

# SB3505



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB3505

Introduced 2/16/2018, by Sen. Jil Tracy

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-55  
35 ILCS 110/3-45

from Ch. 120, par. 439.3-55  
from Ch. 120, par. 439.33-45

Amends the Use Tax Act and the Service Use Tax Act. Provides that the multistate exemption includes the return of property of an out-of-State lessor or purchaser to this State for storage, repair, or refurbishment, so long as the property is not used by a lessee or purchaser in this State. Effective immediately.

LRB100 17009 HLH 32157 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Use Tax Act is amended by changing Section  
5 3-55 as follows:

6 (35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

7 Sec. 3-55. Multistate exemption. To prevent actual or  
8 likely multistate taxation, the tax imposed by this Act does  
9 not apply to the use of tangible personal property in this  
10 State under the following circumstances:

11 (a) The use, in this State, of tangible personal property  
12 acquired outside this State by a nonresident individual and  
13 brought into this State by the individual for his or her own  
14 use while temporarily within this State or while passing  
15 through this State.

16 (b) (Blank).

17 (c) The use, in this State, by owners, lessors, or shippers  
18 of tangible personal property that is utilized by interstate  
19 carriers for hire for use as rolling stock moving in interstate  
20 commerce as long as so used by the interstate carriers for  
21 hire, and equipment operated by a telecommunications provider,  
22 licensed as a common carrier by the Federal Communications  
23 Commission, which is permanently installed in or affixed to

1 aircraft moving in interstate commerce.

2 (d) The use, in this State, of tangible personal property  
3 that is acquired outside this State and caused to be brought  
4 into this State by a person who has already paid a tax in  
5 another State in respect to the sale, purchase, or use of that  
6 property, to the extent of the amount of the tax properly due  
7 and paid in the other State.

8 (e) The temporary storage, in this State, of tangible  
9 personal property that is acquired outside this State and that,  
10 after being brought into this State and stored here  
11 temporarily, is used solely outside this State or is physically  
12 attached to or incorporated into other tangible personal  
13 property that is used solely outside this State, or is altered  
14 by converting, fabricating, manufacturing, printing,  
15 processing, or shaping, and, as altered, is used solely outside  
16 this State.

17 (e-5) The return of property of an out-of-State lessor or  
18 purchaser to this State for storage, repair, or refurbishment,  
19 so long as the property is not used by a lessee or purchaser in  
20 this State. As used in this subsection (e-5), refurbishment  
21 includes the replacement of component parts as well as  
22 upgrades.

23 (f) The temporary storage in this State of building  
24 materials and fixtures that are acquired either in this State  
25 or outside this State by an Illinois registered combination  
26 retailer and construction contractor, and that the purchaser

1 thereafter uses outside this State by incorporating that  
2 property into real estate located outside this State.

3 (g) The use or purchase of tangible personal property by a  
4 common carrier by rail or motor that receives the physical  
5 possession of the property in Illinois, and that transports the  
6 property, or shares with another common carrier in the  
7 transportation of the property, out of Illinois on a standard  
8 uniform bill of lading showing the seller of the property as  
9 the shipper or consignor of the property to a destination  
10 outside Illinois, for use outside Illinois.

11 (h) Except as provided in subsection (h-1), the use, in  
12 this State, of a motor vehicle that was sold in this State to a  
13 nonresident, even though the motor vehicle is delivered to the  
14 nonresident in this State, if the motor vehicle is not to be  
15 titled in this State, and if a drive-away permit is issued to  
16 the motor vehicle as provided in Section 3-603 of the Illinois  
17 Vehicle Code or if the nonresident purchaser has vehicle  
18 registration plates to transfer to the motor vehicle upon  
19 returning to his or her home state. The issuance of the  
20 drive-away permit or having the out-of-state registration  
21 plates to be transferred shall be prima facie evidence that the  
22 motor vehicle will not be titled in this State.

23 (h-1) The exemption under subsection (h) does not apply if  
24 the state in which the motor vehicle will be titled does not  
25 allow a reciprocal exemption for the use in that state of a  
26 motor vehicle sold and delivered in that state to an Illinois

1 resident but titled in Illinois. The tax collected under this  
2 Act on the sale of a motor vehicle in this State to a resident  
3 of another state that does not allow a reciprocal exemption  
4 shall be imposed at a rate equal to the state's rate of tax on  
5 taxable property in the state in which the purchaser is a  
6 resident, except that the tax shall not exceed the tax that  
7 would otherwise be imposed under this Act. At the time of the  
8 sale, the purchaser shall execute a statement, signed under  
9 penalty of perjury, of his or her intent to title the vehicle  
10 in the state in which the purchaser is a resident within 30  
11 days after the sale and of the fact of the payment to the State  
12 of Illinois of tax in an amount equivalent to the state's rate  
13 of tax on taxable property in his or her state of residence and  
14 shall submit the statement to the appropriate tax collection  
15 agency in his or her state of residence. In addition, the  
16 retailer must retain a signed copy of the statement in his or  
17 her records. Nothing in this subsection shall be construed to  
18 require the removal of the vehicle from this state following  
19 the filing of an intent to title the vehicle in the purchaser's  
20 state of residence if the purchaser titles the vehicle in his  
21 or her state of residence within 30 days after the date of  
22 sale. The tax collected under this Act in accordance with this  
23 subsection (h-1) shall be proportionately distributed as if the  
24 tax were collected at the 6.25% general rate imposed under this  
25 Act.

