsection, one million five hundred thousand dollars is appropriated each
38 fiscal year, to be paid in monthly installments, to the failing schools
39 tutoring fund established by section 15-241.

40 9. After transferring monies pursuant to paragraphs 1, 2 and 3 of this
41 subsection, twenty-five million dollars shall be transferred each fiscal year
42 to the state general fund to reimburse the general fund for the cost of the
43 income tax credit allowed by section 43-1072.01.

1 10. After the payment of monies pursuant to paragraphs 1 through 9 of
2 this subsection, the remaining monies collected during the preceding month
3 shall be transferred to the classroom site fund established by section
4 15-977. The monies shall be allocated as follows in the manner prescribed by
5 section 15-977:

6 (a) Forty per cent shall be allocated for teacher compensation based
7 on performance.

8 (b) Twenty per cent shall be allocated for increases in teacher base
9 compensation and employee related expenses.

10 (c) Forty per cent shall be allocated for maintenance and operation
11 purposes.

12 F. The department shall credit the remainder of the monies in the
13 transaction privilege and severance tax clearing account to the state general
14 fund, subject to any distribution required by section 42-5030.01.

15 G. Notwithstanding subsection D of this section, if a court of
16 competent jurisdiction finally determines that tax monies distributed under
17 this section were illegally collected under this article or articles 5 and 8
18 of this chapter and orders the monies to be refunded to the taxpayer, the
19 department shall compute the amount of such monies that was distributed to
20 each city, town and county under this section. The department shall notify
21 the state treasurer of that amount plus the proportionate share of additional
22 allocated costs required to be paid to the taxpayer. Each city's, town's and
23 county's proportionate share of the costs shall be based on the amount of the
24 original tax payment each municipality and county received. Each month the
25 state treasurer shall reduce the amount otherwise distributable to the city,
26 town and county under this section by one thirty-sixth of the total amount to
27 be recovered from the city, town or county until the total amount has been
28 recovered, but the monthly reduction for any city, town or county shall not
29 exceed ten per cent of the full monthly distribution to that entity. The
30 reduction shall begin for the first calendar month after the final
31 disposition of the case and shall continue until the total amount, including
32 interest and costs, has been recovered.

33 H. On receiving a certificate of default from the greater Arizona
34 development authority pursuant to section 41-1554.06 or 41-1554.07 and to the
35 extent not otherwise expressly prohibited by law, the state treasurer shall
36 withhold from the next succeeding distribution of monies pursuant to this
37 section due to the defaulting political subdivision the amount specified in
38 the certificate of default and immediately deposit the amount withheld in the
39 greater Arizona development authority revolving fund. The state treasurer
40 shall continue to withhold and deposit the monies until the greater Arizona
41 development authority certifies to the state treasurer that the default has
42 been cured. In no event may the state treasurer withhold any amount that the
43 defaulting political subdivision certifies to the state treasurer and the
44 authority as being necessary to make any required deposits then due for the
45 payment of principal and interest on bonds of the political subdivision that

1 were issued before the date of the loan repayment agreement or bonds and that
2 have been secured by a pledge of distributions made pursuant to this section.

3 I. Except as provided by sections 42-5033 and 42-5033.01, the
4 population of a county, city or town as determined by the most recent United
5 States decennial census plus any revisions to the decennial census certified
6 by the United States bureau of the census shall be used as the basis for
7 apportioning monies pursuant to subsection D of this section.

8 J. Except as otherwise provided by this subsection, on notice from the
9 department of revenue pursuant to section 42-6010, subsection B, the state
10 treasurer shall withhold from the distribution of monies pursuant to this
11 section to the affected city or town the amount of the penalty for business
12 location municipal tax incentives provided by the city or town to a business
13 entity that locates a retail business facility in the city or town. The
14 state treasurer shall continue to withhold monies pursuant to this subsection
15 until the entire amount of the penalty has been withheld. The state
16 treasurer shall credit any monies withheld pursuant to this subsection to the
17 state general fund as provided by subsection D, paragraph 4 of this section.
18 The state treasurer shall not withhold any amount that the city or town
19 certifies to the department of revenue and the state treasurer as being
20 necessary to make any required deposits or payments for debt service on bonds
21 or other long-term obligations of the city or town that were issued or
22 incurred before the location incentives provided by the city or town.

