



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3753

by Rep. Jerry Costello, II

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-61  
35 ILCS 110/3-51  
35 ILCS 115/2d  
35 ILCS 120/2-51

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that the term "use as rolling stock moving in interstate commerce" means that a person claiming the exemption must: (1) use the vehicles or trailers to transport persons or property for hire; (2) hold, at the time of purchase, an appropriate credential that authorizes a motor carrier to engage in interstate commerce for-hire; and (3) if the person claiming the exemption is a subsidiary of another company, maintain separate books and records, including separate charts of accounts, and assure that all transactions between the transportation company and the parent are commercially reasonable arms-length transactions. Retains the current definition for aircraft and watercraft. Effective immediately.

LRB100 11428 HLH 21851 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 3-61 as follows:

6 (35 ILCS 105/3-61)

7 Sec. 3-61. Motor vehicles; trailers; use as rolling stock  
8 definition.

9 (a) Through June 30, 2003, "use as rolling stock moving in  
10 interstate commerce" in subsections (b) and (c) of Section 3-55  
11 means for motor vehicles, as defined in Section 1-146 of the  
12 Illinois Vehicle Code, and trailers, as defined in Section  
13 1-209 of the Illinois Vehicle Code, when on 15 or more  
14 occasions in a 12-month period the motor vehicle and trailer  
15 has carried persons or property for hire in interstate  
16 commerce, even just between points in Illinois, if the motor  
17 vehicle and trailer transports persons whose journeys or  
18 property whose shipments originate or terminate outside  
19 Illinois. This definition applies to all property purchased for  
20 the purpose of being attached to those motor vehicles or  
21 trailers as a part thereof.

22 (b) On and after July 1, 2003 and through June 30, 2004,  
23 "use as rolling stock moving in interstate commerce" in

1 paragraphs (b) and (c) of Section 3-55 occurs for motor  
2 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
3 Code, when during a 12-month period the rolling stock has  
4 carried persons or property for hire in interstate commerce for  
5 51% of its total trips and transports persons whose journeys or  
6 property whose shipments originate or terminate outside  
7 Illinois. Trips that are only between points in Illinois shall  
8 not be counted as interstate trips when calculating whether the  
9 tangible personal property qualifies for the exemption but such  
10 trips shall be included in total trips taken.

11 (c) Beginning July 1, 2004 and through June 30, 2017, "use  
12 as rolling stock moving in interstate commerce" in paragraphs  
13 (b) and (c) of Section 3-55 occurs for motor vehicles, as  
14 defined in Section 1-146 of the Illinois Vehicle Code, when  
15 during a 12-month period the rolling stock has carried persons  
16 or property for hire in interstate commerce for greater than  
17 50% of its total trips for that period or for greater than 50%  
18 of its total miles for that period. The person claiming the  
19 exemption shall make an election at the time of purchase to use  
20 either the trips or mileage method. Persons who purchased motor  
21 vehicles prior to July 1, 2004 shall make an election to use  
22 either the trips or mileage method and document that election  
23 in their books and records. If no election is made under this  
24 subsection to use the trips or mileage method, the person shall  
25 be deemed to have chosen the mileage method.

26 For purposes of determining qualifying trips or miles,

1 motor vehicles that carry persons or property for hire, even  
2 just between points in Illinois, will be considered used for  
3 hire in interstate commerce if the motor vehicle transports  
4 persons whose journeys or property whose shipments originate or  
5 terminate outside Illinois. The exemption for motor vehicles  
6 used as rolling stock moving in interstate commerce may be  
7 claimed only for the following vehicles: (i) motor vehicles  
8 whose gross vehicle weight rating exceeds 16,000 pounds; and  
9 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
10 Vehicle Code. This definition applies to all property purchased  
11 for the purpose of being attached to those motor vehicles as a  
12 part thereof.

13 (d) Beginning July 1, 2004 and through June 30, 2017, "use  
14 as rolling stock moving in interstate commerce" in paragraphs  
15 (b) and (c) of Section 3-55 occurs for trailers, as defined in  
16 Section 1-209 of the Illinois Vehicle Code, semitrailers as  
17 defined in Section 1-187 of the Illinois Vehicle Code, and pole  
18 trailers as defined in Section 1-161 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 for  
21 greater than 50% of its total trips for that period or for  
22 greater than 50% of its total miles for that period. The person  
23 claiming the exemption for a trailer or trailers that will not  
24 be dedicated to a motor vehicle or group of motor vehicles  
25 shall make an election at the time of purchase to use either  
26 the trips or mileage method. Persons who purchased trailers

1 prior to July 1, 2004 that are not dedicated to a motor vehicle  
2 or group of motor vehicles shall make an election to use either  
3 the trips or mileage method and document that election in their  
4 books and records. If no election is made under this subsection  
5 to use the trips or mileage method, the person shall be deemed  
6 to have chosen the mileage method.

7 For purposes of determining qualifying trips or miles,  
8 trailers, semitrailers, or pole trailers that carry property  
9 for hire, even just between points in Illinois, will be  
10 considered used for hire in interstate commerce if the  
11 trailers, semitrailers, or pole trailers transport property  
12 whose shipments originate or terminate outside Illinois. This  
13 definition applies to all property purchased for the purpose of  
14 being attached to those trailers, semitrailers, or pole  
15 trailers as a part thereof. In lieu of a person providing  
16 documentation regarding the qualifying use of each individual  
17 trailer, semitrailer, or pole trailer, that person may document  
18 such qualifying use by providing documentation of the  
19 following:

20 (1) If a trailer, semitrailer, or pole trailer is  
21 dedicated to a motor vehicle that qualifies as rolling  
22 stock moving in interstate commerce under subsection (c) of  
23 this Section, then that trailer, semitrailer, or pole  
24 trailer qualifies as rolling stock moving in interstate  
25 commerce under this subsection.

