

1 AN ACT concerning taxes.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 215 as follows:

6 (35 ILCS 5/215)

7 Sec. 215. Transportation Employee Credit.

8 (a) For each taxable year beginning on or after January
9 1, 2004 and on or before December 31, 2006, a qualified
10 employer shall be allowed a credit against the tax imposed by
11 subsections (a) and (b) of Section 201 of this Act in the
12 amount of \$50 for each eligible employee employed by the
13 taxpayer as of the last day of the taxable year.

14 (b) For purposes of this Section, "qualified employer"
15 means:

16 (1) any employer who pays a commercial distribution
17 fee under Section 3-815.1 of the Illinois Vehicle Code
18 during the taxable year; or

19 (2) any employer who, as of the end of the taxable
20 year, has one or more employees whose compensation is
21 subject to tax only by the employee's state of residence
22 pursuant to 49 U.S.C 14503(a)(1).

23 (c) For purposes of this Section, "employee" includes an
24 individual who is treated as an employee of the taxpayer
25 under Section 401(c) of the Internal Revenue Code and whose
26 actual assigned duties are such that, if the individual were
27 a common-law employee performing such duties in 2 or more
28 states, the individual's compensation would be subject to tax
29 only by the individual's state of residence pursuant to 49
30 U.S.C. 14503(a)(1).

31 (d) An employee is an "eligible employee" only if all of

1 the following criteria are met:

2 (1) The employee is an operator of a motor vehicle;

3 (2) The employee's compensation, pursuant to 49
4 U.S.C. 14503(a)(1), is subject to tax only by the
5 employee's state of residence, or would be subject to tax
6 only by the employee's state of residence if the
7 employee's actual duties were performed in 2 or more
8 states;

9 (3) As of the end of the taxable year for which the
10 credit is claimed, the employee is a resident of this
11 State for purposes of this Act and 49 U.S.C. 14503(a)(1);
12 and

13 (4) The employee is a full-time employee working 30
14 or more hours per week for 180 consecutive days; provided
15 that such 180-day period may be completed after the end
16 of the taxable year for which the credit under this
17 Section is claimed.

18 (e) For partners, shareholders of subchapter S
19 corporations, and owners of limited liability companies, if
20 the limited liability company is treated as a partnership for
21 purposes of federal and State income taxation, there shall be
22 allowed a credit under this Section to be determined in
23 accordance with the determination of income and distributive
24 share of income under Sections 702 and 704 and subchapter S
25 of the Internal Revenue Code.

26 (f) Any credit allowed under this Section which is
27 unused in the year the credit is earned may be carried
28 forward to each of the 5 taxable years following the year for
29 which the credit is first computed until it is used. This
30 credit shall be applied first to the earliest year for which
31 there is a liability. If there is a credit under this Section
32 from more than one tax year that is available to offset a
33 liability, the earliest credit arising under this Section
34 shall be applied first.

1 (g) ~~(Blank) This Section is exempt from the provisions~~
2 ~~of Section 250 of this Act.~~

3 (h) The Department of Revenue shall promulgate such
4 rules and regulations as may be deemed necessary to carry out
5 the purposes of this Section.

6 (Source: P.A. 93-23, eff. 6-20-03.)

7 Section 10. The Use Tax Act is amended by changing
8 Sections 3-5 and 3-61 as follows:

9 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

10 Sec. 3-5. Exemptions. Use of the following tangible
11 personal property is exempt from the tax imposed by this Act:

12 (1) Personal property purchased from a corporation,
13 society, association, foundation, institution, or
14 organization, other than a limited liability company, that is
15 organized and operated as a not-for-profit service enterprise
16 for the benefit of persons 65 years of age or older if the
17 personal property was not purchased by the enterprise for the
18 purpose of resale by the enterprise.

19 (2) Personal property purchased by a not-for-profit
20 Illinois county fair association for use in conducting,
21 operating, or promoting the county fair.

22 (3) Personal property purchased by a not-for-profit arts
23 or cultural organization that establishes, by proof required
24 by the Department by rule, that it has received an exemption
25 under Section 501(c)(3) of the Internal Revenue Code and that
26 is organized and operated primarily for the presentation or
27 support of arts or cultural programming, activities, or
28 services. These organizations include, but are not limited
29 to, music and dramatic arts organizations such as symphony
30 orchestras and theatrical groups, arts and cultural service
31 organizations, local arts councils, visual arts
32 organizations, and media arts organizations. On and after the

1 effective date of this amendatory Act of the 92nd General
2 Assembly, however, an entity otherwise eligible for this
3 exemption shall not make tax-free purchases unless it has an
4 active identification number issued by the Department.

5 (4) Personal property purchased by a governmental body,
6 by a corporation, society, association, foundation, or
7 institution organized and operated exclusively for
8 charitable, religious, or educational purposes, or by a
9 not-for-profit corporation, society, association, foundation,
10 institution, or organization that has no compensated officers
11 or employees and that is organized and operated primarily for
12 the recreation of persons 55 years of age or older. A limited
13 liability company may qualify for the exemption under this
14 paragraph only if the limited liability company is organized
15 and operated exclusively for educational purposes. On and
16 after July 1, 1987, however, no entity otherwise eligible for
17 this exemption shall make tax-free purchases unless it has an
18 active exemption identification number issued by the
19 Department.

20 (5) Until July 1, 2003, a passenger car that is a
21 replacement vehicle to the extent that the purchase price of
22 the car is subject to the Replacement Vehicle Tax.

23 (6) Until July 1, 2003, graphic arts machinery and
24 equipment, including repair and replacement parts, both new
25 and used, and including that manufactured on special order,
26 certified by the purchaser to be used primarily for graphic
27 arts production, and including machinery and equipment
28 purchased for lease. Equipment includes chemicals or
29 chemicals acting as catalysts but only if the chemicals or
30 chemicals acting as catalysts effect a direct and immediate
31 change upon a graphic arts product.

32 (7) Farm chemicals.

33 (8) Legal tender, currency, medallions, or gold or
34 silver coinage issued by the State of Illinois, the

1 government of the United States of America, or the government
2 of any foreign country, and bullion.

3 (9) Personal property purchased from a teacher-sponsored
4 student organization affiliated with an elementary or
5 secondary school located in Illinois.

6 (10) A motor vehicle of the first division, a motor
7 vehicle of the second division that is a self-contained motor
8 vehicle designed or permanently converted to provide living
9 quarters for recreational, camping, or travel use, with
10 direct walk through to the living quarters from the driver's
11 seat, or a motor vehicle of the second division that is of
12 the van configuration designed for the transportation of not
13 less than 7 nor more than 16 passengers, as defined in
14 Section 1-146 of the Illinois Vehicle Code, that is used for
15 automobile renting, as defined in the Automobile Renting
16 Occupation and Use Tax Act.

17 (11) Farm machinery and equipment, both new and used,
18 including that manufactured on special order, certified by
19 the purchaser to be used primarily for production agriculture
20 or State or federal agricultural programs, including
21 individual replacement parts for the machinery and equipment,
22 including machinery and equipment purchased for lease, and
23 including implements of husbandry defined in Section 1-130 of
24 the Illinois Vehicle Code, farm machinery and agricultural
25 chemical and fertilizer spreaders, and nurse wagons required
26 to be registered under Section 3-809 of the Illinois Vehicle
27 Code, but excluding other motor vehicles required to be
28 registered under the Illinois Vehicle Code. Horticultural
29 polyhouses or hoop houses used for propagating, growing, or
30 overwintering plants shall be considered farm machinery and
31 equipment under this item (11). Agricultural chemical tender
32 tanks and dry boxes shall include units sold separately from
33 a motor vehicle required to be licensed and units sold
34 mounted on a motor vehicle required to be licensed if the

1 selling price of the tender is separately stated.

2 Farm machinery and equipment shall include precision
3 farming equipment that is installed or purchased to be
4 installed on farm machinery and equipment including, but not
5 limited to, tractors, harvesters, sprayers, planters,
6 seeders, or spreaders. Precision farming equipment includes,
7 but is not limited to, soil testing sensors, computers,
8 monitors, software, global positioning and mapping systems,
9 and other such equipment.

10 Farm machinery and equipment also includes computers,
11 sensors, software, and related equipment used primarily in
12 the computer-assisted operation of production agriculture
13 facilities, equipment, and activities such as, but not
14 limited to, the collection, monitoring, and correlation of
15 animal and crop data for the purpose of formulating animal
16 diets and agricultural chemicals. This item (11) is exempt
17 from the provisions of Section 3-90.

18 (12) Fuel and petroleum products sold to or used by an
19 air common carrier, certified by the carrier to be used for
20 consumption, shipment, or storage in the conduct of its
21 business as an air common carrier, for a flight destined for
22 or returning from a location or locations outside the United
23 States without regard to previous or subsequent domestic
24 stopovers.

25 (13) Proceeds of mandatory service charges separately
26 stated on customers' bills for the purchase and consumption
27 of food and beverages purchased at retail from a retailer, to
28 the extent that the proceeds of the service charge are in
29 fact turned over as tips or as a substitute for tips to the
30 employees who participate directly in preparing, serving,
31 hosting or cleaning up the food or beverage function with
32 respect to which the service charge is imposed.