23 K. On notice from the auditor general pursuant to section 9-626,
24 subsection D, the state treasurer shall withhold from the distribution of
25 monies pursuant to this section to the affected city the amount computed
26 pursuant to section 9-626, subsection D. The state treasurer shall continue
27 to withhold monies pursuant to this subsection until the entire amount
28 specified in the notice has been withheld. The state treasurer shall credit
29 any monies withheld pursuant to this subsection to the state general fund as
30 provided by subsection D, paragraph 4 of this section.

31 L. For the purposes of this section, "community college district"
32 means a community college district that is established pursuant to sections
33 15-1402 and 15-1403 and that is a political subdivision of this state.

34 Sec. 3. Section 42-5061, Arizona Revised Statutes, is amended to read:
35 42-5061. Retail classification; definitions

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

41 1. Professional or personal service occupations or businesses which
42 involve sales or transfers of tangible personal property only as
43 inconsequential elements.

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

- 1 3. Sales of warranty or service contracts. The storage, use or
2 consumption of tangible personal property provided under the conditions of
3 such contracts is subject to tax under section 42-5156.
- 4 4. Sales of tangible personal property by any nonprofit organization
5 organized and operated exclusively for charitable purposes and recognized by
6 the United States internal revenue service under section 501(c)(3) of the
7 internal revenue code.
- 8 5. Sales to persons engaged in business classified under the
9 restaurant classification of articles used by human beings for food, drink or
10 condiment, whether simple, mixed or compounded.
- 11 6. Business activity which is properly included in any other business
12 classification which is taxable under this article.
- 13 7. The sale of stocks and bonds.
- 14 8. Drugs and medical oxygen, including delivery hose, mask or tent,
15 regulator and tank, on the prescription of a member of the medical, dental or
16 veterinarian profession who is licensed by law to administer such substances
17 **AND MEDICAL MARIJUANA DISPENSED PURSUANT TO THE WRITTEN CERTIFICATION OF A**
18 **PHYSICIAN FROM A REGISTERED NONPROFIT MEDICAL MARIJUANA DISPENSARY CLASSIFIED**
19 **UNDER THE NONPROFIT MEDICAL MARIJUANA DISPENSARY CLASSIFICATION.**
- 20 9. Prosthetic appliances as defined in section 23-501 prescribed or
21 recommended by a health professional who is licensed pursuant to title 32,
22 chapter 7, 8, 11, 13, 14, 15, 16, 17 or 29.
- 23 10. Insulin, insulin syringes and glucose test strips.
- 24 11. Prescription eyeglasses or contact lenses.
- 25 12. Hearing aids as defined in section 36-1901.
- 26 13. Durable medical equipment which has a centers for medicare and
27 medicaid services common procedure code, is designated reimbursable by
28 medicare, is prescribed by a person who is licensed under title 32, chapter
29 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
30 customarily used to serve a medical purpose, is generally not useful to a
31 person in the absence of illness or injury and is appropriate for use in the
32 home.
- 33 14. Sales to nonresidents of this state for use outside this state if
34 the vendor ships or delivers the tangible personal property out of this
35 state.
- 36 15. Food, as provided in and subject to the conditions of article 3 of
37 this chapter and section 42-5074.
- 38 16. Items purchased with United States department of agriculture food
39 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
40 958) or food instruments issued under section 17 of the child nutrition act
41 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
42 section 1786).
- 43 17. Textbooks by any bookstore that are required by any state
44 university or community college.

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

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

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

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

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

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

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

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

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

35 25. Tangible personal property sold to:

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

37 (b) 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 (c) 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 (d) A qualifying community health center as defined in section
2 42-5001.