26 (h-2) The following exemptions apply with respect to

1 certain aircraft:

2 (1) Beginning on July 1, 2007, no tax is imposed under  
3 this Act on the purchase of an aircraft, as defined in  
4 Section 3 of the Illinois Aeronautics Act, if all of the  
5 following conditions are met:

6 (A) the aircraft leaves this State within 15 days  
7 after the later of either the issuance of the final  
8 billing for the purchase of the aircraft or the  
9 authorized approval for return to service, completion  
10 of the maintenance record entry, and completion of the  
11 test flight and ground test for inspection, as required  
12 by 14 C.F.R. 91.407;

13 (B) the aircraft is not based or registered in this  
14 State after the purchase of the aircraft; and

15 (C) the purchaser provides the Department with a  
16 signed and dated certification, on a form prescribed by  
17 the Department, certifying that the requirements of  
18 this item (1) are met. The certificate must also  
19 include the name and address of the purchaser, the  
20 address of the location where the aircraft is to be  
21 titled or registered, the address of the primary  
22 physical location of the aircraft, and other  
23 information that the Department may reasonably  
24 require.

25 (2) Beginning on July 1, 2007, no tax is imposed under  
26 this Act on the use of an aircraft, as defined in Section 3

1 of the Illinois Aeronautics Act, that is temporarily  
2 located in this State for the purpose of a prepurchase  
3 evaluation if all of the following conditions are met:

4 (A) the aircraft is not based or registered in this  
5 State after the prepurchase evaluation; and

6 (B) the purchaser provides the Department with a  
7 signed and dated certification, on a form prescribed by  
8 the Department, certifying that the requirements of  
9 this item (2) are met. The certificate must also  
10 include the name and address of the purchaser, the  
11 address of the location where the aircraft is to be  
12 titled or registered, the address of the primary  
13 physical location of the aircraft, and other  
14 information that the Department may reasonably  
15 require.

16 (3) Beginning on July 1, 2007, no tax is imposed under  
17 this Act on the use of an aircraft, as defined in Section 3  
18 of the Illinois Aeronautics Act, that is temporarily  
19 located in this State for the purpose of a post-sale  
20 customization if all of the following conditions are met:

21 (A) the aircraft leaves this State within 15 days  
22 after the authorized approval for return to service,  
23 completion of the maintenance record entry, and  
24 completion of the test flight and ground test for  
25 inspection, as required by 14 C.F.R. 91.407;

26 (B) the aircraft is not based or registered in this

1 State either before or after the post-sale  
2 customization; and

3 (C) the purchaser provides the Department with a  
4 signed and dated certification, on a form prescribed by  
5 the Department, certifying that the requirements of  
6 this item (3) are met. The certificate must also  
7 include the name and address of the purchaser, the  
8 address of the location where the aircraft is to be  
9 titled or registered, the address of the primary  
10 physical location of the aircraft, and other  
11 information that the Department may reasonably  
12 require.

13 If tax becomes due under this subsection (h-2) because of  
14 the purchaser's use of the aircraft in this State, the  
15 purchaser shall file a return with the Department and pay the  
16 tax on the fair market value of the aircraft. This return and  
17 payment of the tax must be made no later than 30 days after the  
18 aircraft is used in a taxable manner in this State. The tax is  
19 based on the fair market value of the aircraft on the date that  
20 it is first used in a taxable manner in this State.

21 For purposes of this subsection (h-2):

22 "Based in this State" means hangared, stored, or otherwise  
23 used, excluding post-sale customizations as defined in this  
24 Section, for 10 or more days in each 12-month period  
25 immediately following the date of the sale of the aircraft.

26 "Post-sale customization" means any improvement,



1 maintenance, or repair that is performed on an aircraft  
2 following a transfer of ownership of the aircraft.

3 "Prepurchase evaluation" means an examination of an  
4 aircraft to provide a potential purchaser with information  
5 relevant to the potential purchase.

6 "Registered in this State" means an aircraft registered  
7 with the Department of Transportation, Aeronautics Division,  
8 or titled or registered with the Federal Aviation  
9 Administration to an address located in this State.