33 (14) Until July 1, 2003, oil field exploration,
34 drilling, and production equipment, including (i) rigs and

1 parts of rigs, rotary rigs, cable tool rigs, and workover
2 rigs, (ii) pipe and tubular goods, including casing and drill
3 strings, (iii) pumps and pump-jack units, (iv) storage tanks
4 and flow lines, (v) any individual replacement part for oil
5 field exploration, drilling, and production equipment, and
6 (vi) machinery and equipment purchased for lease; but
7 excluding motor vehicles required to be registered under the
8 Illinois Vehicle Code.

9 (15) Photoprocessing machinery and equipment, including
10 repair and replacement parts, both new and used, including
11 that manufactured on special order, certified by the
12 purchaser to be used primarily for photoprocessing, and
13 including photoprocessing machinery and equipment purchased
14 for lease.

15 (16) Until July 1, 2003, coal exploration, mining,
16 offhighway hauling, processing, maintenance, and reclamation
17 equipment, including replacement parts and equipment, and
18 including equipment purchased for lease, but excluding motor
19 vehicles required to be registered under the Illinois Vehicle
20 Code.

21 (17) Until July 1, 2003, distillation machinery and
22 equipment, sold as a unit or kit, assembled or installed by
23 the retailer, certified by the user to be used only for the
24 production of ethyl alcohol that will be used for consumption
25 as motor fuel or as a component of motor fuel for the
26 personal use of the user, and not subject to sale or resale.

27 (18) Manufacturing and assembling machinery and
28 equipment used primarily in the process of manufacturing or
29 assembling tangible personal property for wholesale or retail
30 sale or lease, whether that sale or lease is made directly by
31 the manufacturer or by some other person, whether the
32 materials used in the process are owned by the manufacturer
33 or some other person, or whether that sale or lease is made
34 apart from or as an incident to the seller's engaging in the

1 service occupation of producing machines, tools, dies, jigs,
2 patterns, gauges, or other similar items of no commercial
3 value on special order for a particular purchaser.

4 (19) Personal property delivered to a purchaser or
5 purchaser's donee inside Illinois when the purchase order for
6 that personal property was received by a florist located
7 outside Illinois who has a florist located inside Illinois
8 deliver the personal property.

9 (20) Semen used for artificial insemination of livestock
10 for direct agricultural production.

11 (21) Horses, or interests in horses, registered with and
12 meeting the requirements of any of the Arabian Horse Club
13 Registry of America, Appaloosa Horse Club, American Quarter
14 Horse Association, United States Trotting Association, or
15 Jockey Club, as appropriate, used for purposes of breeding or
16 racing for prizes.

17 (22) Computers and communications equipment utilized for
18 any hospital purpose and equipment used in the diagnosis,
19 analysis, or treatment of hospital patients purchased by a
20 lessor who leases the equipment, under a lease of one year or
21 longer executed or in effect at the time the lessor would
22 otherwise be subject to the tax imposed by this Act, to a
23 hospital that has been issued an active tax exemption
24 identification number by the Department under Section 1g of
25 the Retailers' Occupation Tax Act. If the equipment is
26 leased in a manner that does not qualify for this exemption
27 or is used in any other non-exempt manner, the lessor shall
28 be liable for the tax imposed under this Act or the Service
29 Use Tax Act, as the case may be, based on the fair market
30 value of the property at the time the non-qualifying use
31 occurs. No lessor shall collect or attempt to collect an
32 amount (however designated) that purports to reimburse that
33 lessor for the tax imposed by this Act or the Service Use Tax
34 Act, as the case may be, if the tax has not been paid by the

1 lessor. If a lessor improperly collects any such amount from
2 the lessee, the lessee shall have a legal right to claim a
3 refund of that amount from the lessor. If, however, that
4 amount is not refunded to the lessee for any reason, the
5 lessor is liable to pay that amount to the Department.

6 (23) Personal property purchased by a lessor who leases
7 the property, under a lease of one year or longer executed
8 or in effect at the time the lessor would otherwise be
9 subject to the tax imposed by this Act, to a governmental
10 body that has been issued an active sales tax exemption
11 identification number by the Department under Section 1g of
12 the Retailers' Occupation Tax Act. If the property is leased
13 in a manner that does not qualify for this exemption or used
14 in any other non-exempt manner, the lessor shall be liable
15 for the tax imposed under this Act or the Service Use Tax
16 Act, as the case may be, based on the fair market value of
17 the property at the time the non-qualifying use occurs. No
18 lessor shall collect or attempt to collect an amount (however
19 designated) that purports to reimburse that lessor for the
20 tax imposed by this Act or the Service Use Tax Act, as the
21 case may be, if the tax has not been paid by the lessor. If
22 a lessor improperly collects any such amount from the lessee,
23 the lessee shall have a legal right to claim a refund of that
24 amount from the lessor. If, however, that amount is not
25 refunded to the lessee for any reason, the lessor is liable
26 to pay that amount to the Department.

27 (24) Beginning with taxable years ending on or after
28 December 31, 1995 and ending with taxable years ending on or
29 before December 31, 2004, personal property that is donated
30 for disaster relief to be used in a State or federally
31 declared disaster area in Illinois or bordering Illinois by a
32 manufacturer or retailer that is registered in this State to
33 a corporation, society, association, foundation, or
34 institution that has been issued a sales tax exemption

1 identification number by the Department that assists victims
2 of the disaster who reside within the declared disaster area.

3 (25) Beginning with taxable years ending on or after
4 December 31, 1995 and ending with taxable years ending on or
5 before December 31, 2004, personal property that is used in
6 the performance of infrastructure repairs in this State,
7 including but not limited to municipal roads and streets,
8 access roads, bridges, sidewalks, waste disposal systems,
9 water and sewer line extensions, water distribution and
10 purification facilities, storm water drainage and retention
11 facilities, and sewage treatment facilities, resulting from a
12 State or federally declared disaster in Illinois or bordering
13 Illinois when such repairs are initiated on facilities
14 located in the declared disaster area within 6 months after
15 the disaster.

16 (26) Beginning July 1, 1999, game or game birds
17 purchased at a "game breeding and hunting preserve area" or
18 an "exotic game hunting area" as those terms are used in the
19 Wildlife Code or at a hunting enclosure approved through
20 rules adopted by the Department of Natural Resources. This
21 paragraph is exempt from the provisions of Section 3-90.

22 (27) A motor vehicle, as that term is defined in Section
23 1-146 of the Illinois Vehicle Code, that is donated to a
24 corporation, limited liability company, society, association,
25 foundation, or institution that is determined by the
26 Department to be organized and operated exclusively for
27 educational purposes. For purposes of this exemption, "a
28 corporation, limited liability company, society, association,
29 foundation, or institution organized and operated exclusively
30 for educational purposes" means all tax-supported public
31 schools, private schools that offer systematic instruction in
32 useful branches of learning by methods common to public
33 schools and that compare favorably in their scope and
34 intensity with the course of study presented in tax-supported

1 schools, and vocational or technical schools or institutes
2 organized and operated exclusively to provide a course of
3 study of not less than 6 weeks duration and designed to
4 prepare individuals to follow a trade or to pursue a manual,
5 technical, mechanical, industrial, business, or commercial
6 occupation.

7 (28) Beginning January 1, 2000, personal property,
8 including food, purchased through fundraising events for the
9 benefit of a public or private elementary or secondary
10 school, a group of those schools, or one or more school
11 districts if the events are sponsored by an entity recognized
12 by the school district that consists primarily of volunteers
13 and includes parents and teachers of the school children.
14 This paragraph does not apply to fundraising events (i) for
15 the benefit of private home instruction or (ii) for which the
16 fundraising entity purchases the personal property sold at
17 the events from another individual or entity that sold the
18 property for the purpose of resale by the fundraising entity
19 and that profits from the sale to the fundraising entity.
20 This paragraph is exempt from the provisions of Section 3-90.

21 (29) Beginning January 1, 2000 and through December 31,
22 2001, new or used automatic vending machines that prepare and
23 serve hot food and beverages, including coffee, soup, and
24 other items, and replacement parts for these machines.
25 Beginning January 1, 2002 and through June 30, 2003, machines
26 and parts for machines used in commercial, coin-operated
27 amusement and vending business if a use or occupation tax is
28 paid on the gross receipts derived from the use of the
29 commercial, coin-operated amusement and vending machines.
30 This paragraph is exempt from the provisions of Section 3-90.

31 (30) Food for human consumption that is to be consumed
32 off the premises where it is sold (other than alcoholic
33 beverages, soft drinks, and food that has been prepared for
34 immediate consumption) and prescription and nonprescription

1 medicines, drugs, medical appliances, and insulin, urine
2 testing materials, syringes, and needles used by diabetics,
3 for human use, when purchased for use by a person receiving
4 medical assistance under Article 5 of the Illinois Public Aid
5 Code who resides in a licensed long-term care facility, as
6 defined in the Nursing Home Care Act.

