



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3573

by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5	
35 ILCS 105/3-50	from Ch. 120, par. 439.3-50
35 ILCS 110/2	from Ch. 120, par. 439.32
35 ILCS 115/2	from Ch. 120, par. 439.102
35 ILCS 120/2-45	from Ch. 120, par. 441-45

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act to extend the Manufacturing Machinery and Equipment Exemption to production related tangible personal property. Provides that the term "production related tangible personal property" includes certain supplies and consumables used in a manufacturing facility. Effective immediately.

LRB101 07573 HLH 52618 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 Sections
5 3-5 and 3-50 as follows:

6 (35 ILCS 105/3-5)

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

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

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

19 (3) Personal property purchased by a not-for-profit arts or
20 cultural organization that establishes, by proof required by
21 the Department by rule, that it has received an exemption under
22 Section 501(c)(3) of the Internal Revenue Code and that is
23 organized and operated primarily for the presentation or

1 support of arts or cultural programming, activities, or
2 services. These organizations include, but are not limited to,
3 music and dramatic arts organizations such as symphony
4 orchestras and theatrical groups, arts and cultural service
5 organizations, local arts councils, visual arts organizations,
6 and media arts organizations. On and after July 1, 2001 (the
7 effective date of Public Act 92-35), however, an entity
8 otherwise eligible for this exemption shall not make tax-free
9 purchases unless it has an active identification number issued
10 by the Department.

11 (4) Personal property purchased by a governmental body, by
12 a corporation, society, association, foundation, or
13 institution organized and operated exclusively for charitable,
14 religious, or educational purposes, or by a not-for-profit
15 corporation, society, association, foundation, institution, or
16 organization that has no compensated officers or employees and
17 that is organized and operated primarily for the recreation of
18 persons 55 years of age or older. A limited liability company
19 may qualify for the exemption under this paragraph only if the
20 limited liability company is organized and operated
21 exclusively for educational purposes. On and after July 1,
22 1987, however, no entity otherwise eligible for this exemption
23 shall make tax-free purchases unless it has an active exemption
24 identification number issued by the Department.

25 (5) Until July 1, 2003, a passenger car that is a
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

2 (6) Until July 1, 2003 and beginning again on September 1,
3 2004 through August 30, 2014, graphic arts machinery and
4 equipment, including repair and replacement parts, both new and
5 used, and including that manufactured on special order,
6 certified by the purchaser to be used primarily for graphic
7 arts production, and including machinery and equipment
8 purchased for lease. Equipment includes chemicals or chemicals
9 acting as catalysts but only if the chemicals or chemicals
10 acting as catalysts effect a direct and immediate change upon a
11 graphic arts product. Beginning on July 1, 2017, graphic arts
12 machinery and equipment is included in the manufacturing and
13 assembling machinery and equipment exemption under paragraph
14 (18).

15 (7) Farm chemicals.

16 (8) Legal tender, currency, medallions, or gold or silver
17 coinage issued by the State of Illinois, the government of the
18 United States of America, or the government of any foreign
19 country, and bullion.

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

23 (10) A motor vehicle that is used for automobile renting,
24 as defined in the Automobile Renting Occupation and Use Tax
25 Act.

26 (11) Farm machinery and equipment, both new and used,

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

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

1 Farm machinery and equipment also includes computers,
2 sensors, software, and related equipment used primarily in the
3 computer-assisted operation of production agriculture
4 facilities, equipment, and activities such as, but not limited
5 to, the collection, monitoring, and correlation of animal and
6 crop data for the purpose of formulating animal diets and
7 agricultural chemicals. This item (11) is exempt from the
8 provisions of Section 3-90.

9 (12) Until June 30, 2013, fuel and petroleum products sold
10 to or used by an air common carrier, certified by the carrier
11 to be used for consumption, shipment, or storage in the conduct
12 of its business as an air common carrier, for a flight destined
13 for or returning from a location or locations outside the
14 United States without regard to previous or subsequent domestic
15 stopovers.

16 Beginning July 1, 2013, fuel and petroleum products sold to
17 or used by an air carrier, certified by the carrier to be used
18 for consumption, shipment, or storage in the conduct of its
19 business as an air common carrier, for a flight that (i) is
20 engaged in foreign trade or is engaged in trade between the
21 United States and any of its possessions and (ii) transports at
22 least one individual or package for hire from the city of
23 origination to the city of final destination on the same
24 aircraft, without regard to a change in the flight number of
25 that aircraft.