26 (2) If a trailer, semitrailer, or pole trailer is

1 dedicated to a group of motor vehicles that all qualify as  
2 rolling stock moving in interstate commerce under  
3 subsection (c) of this Section, then that trailer,  
4 semitrailer, or pole trailer qualifies as rolling stock  
5 moving in interstate commerce under this subsection.

6 (3) If one or more trailers, semitrailers, or pole  
7 trailers are dedicated to a group of motor vehicles and not  
8 all of those motor vehicles in that group qualify as  
9 rolling stock moving in interstate commerce under  
10 subsection (c) of this Section, then the percentage of  
11 those trailers, semitrailers, or pole trailers that  
12 qualifies as rolling stock moving in interstate commerce  
13 under this subsection is equal to the percentage of those  
14 motor vehicles in that group that qualify as rolling stock  
15 moving in interstate commerce under subsection (c) of this  
16 Section to which those trailers, semitrailers, or pole  
17 trailers are dedicated. However, to determine the  
18 qualification for the exemption provided under this item  
19 (3), the mathematical application of the qualifying  
20 percentage to one or more trailers, semitrailers, or pole  
21 trailers under this subpart shall not be allowed as to any  
22 fraction of a trailer, semitrailer, or pole trailer.

23 (e) For aircraft and watercraft purchased on or after  
24 January 1, 2014, "use as rolling stock moving in interstate  
25 commerce" in paragraphs (b) and (c) of Section 3-55 occurs  
26 when, during a 12-month period, the rolling stock has carried

1 persons or property for hire in interstate commerce for greater  
2 than 50% of its total trips for that period or for greater than  
3 50% of its total miles for that period. The person claiming the  
4 exemption shall make an election at the time of purchase to use  
5 either the trips or mileage method and document that election  
6 in their books and records. If no election is made under this  
7 subsection to use the trips or mileage method, the person shall  
8 be deemed to have chosen the mileage method. For aircraft,  
9 flight hours may be used in lieu of recording miles in  
10 determining whether the aircraft meets the mileage test in this  
11 subsection. For watercraft, nautical miles or trip hours may be  
12 used in lieu of recording miles in determining whether the  
13 watercraft meets the mileage test in this subsection.

14 Notwithstanding any other provision of law to the contrary,  
15 property purchased on or after January 1, 2014 for the purpose  
16 of being attached to aircraft or watercraft as a part thereof  
17 qualifies as rolling stock moving in interstate commerce only  
18 if the aircraft or watercraft to which it will be attached  
19 qualifies as rolling stock moving in interstate commerce under  
20 the test set forth in this subsection (e), regardless of when  
21 the aircraft or watercraft was purchased. Persons who purchased  
22 aircraft or watercraft prior to January 1, 2014 shall make an  
23 election to use either the trips or mileage method and document  
24 that election in their books and records for the purpose of  
25 determining whether property purchased on or after January 1,  
26 2014 for the purpose of being attached to aircraft or

1 watercraft as a part thereof qualifies as rolling stock moving  
2 in interstate commerce under this subsection (e).

3 (f) The election to use either the trips or mileage method  
4 made under the provisions of subsections (c), (d), or (e) of  
5 this Section will remain in effect for the duration of the  
6 purchaser's ownership of that item or, with respect to  
7 subsections (c) and (d) of this Section, until July 1, 2017,  
8 whichever occurs sooner.

9 (g) The General Assembly finds:

10 (1) The rolling stock exemption has been repeatedly  
11 amended and, between January 1, 1999 and the effective date  
12 of this amendatory Act of the 100th General Assembly, has  
13 taken 4 forms.

14 (2) The exemption continues to be a subject of dispute,  
15 audits, and lack of clarity and is problematic for Illinois  
16 businesses.

17 (3) It is essential to provide simplicity and clarity  
18 to the issue of when a purchaser such as a trucking company  
19 in Illinois qualifies for the rolling stock sales tax  
20 exemption.

21 (4) Working with the trucking and hauling community and  
22 other interested parties, this amendatory Act of the 100th  
23 General Assembly draws a simple bright line that purchasers  
24 must meet to qualify for the exemption which is modeled on  
25 surrounding states that do not require a test involving  
26 trips, or mileage, or both for shipments between points



1 which originate or terminate outside the relevant state.  
2 Such a simplified requirement, without a trips or miles  
3 qualification, will provide certainty for purchasers such  
4 as Illinois trucking businesses and also provide a more  
5 easily enforced requirement and audit practice for the  
6 Department of Revenue.

7 (5) It is the intent of the General Assembly to  
8 establish on and after the effective date of this  
9 amendatory Act of the 100th General Assembly an exemption  
10 based upon the purchaser's status as a motor carrier which  
11 has credentials to engage in interstate commerce for hire.

12 Beginning on July 1, 2017 "use as rolling stock moving in  
13 interstate commerce" means that a person claiming the exemption  
14 must:

15 (1) use the vehicles or trailers to transport persons  
16 or property for hire;

17 (2) hold, at the time of purchase, an appropriate  
18 credential that authorizes a motor carrier to engage in  
19 interstate commerce for-hire; and

20 (3) if the person claiming the exemption is a  
21 subsidiary of another company, maintain separate books and  
22 records, including separate charts of accounts, and assure  
23 that all transactions between the transportation company  
24 and the parent are commercially reasonable arms-length  
25 transactions.

26 Subsection (e) of this Section shall continue to apply to

1 aircraft and watercraft on and after July 1, 2017.