7 (31) Beginning on the effective date of this amendatory
8 Act of the 92nd General Assembly, computers and
9 communications equipment utilized for any hospital purpose
10 and equipment used in the diagnosis, analysis, or treatment
11 of hospital patients purchased by a lessor who leases the
12 equipment, under a lease of one year or longer executed or in
13 effect at the time the lessor would otherwise be subject to
14 the tax imposed by this Act, to a hospital that has been
15 issued an active tax exemption identification number by the
16 Department under Section 1g of the Retailers' Occupation Tax
17 Act. If the equipment is leased in a manner that does not
18 qualify for this exemption or is used in any other nonexempt
19 manner, the lessor shall be liable for the tax imposed under
20 this Act or the Service Use Tax Act, as the case may be,
21 based on the fair market value of the property at the time
22 the nonqualifying use occurs. No lessor shall collect or
23 attempt to collect an amount (however designated) that
24 purports to reimburse that lessor for the tax imposed by this
25 Act or the Service Use Tax Act, as the case may be, if the
26 tax has not been paid by the lessor. If a lessor improperly
27 collects any such amount from the lessee, the lessee shall
28 have a legal right to claim a refund of that amount from the
29 lessor. If, however, that amount is not refunded to the
30 lessee for any reason, the lessor is liable to pay that
31 amount to the Department. This paragraph is exempt from the
32 provisions of Section 3-90.

33 (32) Beginning on the effective date of this amendatory
34 Act of the 92nd General Assembly, personal property purchased

1 by a lessor who leases the property, under a lease of one
2 year or longer executed or in effect at the time the lessor
3 would otherwise be subject to the tax imposed by this Act, to
4 a governmental body that has been issued an active sales tax
5 exemption identification number by the Department under
6 Section 1g of the Retailers' Occupation Tax Act. If the
7 property is leased in a manner that does not qualify for this
8 exemption or used in any other nonexempt manner, the lessor
9 shall be liable for the tax imposed under this Act or the
10 Service Use Tax Act, as the case may be, based on the fair
11 market value of the property at the time the nonqualifying
12 use occurs. No lessor shall collect or attempt to collect an
13 amount (however designated) that purports to reimburse that
14 lessor for the tax imposed by this Act or the Service Use Tax
15 Act, as the case may be, if the tax has not been paid by the
16 lessor. If a lessor improperly collects any such amount from
17 the lessee, the lessee shall have a legal right to claim a
18 refund of that amount from the lessor. If, however, that
19 amount is not refunded to the lessee for any reason, the
20 lessor is liable to pay that amount to the Department. This
21 paragraph is exempt from the provisions of Section 3-90.

22 (33) On and after July 1, 2003 and through June 30,
23 2006, the use in this State of motor vehicles of the second
24 division with a gross vehicle weight in excess of 8,000
25 pounds and that are subject to the commercial distribution
26 fee imposed under Section 3-815.1 of the Illinois Vehicle
27 Code. This exemption applies to repair and replacement parts
28 added after the initial purchase of such a motor vehicle if
29 that motor vehicle is used in a manner that would qualify for
30 the rolling stock exemption otherwise provided for in this
31 Act.

32 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01;
33 92-337, eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff.
34 7-11-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised

1 9-11-03.)

2 (35 ILCS 105/3-61)

3 Sec. 3-61. Motor vehicles; use as rolling stock
4 definition. Through June 30, 2003 and beginning again on
5 July 1, 2006, "use as rolling stock moving in interstate
6 commerce" in subsections (b) and (c) of Section 3-55 means
7 for motor vehicles, as defined in Section 1-146 of the
8 Illinois Vehicle Code, and trailers, as defined in Section
9 1-209 of the Illinois Vehicle Code, when on 15 or more
10 occasions in a 12-month period the motor vehicle and trailer
11 has carried persons or property for hire in interstate
12 commerce, even just between points in Illinois, if the motor
13 vehicle and trailer transports persons whose journeys or
14 property whose shipments originate or terminate outside
15 Illinois. This definition applies to all property purchased
16 for the purpose of being attached to those motor vehicles or
17 trailers as a part thereof. On and after July 1, 2003 and
18 through June 30, 2006, "use as rolling stock moving in
19 interstate commerce" in paragraphs (b) and (c) of Section
20 3-55 occurs for motor vehicles, as defined in Section 1-146
21 of the Illinois Vehicle Code, when during a 12-month period
22 the rolling stock has carried persons or property for hire in
23 interstate commerce for 51% of its total trips and transports
24 persons whose journeys or property whose shipments originate
25 or terminate outside Illinois. Trips that are only between
26 points in Illinois shall not be counted as interstate trips
27 when calculating whether the tangible personal property
28 qualifies for the exemption but such trips shall be included
29 in total trips taken.

30 (Source: P.A. 93-23, eff. 6-20-03.)

31 Section 15. The Service Use Tax Act is amended by
32 changing Sections 2 and 3-5 as follows:

1 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

2 Sec. 2. "Use" means the exercise by any person of any
3 right or power over tangible personal property incident to
4 the ownership of that property, but does not include the sale
5 or use for demonstration by him of that property in any form
6 as tangible personal property in the regular course of
7 business. "Use" does not mean the interim use of tangible
8 personal property nor the physical incorporation of tangible
9 personal property, as an ingredient or constituent, into
10 other tangible personal property, (a) which is sold in the
11 regular course of business or (b) which the person
12 incorporating such ingredient or constituent therein has
13 undertaken at the time of such purchase to cause to be
14 transported in interstate commerce to destinations outside
15 the State of Illinois.

16 "Purchased from a serviceman" means the acquisition of
17 the ownership of, or title to, tangible personal property
18 through a sale of service.

19 "Purchaser" means any person who, through a sale of
20 service, acquires the ownership of, or title to, any tangible
21 personal property.

22 "Cost price" means the consideration paid by the
23 serviceman for a purchase valued in money, whether paid in
24 money or otherwise, including cash, credits and services, and
25 shall be determined without any deduction on account of the
26 supplier's cost of the property sold or on account of any
27 other expense incurred by the supplier. When a serviceman
28 contracts out part or all of the services required in his
29 sale of service, it shall be presumed that the cost price to
30 the serviceman of the property transferred to him or her by
31 his or her subcontractor is equal to 50% of the
32 subcontractor's charges to the serviceman in the absence of
33 proof of the consideration paid by the subcontractor for the
34 purchase of such property.

1 "Selling price" means the consideration for a sale valued
2 in money whether received in money or otherwise, including
3 cash, credits and service, and shall be determined without
4 any deduction on account of the serviceman's cost of the
5 property sold, the cost of materials used, labor or service
6 cost or any other expense whatsoever, but does not include
7 interest or finance charges which appear as separate items on
8 the bill of sale or sales contract nor charges that are added
9 to prices by sellers on account of the seller's duty to
10 collect, from the purchaser, the tax that is imposed by this
11 Act.

12 "Department" means the Department of Revenue.

13 "Person" means any natural individual, firm, partnership,
14 association, joint stock company, joint venture, public or
15 private corporation, limited liability company, and any
16 receiver, executor, trustee, guardian or other representative
17 appointed by order of any court.

18 "Sale of service" means any transaction except:

19 (1) a retail sale of tangible personal property
20 taxable under the Retailers' Occupation Tax Act or under
21 the Use Tax Act.

22 (2) a sale of tangible personal property for the
23 purpose of resale made in compliance with Section 2c of
24 the Retailers' Occupation Tax Act.

25 (3) except as hereinafter provided, a sale or
26 transfer of tangible personal property as an incident to
27 the rendering of service for or by any governmental body,
28 or for or by any corporation, society, association,
29 foundation or institution organized and operated
30 exclusively for charitable, religious or educational
31 purposes or any not-for-profit corporation, society,
32 association, foundation, institution or organization
33 which has no compensated officers or employees and which
34 is organized and operated primarily for the recreation of

1 persons 55 years of age or older. A limited liability
2 company may qualify for the exemption under this
3 paragraph only if the limited liability company is
4 organized and operated exclusively for educational
5 purposes.

6 (4) a sale or transfer of tangible personal
7 property as an incident to the rendering of service for
8 interstate carriers for hire for use as rolling stock
9 moving in interstate commerce or by lessors under a lease
10 of one year or longer, executed or in effect at the time
11 of purchase of personal property, to interstate carriers
12 for hire for use as rolling stock moving in interstate
13 commerce so long as so used by such interstate carriers
14 for hire, and equipment operated by a telecommunications
15 provider, licensed as a common carrier by the Federal
16 Communications Commission, which is permanently installed
17 in or affixed to aircraft moving in interstate commerce.

18 (4a) a sale or transfer of tangible personal
19 property as an incident to the rendering of service for
20 owners, lessors, or shippers of tangible personal
21 property which is utilized by interstate carriers for
22 hire for use as rolling stock moving in interstate
23 commerce so long as so used by interstate carriers for
24 hire, and equipment operated by a telecommunications
25 provider, licensed as a common carrier by the Federal
26 Communications Commission, which is permanently installed
27 in or affixed to aircraft moving in interstate commerce.

28 (4a-5) on and after July 1, 2003 and through June
29 30, 2006, a sale or transfer of a motor vehicle of the
30 second division with a gross vehicle weight in excess of
31 8,000 pounds as an incident to the rendering of service
32 if that motor vehicle is subject to the commercial
33 distribution fee imposed under Section 3-815.1 of the
34 Illinois Vehicle Code. This exemption applies to

1 repair and replacement parts added after the initial
2 purchase of such a motor vehicle if that motor vehicle is
3 used in a manner that would qualify for the rolling
4 stock exemption otherwise provided for in this Act.