26 (13) Proceeds of mandatory service charges separately

1 stated on customers' bills for the purchase and consumption of
2 food and beverages purchased at retail from a retailer, to the
3 extent that the proceeds of the service charge are in fact
4 turned over as tips or as a substitute for tips to the
5 employees who participate directly in preparing, serving,
6 hosting or cleaning up the food or beverage function with
7 respect to which the service charge is imposed.

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

17 (15) Photoprocessing machinery and equipment, including
18 repair and replacement parts, both new and used, including that
19 manufactured on special order, certified by the purchaser to be
20 used primarily for photoprocessing, and including
21 photoprocessing machinery and equipment purchased for lease.

22 (16) Until July 1, 2023, coal and aggregate exploration,
23 mining, off-highway hauling, processing, maintenance, and
24 reclamation equipment, including replacement parts and
25 equipment, and including equipment purchased for lease, but
26 excluding motor vehicles required to be registered under the

1 Illinois Vehicle Code. The changes made to this Section by
2 Public Act 97-767 apply on and after July 1, 2003, but no claim
3 for credit or refund is allowed on or after August 16, 2013
4 (the effective date of Public Act 98-456) for such taxes paid
5 during the period beginning July 1, 2003 and ending on August
6 16, 2013 (the effective date of Public Act 98-456).

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

13 (18) Manufacturing and assembling machinery and equipment
14 used primarily in the process of manufacturing or assembling
15 tangible personal property for wholesale or retail sale or
16 lease, whether that sale or lease is made directly by the
17 manufacturer or by some other person, whether the materials
18 used in the process are owned by the manufacturer or some other
19 person, or whether that sale or lease is made apart from or as
20 an incident to the seller's engaging in the service occupation
21 of producing machines, tools, dies, jigs, patterns, gauges, or
22 other similar items of no commercial value on special order for
23 a particular purchaser. The exemption provided by this
24 paragraph (18) includes production related tangible personal
25 property, as defined in Section 3-50, purchased on or after
26 July 1, 2019. The exemption provided by this paragraph (18)

1 does not include machinery and equipment used in (i) the
2 generation of electricity for wholesale or retail sale; (ii)
3 the generation or treatment of natural or artificial gas for
4 wholesale or retail sale that is delivered to customers through
5 pipes, pipelines, or mains; or (iii) the treatment of water for
6 wholesale or retail sale that is delivered to customers through
7 pipes, pipelines, or mains. The provisions of Public Act 98-583
8 are declaratory of existing law as to the meaning and scope of
9 this exemption. Beginning on July 1, 2017, the exemption
10 provided by this paragraph (18) includes, but is not limited
11 to, graphic arts machinery and equipment, as defined in
12 paragraph (6) of this Section.

13 (19) Personal property delivered to a purchaser or
14 purchaser's donee inside Illinois when the purchase order for
15 that personal property was received by a florist located
16 outside Illinois who has a florist located inside Illinois
17 deliver the personal property.

18 (20) Semen used for artificial insemination of livestock
19 for direct agricultural production.

20 (21) Horses, or interests in horses, registered with and
21 meeting the requirements of any of the Arabian Horse Club
22 Registry of America, Appaloosa Horse Club, American Quarter
23 Horse Association, United States Trotting Association, or
24 Jockey Club, as appropriate, used for purposes of breeding or
25 racing for prizes. This item (21) is exempt from the provisions
26 of Section 3-90, and the exemption provided for under this item

1 (21) applies for all periods beginning May 30, 1995, but no
2 claim for credit or refund is allowed on or after January 1,
3 2008 for such taxes paid during the period beginning May 30,
4 2000 and ending on January 1, 2008.

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

1 Department.

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

22 (24) Beginning with taxable years ending on or after
23 December 31, 1995 and ending with taxable years ending on or
24 before December 31, 2004, personal property that is donated for
25 disaster relief to be used in a State or federally declared
26 disaster area in Illinois or bordering Illinois by a

1 manufacturer or retailer that is registered in this State to a
2 corporation, society, association, foundation, or institution
3 that has been issued a sales tax exemption identification
4 number by the Department that assists victims of the disaster
5 who reside within the declared disaster area.

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

18 (26) Beginning July 1, 1999, game or game birds purchased
19 at a "game breeding and hunting preserve area" as that term is
20 used in the Wildlife Code. This paragraph is exempt from the
21 provisions of Section 3-90.