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

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

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

16 27. Tangible personal property sold to a person that is subject to tax
17 under this article by reason of being engaged in business classified under
18 the prime contracting classification under section 42-5075, or to a
19 subcontractor working under the control of a prime contractor that is subject
20 to tax under article 1 of this chapter, if the property so sold is any of the
21 following:

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

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

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

30 28. The sale of a motor vehicle to:

31 (a) A nonresident of this state if the purchaser's state of residence
32 does not allow a corresponding use tax exemption to the tax imposed by
33 article 1 of this chapter and if the nonresident has secured a special ninety
34 day nonresident registration permit for the vehicle as prescribed by sections
35 28-2154 and 28-2154.01.

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

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

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

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

12 32. Sales of tangible personal property by a nonprofit organization
13 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
14 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
15 sponsors or operates a rodeo featuring primarily farm and ranch animals and
16 no part of the organization's net earnings inures to the benefit of any
17 private shareholder or individual.

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

22 34. Machinery, equipment, technology or related supplies that are only
23 useful to assist a person who is physically disabled as defined in section
24 46-191, has a developmental disability as defined in section 36-551 or has a
25 head injury as defined in section 41-3201 to be more independent and
26 functional.

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

30 36. Sales of natural gas or liquefied petroleum gas used to propel a
31 motor vehicle.

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

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

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

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

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

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

28 41. Sales of food, drink and condiment for consumption within the
 29 premises of any prison, jail or other institution under the jurisdiction of
 30 the state department of corrections, the department of public safety, the
 31 department of juvenile corrections or a county sheriff.

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

36 43. Livestock and poultry feed, salts, vitamins and other additives for
 37 livestock or poultry consumption that are sold to persons who are engaged in
 38 producing livestock, poultry, or livestock or poultry products or who are
 39 engaged in feeding livestock or poultry commercially. For the purposes of
 40 this paragraph, "poultry" includes ratites.

41 44. Sales of implants used as growth promotants and injectable
 42 medicines, not already exempt under paragraph 8 of this subsection, for
 43 livestock or poultry owned by or in possession of persons who are engaged in
 44 producing livestock, poultry, or livestock or poultry products or who are

1 engaged in feeding livestock or poultry commercially. For the purposes of
2 this paragraph, "poultry" includes ratites.

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

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

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

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

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

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

22 49. Tangible personal property sold to a commercial airline and
23 consisting of food, beverages and condiments and accessories used for serving
24 the food and beverages, if those items are to be provided without additional
25 charge to passengers for consumption in flight. For the purposes of this
26 paragraph, "commercial airline" means a person holding a federal certificate
27 of public convenience and necessity or foreign air carrier permit for air
28 transportation to transport persons, property or United States mail in
29 intrastate, interstate or foreign commerce.

30 50. Sales of alternative fuel vehicles if the vehicle was manufactured
31 as a diesel fuel vehicle and converted to operate on alternative fuel and
32 equipment that is installed in a conventional diesel fuel motor vehicle to
33 convert the vehicle to operate on an alternative fuel, as defined in section
34 1-215.

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

38 52. Sales of tangible personal property to be incorporated or installed
39 as part of environmental response or remediation activities under section
40 42-5075, subsection B, paragraph 6.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) Any foreign government for use by such government outside of this
10 state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 20. Machinery and equipment that are sold to a person engaged in the
41 commercial production of livestock, livestock products or agricultural,
42 horticultural, viticultural or floricultural crops or products in this state
43 and that are used directly and primarily to prevent, monitor, control or
44 reduce air, water or land pollution.

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

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

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

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

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

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

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

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

33 2. Janitorial equipment and hand tools.

34 3. Office equipment, furniture and supplies.