5 (5) a sale or transfer of machinery and equipment
6 used primarily in the process of the manufacturing or
7 assembling, either in an existing, an expanded or a new
8 manufacturing facility, of tangible personal property for
9 wholesale or retail sale or lease, whether such sale or
10 lease is made directly by the manufacturer or by some
11 other person, whether the materials used in the process
12 are owned by the manufacturer or some other person, or
13 whether such sale or lease is made apart from or as an
14 incident to the seller's engaging in a service occupation
15 and the applicable tax is a Service Use Tax or Service
16 Occupation Tax, rather than Use Tax or Retailers'
17 Occupation Tax.

18 (5a) the repairing, reconditioning or remodeling,
19 for a common carrier by rail, of tangible personal
20 property which belongs to such carrier for hire, and as
21 to which such carrier receives the physical possession of
22 the repaired, reconditioned or remodeled item of tangible
23 personal property in Illinois, and which such carrier
24 transports, or shares with another common carrier in the
25 transportation of such property, out of Illinois on a
26 standard uniform bill of lading showing the person who
27 repaired, reconditioned or remodeled the property to a
28 destination outside Illinois, for use outside Illinois.

29 (5b) a sale or transfer of tangible personal
30 property which is produced by the seller thereof on
31 special order in such a way as to have made the
32 applicable tax the Service Occupation Tax or the Service
33 Use Tax, rather than the Retailers' Occupation Tax or the
34 Use Tax, for an interstate carrier by rail which receives

1 the physical possession of such property in Illinois, and
2 which transports such property, or shares with another
3 common carrier in the transportation of such property,
4 out of Illinois on a standard uniform bill of lading
5 showing the seller of the property as the shipper or
6 consignor of such property to a destination outside
7 Illinois, for use outside Illinois.

8 (6) until July 1, 2003, a sale or transfer of
9 distillation machinery and equipment, sold as a unit or
10 kit and assembled or installed by the retailer, which
11 machinery and equipment is certified by the user to be
12 used only for the production of ethyl alcohol that will
13 be used for consumption as motor fuel or as a component
14 of motor fuel for the personal use of such user and not
15 subject to sale or resale.

16 (7) at the election of any serviceman not required
17 to be otherwise registered as a retailer under Section 2a
18 of the Retailers' Occupation Tax Act, made for each
19 fiscal year sales of service in which the aggregate
20 annual cost price of tangible personal property
21 transferred as an incident to the sales of service is
22 less than 35%, or 75% in the case of servicemen
23 transferring prescription drugs or servicemen engaged in
24 graphic arts production, of the aggregate annual total
25 gross receipts from all sales of service. The purchase of
26 such tangible personal property by the serviceman shall
27 be subject to tax under the Retailers' Occupation Tax Act
28 and the Use Tax Act. However, if a primary serviceman who
29 has made the election described in this paragraph
30 subcontracts service work to a secondary serviceman who
31 has also made the election described in this paragraph,
32 the primary serviceman does not incur a Use Tax liability
33 if the secondary serviceman (i) has paid or will pay Use
34 Tax on his or her cost price of any tangible personal

1 property transferred to the primary serviceman and (ii)
2 certifies that fact in writing to the primary serviceman.

3 Tangible personal property transferred incident to the
4 completion of a maintenance agreement is exempt from the tax
5 imposed pursuant to this Act.

6 Exemption (5) also includes machinery and equipment used
7 in the general maintenance or repair of such exempt machinery
8 and equipment or for in-house manufacture of exempt machinery
9 and equipment. For the purposes of exemption (5), each of
10 these terms shall have the following meanings: (1)
11 "manufacturing process" shall mean the production of any
12 article of tangible personal property, whether such article
13 is a finished product or an article for use in the process of
14 manufacturing or assembling a different article of tangible
15 personal property, by procedures commonly regarded as
16 manufacturing, processing, fabricating, or refining which
17 changes some existing material or materials into a material
18 with a different form, use or name. In relation to a
19 recognized integrated business composed of a series of
20 operations which collectively constitute manufacturing, or
21 individually constitute manufacturing operations, the
22 manufacturing process shall be deemed to commence with the
23 first operation or stage of production in the series, and
24 shall not be deemed to end until the completion of the final
25 product in the last operation or stage of production in the
26 series; and further, for purposes of exemption (5),
27 photoprocessing is deemed to be a manufacturing process of
28 tangible personal property for wholesale or retail sale; (2)
29 "assembling process" shall mean the production of any article
30 of tangible personal property, whether such article is a
31 finished product or an article for use in the process of
32 manufacturing or assembling a different article of tangible
33 personal property, by the combination of existing materials
34 in a manner commonly regarded as assembling which results in

1 a material of a different form, use or name; (3) "machinery"
2 shall mean major mechanical machines or major components of
3 such machines contributing to a manufacturing or assembling
4 process; and (4) "equipment" shall include any independent
5 device or tool separate from any machinery but essential to
6 an integrated manufacturing or assembly process; including
7 computers used primarily in a manufacturer's computer
8 assisted design, computer assisted manufacturing (CAD/CAM)
9 system; or any subunit or assembly comprising a component of
10 any machinery or auxiliary, adjunct or attachment parts of
11 machinery, such as tools, dies, jigs, fixtures, patterns and
12 molds; or any parts which require periodic replacement in the
13 course of normal operation; but shall not include hand tools.
14 Equipment includes chemicals or chemicals acting as catalysts
15 but only if the chemicals or chemicals acting as catalysts
16 effect a direct and immediate change upon a product being
17 manufactured or assembled for wholesale or retail sale or
18 lease. The purchaser of such machinery and equipment who has
19 an active resale registration number shall furnish such
20 number to the seller at the time of purchase. The user of
21 such machinery and equipment and tools without an active
22 resale registration number shall prepare a certificate of
23 exemption for each transaction stating facts establishing the
24 exemption for that transaction, which certificate shall be
25 available to the Department for inspection or audit. The
26 Department shall prescribe the form of the certificate.

27 Any informal rulings, opinions or letters issued by the
28 Department in response to an inquiry or request for any
29 opinion from any person regarding the coverage and
30 applicability of exemption (5) to specific devices shall be
31 published, maintained as a public record, and made available
32 for public inspection and copying. If the informal ruling,
33 opinion or letter contains trade secrets or other
34 confidential information, where possible the Department shall

1 delete such information prior to publication. Whenever such
2 informal rulings, opinions, or letters contain any policy of
3 general applicability, the Department shall formulate and
4 adopt such policy as a rule in accordance with the provisions
5 of the Illinois Administrative Procedure Act.

6 On and after July 1, 1987, no entity otherwise eligible
7 under exemption (3) of this Section shall make tax free
8 purchases unless it has an active exemption identification
9 number issued by the Department.

10 The purchase, employment and transfer of such tangible
11 personal property as newsprint and ink for the primary
12 purpose of conveying news (with or without other information)
13 is not a purchase, use or sale of service or of tangible
14 personal property within the meaning of this Act.

15 "Serviceman" means any person who is engaged in the
16 occupation of making sales of service.

17 "Sale at retail" means "sale at retail" as defined in the
18 Retailers' Occupation Tax Act.

19 "Supplier" means any person who makes sales of tangible
20 personal property to servicemen for the purpose of resale as
21 an incident to a sale of service.

22 "Serviceman maintaining a place of business in this
23 State", or any like term, means and includes any serviceman:

24 1. having or maintaining within this State,
25 directly or by a subsidiary, an office, distribution
26 house, sales house, warehouse or other place of business,
27 or any agent or other representative operating within
28 this State under the authority of the serviceman or its
29 subsidiary, irrespective of whether such place of
30 business or agent or other representative is located here
31 permanently or temporarily, or whether such serviceman or
32 subsidiary is licensed to do business in this State;

33 2. soliciting orders for tangible personal property
34 by means of a telecommunication or television shopping

1 system (which utilizes toll free numbers) which is
2 intended by the retailer to be broadcast by cable
3 television or other means of broadcasting, to consumers
4 located in this State;

5 3. pursuant to a contract with a broadcaster or
6 publisher located in this State, soliciting orders for
7 tangible personal property by means of advertising which
8 is disseminated primarily to consumers located in this
9 State and only secondarily to bordering jurisdictions;

10 4. soliciting orders for tangible personal property
11 by mail if the solicitations are substantial and
12 recurring and if the retailer benefits from any banking,
13 financing, debt collection, telecommunication, or
14 marketing activities occurring in this State or benefits
15 from the location in this State of authorized
16 installation, servicing, or repair facilities;

17 5. being owned or controlled by the same interests
18 which own or control any retailer engaging in business in
19 the same or similar line of business in this State;

20 6. having a franchisee or licensee operating under
21 its trade name if the franchisee or licensee is required
22 to collect the tax under this Section;

23 7. pursuant to a contract with a cable television
24 operator located in this State, soliciting orders for
25 tangible personal property by means of advertising which
26 is transmitted or distributed over a cable television
27 system in this State; or

28 8. engaging in activities in Illinois, which
29 activities in the state in which the supply business
30 engaging in such activities is located would constitute
31 maintaining a place of business in that state.