22 (27) A motor vehicle, as that term is defined in Section
23 1-146 of the Illinois Vehicle Code, that is donated to a
24 corporation, limited liability company, society, association,
25 foundation, or institution that is determined by the Department
26 to be organized and operated exclusively for educational

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

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

1 exempt from the provisions of Section 3-90.

2 (29) Beginning January 1, 2000 and through December 31,
3 2001, new or used automatic vending machines that prepare and
4 serve hot food and beverages, including coffee, soup, and other
5 items, and replacement parts for these machines. Beginning
6 January 1, 2002 and through June 30, 2003, machines and parts
7 for machines used in commercial, coin-operated amusement and
8 vending business if a use or occupation tax is paid on the
9 gross receipts derived from the use of the commercial,
10 coin-operated amusement and vending machines. This paragraph
11 is exempt from the provisions of Section 3-90.

12 (30) Beginning January 1, 2001 and through June 30, 2016,
13 food for human consumption that is to be consumed off the
14 premises where it is sold (other than alcoholic beverages, soft
15 drinks, and food that has been prepared for immediate
16 consumption) and prescription and nonprescription medicines,
17 drugs, medical appliances, and insulin, urine testing
18 materials, syringes, and needles used by diabetics, for human
19 use, when purchased for use by a person receiving medical
20 assistance under Article V of the Illinois Public Aid Code who
21 resides in a licensed long-term care facility, as defined in
22 the Nursing Home Care Act, or in a licensed facility as defined
23 in the ID/DD Community Care Act, the MC/DD Act, or the
24 Specialized Mental Health Rehabilitation Act of 2013.

25 (31) Beginning on August 2, 2001 (the effective date of
26 Public Act 92-227), computers and communications equipment

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

24 (32) Beginning on August 2, 2001 (the effective date of
25 Public Act 92-227), personal property purchased by a lessor who
26 leases the property, under a lease of one year or longer

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

20 (33) On and after July 1, 2003 and through June 30, 2004,
21 the use in this State of motor vehicles of the second division
22 with a gross vehicle weight in excess of 8,000 pounds and that
23 are subject to the commercial distribution fee imposed under
24 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
25 1, 2004 and through June 30, 2005, the use in this State of
26 motor vehicles of the second division: (i) with a gross vehicle

1 weight rating in excess of 8,000 pounds; (ii) that are subject
2 to the commercial distribution fee imposed under Section
3 3-815.1 of the Illinois Vehicle Code; and (iii) that are
4 primarily used for commercial purposes. Through June 30, 2005,
5 this exemption applies to repair and replacement parts added
6 after the initial purchase of such a motor vehicle if that
7 motor vehicle is used in a manner that would qualify for the
8 rolling stock exemption otherwise provided for in this Act. For
9 purposes of this paragraph, the term "used for commercial
10 purposes" means the transportation of persons or property in
11 furtherance of any commercial or industrial enterprise,
12 whether for-hire or not.

13 (34) Beginning January 1, 2008, tangible personal property
14 used in the construction or maintenance of a community water
15 supply, as defined under Section 3.145 of the Environmental
16 Protection Act, that is operated by a not-for-profit
17 corporation that holds a valid water supply permit issued under
18 Title IV of the Environmental Protection Act. This paragraph is
19 exempt from the provisions of Section 3-90.

20 (35) Beginning January 1, 2010, materials, parts,
21 equipment, components, and furnishings incorporated into or
22 upon an aircraft as part of the modification, refurbishment,
23 completion, replacement, repair, or maintenance of the
24 aircraft. This exemption includes consumable supplies used in
25 the modification, refurbishment, completion, replacement,
26 repair, and maintenance of aircraft, but excludes any

1 materials, parts, equipment, components, and consumable
2 supplies used in the modification, replacement, repair, and
3 maintenance of aircraft engines or power plants, whether such
4 engines or power plants are installed or uninstalled upon any
5 such aircraft. "Consumable supplies" include, but are not
6 limited to, adhesive, tape, sandpaper, general purpose
7 lubricants, cleaning solution, latex gloves, and protective
8 films. This exemption applies only to the use of qualifying
9 tangible personal property by persons who modify, refurbish,
10 complete, repair, replace, or maintain aircraft and who (i)
11 hold an Air Agency Certificate and are empowered to operate an
12 approved repair station by the Federal Aviation
13 Administration, (ii) have a Class IV Rating, and (iii) conduct
14 operations in accordance with Part 145 of the Federal Aviation
15 Regulations. The exemption does not include aircraft operated
16 by a commercial air carrier providing scheduled passenger air
17 service pursuant to authority issued under Part 121 or Part 129
18 of the Federal Aviation Regulations. The changes made to this
19 paragraph (35) by Public Act 98-534 are declarative of existing
20 law.

