

SB1871



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1871

Introduced 2/9/2017, by Sen. Pat McGuire

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 08399 HLH 21680 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.