32 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03;
33 93-24, eff. 6-20-03; revised 8-21-03.)

1 (35 ILCS 110/3-51)

2 Sec. 3-51. Motor vehicles; use as rolling stock
3 definition. Through June 30, 2003 and beginning again on
4 July 1, 2006, "use as rolling stock moving in interstate
5 commerce" in subsection (b) of Section 3-45 means for motor
6 vehicles, as defined in Section 1-46 of the Illinois Vehicle
7 Code, and trailers, as defined in Section 1-209 of the
8 Illinois Vehicle Code, when on 15 or more occasions in a
9 12-month period the motor vehicle and trailer has carried
10 persons or property for hire in interstate commerce, even
11 just between points in Illinois, if the motor vehicle and
12 trailer transports persons whose journeys or property whose
13 shipments originate or terminate outside Illinois. This
14 definition applies to all property purchased for the purpose
15 of being attached to those motor vehicles or trailers as a
16 part thereof. On and after July 1, 2003 and through June 30,
17 2006, "use as rolling stock moving in interstate commerce" in
18 paragraphs (4) and (4a) of the definition of "sale of
19 service" in Section 2 and subsection (b) of Section 3-45
20 occurs for motor vehicles, as defined in Section 1-146 of the
21 Illinois Vehicle Code, when during a 12-month period the
22 rolling stock has carried persons or property for hire in
23 interstate commerce for 51% of its total trips and transports
24 persons whose journeys or property whose shipments originate
25 or terminate outside Illinois. Trips that are only between
26 points in Illinois shall not be counted as interstate trips
27 when calculating whether the tangible personal property
28 qualifies for the exemption but such trips shall be included
29 in total trips taken.

30 (Source: P.A. 93-23, eff. 6-20-03.)

31 Section 20. The Service Occupation Tax Act is amended by
32 changing Sections 2 and 2d as follows:

1 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

2 Sec. 2. "Transfer" means any transfer of the title to
3 property or of the ownership of property whether or not the
4 transferor retains title as security for the payment of
5 amounts due him from the transferee.

6 "Cost Price" means the consideration paid by the
7 serviceman for a purchase valued in money, whether paid in
8 money or otherwise, including cash, credits and services, and
9 shall be determined without any deduction on account of the
10 supplier's cost of the property sold or on account of any
11 other expense incurred by the supplier. When a serviceman
12 contracts out part or all of the services required in his
13 sale of service, it shall be presumed that the cost price to
14 the serviceman of the property transferred to him by his or
15 her subcontractor is equal to 50% of the subcontractor's
16 charges to the serviceman in the absence of proof of the
17 consideration paid by the subcontractor for the purchase of
18 such property.

19 "Department" means the Department of Revenue.

20 "Person" means any natural individual, firm, partnership,
21 association, joint stock company, joint venture, public or
22 private corporation, limited liability company, and any
23 receiver, executor, trustee, guardian or other representative
24 appointed by order of any court.

25 "Sale of Service" means any transaction except:

26 (a) A retail sale of tangible personal property taxable
27 under the Retailers' Occupation Tax Act or under the Use Tax
28 Act.

29 (b) A sale of tangible personal property for the purpose
30 of resale made in compliance with Section 2c of the
31 Retailers' Occupation Tax Act.

32 (c) Except as hereinafter provided, a sale or transfer
33 of tangible personal property as an incident to the rendering
34 of service for or by any governmental body or for or by any

1 corporation, society, association, foundation or institution
2 organized and operated exclusively for charitable, religious
3 or educational purposes or any not-for-profit corporation,
4 society, association, foundation, institution or organization
5 which has no compensated officers or employees and which is
6 organized and operated primarily for the recreation of
7 persons 55 years of age or older. A limited liability company
8 may qualify for the exemption under this paragraph only if
9 the limited liability company is organized and operated
10 exclusively for educational purposes.

11 (d) A sale or transfer of tangible personal property as
12 an incident to the rendering of service for interstate
13 carriers for hire for use as rolling stock moving in
14 interstate commerce or lessors under leases of one year or
15 longer, executed or in effect at the time of purchase, to
16 interstate carriers for hire for use as rolling stock moving
17 in interstate commerce, and equipment operated by a
18 telecommunications provider, licensed as a common carrier by
19 the Federal Communications Commission, which is permanently
20 installed in or affixed to aircraft moving in interstate
21 commerce.

22 (d-1) A sale or transfer of tangible personal property
23 as an incident to the rendering of service for owners,
24 lessors or shippers of tangible personal property which is
25 utilized by interstate carriers for hire for use as rolling
26 stock moving in interstate commerce, and equipment operated
27 by a telecommunications provider, licensed as a common
28 carrier by the Federal Communications Commission, which is
29 permanently installed in or affixed to aircraft moving in
30 interstate commerce.

31 (d-1.1) On and after July 1, 2003 and through June 30,
32 2006, a sale or transfer of a motor vehicle of the second
33 division with a gross vehicle weight in excess of 8,000
34 pounds as an incident to the rendering of service if that

1 motor vehicle is subject to the commercial distribution fee
2 imposed under Section 3-815.1 of the Illinois Vehicle Code.
3 This exemption applies to repair and replacement parts added
4 after the initial purchase of such a motor vehicle if that
5 motor vehicle is used in a manner that would qualify for the
6 rolling stock exemption otherwise provided for in this Act.

7 (d-2) The repairing, reconditioning or remodeling, for a
8 common carrier by rail, of tangible personal property which
9 belongs to such carrier for hire, and as to which such
10 carrier receives the physical possession of the repaired,
11 reconditioned or remodeled item of tangible personal property
12 in Illinois, and which such carrier transports, or shares
13 with another common carrier in the transportation of such
14 property, out of Illinois on a standard uniform bill of
15 lading showing the person who repaired, reconditioned or
16 remodeled the property as the shipper or consignor of such
17 property to a destination outside Illinois, for use outside
18 Illinois.

19 (d-3) A sale or transfer of tangible personal property
20 which is produced by the seller thereof on special order in
21 such a way as to have made the applicable tax the Service
22 Occupation Tax or the Service Use Tax, rather than the
23 Retailers' Occupation Tax or the Use Tax, for an interstate
24 carrier by rail which receives the physical possession of
25 such property in Illinois, and which transports such
26 property, or shares with another common carrier in the
27 transportation of such property, out of Illinois on a
28 standard uniform bill of lading showing the seller of the
29 property as the shipper or consignor of such property to a
30 destination outside Illinois, for use outside Illinois.

31 (d-4) Until January 1, 1997, a sale, by a registered
32 serviceman paying tax under this Act to the Department, of
33 special order printed materials delivered outside Illinois
34 and which are not returned to this State, if delivery is made

1 by the seller or agent of the seller, including an agent who
2 causes the product to be delivered outside Illinois by a
3 common carrier or the U.S. postal service.

4 (e) A sale or transfer of machinery and equipment used
5 primarily in the process of the manufacturing or assembling,
6 either in an existing, an expanded or a new manufacturing
7 facility, of tangible personal property for wholesale or
8 retail sale or lease, whether such sale or lease is made
9 directly by the manufacturer or by some other person, whether
10 the materials used in the process are owned by the
11 manufacturer or some other person, or whether such sale or
12 lease is made apart from or as an incident to the seller's
13 engaging in a service occupation and the applicable tax is a
14 Service Occupation Tax or Service Use Tax, rather than
15 Retailers' Occupation Tax or Use Tax.

16 (f) Until July 1, 2003, the sale or transfer of
17 distillation machinery and equipment, sold as a unit or kit
18 and assembled or installed by the retailer, which machinery
19 and equipment is certified by the user to be used only for
20 the production of ethyl alcohol that will be used for
21 consumption as motor fuel or as a component of motor fuel for
22 the personal use of such user and not subject to sale or
23 resale.

24 (g) At the election of any serviceman not required to be
25 otherwise registered as a retailer under Section 2a of the
26 Retailers' Occupation Tax Act, made for each fiscal year
27 sales of service in which the aggregate annual cost price of
28 tangible personal property transferred as an incident to the
29 sales of service is less than 35% (75% in the case of
30 servicemen transferring prescription drugs or servicemen
31 engaged in graphic arts production) of the aggregate annual
32 total gross receipts from all sales of service. The purchase
33 of such tangible personal property by the serviceman shall be
34 subject to tax under the Retailers' Occupation Tax Act and

1 the Use Tax Act. However, if a primary serviceman who has
2 made the election described in this paragraph subcontracts
3 service work to a secondary serviceman who has also made the
4 election described in this paragraph, the primary serviceman
5 does not incur a Use Tax liability if the secondary
6 serviceman (i) has paid or will pay Use Tax on his or her
7 cost price of any tangible personal property transferred to
8 the primary serviceman and (ii) certifies that fact in
9 writing to the primary serviceman.

10 Tangible personal property transferred incident to the
11 completion of a maintenance agreement is exempt from the tax
12 imposed pursuant to this Act.