21 (36) Tangible personal property purchased by a
22 public-facilities corporation, as described in Section
23 11-65-10 of the Illinois Municipal Code, for purposes of
24 constructing or furnishing a municipal convention hall, but
25 only if the legal title to the municipal convention hall is
26 transferred to the municipality without any further

1 consideration by or on behalf of the municipality at the time
2 of the completion of the municipal convention hall or upon the
3 retirement or redemption of any bonds or other debt instruments
4 issued by the public-facilities corporation in connection with
5 the development of the municipal convention hall. This
6 exemption includes existing public-facilities corporations as
7 provided in Section 11-65-25 of the Illinois Municipal Code.
8 This paragraph is exempt from the provisions of Section 3-90.

9 (37) Beginning January 1, 2017, menstrual pads, tampons,
10 and menstrual cups.

11 (38) Merchandise that is subject to the Rental Purchase
12 Agreement Occupation and Use Tax. The purchaser must certify
13 that the item is purchased to be rented subject to a rental
14 purchase agreement, as defined in the Rental Purchase Agreement
15 Act, and provide proof of registration under the Rental
16 Purchase Agreement Occupation and Use Tax Act. This paragraph
17 is exempt from the provisions of Section 3-90.

18 (39) Tangible personal property purchased by a purchaser
19 who is exempt from the tax imposed by this Act by operation of
20 federal law. This paragraph is exempt from the provisions of
21 Section 3-90.

22 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;
23 100-22, eff. 7-6-17; 100-437, eff. 1-1-18; 100-594, eff.
24 6-29-18; 100-863, eff. 8-14-18; 100-1171, eff. 1-4-19; revised
25 1-8-19.)

1 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

2 Sec. 3-50. Manufacturing and assembly exemption. The
3 manufacturing and assembling machinery and equipment exemption
4 includes machinery and equipment that replaces machinery and
5 equipment in an existing manufacturing facility as well as
6 machinery and equipment that are for use in an expanded or new
7 manufacturing facility. The machinery and equipment exemption
8 also includes machinery and equipment used in the general
9 maintenance or repair of exempt machinery and equipment or for
10 in-house manufacture of exempt machinery and equipment.
11 Beginning on July 1, 2017, the manufacturing and assembling
12 machinery and equipment exemption also includes graphic arts
13 machinery and equipment, as defined in paragraph (6) of Section
14 3-5. The machinery and equipment exemption does not include
15 machinery and equipment used in (i) the generation of
16 electricity for wholesale or retail sale; (ii) the generation
17 or treatment of natural or artificial gas for wholesale or
18 retail sale that is delivered to customers through pipes,
19 pipelines, or mains; or (iii) the treatment of water for
20 wholesale or retail sale that is delivered to customers through
21 pipes, pipelines, or mains. The provisions of this amendatory
22 Act of the 98th General Assembly are declaratory of existing
23 law as to the meaning and scope of this exemption. For the
24 purposes of this exemption, terms have the following meanings:

25 (1) "Manufacturing process" means the production of an
26 article of tangible personal property, whether the article

1 is a finished product or an article for use in the process
2 of manufacturing or assembling a different article of
3 tangible personal property, by a procedure commonly
4 regarded as manufacturing, processing, fabricating, or
5 refining that changes some existing material into a
6 material with a different form, use, or name. In relation
7 to a recognized integrated business composed of a series of
8 operations that collectively constitute manufacturing, or
9 individually constitute manufacturing operations, the
10 manufacturing process commences with the first operation
11 or stage of production in the series and does not end until
12 the completion of the final product in the last operation
13 or stage of production in the series. For purposes of this
14 exemption, photoprocessing is a manufacturing process of
15 tangible personal property for wholesale or retail sale.

16 (2) "Assembling process" means the production of an
17 article of tangible personal property, whether the article
18 is a finished product or an article for use in the process
19 of manufacturing or assembling a different article of
20 tangible personal property, by the combination of existing
21 materials in a manner commonly regarded as assembling that
22 results in an article or material of a different form, use,
23 or name.

24 (3) "Machinery" means major mechanical machines or
25 major components of those machines contributing to a
26 manufacturing or assembling process.