2 Property purchased for the purpose of being attached to a  
3 motor vehicle or trailer as a part thereof qualifies as rolling  
4 stock moving in interstate commerce only if the motor vehicle  
5 or trailer to which it will be attached qualifies as rolling  
6 stock moving in interstate commerce under the test set forth in  
7 this subsection (g).

8 (Source: P.A. 98-584, eff. 8-27-13.)

9 Section 10. The Service Use Tax Act is amended by changing  
10 Section 3-51 as follows:

11 (35 ILCS 110/3-51)

12 Sec. 3-51. Motor vehicles; trailers; use as rolling stock  
13 definition.

14 (a) Through June 30, 2003, "use as rolling stock moving in  
15 interstate commerce" in subsection (b) of Section 3-45 means  
16 for motor vehicles, as defined in Section 1-46 of the Illinois  
17 Vehicle Code, and trailers, as defined in Section 1-209 of the  
18 Illinois Vehicle Code, when on 15 or more occasions in a  
19 12-month period the motor vehicle and trailer has carried  
20 persons or property for hire in interstate commerce, even just  
21 between points in Illinois, if the motor vehicle and trailer  
22 transports persons whose journeys or property whose shipments  
23 originate or terminate outside Illinois. This definition  
24 applies to all property purchased for the purpose of being

1 attached to those motor vehicles or trailers as a part thereof.

2 (b) On and after July 1, 2003 and through June 30, 2004,  
3 "use as rolling stock moving in interstate commerce" in  
4 paragraphs (4) and (4a) of the definition of "sale of service"  
5 in Section 2 and subsection (b) of Section 3-45 occurs for  
6 motor vehicles, as defined in Section 1-146 of the Illinois  
7 Vehicle Code, when during a 12-month period the rolling stock  
8 has carried persons or property for hire in interstate commerce  
9 for 51% of its total trips and transports persons whose  
10 journeys or property whose shipments originate or terminate  
11 outside Illinois. Trips that are only between points in  
12 Illinois shall not be counted as interstate trips when  
13 calculating whether the tangible personal property qualifies  
14 for the exemption but such trips shall be included in total  
15 trips taken.

16 (c) Beginning July 1, 2004 and through June 30, 2017, "use  
17 as rolling stock moving in interstate commerce" in paragraphs  
18 (4) and (4a) of the definition of "sale of service" in Section  
19 2 and subsection (b) of Section 3-45 occurs for motor vehicles,  
20 as defined in Section 1-146 of the Illinois Vehicle Code, when  
21 during a 12-month period the rolling stock has carried persons  
22 or property for hire in interstate commerce for greater than  
23 50% of its total trips for that period or for greater than 50%  
24 of its total miles for that period. The person claiming the  
25 exemption shall make an election at the time of purchase to use  
26 either the trips or mileage method. Persons who purchased motor

1 vehicles prior to July 1, 2004 shall make an election to use  
2 either the trips or mileage method and document that election  
3 in their books and records. If no election is made under this  
4 subsection to use the trips or mileage method, the person shall  
5 be deemed to have chosen the mileage method.

6 For purposes of determining qualifying trips or miles,  
7 motor vehicles that carry persons or property for hire, even  
8 just between points in Illinois, will be considered used for  
9 hire in interstate commerce if the motor vehicle transports  
10 persons whose journeys or property whose shipments originate or  
11 terminate outside Illinois. The exemption for motor vehicles  
12 used as rolling stock moving in interstate commerce may be  
13 claimed only for the following vehicles: (i) motor vehicles  
14 whose gross vehicle weight rating exceeds 16,000 pounds; and  
15 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
16 Vehicle Code. This definition applies to all property purchased  
17 for the purpose of being attached to those motor vehicles as a  
18 part thereof.

19 (d) Beginning July 1, 2004 and through June 30, 2017, "use  
20 as rolling stock moving in interstate commerce" in paragraphs  
21 (4) and (4a) of the definition of "sale of service" in Section  
22 2 and subsection (b) of Section 3-45 occurs for trailers, as  
23 defined in Section 1-209 of the Illinois Vehicle Code,  
24 semitrailers as defined in Section 1-187 of the Illinois  
25 Vehicle Code, and pole trailers as defined in Section 1-161 of  
26 the Illinois Vehicle Code, when during a 12-month period the

1 rolling stock has carried persons or property for hire in  
2 interstate commerce for greater than 50% of its total trips for  
3 that period or for greater than 50% of its total miles for that  
4 period. The person claiming the exemption for a trailer or  
5 trailers that will not be dedicated to a motor vehicle or group  
6 of motor vehicles shall make an election at the time of  
7 purchase to use either the trips or mileage method. Persons who  
8 purchased trailers prior to July 1, 2004 that are not dedicated  
9 to a motor vehicle or group of motor vehicles shall make an  
10 election to use either the trips or mileage method and document  
11 that election in their books and records. If no election is  
12 made under this subsection to use the trips or mileage method,  
13 the person shall be deemed to have chosen the mileage method.

14 For purposes of determining qualifying trips or miles,  
15 trailers, semitrailers, or pole trailers that carry property  
16 for hire, even just between points in Illinois, will be  
17 considered used for hire in interstate commerce if the  
18 trailers, semitrailers, or pole trailers transport property  
19 whose shipments originate or terminate outside Illinois. This  
20 definition applies to all property purchased for the purpose of  
21 being attached to those trailers, semitrailers, or pole  
22 trailers as a part thereof. In lieu of a person providing  
23 documentation regarding the qualifying use of each individual  
24 trailer, semitrailer, or pole trailer, that person may document  
25 such qualifying use by providing documentation of the  
26 following:

1           (1) If a trailer, semitrailer, or pole trailer is  
2 dedicated to a motor vehicle that qualifies as rolling  
3 stock moving in interstate commerce under subsection (c) of  
4 this Section, then that trailer, semitrailer, or pole  
5 trailer qualifies as rolling stock moving in interstate  
6 commerce under this subsection.