13 Exemption (e) also includes machinery and equipment used
14 in the general maintenance or repair of such exempt machinery
15 and equipment or for in-house manufacture of exempt machinery
16 and equipment. For the purposes of exemption (e), each of
17 these terms shall have the following meanings: (1)
18 "manufacturing process" shall mean the production of any
19 article of tangible personal property, whether such article
20 is a finished product or an article for use in the process of
21 manufacturing or assembling a different article of tangible
22 personal property, by procedures commonly regarded as
23 manufacturing, processing, fabricating, or refining which
24 changes some existing material or materials into a material
25 with a different form, use or name. In relation to a
26 recognized integrated business composed of a series of
27 operations which collectively constitute manufacturing, or
28 individually constitute manufacturing operations, the
29 manufacturing process shall be deemed to commence with the
30 first operation or stage of production in the series, and
31 shall not be deemed to end until the completion of the final
32 product in the last operation or stage of production in the
33 series; and further for purposes of exemption (e),
34 photoprocessing is deemed to be a manufacturing process of

1 tangible personal property for wholesale or retail sale; (2)
2 "assembling process" shall mean the production of any article
3 of tangible personal property, whether such article is a
4 finished product or an article for use in the process of
5 manufacturing or assembling a different article of tangible
6 personal property, by the combination of existing materials
7 in a manner commonly regarded as assembling which results in
8 a material of a different form, use or name; (3) "machinery"
9 shall mean major mechanical machines or major components of
10 such machines contributing to a manufacturing or assembling
11 process; and (4) "equipment" shall include any independent
12 device or tool separate from any machinery but essential to
13 an integrated manufacturing or assembly process; including
14 computers used primarily in a manufacturer's computer
15 assisted design, computer assisted manufacturing (CAD/CAM)
16 system; or any subunit or assembly comprising a component of
17 any machinery or auxiliary, adjunct or attachment parts of
18 machinery, such as tools, dies, jigs, fixtures, patterns and
19 molds; or any parts which require periodic replacement in the
20 course of normal operation; but shall not include hand tools.
21 Equipment includes chemicals or chemicals acting as catalysts
22 but only if the chemicals or chemicals acting as catalysts
23 effect a direct and immediate change upon a product being
24 manufactured or assembled for wholesale or retail sale or
25 lease. The purchaser of such machinery and equipment who has
26 an active resale registration number shall furnish such
27 number to the seller at the time of purchase. The purchaser
28 of such machinery and equipment and tools without an active
29 resale registration number shall furnish to the seller a
30 certificate of exemption for each transaction stating facts
31 establishing the exemption for that transaction, which
32 certificate shall be available to the Department for
33 inspection or audit.

34 Except as provided in Section 2d of this Act, the rolling

1 stock exemption applies to rolling stock used by an
2 interstate carrier for hire, even just between points in
3 Illinois, if such rolling stock transports, for hire, persons
4 whose journeys or property whose shipments originate or
5 terminate outside Illinois.

6 Any informal rulings, opinions or letters issued by the
7 Department in response to an inquiry or request for any
8 opinion from any person regarding the coverage and
9 applicability of exemption (e) to specific devices shall be
10 published, maintained as a public record, and made available
11 for public inspection and copying. If the informal ruling,
12 opinion or letter contains trade secrets or other
13 confidential information, where possible the Department shall
14 delete such information prior to publication. Whenever such
15 informal rulings, opinions, or letters contain any policy of
16 general applicability, the Department shall formulate and
17 adopt such policy as a rule in accordance with the provisions
18 of the Illinois Administrative Procedure Act.

19 On and after July 1, 1987, no entity otherwise eligible
20 under exemption (c) of this Section shall make tax free
21 purchases unless it has an active exemption identification
22 number issued by the Department.

23 "Serviceman" means any person who is engaged in the
24 occupation of making sales of service.

25 "Sale at Retail" means "sale at retail" as defined in the
26 Retailers' Occupation Tax Act.

27 "Supplier" means any person who makes sales of tangible
28 personal property to servicemen for the purpose of resale as
29 an incident to a sale of service.

30 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03;
31 93-24, eff. 6-20-03; revised 8-21-03.)

32 (35 ILCS 115/2d)

33 Sec. 2d. Motor vehicles; use as rolling stock definition.

1 Through June 30, 2003 and beginning again on July 1, 2006,
2 "use as rolling stock moving in interstate commerce" in
3 subsections (d) and (d-1) of the definition of "sale of
4 service" in Section 2 means for motor vehicles, as defined in
5 Section 1-146 of the Illinois Vehicle Code, and trailers, as
6 defined in Section 1-209 of the Illinois Vehicle Code, when
7 on 15 or more occasions in a 12-month period the motor
8 vehicle and trailer has carried persons or property for hire
9 in interstate commerce, even just between points in Illinois,
10 if the motor vehicle and trailer transports persons whose
11 journeys or property whose shipments originate or terminate
12 outside Illinois. This definition applies to all property
13 purchased for the purpose of being attached to those motor
14 vehicles or trailers as a part thereof. On and after July 1,
15 2003 and through June 30, 2006, "use as rolling stock moving
16 in interstate commerce" in paragraphs (d) and (d-1) of the
17 definition of "sale of service" in Section 2 occurs for motor
18 vehicles, as defined in Section 1-146 of the Illinois Vehicle
19 Code, when during a 12-month period the rolling stock has
20 carried persons or property for hire in interstate commerce
21 for 51% of its total trips and transports persons whose
22 journeys or property whose shipments originate or terminate
23 outside Illinois. Trips that are only between points in
24 Illinois will not be counted as interstate trips when
25 calculating whether the tangible personal property qualifies
26 for the exemption but such trips will be included in total
27 trips taken.

28 (Source: P.A. 93-23, eff. 6-20-03.)

29 Section 25. The Retailers' Occupation Tax Act is amended
30 by changing Sections 2-5 and 2-51 as follows:

31 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

32 Sec. 2-5. Exemptions. Gross receipts from proceeds from

1 the sale of the following tangible personal property are
2 exempt from the tax imposed by this Act:

3 (1) Farm chemicals.

4 (2) Farm machinery and equipment, both new and used,
5 including that manufactured on special order, certified by
6 the purchaser to be used primarily for production agriculture
7 or State or federal agricultural programs, including
8 individual replacement parts for the machinery and equipment,
9 including machinery and equipment purchased for lease, and
10 including implements of husbandry defined in Section 1-130 of
11 the Illinois Vehicle Code, farm machinery and agricultural
12 chemical and fertilizer spreaders, and nurse wagons required
13 to be registered under Section 3-809 of the Illinois Vehicle
14 Code, but excluding other motor vehicles required to be
15 registered under the Illinois Vehicle Code. Horticultural
16 polyhouses or hoop houses used for propagating, growing, or
17 overwintering plants shall be considered farm machinery and
18 equipment under this item (2). Agricultural chemical tender
19 tanks and dry boxes shall include units sold separately from
20 a motor vehicle required to be licensed and units sold
21 mounted on a motor vehicle required to be licensed, if the
22 selling price of the tender is separately stated.

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters,
27 seeders, or spreaders. Precision farming equipment includes,
28 but is not limited to, soil testing sensors, computers,
29 monitors, software, global positioning and mapping systems,
30 and other such equipment.

31 Farm machinery and equipment also includes computers,
32 sensors, software, and related equipment used primarily in
33 the computer-assisted operation of production agriculture
34 facilities, equipment, and activities such as, but not

1 limited to, the collection, monitoring, and correlation of
2 animal and crop data for the purpose of formulating animal
3 diets and agricultural chemicals. This item (7) is exempt
4 from the provisions of Section 2-70.

5 (3) Until July 1, 2003, distillation machinery and
6 equipment, sold as a unit or kit, assembled or installed by
7 the retailer, certified by the user to be used only for the
8 production of ethyl alcohol that will be used for consumption
9 as motor fuel or as a component of motor fuel for the
10 personal use of the user, and not subject to sale or resale.

11 (4) Until July 1, 2003, graphic arts machinery and
12 equipment, including repair and replacement parts, both new
13 and used, and including that manufactured on special order or
14 purchased for lease, certified by the purchaser to be used
15 primarily for graphic arts production. Equipment includes
16 chemicals or chemicals acting as catalysts but only if the
17 chemicals or chemicals acting as catalysts effect a direct
18 and immediate change upon a graphic arts product.

19 (5) A motor vehicle of the first division, a motor
20 vehicle of the second division that is a self-contained motor
21 vehicle designed or permanently converted to provide living
22 quarters for recreational, camping, or travel use, with
23 direct walk through access to the living quarters from the
24 driver's seat, or a motor vehicle of the second division that
25 is of the van configuration designed for the transportation
26 of not less than 7 nor more than 16 passengers, as defined in
27 Section 1-146 of the Illinois Vehicle Code, that is used for
28 automobile renting, as defined in the Automobile Renting
29 Occupation and Use Tax Act.

30 (6) Personal property sold by a teacher-sponsored
31 student organization affiliated with an elementary or
32 secondary school located in Illinois.

33 (7) Until July 1, 2003, proceeds of that portion of the
34 selling price of a passenger car the sale of which is subject

1 to the Replacement Vehicle Tax.

2 (8) Personal property sold to an Illinois county fair
3 association for use in conducting, operating, or promoting
4 the county fair.