1 (4) "Equipment" includes an independent device or tool
2 separate from machinery but essential to an integrated
3 manufacturing or assembly process; including computers
4 used primarily in a manufacturer's computer assisted
5 design, computer assisted manufacturing (CAD/CAM) system;
6 any subunit or assembly comprising a component of any
7 machinery or auxiliary, adjunct, or attachment parts of
8 machinery, such as tools, dies, jigs, fixtures, patterns,
9 and molds; and any parts that require periodic replacement
10 in the course of normal operation; but does not include
11 hand tools. Equipment includes chemicals or chemicals
12 acting as catalysts but only if the chemicals or chemicals
13 acting as catalysts effect a direct and immediate change
14 upon a product being manufactured or assembled for
15 wholesale or retail sale or lease.

16 (5) "Production related tangible personal property"
17 means all tangible personal property that is used or
18 consumed by the purchaser in a manufacturing facility in
19 which a manufacturing process takes place and includes,
20 without limitation, tangible personal property that is
21 purchased for incorporation into real estate within a
22 manufacturing facility, supplies and consumables used in a
23 manufacturing facility including fuels, coolants,
24 solvents, oils, lubricants, and adhesives, hand tools,
25 protective apparel, and fire and safety equipment used or
26 consumed within a manufacturing facility, and tangible

1 personal property that is used or consumed in activities
2 such as research and development, preproduction material
3 handling, receiving, quality control, inventory control,
4 storage, staging, and packaging for shipping and
5 transportation purposes. "Production related tangible
6 personal property" does not include (i) tangible personal
7 property that is used, within or without a manufacturing
8 facility, in sales, purchasing, accounting, fiscal
9 management, marketing, personnel recruitment or selection,
10 or landscaping or (ii) tangible personal property that is
11 required to be titled or registered with a department,
12 agency, or unit of federal, State, or local government.

13 The manufacturing and assembling machinery and equipment
14 exemption includes production related tangible personal
15 property that is purchased on or after July 1, 2007 and on or
16 before June 30, 2008 and on or after July 1, 2019. The
17 exemption for production related tangible personal property
18 purchased on or after July 1, 2007 and on or before June 30,
19 2008 is subject to both of the following limitations:

20 (1) The maximum amount of the exemption for any one
21 taxpayer may not exceed 5% of the purchase price of
22 production related tangible personal property that is
23 purchased on or after July 1, 2007 and on or before June
24 30, 2008. A credit under Section 3-85 of this Act may not
25 be earned by the purchase of production related tangible
26 personal property for which an exemption is received under

1 this Section.

2 (2) The maximum aggregate amount of the exemptions for
3 production related tangible personal property purchased on
4 or after July 1, 2007 and on or before June 30, 2008
5 awarded under this Act and the Retailers' Occupation Tax
6 Act to all taxpayers may not exceed \$10,000,000. If the
7 claims for the exemption exceed \$10,000,000, then the
8 Department shall reduce the amount of the exemption to each
9 taxpayer on a pro rata basis.

10 The Department shall ~~may~~ adopt rules to implement and
11 administer the exemption for production related tangible
12 personal property.

13 The manufacturing and assembling machinery and equipment
14 exemption includes the sale of materials to a purchaser who
15 produces exempted types of machinery, equipment, or tools and
16 who rents or leases that machinery, equipment, or tools to a
17 manufacturer of tangible personal property. This exemption
18 also includes the sale of materials to a purchaser who
19 manufactures those materials into an exempted type of
20 machinery, equipment, or tools that the purchaser uses himself
21 or herself in the manufacturing of tangible personal property.
22 This exemption includes the sale of exempted types of machinery
23 or equipment to a purchaser who is not the manufacturer, but
24 who rents or leases the use of the property to a manufacturer.
25 The purchaser of the machinery and equipment who has an active
26 resale registration number shall furnish that number to the

1 seller at the time of purchase. A user of the machinery,
2 equipment, or tools without an active resale registration
3 number shall prepare a certificate of exemption for each
4 transaction stating facts establishing the exemption for that
5 transaction, and that certificate shall be available to the
6 Department for inspection or audit. The Department shall
7 prescribe the form of the certificate. Informal rulings,
8 opinions, or letters issued by the Department in response to an
9 inquiry or request for an opinion from any person regarding the
10 coverage and applicability of this exemption to specific
11 devices shall be published, maintained as a public record, and
12 made available for public inspection and copying. If the
13 informal ruling, opinion, or letter contains trade secrets or
14 other confidential information, where possible, the Department
15 shall delete that information before publication. Whenever
16 informal rulings, opinions, or letters contain a policy of
17 general applicability, the Department shall formulate and
18 adopt that policy as a rule in accordance with the Illinois
19 Administrative Procedure Act.