7           (2) If a trailer, semitrailer, or pole trailer is  
8 dedicated to a group of motor vehicles that all qualify as  
9 rolling stock moving in interstate commerce under  
10 subsection (c) of this Section, then that trailer,  
11 semitrailer, or pole trailer qualifies as rolling stock  
12 moving in interstate commerce under this subsection.

13           (3) If one or more trailers, semitrailers, or pole  
14 trailers are dedicated to a group of motor vehicles and not  
15 all of those motor vehicles in that group qualify as  
16 rolling stock moving in interstate commerce under  
17 subsection (c) of this Section, then the percentage of  
18 those trailers, semitrailers, or pole trailers that  
19 qualifies as rolling stock moving in interstate commerce  
20 under this subsection is equal to the percentage of those  
21 motor vehicles in that group that qualify as rolling stock  
22 moving in interstate commerce under subsection (c) of this  
23 Section to which those trailers, semitrailers, or pole  
24 trailers are dedicated. However, to determine the  
25 qualification for the exemption provided under this item  
26 (3), the mathematical application of the qualifying

1 percentage to one or more trailers, semitrailers, or pole  
2 trailers under this subpart shall not be allowed as to any  
3 fraction of a trailer, semitrailer, or pole trailer.

4 (e) For aircraft and watercraft purchased on or after  
5 January 1, 2014, "use as rolling stock moving in interstate  
6 commerce" in (i) paragraphs (4) and (4a) of the definition of  
7 "sale of service" in Section 2 and (ii) subsection (b) of  
8 Section 3-45 occurs when, during a 12-month period, the rolling  
9 stock has carried persons or property for hire in interstate  
10 commerce for greater than 50% of its total trips for that  
11 period or for greater than 50% of its total miles for that  
12 period. The person claiming the exemption shall make an  
13 election at the time of purchase to use either the trips or  
14 mileage method and document that election in their books and  
15 records. If no election is made under this subsection to use  
16 the trips or mileage method, the person shall be deemed to have  
17 chosen the mileage method. For aircraft, flight hours may be  
18 used in lieu of recording miles in determining whether the  
19 aircraft meets the mileage test in this subsection. For  
20 watercraft, nautical miles or trip hours may be used in lieu of  
21 recording miles in determining whether the watercraft meets the  
22 mileage test in this subsection.

23 Notwithstanding any other provision of law to the contrary,  
24 property purchased on or after January 1, 2014 for the purpose  
25 of being attached to aircraft or watercraft as a part thereof  
26 qualifies as rolling stock moving in interstate commerce only

1 if the aircraft or watercraft to which it will be attached  
2 qualifies as rolling stock moving in interstate commerce under  
3 the test set forth in this subsection (e), regardless of when  
4 the aircraft or watercraft was purchased. Persons who purchased  
5 aircraft or watercraft prior to January 1, 2014 shall make an  
6 election to use either the trips or mileage method and document  
7 that election in their books and records for the purpose of  
8 determining whether property purchased on or after January 1,  
9 2014 for the purpose of being attached to aircraft or  
10 watercraft as a part thereof qualifies as rolling stock moving  
11 in interstate commerce under this subsection (e).

12 (f) The election to use either the trips or mileage method  
13 made under the provisions of subsections (c), (d), or (e) of  
14 this Section will remain in effect for the duration of the  
15 purchaser's ownership of that item or, with respect to  
16 subsections (c) and (d) of this Section, until July 1, 2017,  
17 whichever occurs sooner.

18 (g) The General Assembly finds:

19 (1) The rolling stock exemption has been repeatedly  
20 amended and, between January 1, 1999 and the effective date  
21 of this amendatory Act of the 100th General Assembly, has  
22 taken 4 forms.

23 (2) The exemption continues to be a subject of dispute,  
24 audits, and lack of clarity and is problematic for Illinois  
25 businesses.

26 (3) It is essential to provide simplicity and clarity



1 to the issue of when a purchaser such as a trucking company  
2 in Illinois qualifies for the rolling stock sales tax  
3 exemption.

4 (4) Working with the trucking and hauling community and  
5 other interested parties, this amendatory Act of the 100th  
6 General Assembly draws a simple bright line that purchasers  
7 must meet to qualify for the exemption which is modeled on  
8 surrounding states that do not require a test involving  
9 trips, or mileage, or both for shipments between points  
10 which originate or terminate outside the relevant state.  
11 Such a simplified requirement, without a trips or miles  
12 qualification, will provide certainty for purchasers such  
13 as Illinois trucking businesses and also provide a more  
14 easily enforced requirement and audit practice for the  
15 Department of Revenue.

16 (5) It is the intent of the General Assembly to  
17 establish on and after the effective date of this  
18 amendatory Act of the 100th General Assembly an exemption  
19 based upon the purchaser's status as a motor carrier which  
20 has credentials to engage in interstate commerce for hire.

21 Beginning on July 1, 2017 "use as rolling stock moving in  
22 interstate commerce" means that a person claiming the exemption  
23 must:

24 (1) use the vehicles or trailers to transport persons  
25 or property for hire;

26 (2) hold, at the time of purchase, an appropriate

1 credential that authorizes a motor carrier to engage in  
2 interstate commerce for-hire; and

3 (3) if the person claiming the exemption is a  
4 subsidiary of another company, maintain separate books and  
5 records, including separate charts of accounts, and assure  
6 that all transactions between the transportation company  
7 and the parent are commercially reasonable arms-length  
8 transactions.