5 (9) Personal property sold to a not-for-profit arts or
6 cultural organization that establishes, by proof required by
7 the Department by rule, that it has received an exemption
8 under Section 501(c)(3) of the Internal Revenue Code and that
9 is organized and operated primarily for the presentation or
10 support of arts or cultural programming, activities, or
11 services. These organizations include, but are not limited
12 to, music and dramatic arts organizations such as symphony
13 orchestras and theatrical groups, arts and cultural service
14 organizations, local arts councils, visual arts
15 organizations, and media arts organizations. On and after the
16 effective date of this amendatory Act of the 92nd General
17 Assembly, however, an entity otherwise eligible for this
18 exemption shall not make tax-free purchases unless it has an
19 active identification number issued by the Department.

20 (10) Personal property sold by a corporation, society,
21 association, foundation, institution, or organization, other
22 than a limited liability company, that is organized and
23 operated as a not-for-profit service enterprise for the
24 benefit of persons 65 years of age or older if the personal
25 property was not purchased by the enterprise for the purpose
26 of resale by the enterprise.

27 (11) Personal property sold to a governmental body, to a
28 corporation, society, association, foundation, or institution
29 organized and operated exclusively for charitable, religious,
30 or educational purposes, or to a not-for-profit corporation,
31 society, association, foundation, institution, or
32 organization that has no compensated officers or employees
33 and that is organized and operated primarily for the
34 recreation of persons 55 years of age or older. A limited

1 liability company may qualify for the exemption under this
2 paragraph only if the limited liability company is organized
3 and operated exclusively for educational purposes. On and
4 after July 1, 1987, however, no entity otherwise eligible for
5 this exemption shall make tax-free purchases unless it has an
6 active identification number issued by the Department.

7 (12) Tangible personal property sold to interstate
8 carriers for hire for use as rolling stock moving in
9 interstate commerce or to lessors under leases of one year or
10 longer executed or in effect at the time of purchase by
11 interstate carriers for hire for use as rolling stock moving
12 in interstate commerce and equipment operated by a
13 telecommunications provider, licensed as a common carrier by
14 the Federal Communications Commission, which is permanently
15 installed in or affixed to aircraft moving in interstate
16 commerce.

17 (12-5) On and after July 1, 2003 and through June 30,
18 2006, motor vehicles of the second division with a gross
19 vehicle weight in excess of 8,000 pounds that are subject to
20 the commercial distribution fee imposed under Section 3-815.1
21 of the Illinois Vehicle Code. This exemption applies to
22 repair and replacement parts added after the initial purchase
23 of such a motor vehicle if that motor vehicle is used in a
24 manner that would qualify for the rolling stock exemption
25 otherwise provided for in this Act.

26 (13) Proceeds from sales to owners, lessors, or shippers
27 of tangible personal property that is utilized by interstate
28 carriers for hire for use as rolling stock moving in
29 interstate commerce and equipment operated by a
30 telecommunications provider, licensed as a common carrier by
31 the Federal Communications Commission, which is permanently
32 installed in or affixed to aircraft moving in interstate
33 commerce.

34 (14) Machinery and equipment that will be used by the

1 purchaser, or a lessee of the purchaser, primarily in the
2 process of manufacturing or assembling tangible personal
3 property for wholesale or retail sale or lease, whether the
4 sale or lease is made directly by the manufacturer or by some
5 other person, whether the materials used in the process are
6 owned by the manufacturer or some other person, or whether
7 the sale or lease is made apart from or as an incident to the
8 seller's engaging in the service occupation of producing
9 machines, tools, dies, jigs, patterns, gauges, or other
10 similar items of no commercial value on special order for a
11 particular purchaser.

12 (15) Proceeds of mandatory service charges separately
13 stated on customers' bills for purchase and consumption of
14 food and beverages, to the extent that the proceeds of the
15 service charge are in fact turned over as tips or as a
16 substitute for tips to the employees who participate directly
17 in preparing, serving, hosting or cleaning up the food or
18 beverage function with respect to which the service charge is
19 imposed.

20 (16) Petroleum products sold to a purchaser if the
21 seller is prohibited by federal law from charging tax to the
22 purchaser.

23 (17) Tangible personal property sold to a common carrier
24 by rail or motor that receives the physical possession of the
25 property in Illinois and that transports the property, or
26 shares with another common carrier in the transportation of
27 the property, out of Illinois on a standard uniform bill of
28 lading showing the seller of the property as the shipper or
29 consignor of the property to a destination outside Illinois,
30 for use outside Illinois.

31 (18) Legal tender, currency, medallions, or gold or
32 silver coinage issued by the State of Illinois, the
33 government of the United States of America, or the government
34 of any foreign country, and bullion.

1 (19) Until July 1 2003, oil field exploration, drilling,
2 and production equipment, including (i) rigs and parts of
3 rigs, rotary rigs, cable tool rigs, and workover rigs, (ii)
4 pipe and tubular goods, including casing and drill strings,
5 (iii) pumps and pump-jack units, (iv) storage tanks and flow
6 lines, (v) any individual replacement part for oil field
7 exploration, drilling, and production equipment, and (vi)
8 machinery and equipment purchased for lease; but excluding
9 motor vehicles required to be registered under the Illinois
10 Vehicle Code.

11 (20) Photoprocessing machinery and equipment, including
12 repair and replacement parts, both new and used, including
13 that manufactured on special order, certified by the
14 purchaser to be used primarily for photoprocessing, and
15 including photoprocessing machinery and equipment purchased
16 for lease.

17 (21) Until July 1, 2003, coal exploration, mining,
18 offhighway hauling, processing, maintenance, and reclamation
19 equipment, including replacement parts and equipment, and
20 including equipment purchased for lease, but excluding motor
21 vehicles required to be registered under the Illinois Vehicle
22 Code.

23 (22) Fuel and petroleum products sold to or used by an
24 air carrier, certified by the carrier to be used for
25 consumption, shipment, or storage in the conduct of its
26 business as an air common carrier, for a flight destined for
27 or returning from a location or locations outside the United
28 States without regard to previous or subsequent domestic
29 stopovers.

30 (23) A transaction in which the purchase order is
31 received by a florist who is located outside Illinois, but
32 who has a florist located in Illinois deliver the property to
33 the purchaser or the purchaser's donee in Illinois.

34 (24) Fuel consumed or used in the operation of ships,

1 barges, or vessels that are used primarily in or for the
2 transportation of property or the conveyance of persons for
3 hire on rivers bordering on this State if the fuel is
4 delivered by the seller to the purchaser's barge, ship, or
5 vessel while it is afloat upon that bordering river.

6 (25) A motor vehicle sold in this State to a nonresident
7 even though the motor vehicle is delivered to the nonresident
8 in this State, if the motor vehicle is not to be titled in
9 this State, and if a drive-away permit is issued to the motor
10 vehicle as provided in Section 3-603 of the Illinois Vehicle
11 Code or if the nonresident purchaser has vehicle registration
12 plates to transfer to the motor vehicle upon returning to his
13 or her home state. The issuance of the drive-away permit or
14 having the out-of-state registration plates to be transferred
15 is prima facie evidence that the motor vehicle will not be
16 titled in this State.

17 (26) Semen used for artificial insemination of livestock
18 for direct agricultural production.

19 (27) Horses, or interests in horses, registered with and
20 meeting the requirements of any of the Arabian Horse Club
21 Registry of America, Appaloosa Horse Club, American Quarter
22 Horse Association, United States Trotting Association, or
23 Jockey Club, as appropriate, used for purposes of breeding or
24 racing for prizes.

25 (28) Computers and communications equipment utilized for
26 any hospital purpose and equipment used in the diagnosis,
27 analysis, or treatment of hospital patients sold to a lessor
28 who leases the equipment, under a lease of one year or longer
29 executed or in effect at the time of the purchase, to a
30 hospital that has been issued an active tax exemption
31 identification number by the Department under Section 1g of
32 this Act.

33 (29) Personal property sold to a lessor who leases the
34 property, under a lease of one year or longer executed or in

1 effect at the time of the purchase, to a governmental body
2 that has been issued an active tax exemption identification
3 number by the Department under Section 1g of this Act.

4 (30) Beginning with taxable years ending on or after
5 December 31, 1995 and ending with taxable years ending on or
6 before December 31, 2004, personal property that is donated
7 for disaster relief to be used in a State or federally
8 declared disaster area in Illinois or bordering Illinois by a
9 manufacturer or retailer that is registered in this State to
10 a corporation, society, association, foundation, or
11 institution that has been issued a sales tax exemption
12 identification number by the Department that assists victims
13 of the disaster who reside within the declared disaster area.

14 (31) Beginning with taxable years ending on or after
15 December 31, 1995 and ending with taxable years ending on or
16 before December 31, 2004, personal property that is used in
17 the performance of infrastructure repairs in this State,
18 including but not limited to municipal roads and streets,
19 access roads, bridges, sidewalks, waste disposal systems,
20 water and sewer line extensions, water distribution and
21 purification facilities, storm water drainage and retention
22 facilities, and sewage treatment facilities, resulting from a
23 State or federally declared disaster in Illinois or bordering
24 Illinois when such repairs are initiated on facilities
25 located in the declared disaster area within 6 months after
26 the disaster.