20 The manufacturing and assembling machinery and equipment
21 exemption is exempt from the provisions of Section 3-90.

22 (Source: P.A. 100-22, eff. 7-6-17.)

23 Section 10. The Service Use Tax Act is amended by changing
24 Section 2 as follows:

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

2 Sec. 2. Definitions. In this Act:

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

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

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

22 "Cost price" means the consideration paid by the serviceman
23 for a purchase valued in money, whether paid in money or
24 otherwise, including cash, credits and services, and shall be
25 determined without any deduction on account of the supplier's
26 cost of the property sold or on account of any other expense

1 incurred by the supplier. When a serviceman contracts out part
2 or all of the services required in his sale of service, it
3 shall be presumed that the cost price to the serviceman of the
4 property transferred to him or her by his or her subcontractor
5 is equal to 50% of the subcontractor's charges to the
6 serviceman in the absence of proof of the consideration paid by
7 the subcontractor for the purchase of such property.

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

18 "Department" means the Department of Revenue.

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

24 "Sale of service" means any transaction except:

25 (1) a retail sale of tangible personal property taxable
26 under the Retailers' Occupation Tax Act or under the Use

1 Tax Act.

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

5 (3) except as hereinafter provided, a sale or transfer
6 of tangible personal property as an incident to the
7 rendering of service for or by any governmental body, or
8 for or by any corporation, society, association,
9 foundation or institution organized and operated
10 exclusively for charitable, religious or educational
11 purposes or any not-for-profit corporation, society,
12 association, foundation, institution or organization which
13 has no compensated officers or employees and which is
14 organized and operated primarily for the recreation of
15 persons 55 years of age or older. A limited liability
16 company may qualify for the exemption under this paragraph
17 only if the limited liability company is organized and
18 operated exclusively for educational purposes.

19 (4) (blank).

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

1 by the Federal Communications Commission, which is
2 permanently installed in or affixed to aircraft moving in
3 interstate commerce.

4 (4a-5) on and after July 1, 2003 and through June 30,
5 2004, a sale or transfer of a motor vehicle of the second
6 division with a gross vehicle weight in excess of 8,000
7 pounds as an incident to the rendering of service if that
8 motor vehicle is subject to the commercial distribution fee
9 imposed under Section 3-815.1 of the Illinois Vehicle Code.
10 Beginning on July 1, 2004 and through June 30, 2005, the
11 use in this State of motor vehicles of the second division:
12 (i) with a gross vehicle weight rating in excess of 8,000
13 pounds; (ii) that are subject to the commercial
14 distribution fee imposed under Section 3-815.1 of the
15 Illinois Vehicle Code; and (iii) that are primarily used
16 for commercial purposes. Through June 30, 2005, this
17 exemption applies to repair and replacement parts added
18 after the initial purchase of such a motor vehicle if that
19 motor vehicle is used in a manner that would qualify for
20 the rolling stock exemption otherwise provided for in this
21 Act. For purposes of this paragraph, "used for commercial
22 purposes" means the transportation of persons or property
23 in furtherance of any commercial or industrial enterprise
24 whether for-hire or not.

25 (5) a sale or transfer of machinery and equipment used
26 primarily in the process of the manufacturing or

1 assembling, either in an existing, an expanded or a new
2 manufacturing facility, of tangible personal property for
3 wholesale or retail sale or lease, whether such sale or
4 lease is made directly by the manufacturer or by some other
5 person, whether the materials used in the process are owned
6 by the manufacturer or some other person, or whether such
7 sale or lease is made apart from or as an incident to the
8 seller's engaging in a service occupation and the
9 applicable tax is a Service Use Tax or Service Occupation
10 Tax, rather than Use Tax or Retailers' Occupation Tax. The
11 exemption provided by this paragraph (5) includes
12 production related tangible personal property, as defined
13 in Section 3-50 of the Use Tax Act, purchased on or after
14 July 1, 2019. The exemption provided by this paragraph (5)
15 does not include machinery and equipment used in (i) the
16 generation of electricity for wholesale or retail sale;
17 (ii) the generation or treatment of natural or artificial
18 gas for wholesale or retail sale that is delivered to
19 customers through pipes, pipelines, or mains; or (iii) the
20 treatment of water for wholesale or retail sale that is
21 delivered to customers through pipes, pipelines, or mains.
22 The provisions of Public Act 98-583 are declaratory of
23 existing law as to the meaning and scope of this exemption.
24 The exemption under this paragraph (5) is exempt from the
25 provisions of Section 3-75.