9 Subsection (e) of this Section shall continue to apply to  
10 aircraft and watercraft on and after July 1, 2017.

11 Property purchased for the purpose of being attached to a  
12 motor vehicle or trailer as a part thereof qualifies as rolling  
13 stock moving in interstate commerce only if the motor vehicle  
14 or trailer to which it will be attached qualifies as rolling  
15 stock moving in interstate commerce under the test set forth in  
16 this subsection (g).

17 (Source: P.A. 98-584, eff. 8-27-13.)

18 Section 15. The Service Occupation Tax Act is amended by  
19 changing Section 2d as follows:

20 (35 ILCS 115/2d)

21 Sec. 2d. Motor vehicles; trailers; use as rolling stock  
22 definition.

23 (a) Through June 30, 2003, "use as rolling stock moving in  
24 interstate commerce" in subsections (d) and (d-1) of the

1 definition of "sale of service" in Section 2 means for motor  
2 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
3 Code, and trailers, as defined in Section 1-209 of the Illinois  
4 Vehicle Code, when on 15 or more occasions in a 12-month period  
5 the motor vehicle and trailer has carried persons or property  
6 for hire in interstate commerce, even just between points in  
7 Illinois, if the motor vehicle and trailer transports persons  
8 whose journeys or property whose shipments originate or  
9 terminate outside Illinois. This definition applies to all  
10 property purchased for the purpose of being attached to those  
11 motor vehicles or trailers as a part thereof.

12 (b) On and after July 1, 2003 and through June 30, 2004,  
13 "use as rolling stock moving in interstate commerce" in  
14 paragraphs (d) and (d-1) of the definition of "sale of service"  
15 in Section 2 occurs for motor vehicles, as defined in Section  
16 1-146 of the Illinois Vehicle Code, when during a 12-month  
17 period the rolling stock has carried persons or property for  
18 hire in interstate commerce for 51% of its total trips and  
19 transports persons whose journeys or property whose shipments  
20 originate or terminate outside Illinois. Trips that are only  
21 between points in Illinois will not be counted as interstate  
22 trips when calculating whether the tangible personal property  
23 qualifies for the exemption but such trips will be included in  
24 total trips taken.

25 (c) Beginning July 1, 2004 and through June 30, 2017, "use  
26 as rolling stock moving in interstate commerce" in paragraphs

1 (d) and (d-1) of the definition of "sale of service" in Section  
2 occurs for motor vehicles, as defined in Section 1-146 of the  
3 Illinois Vehicle Code, when during a 12-month period the  
4 rolling stock has carried persons or property for hire in  
5 interstate commerce for greater than 50% of its total trips for  
6 that period or for greater than 50% of its total miles for that  
7 period. The person claiming the exemption shall make an  
8 election at the time of purchase to use either the trips or  
9 mileage method. Persons who purchased motor vehicles prior to  
10 July 1, 2004 shall make an election to use either the trips or  
11 mileage method and document that election in their books and  
12 records. If no election is made under this subsection to use  
13 the trips or mileage method, the person shall be deemed to have  
14 chosen the mileage method.

15 For purposes of determining qualifying trips or miles,  
16 motor vehicles that carry persons or property for hire, even  
17 just between points in Illinois, will be considered used for  
18 hire in interstate commerce if the motor vehicle transports  
19 persons whose journeys or property whose shipments originate or  
20 terminate outside Illinois. The exemption for motor vehicles  
21 used as rolling stock moving in interstate commerce may be  
22 claimed only for the following vehicles: (i) motor vehicles  
23 whose gross vehicle weight rating exceeds 16,000 pounds; and  
24 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
25 Vehicle Code. This definition applies to all property purchased  
26 for the purpose of being attached to those motor vehicles as a

1 part thereof.

2 (d) Beginning July 1, 2004 and through June 30, 2017, "use  
3 as rolling stock moving in interstate commerce" in paragraphs  
4 (d) and (d-1) of the definition of "sale of service" in Section  
5 2 occurs for trailers, as defined in Section 1-209 of the  
6 Illinois Vehicle Code, semitrailers as defined in Section 1-187  
7 of the Illinois Vehicle Code, and pole trailers as defined in  
8 Section 1-161 of the Illinois Vehicle Code, when during a  
9 12-month period the rolling stock has carried persons or  
10 property for hire in interstate commerce for greater than 50%  
11 of its total trips for that period or for greater than 50% of  
12 its total miles for that period. The person claiming the  
13 exemption for a trailer or trailers that will not be dedicated  
14 to a motor vehicle or group of motor vehicles shall make an  
15 election at the time of purchase to use either the trips or  
16 mileage method. Persons who purchased trailers prior to July 1,  
17 2004 that are not dedicated to a motor vehicle or group of  
18 motor vehicles shall make an election to use either the trips  
19 or mileage method and document that election in their books and  
20 records. If no election is made under this subsection to use  
21 the trips or mileage method, the person shall be deemed to have  
22 chosen the mileage method.

23 For purposes of determining qualifying trips or miles,  
24 trailers, semitrailers, or pole trailers that carry property  
25 for hire, even just between points in Illinois, will be  
26 considered used for hire in interstate commerce if the

1 trailers, semitrailers, or pole trailers transport property  
2 whose shipments originate or terminate outside Illinois. This  
3 definition applies to all property purchased for the purpose of  
4 being attached to those trailers, semitrailers, or pole  
5 trailers as a part thereof. In lieu of a person providing  
6 documentation regarding the qualifying use of each individual  
7 trailer, semitrailer, or pole trailer, that person may document  
8 such qualifying use by providing documentation of the  
9 following:

10 (1) If a trailer, semitrailer, or pole trailer is  
11 dedicated to a motor vehicle that qualifies as rolling  
12 stock moving in interstate commerce under subsection (c) of  
13 this Section, then that trailer, semitrailer, or pole  
14 trailer qualifies as rolling stock moving in interstate  
15 commerce under this subsection.