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

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

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

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

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

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

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

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

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

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

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

1 10. Restaurant classification.
2 J. The gross proceeds of sales or gross income derived from the
3 following shall be deducted from the tax base for the retail classification:
4 1. Sales made directly to the United States government or its
5 departments or agencies by a manufacturer, modifier, assembler or repairer.
6 2. Sales made directly to a manufacturer, modifier, assembler or
7 repairer if such sales are of any ingredient or component part of products
8 sold directly to the United States government or its departments or agencies
9 by the manufacturer, modifier, assembler or repairer.
10 3. Overhead materials or other tangible personal property that is used
11 in performing a contract between the United States government and a
12 manufacturer, modifier, assembler or repairer, including property used in
13 performing a subcontract with a government contractor who is a manufacturer,
14 modifier, assembler or repairer, to which title passes to the government
15 under the terms of the contract or subcontract.
16 4. Sales of overhead materials or other tangible personal property to
17 a manufacturer, modifier, assembler or repairer if the gross proceeds of
18 sales or gross income derived from the property by the manufacturer,
19 modifier, assembler or repairer will be exempt under paragraph 3 of this
20 subsection.
21 K. There shall be deducted from the tax base fifty per cent of the
22 gross proceeds or gross income from any sale of tangible personal property
23 made directly to the United States government or its departments or agencies,
24 which is not deducted under subsection J of this section.
25 L. The department shall require every person claiming a deduction
26 provided by subsection J or K of this section to file on forms prescribed by
27 the department at such times as the department directs a sworn statement
28 disclosing the name of the purchaser and the exact amount of sales on which
29 the exclusion or deduction is claimed.
30 M. In computing the tax base, gross proceeds of sales or gross income
31 does not include:
32 1. A manufacturer's cash rebate on the sales price of a motor vehicle
33 if the buyer assigns the buyer's right in the rebate to the retailer.
34 2. The waste tire disposal fee imposed pursuant to section 44-1302.
35 N. There shall be deducted from the tax base the amount received from
36 sales of solar energy devices. The retailer shall register with the
37 department as a solar energy retailer. By registering, the retailer
38 acknowledges that it will make its books and records relating to sales of
39 solar energy devices available to the department for examination.
40 O. In computing the tax base in the case of the sale or transfer of
41 wireless telecommunications equipment as an inducement to a customer to enter
42 into or continue a contract for telecommunications services that are taxable
43 under section 42-5064, gross proceeds of sales or gross income does not
44 include any sales commissions or other compensation received by the retailer

1 as a result of the customer entering into or continuing a contract for the
2 telecommunications services.

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

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

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

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

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

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

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

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

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

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

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

10 V. For the purposes of this section:

11 1. "Aircraft" includes:

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

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

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

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

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

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

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

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

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

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

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

10 Sec. 4. Title 42, chapter 5, article 2, Arizona Revised Statutes, is
11 amended by adding section 42-5077, to read:

12 42-5077. Nonprofit medical marijuana dispensary classification

13 A. THE NONPROFIT MEDICAL MARIJUANA DISPENSARY CLASSIFICATION IS
14 COMPRISED OF THE BUSINESS OF SELLING OR DISPENSING MEDICAL MARIJUANA TO
15 QUALIFYING PATIENTS PURSUANT TO TITLE 36, CHAPTER 28.1.

16 B. THE TAX BASE FOR THE NONPROFIT MEDICAL MARIJUANA DISPENSARY
17 CLASSIFICATION IS THE GROSS PROCEEDS OR GROSS INCOME DERIVED FROM THE
18 BUSINESS.

19 C. IF A PERSON WHO IS ENGAGED IN BUSINESS AS A NONPROFIT MEDICAL
20 MARIJUANA DISPENSARY ALSO SELLS OTHER TANGIBLE PERSONAL PROPERTY AT RETAIL,
21 THE PERSON'S BOOKS MUST SEPARATELY ACCOUNT FOR SALES OF THE OTHER TANGIBLE
22 PERSONAL PROPERTY, AND IF NOT SO KEPT THE TAX UNDER THIS SECTION APPLIES TO
23 THE TOTAL OF THE PERSON'S ENTIRE GROSS PROCEEDS OR GROSS INCOME FROM THE
24 BUSINESS.