26 (5a) the repairing, reconditioning or remodeling, for

1 a common carrier by rail, of tangible personal property
2 which belongs to such carrier for hire, and as to which
3 such carrier receives the physical possession of the
4 repaired, reconditioned or remodeled item of tangible
5 personal property in Illinois, and which such carrier
6 transports, or shares with another common carrier in the
7 transportation of such property, out of Illinois on a
8 standard uniform bill of lading showing the person who
9 repaired, reconditioned or remodeled the property to a
10 destination outside Illinois, for use outside Illinois.

11 (5b) a sale or transfer of tangible personal property
12 which is produced by the seller thereof on special order in
13 such a way as to have made the applicable tax the Service
14 Occupation Tax or the Service Use Tax, rather than the
15 Retailers' Occupation Tax or the Use Tax, for an interstate
16 carrier by rail which receives the physical possession of
17 such property in Illinois, and which transports such
18 property, or shares with another common carrier in the
19 transportation of such property, out of Illinois on a
20 standard uniform bill of lading showing the seller of the
21 property as the shipper or consignor of such property to a
22 destination outside Illinois, for use outside Illinois.

23 (6) until July 1, 2003, a sale or transfer of
24 distillation machinery and equipment, sold as a unit or kit
25 and assembled or installed by the retailer, which machinery
26 and equipment is certified by the user to be used only for

1 the production of ethyl alcohol that will be used for
2 consumption as motor fuel or as a component of motor fuel
3 for the personal use of such user and not subject to sale
4 or resale.

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

26 Tangible personal property transferred incident to the

1 completion of a maintenance agreement is exempt from the tax
2 imposed pursuant to this Act.

3 Exemption (5) also includes machinery and equipment used in
4 the general maintenance or repair of such exempt machinery and
5 equipment or for in-house manufacture of exempt machinery and
6 equipment. On and after July 1, 2017, exemption (5) also
7 includes graphic arts machinery and equipment, as defined in
8 paragraph (5) of Section 3-5. The machinery and equipment
9 exemption does not include machinery and equipment used in (i)
10 the generation of electricity for wholesale or retail sale;
11 (ii) the generation or treatment of natural or artificial gas
12 for wholesale or retail sale that is delivered to customers
13 through pipes, pipelines, or mains; or (iii) the treatment of
14 water for wholesale or retail sale that is delivered to
15 customers through pipes, pipelines, or mains. The provisions of
16 Public Act 98-583 are declaratory of existing law as to the
17 meaning and scope of this exemption. For the purposes of
18 exemption (5), each of these terms shall have the following
19 meanings: (1) "manufacturing process" shall mean the
20 production of any article of tangible personal property,
21 whether such article is a finished product or an article for
22 use in the process of manufacturing or assembling a different
23 article of tangible personal property, by procedures commonly
24 regarded as manufacturing, processing, fabricating, or
25 refining which changes some existing material or materials into
26 a material with a different form, use or name. In relation to a

1 recognized integrated business composed of a series of
2 operations which collectively constitute manufacturing, or
3 individually constitute manufacturing operations, the
4 manufacturing process shall be deemed to commence with the
5 first operation or stage of production in the series, and shall
6 not be deemed to end until the completion of the final product
7 in the last operation or stage of production in the series; and
8 further, for purposes of exemption (5), photoprocessing is
9 deemed to be a manufacturing process of tangible personal
10 property for wholesale or retail sale; (2) "assembling process"
11 shall mean the production of any article of tangible personal
12 property, whether such article is a finished product or an
13 article for use in the process of manufacturing or assembling a
14 different article of tangible personal property, by the
15 combination of existing materials in a manner commonly regarded
16 as assembling which results in a material of a different form,
17 use or name; (3) "machinery" shall mean major mechanical
18 machines or major components of such machines contributing to a
19 manufacturing or assembling process; and (4) "equipment" shall
20 include any independent device or tool separate from any
21 machinery but essential to an integrated manufacturing or
22 assembly process; including computers used primarily in a
23 manufacturer's computer assisted design, computer assisted
24 manufacturing (CAD/CAM) system; or any subunit or assembly
25 comprising a component of any machinery or auxiliary, adjunct
26 or attachment parts of machinery, such as tools, dies, jigs,