16 (2) If a trailer, semitrailer, or pole trailer is  
17 dedicated to a group of motor vehicles that all qualify as  
18 rolling stock moving in interstate commerce under  
19 subsection (c) of this Section, then that trailer,  
20 semitrailer, or pole trailer qualifies as rolling stock  
21 moving in interstate commerce under this subsection.

22 (3) If one or more trailers, semitrailers, or pole  
23 trailers are dedicated to a group of motor vehicles and not  
24 all of those motor vehicles in that group qualify as  
25 rolling stock moving in interstate commerce under  
26 subsection (c) of this Section, then the percentage of

1 those trailers, semitrailers, or pole trailers that  
2 qualifies as rolling stock moving in interstate commerce  
3 under this subsection is equal to the percentage of those  
4 motor vehicles in that group that qualify as rolling stock  
5 moving in interstate commerce under subsection (c) of this  
6 Section to which those trailers, semitrailers, or pole  
7 trailers are dedicated. However, to determine the  
8 qualification for the exemption provided under this item  
9 (3), the mathematical application of the qualifying  
10 percentage to one or more trailers, semitrailers, or pole  
11 trailers under this subpart shall not be allowed as to any  
12 fraction of a trailer, semitrailer, or pole trailer.

13 (e) For aircraft and watercraft purchased on or after  
14 January 1 2014, "use as rolling stock moving in interstate  
15 commerce" in paragraphs (d) and (d-1) of the definition of  
16 "sale of service" in Section 2 occurs when, during a 12-month  
17 period, the rolling stock has carried persons or property for  
18 hire in interstate commerce for greater than 50% of its total  
19 trips for that period or for greater than 50% of its total  
20 miles for that period. The person claiming the exemption shall  
21 make an election at the time of purchase to use either the  
22 trips or mileage method and document that election in their  
23 books and records. If no election is made under this subsection  
24 to use the trips or mileage method, the person shall be deemed  
25 to have chosen the mileage method. For aircraft, flight hours  
26 may be used in lieu of recording miles in determining whether

1 the aircraft meets the mileage test in this subsection. For  
2 watercraft, nautical miles or trip hours may be used in lieu of  
3 recording miles in determining whether the watercraft meets the  
4 mileage test in this subsection.

5 Notwithstanding any other provision of law to the contrary,  
6 property purchased on or after January 1, 2014 for the purpose  
7 of being attached to aircraft or watercraft as a part thereof  
8 qualifies as rolling stock moving in interstate commerce only  
9 if the aircraft or watercraft to which it will be attached  
10 qualifies as rolling stock moving in interstate commerce under  
11 the test set forth in this subsection (e), regardless of when  
12 the aircraft or watercraft was purchased. Persons who purchased  
13 aircraft or watercraft prior to January 1, 2014 shall make an  
14 election to use either the trips or mileage method and document  
15 that election in their books and records for the purpose of  
16 determining whether property purchased on or after January 1,  
17 2014 for the purpose of being attached to aircraft or  
18 watercraft as a part thereof qualifies as rolling stock moving  
19 in interstate commerce under this subsection (e).

20 (f) The election to use either the trips or mileage method  
21 made under the provisions of subsections (c), (d), or (e) of  
22 this Section will remain in effect for the duration of the  
23 purchaser's ownership of that item or, with respect to  
24 subsections (c) and (d) of this Section, until July 1, 2017,  
25 whichever occurs sooner.

26 (g) The General Assembly finds:



1           (1) The rolling stock exemption has been repeatedly  
2           amended and, between January 1, 1999 and the effective date  
3           of this amendatory Act of the 100th General Assembly, has  
4           taken 4 forms.

5           (2) The exemption continues to be a subject of dispute,  
6           audits, and lack of clarity and is problematic for Illinois  
7           businesses.

8           (3) It is essential to provide simplicity and clarity  
9           to the issue of when a purchaser such as a trucking company  
10           in Illinois qualifies for the rolling stock sales tax  
11           exemption.

12           (4) Working with the trucking and hauling community and  
13           other interested parties, this amendatory Act of the 100th  
14           General Assembly draws a simple bright line that purchasers  
15           must meet to qualify for the exemption which is modeled on  
16           surrounding states that do not require a test involving  
17           trips, or mileage, or both for shipments between points  
18           which originate or terminate outside the relevant state.  
19           Such a simplified requirement, without a trips or miles  
20           qualification, will provide certainty for purchasers such  
21           as Illinois trucking businesses and also provide a more  
22           easily enforced requirement and audit practice for the  
23           Department of Revenue.

24           (5) It is the intent of the General Assembly to  
25           establish on and after the effective date of this  
26           amendatory Act of the 100th General Assembly an exemption

1       based upon the purchaser's status as a motor carrier which  
2       has credentials to engage in interstate commerce for hire.  
3       Beginning on July 1, 2017 "use as rolling stock moving in  
4       interstate commerce" means that a person claiming the exemption  
5       must:

6               (1) use the vehicles or trailers to transport persons  
7               or property for hire;

8               (2) hold, at the time of purchase, an appropriate  
9               credential that authorizes a motor carrier to engage in  
10              interstate commerce for-hire; and

11              (3) if the person claiming the exemption is a  
12              subsidiary of another company, maintain separate books and  
13              records, including separate charts of accounts, and assure  
14              that all transactions between the transportation company  
15              and the parent are commercially reasonable arms-length  
16              transactions.

17       Subsection (e) of this Section shall continue to apply to  
18       aircraft and watercraft on and after July 1, 2017.