27 (32) Beginning July 1, 1999, game or game birds sold at
28 a "game breeding and hunting preserve area" or an "exotic
29 game hunting area" as those terms are used in the Wildlife
30 Code or at a hunting enclosure approved through rules adopted
31 by the Department of Natural Resources. This paragraph is
32 exempt from the provisions of Section 2-70.

33 (33) A motor vehicle, as that term is defined in Section
34 1-146 of the Illinois Vehicle Code, that is donated to a

1 corporation, limited liability company, society, association,
2 foundation, or institution that is determined by the
3 Department to be organized and operated exclusively for
4 educational purposes. For purposes of this exemption, "a
5 corporation, limited liability company, society, association,
6 foundation, or institution organized and operated exclusively
7 for educational purposes" means all tax-supported public
8 schools, private schools that offer systematic instruction in
9 useful branches of learning by methods common to public
10 schools and that compare favorably in their scope and
11 intensity with the course of study presented in tax-supported
12 schools, and vocational or technical schools or institutes
13 organized and operated exclusively to provide a course of
14 study of not less than 6 weeks duration and designed to
15 prepare individuals to follow a trade or to pursue a manual,
16 technical, mechanical, industrial, business, or commercial
17 occupation.

18 (34) Beginning January 1, 2000, personal property,
19 including food, purchased through fundraising events for the
20 benefit of a public or private elementary or secondary
21 school, a group of those schools, or one or more school
22 districts if the events are sponsored by an entity recognized
23 by the school district that consists primarily of volunteers
24 and includes parents and teachers of the school children.
25 This paragraph does not apply to fundraising events (i) for
26 the benefit of private home instruction or (ii) for which the
27 fundraising entity purchases the personal property sold at
28 the events from another individual or entity that sold the
29 property for the purpose of resale by the fundraising entity
30 and that profits from the sale to the fundraising entity.
31 This paragraph is exempt from the provisions of Section 2-70.

32 (35) Beginning January 1, 2000 and through December 31,
33 2001, new or used automatic vending machines that prepare and
34 serve hot food and beverages, including coffee, soup, and

1 other items, and replacement parts for these machines.
2 Beginning January 1, 2002 and through June 30, 2003, machines
3 and parts for machines used in commercial, coin-operated
4 amusement and vending business if a use or occupation tax is
5 paid on the gross receipts derived from the use of the
6 commercial, coin-operated amusement and vending machines.
7 This paragraph is exempt from the provisions of Section 2-70.

8 (35-5) Food for human consumption that is to be consumed
9 off the premises where it is sold (other than alcoholic
10 beverages, soft drinks, and food that has been prepared for
11 immediate consumption) and prescription and nonprescription
12 medicines, drugs, medical appliances, and insulin, urine
13 testing materials, syringes, and needles used by diabetics,
14 for human use, when purchased for use by a person receiving
15 medical assistance under Article 5 of the Illinois Public Aid
16 Code who resides in a licensed long-term care facility, as
17 defined in the Nursing Home Care Act.

18 (36) Beginning August 2, 2001, computers and
19 communications equipment utilized for any hospital purpose
20 and equipment used in the diagnosis, analysis, or treatment
21 of hospital patients sold to a lessor who leases the
22 equipment, under a lease of one year or longer executed or in
23 effect at the time of the purchase, to a hospital that has
24 been issued an active tax exemption identification number by
25 the Department under Section 1g of this Act. This paragraph
26 is exempt from the provisions of Section 2-70.

27 (37) Beginning August 2, 2001, personal property sold to
28 a lessor who leases the property, under a lease of one year
29 or longer executed or in effect at the time of the purchase,
30 to a governmental body that has been issued an active tax
31 exemption identification number by the Department under
32 Section 1g of this Act. This paragraph is exempt from the
33 provisions of Section 2-70.

34 (38) Beginning on January 1, 2002, tangible personal

1 property purchased from an Illinois retailer by a taxpayer
2 engaged in centralized purchasing activities in Illinois who
3 will, upon receipt of the property in Illinois, temporarily
4 store the property in Illinois (i) for the purpose of
5 subsequently transporting it outside this State for use or
6 consumption thereafter solely outside this State or (ii) for
7 the purpose of being processed, fabricated, or manufactured
8 into, attached to, or incorporated into other tangible
9 personal property to be transported outside this State and
10 thereafter used or consumed solely outside this State. The
11 Director of Revenue shall, pursuant to rules adopted in
12 accordance with the Illinois Administrative Procedure Act,
13 issue a permit to any taxpayer in good standing with the
14 Department who is eligible for the exemption under this
15 paragraph (38). The permit issued under this paragraph (38)
16 shall authorize the holder, to the extent and in the manner
17 specified in the rules adopted under this Act, to purchase
18 tangible personal property from a retailer exempt from the
19 taxes imposed by this Act. Taxpayers shall maintain all
20 necessary books and records to substantiate the use and
21 consumption of all such tangible personal property outside of
22 the State of Illinois.

23 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01;
24 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff.
25 8-23-01; 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680,
26 eff. 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03;
27 revised 9-11-03.)

28 (35 ILCS 120/2-51)

29 Sec. 2-51. Motor vehicles; use as rolling stock
30 definition. Through June 30, 2003 and beginning again on
31 July 1, 2006, "use as rolling stock moving in interstate
32 commerce" in paragraphs (12) and (13) of Section 2-5 means
33 for motor vehicles, as defined in Section 1-146 of the

1 Illinois Vehicle Code, and trailers, as defined in Section
2 1-209 of the Illinois Vehicle Code, when on 15 or more
3 occasions in a 12-month period the motor vehicle and trailer
4 has carried persons or property for hire in interstate
5 commerce, even just between points in Illinois, if the motor
6 vehicle and trailer transports persons whose journeys or
7 property whose shipments originate or terminate outside
8 Illinois. This definition applies to all property purchased
9 for the purpose of being attached to those motor vehicles or
10 trailers as a part thereof. On and after July 1, 2003 and
11 through June 30, 2006, "use as rolling stock moving in
12 interstate commerce" in paragraphs (12) and (13) of Section
13 2-5 occurs for motor vehicles, as defined in Section 1-146 of
14 the Illinois Vehicle Code, when during a 12-month period the
15 rolling stock has carried persons or property for hire in
16 interstate commerce for 51% of its total trips and transports
17 persons whose journeys or property whose shipments originate
18 or terminate outside Illinois. Trips that are only between
19 points in Illinois shall not be counted as interstate trips
20 when calculating whether the tangible personal property
21 qualifies for the exemption but such trips shall be included
22 in total trips taken.

23 (Source: P.A. 93-23, eff. 6-20-03.)

24 Section 30. The Illinois Vehicle Code is amended by
25 changing Section 3-815.1 as follows:

26 (625 ILCS 5/3-815.1)

27 Sec. 3-815.1. Commercial distribution fee. Beginning
28 July 1, 2003, in addition to any tax or fee imposed under
29 this Code:

30 (a) Vehicles of the second division with a gross
31 vehicle weight that exceeds 8,000 pounds and that incur
32 any tax or fee under subsection (a) of Section 3-815 of

1 this Code or subsection (a) of Section 3-818 of this
 2 Code, as applicable, and shall pay to the Secretary of
 3 State a commercial distribution fee, for each
 4 registration year, for the use of the public highways,
 5 State infrastructure, and State services, in an amount
 6 equal to:

7 36% for the registration year beginning on July
 8 1, 2003;

9 24% for the registration year beginning on July
 10 1, 2004;

11 12% for the registration year beginning on July
 12 1, 2005; and

13 0% for the registration year beginning on July
 14 1, 2006 and for each registration year thereafter

15 of the taxes and fees incurred under subsection (a) of
 16 Section 3-815 of this Code, or subsection (a) of Section
 17 3-818 of this Code, as applicable, rounded up to the
 18 nearest whole dollar.

19 (b) Vehicles of the second division with a gross
 20 vehicle weight of 8,000 pounds or less and that incur any
 21 tax or fee under subsection (a) of Section 3-815 of this
 22 Code or subsection (a) of Section 3-818 of this Code, as
 23 applicable, and have claimed the rolling stock exemption
 24 under the Retailers' Occupation Tax Act, Use Tax Act,
 25 Service Occupation Tax Act, or Service Use Tax Act shall
 26 pay to the Illinois Department of Revenue (or the
 27 Secretary of State under an intergovernmental agreement)
 28 a commercial distribution fee, for each registration
 29 year, for the use of the public highways, State
 30 infrastructure, and State services, in an amount equal
 31 to:

32 36% for the registration year beginning on July
 33 1, 2003;

34 24% for the registration year beginning on July

1 1, 2004;
2 12% for the registration year beginning on July
3 1, 2005; and
4 0% for the registration year beginning on July
5 1, 2006 and for each registration year thereafter
6 of the taxes and fees incurred under subsection (a) of
7 Section 3-815 of this Code or subsection (a) of Section
8 3-818 of this Code, as applicable, rounded up to the
9 nearest whole dollar.

10 The fees paid under this Section shall be deposited by
11 the Secretary of State into the General Revenue Fund.

12 (Source: P.A. 93-23, eff. 6-20-03; revised 10-9-03.)