25 Sec. 5. Section 42-5155, Arizona Revised Statutes, is amended to read:

26 42-5155. Levy of tax; tax rate; purchaser's liability

27 A. There is levied and imposed an excise tax on the storage, use or
28 consumption in this state of tangible personal property purchased from a
29 retailer, NONPROFIT MEDICAL MARIJUANA DISPENSARY or utility business, as a
30 percentage of the sales price. A manufactured building purchased outside
31 this state and set up in this state is subject to tax under this section and
32 in this case the RATE IS A percentage ~~is~~ OF sixty-five per cent of the sales
33 price.

34 B. The tax imposed by this section applies to any purchaser which
35 purchased tangible personal property for resale but subsequently uses or
36 consumes the property.

37 C. The tax rate shall equal the rate of tax prescribed by section
38 42-5010, subsection A as applied to retailers, NONPROFIT MEDICAL MARIJUANA
39 DISPENSARIES and utility businesses according to the respective
40 classification under articles 1 and 2 of this chapter for the same type of
41 transaction or business activity.

42 D. In addition to the rate prescribed by subsection C of this section,
43 if approved by the qualified electors voting at a statewide general election,
44 an additional rate increment of six-tenths of one per cent is imposed and
45 shall be collected through June 30, 2021. The taxpayer shall pay taxes

1 pursuant to this subsection at the same time and in the same manner as under
2 subsection C of this section. The department shall separately account for
3 the revenues collected with respect to the rate imposed pursuant to this
4 subsection, and the state treasurer shall pay all of those revenues in the
5 manner prescribed by section 42-5029, subsection E.

6 E. Every person storing, using or consuming in this state tangible
7 personal property purchased from a retailer or utility business is liable for
8 the tax. The person's liability is not extinguished until the tax has been
9 paid to this state.

10 F. A receipt from a retailer or utility business that maintains a
11 place of business in this state or from a retailer or utility business that
12 is authorized by the department to collect the tax, under such rules as it
13 may prescribe, and that is for the purposes of this article regarded as a
14 retailer or utility business maintaining a place of business in this state,
15 given to the purchaser as provided in section 42-5161 is sufficient to
16 relieve the purchaser from further liability for the tax to which the receipt
17 refers.

18 Sec. 6. Section 43-1072.01, Arizona Revised Statutes, is amended to
19 read:

20 43-1072.01. Credit for increased excise taxes paid

21 A. Subject to the conditions prescribed by this section and if
22 approved by the qualified electors voting at a statewide general election,
23 for tax years beginning from and after December 31, 2000 a credit is allowed
24 against the taxes imposed by this chapter for a taxable year for a taxpayer
25 who is not claimed as a dependent by any other taxpayer and whose federal
26 adjusted gross income is:

27 1. Twenty-five thousand dollars or less for a married couple or a
28 single person who is a head of a household.

29 2. Twelve thousand five hundred dollars or less for a single person or
30 a married person filing separately.

31 B. The credit is considered to be in mitigation of increased tax rates
32 pursuant to section 42-5010, subsection ~~G~~ H and section 42-5155,
33 subsection D.

34 C. The amount of the credit shall not exceed twenty-five dollars for
35 each person who is a resident of this state and for whom a personal or
36 dependent exemption is allowed with respect to the taxpayer pursuant to
37 section 43-1023, subsection B, paragraph 1 and section 43-1043, but not more
38 than one hundred dollars for all persons in the taxpayer's household, as
39 defined in section 43-1072.

40 D. If the allowable amount of the credit exceeds the income taxes
41 otherwise due on the claimant's income, the amount of the claim not used as
42 an offset against income taxes shall be paid in the same manner as a refund
43 granted under section 42-1118. Refunds made pursuant to this subsection are
44 subject to setoff under section 42-1122.

1 E. The department shall make available suitable forms with
2 instructions for claimants. Claimants who certify on the prescribed form
3 that they have no income tax liability for the taxable year and who do not
4 meet the filing requirements of section 43-301 are not required to file an
5 individual income tax return. The claim shall be in a form prescribed by the
6 department.
7 F. For taxable years beginning from and after December 31, 2002, a
8 person who is sentenced for at least sixty days of the taxable year to the
9 custody of the federal bureau of prisons, the state department of corrections
10 or a county jail is not eligible to claim a credit pursuant to this section.