19       Property purchased for the purpose of being attached to a  
20       motor vehicle or trailer as a part thereof qualifies as rolling  
21       stock moving in interstate commerce only if the motor vehicle  
22       or trailer to which it will be attached qualifies as rolling  
23       stock moving in interstate commerce under the test set forth in  
24       this subsection (g).

25       (Source: P.A. 98-584, eff. 8-27-13.)

1           Section 20. The Retailers' Occupation Tax Act is amended by  
2 changing Section 2-51 as follows:

3           (35 ILCS 120/2-51)

4           Sec. 2-51. Motor vehicles; trailers; use as rolling stock  
5 definition.

6           (a) Through June 30, 2003, "use as rolling stock moving in  
7 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
8 means for motor vehicles, as defined in Section 1-146 of the  
9 Illinois Vehicle Code, and trailers, as defined in Section  
10 1-209 of the Illinois Vehicle Code, when on 15 or more  
11 occasions in a 12-month period the motor vehicle and trailer  
12 has carried persons or property for hire in interstate  
13 commerce, even just between points in Illinois, if the motor  
14 vehicle and trailer transports persons whose journeys or  
15 property whose shipments originate or terminate outside  
16 Illinois. This definition applies to all property purchased for  
17 the purpose of being attached to those motor vehicles or  
18 trailers as a part thereof.

19           (b) On and after July 1, 2003 and through June 30, 2004,  
20 "use as rolling stock moving in interstate commerce" in  
21 paragraphs (12) and (13) of Section 2-5 occurs for motor  
22 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
23 Code, when during a 12-month period the rolling stock has  
24 carried persons or property for hire in interstate commerce for  
25 51% of its total trips and transports persons whose journeys or

1 property whose shipments originate or terminate outside  
2 Illinois. Trips that are only between points in Illinois shall  
3 not be counted as interstate trips when calculating whether the  
4 tangible personal property qualifies for the exemption but such  
5 trips shall be included in total trips taken.

6 (c) Beginning July 1, 2004 and through June 30, 2017, "use  
7 as rolling stock moving in interstate commerce" in paragraphs  
8 (12) and (13) of Section 2-5 occurs for motor vehicles, as  
9 defined in Section 1-146 of the Illinois Vehicle Code, when  
10 during a 12-month period the rolling stock has carried persons  
11 or property for hire in interstate commerce for greater than  
12 50% of its total trips for that period or for greater than 50%  
13 of its total miles for that period. The person claiming the  
14 exemption shall make an election at the time of purchase to use  
15 either the trips or mileage method. Persons who purchased motor  
16 vehicles prior to July 1, 2004 shall make an election to use  
17 either the trips or mileage method and document that election  
18 in their books and records. If no election is made under this  
19 subsection to use the trips or mileage method, the person shall  
20 be deemed to have chosen the mileage method.

21 For purposes of determining qualifying trips or miles,  
22 motor vehicles that carry persons or property for hire, even  
23 just between points in Illinois, will be considered used for  
24 hire in interstate commerce if the motor vehicle transports  
25 persons whose journeys or property whose shipments originate or  
26 terminate outside Illinois. The exemption for motor vehicles

1 used as rolling stock moving in interstate commerce may be  
2 claimed only for the following vehicles: (i) motor vehicles  
3 whose gross vehicle weight rating exceeds 16,000 pounds; and  
4 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
5 Vehicle Code. This definition applies to all property purchased  
6 for the purpose of being attached to those motor vehicles as a  
7 part thereof.

8 (d) Beginning July 1, 2004 and through June 30, 2017, "use  
9 as rolling stock moving in interstate commerce" in paragraphs  
10 (12) and (13) of Section 2-5 occurs for trailers, as defined in  
11 Section 1-209 of the Illinois Vehicle Code, semitrailers as  
12 defined in Section 1-187 of the Illinois Vehicle Code, and pole  
13 trailers as defined in Section 1-161 of the Illinois Vehicle  
14 Code, when during a 12-month period the rolling stock has  
15 carried persons or property for hire in interstate commerce for  
16 greater than 50% of its total trips for that period or for  
17 greater than 50% of its total miles for that period. The person  
18 claiming the exemption for a trailer or trailers that will not  
19 be dedicated to a motor vehicle or group of motor vehicles  
20 shall make an election at the time of purchase to use either  
21 the trips or mileage method. Persons who purchased trailers  
22 prior to July 1, 2004 that are not dedicated to a motor vehicle  
23 or group of motor vehicles shall make an election to use either  
24 the trips or mileage method and document that election in their  
25 books and records. If no election is made under this subsection  
26 to use the trips or mileage method, the person shall be deemed

1 to have chosen the mileage method.

2 For purposes of determining qualifying trips or miles,  
3 trailers, semitrailers, or pole trailers that carry property  
4 for hire, even just between points in Illinois, will be  
5 considered used for hire in interstate commerce if the  
6 trailers, semitrailers, or pole trailers transport property  
7 whose shipments originate or terminate outside Illinois. This  
8 definition applies to all property purchased for the purpose of  
9 being attached to those trailers, semitrailers, or pole  
10 trailers as a part thereof. In lieu of a person providing  
11 documentation regarding the qualifying use of each individual  
12 trailer, semitrailer, or pole trailer, that person may document  
13 such qualifying use by providing documentation of the  
14 following:

15 (1) If a trailer, semitrailer, or pole trailer is  
16 dedicated to a motor vehicle that qualifies as rolling  
17 stock moving in interstate commerce under subsection (c) of  
18 this Section, then that trailer, semitrailer, or pole  
19 trailer qualifies as rolling stock moving in interstate  
20 commerce under this subsection.