10 This subsection (h-2) is exempt from the provisions of  
11 Section 3-90.

12 (i) Beginning July 1, 1999, the use, in this State, of fuel  
13 acquired outside this State and brought into this State in the  
14 fuel supply tanks of locomotives engaged in freight hauling and  
15 passenger service for interstate commerce. This subsection is  
16 exempt from the provisions of Section 3-90.

17 (j) Beginning on January 1, 2002 and through June 30, 2016,  
18 the use of tangible personal property purchased from an  
19 Illinois retailer by a taxpayer engaged in centralized  
20 purchasing activities in Illinois who will, upon receipt of the  
21 property in Illinois, temporarily store the property in  
22 Illinois (i) for the purpose of subsequently transporting it  
23 outside this State for use or consumption thereafter solely  
24 outside this State or (ii) for the purpose of being processed,  
25 fabricated, or manufactured into, attached to, or incorporated  
26 into other tangible personal property to be transported outside

1 this State and thereafter used or consumed solely outside this  
2 State. The Director of Revenue shall, pursuant to rules adopted  
3 in accordance with the Illinois Administrative Procedure Act,  
4 issue a permit to any taxpayer in good standing with the  
5 Department who is eligible for the exemption under this  
6 subsection (j). The permit issued under this subsection (j)  
7 shall authorize the holder, to the extent and in the manner  
8 specified in the rules adopted under this Act, to purchase  
9 tangible personal property from a retailer exempt from the  
10 taxes imposed by this Act. Taxpayers shall maintain all  
11 necessary books and records to substantiate the use and  
12 consumption of all such tangible personal property outside of  
13 the State of Illinois.

14 (Source: P.A. 100-321, eff. 8-24-17.)

15 Section 10. The Service Use Tax Act is amended by changing  
16 Section 3-45 as follows:

17 (35 ILCS 110/3-45) (from Ch. 120, par. 439.33-45)

18 Sec. 3-45. Multistate exemption. To prevent actual or  
19 likely multistate taxation, the tax imposed by this Act does  
20 not apply to the use of tangible personal property in this  
21 State under the following circumstances:

22 (a) The use, in this State, of property acquired outside  
23 this State by a nonresident individual and brought into this  
24 State by the individual for his or her own use while

1 temporarily within this State or while passing through this  
2 State.

3 (b) The use, in this State, of property that is acquired  
4 outside this State and that is moved into this State for use as  
5 rolling stock moving in interstate commerce.

6 (c) The use, in this State, of property that is acquired  
7 outside this State and caused to be brought into this State by  
8 a person who has already paid a tax in another state in respect  
9 to the sale, purchase, or use of that property, to the extent  
10 of the amount of the tax properly due and paid in the other  
11 state.

12 (d) The temporary storage, in this State, of property that  
13 is acquired outside this State and that after being brought  
14 into this State and stored here temporarily, is used solely  
15 outside this State or is physically attached to or incorporated  
16 into other property that is used solely outside this State, or  
17 is altered by converting, fabricating, manufacturing,  
18 printing, processing, or shaping, and, as altered, is used  
19 solely outside this State.

20 (d-5) The return of property of an out-of-State lessor or  
21 purchaser to this State for storage, repair, or refurbishment,  
22 so long as the property is not used by a lessee or purchaser in  
23 this State. As used in this subsection (d-5), refurbishment  
24 includes the replacement of component parts as well as  
25 upgrades.

26 (e) Beginning July 1, 1999, the use, in this State, of fuel

1 acquired outside this State and brought into this State in the  
2 fuel supply tanks of locomotives engaged in freight hauling and  
3 passenger service for interstate commerce. This subsection is  
4 exempt from the provisions of Section 3-75.

5 (f) Beginning on January 1, 2002 and through June 30, 2016,  
6 the use of tangible personal property purchased from an  
7 Illinois retailer by a taxpayer engaged in centralized  
8 purchasing activities in Illinois who will, upon receipt of the  
9 property in Illinois, temporarily store the property in  
10 Illinois (i) for the purpose of subsequently transporting it  
11 outside this State for use or consumption thereafter solely  
12 outside this State or (ii) for the purpose of being processed,  
13 fabricated, or manufactured into, attached to, or incorporated  
14 into other tangible personal property to be transported outside  
15 this State and thereafter used or consumed solely outside this  
16 State. The Director of Revenue shall, pursuant to rules adopted  
17 in accordance with the Illinois Administrative Procedure Act,  
18 issue a permit to any taxpayer in good standing with the  
19 Department who is eligible for the exemption under this  
20 subsection (f). The permit issued under this subsection (f)  
21 shall authorize the holder, to the extent and in the manner  
22 specified in the rules adopted under this Act, to purchase  
23 tangible personal property from a retailer exempt from the  
24 taxes imposed by this Act. Taxpayers shall maintain all  
25 necessary books and records to substantiate the use and  
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

2 (Source: P.A. 97-73, eff. 6-30-11.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.