21 (2) If a trailer, semitrailer, or pole trailer is  
22 dedicated to a group of motor vehicles that all qualify as  
23 rolling stock moving in interstate commerce under  
24 subsection (c) of this Section, then that trailer,  
25 semitrailer, or pole trailer qualifies as rolling stock  
26 moving in interstate commerce under this subsection.

1           (3) If one or more trailers, semitrailers, or pole  
2 trailers are dedicated to a group of motor vehicles and not  
3 all of those motor vehicles in that group qualify as  
4 rolling stock moving in interstate commerce under  
5 subsection (c) of this Section, then the percentage of  
6 those trailers, semitrailers, or pole trailers that  
7 qualifies as rolling stock moving in interstate commerce  
8 under this subsection is equal to the percentage of those  
9 motor vehicles in that group that qualify as rolling stock  
10 moving in interstate commerce under subsection (c) of this  
11 Section to which those trailers, semitrailers, or pole  
12 trailers are dedicated. However, to determine the  
13 qualification for the exemption provided under this item  
14 (3), the mathematical application of the qualifying  
15 percentage to one or more trailers, semitrailers, or pole  
16 trailers under this subpart shall not be allowed as to any  
17 fraction of a trailer, semitrailer, or pole trailer.

18           (e) For aircraft and watercraft purchased on or after  
19 January 1, 2014, "use as rolling stock moving in interstate  
20 commerce" in paragraphs (12) and (13) of Section 2-5 occurs  
21 when, during a 12-month period, the rolling stock has carried  
22 persons or property for hire in interstate commerce for greater  
23 than 50% of its total trips for that period or for greater than  
24 50% of its total miles for that period. The person claiming the  
25 exemption shall make an election at the time of purchase to use  
26 either the trips or mileage method and document that election

1 in their books and records. If no election is made under this  
2 subsection to use the trips or mileage method, the person shall  
3 be deemed to have chosen the mileage method. For aircraft,  
4 flight hours may be used in lieu of recording miles in  
5 determining whether the aircraft meets the mileage test in this  
6 subsection. For watercraft, nautical miles or trip hours may be  
7 used in lieu of recording miles in determining whether the  
8 watercraft meets the mileage test in this subsection.

9 Notwithstanding any other provision of law to the contrary,  
10 property purchased on or after January 1, 2014 for the purpose  
11 of being attached to aircraft or watercraft as a part thereof  
12 qualifies as rolling stock moving in interstate commerce only  
13 if the aircraft or watercraft to which it will be attached  
14 qualifies as rolling stock moving in interstate commerce under  
15 the test set forth in this subsection (e), regardless of when  
16 the aircraft or watercraft was purchased. Persons who purchased  
17 aircraft or watercraft prior to January 1, 2014 shall make an  
18 election to use either the trips or mileage method and document  
19 that election in their books and records for the purpose of  
20 determining whether property purchased on or after January 1,  
21 2014 for the purpose of being attached to aircraft or  
22 watercraft as a part thereof qualifies as rolling stock moving  
23 in interstate commerce under this subsection (e).

24 (f) The election to use either the trips or mileage method  
25 made under the provisions of subsections (c), (d), or (e) of  
26 this Section will remain in effect for the duration of the



1 purchaser's ownership of that item or, with respect to  
2 subsections (c) and (d) of this Section, until July 1, 2017,  
3 whichever occurs sooner.

4 (g) The General Assembly finds:

5 (1) The rolling stock exemption has been repeatedly  
6 amended and, between January 1, 1999 and the effective date  
7 of this amendatory Act of the 100th General Assembly, has  
8 taken 4 forms.

9 (2) The exemption continues to be a subject of dispute,  
10 audits, and lack of clarity and is problematic for Illinois  
11 businesses.

12 (3) It is essential to provide simplicity and clarity  
13 to the issue of when a purchaser such as a trucking company  
14 in Illinois qualifies for the rolling stock sales tax  
15 exemption.

16 (4) Working with the trucking and hauling community and  
17 other interested parties, this amendatory Act of the 100th  
18 General Assembly draws a simple bright line that purchasers  
19 must meet to qualify for the exemption which is modeled on  
20 surrounding states that do not require a test involving  
21 trips, or mileage, or both for shipments between points  
22 which originate or terminate outside the relevant state.  
23 Such a simplified requirement, without a trips or miles  
24 qualification, will provide certainty for purchasers such  
25 as Illinois trucking businesses and also provide a more  
26 easily enforced requirement and audit practice for the

1 Department of Revenue.

2 (5) It is the intent of the General Assembly to  
3 establish on and after the effective date of this  
4 amendatory Act of the 100th General Assembly an exemption  
5 based upon the purchaser's status as a motor carrier which  
6 has credentials to engage in interstate commerce for hire.

7 Beginning on July 1, 2017 "use as rolling stock moving in  
8 interstate commerce" means that a person claiming the exemption  
9 must:

10 (1) use the vehicles or trailers to transport persons  
11 or property for hire;

12 (2) hold, at the time of purchase, an appropriate  
13 credential that authorizes a motor carrier to engage in  
14 interstate commerce for-hire; and

15 (3) if the person claiming the exemption is a  
16 subsidiary of another company, maintain separate books and  
17 records, including separate charts of accounts, and assure  
18 that all transactions between the transportation company  
19 and the parent are commercially reasonable arms-length  
20 transactions.

21 Subsection (e) of this Section shall apply to aircraft and  
22 watercraft on and after July 1, 2017.

23 Property purchased for the purpose of being attached to a  
24 motor vehicle or a trailer as a part thereof qualifies as  
25 rolling stock moving in interstate commerce only if the motor  
26 vehicle or trailer to which it will be attached qualifies as

1 rolling stock moving in interstate commerce under the test set  
2 forth in this subsection (g).

3 (Source: P.A. 98-584, eff. 8-27-13.)

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