1 fixtures, patterns and molds; or any parts which require
2 periodic replacement in the course of normal operation; but
3 shall not include hand tools. Equipment includes chemicals or
4 chemicals acting as catalysts but only if the chemicals or
5 chemicals acting as catalysts effect a direct and immediate
6 change upon a product being manufactured or assembled for
7 wholesale or retail sale or lease. The purchaser of such
8 machinery and equipment who has an active resale registration
9 number shall furnish such number to the seller at the time of
10 purchase. The user of such machinery and equipment and tools
11 without an active resale registration number shall prepare a
12 certificate of exemption for each transaction stating facts
13 establishing the exemption for that transaction, which
14 certificate shall be available to the Department for inspection
15 or audit. The Department shall prescribe the form of the
16 certificate.

17 Any informal rulings, opinions or letters issued by the
18 Department in response to an inquiry or request for any opinion
19 from any person regarding the coverage and applicability of
20 exemption (5) to specific devices shall be published,
21 maintained as a public record, and made available for public
22 inspection and copying. If the informal ruling, opinion or
23 letter contains trade secrets or other confidential
24 information, where possible the Department shall delete such
25 information prior to publication. Whenever such informal
26 rulings, opinions, or letters contain any policy of general

1 applicability, the Department shall formulate and adopt such
2 policy as a rule in accordance with the provisions of the
3 Illinois Administrative Procedure Act.

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

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

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

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

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

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

22 (1) having or maintaining within this State, directly
23 or by a subsidiary, an office, distribution house, sales
24 house, warehouse or other place of business, or any agent
25 or other representative operating within this State under
26 the authority of the serviceman or its subsidiary,

1 irrespective of whether such place of business or agent or
2 other representative is located here permanently or
3 temporarily, or whether such serviceman or subsidiary is
4 licensed to do business in this State;

5 (1.1) having a contract with a person located in this
6 State under which the person, for a commission or other
7 consideration based on the sale of service by the
8 serviceman, directly or indirectly refers potential
9 customers to the serviceman by providing to the potential
10 customers a promotional code or other mechanism that allows
11 the serviceman to track purchases referred by such persons.
12 Examples of mechanisms that allow the serviceman to track
13 purchases referred by such persons include but are not
14 limited to the use of a link on the person's Internet
15 website, promotional codes distributed through the
16 person's hand-delivered or mailed material, and
17 promotional codes distributed by the person through radio
18 or other broadcast media. The provisions of this paragraph
19 (1.1) shall apply only if the cumulative gross receipts
20 from sales of service by the serviceman to customers who
21 are referred to the serviceman by all persons in this State
22 under such contracts exceed \$10,000 during the preceding 4
23 quarterly periods ending on the last day of March, June,
24 September, and December; a serviceman meeting the
25 requirements of this paragraph (1.1) shall be presumed to
26 be maintaining a place of business in this State but may

1 rebut this presumption by submitting proof that the
2 referrals or other activities pursued within this State by
3 such persons were not sufficient to meet the nexus
4 standards of the United States Constitution during the
5 preceding 4 quarterly periods;

6 (1.2) beginning July 1, 2011, having a contract with a
7 person located in this State under which:

8 (A) the serviceman sells the same or substantially
9 similar line of services as the person located in this
10 State and does so using an identical or substantially
11 similar name, trade name, or trademark as the person
12 located in this State; and

13 (B) the serviceman provides a commission or other
14 consideration to the person located in this State based
15 upon the sale of services by the serviceman.

16 The provisions of this paragraph (1.2) shall apply only if
17 the cumulative gross receipts from sales of service by the
18 serviceman to customers in this State under all such
19 contracts exceed \$10,000 during the preceding 4 quarterly
20 periods ending on the last day of March, June, September,
21 and December;

22 (2) soliciting orders for tangible personal property
23 by means of a telecommunication or television shopping
24 system (which utilizes toll free numbers) which is intended
25 by the retailer to be broadcast by cable television or
26 other means of broadcasting, to consumers located in this

1 State;

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

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

14 (5) being owned or controlled by the same interests
15 which own or control any retailer engaging in business in
16 the same or similar line of business in this State;

17 (6) having a franchisee or licensee operating under its
18 trade name if the franchisee or licensee is required to
19 collect the tax under this Section;

20 (7) pursuant to a contract with a cable television
21 operator located in this State, soliciting orders for
22 tangible personal property by means of advertising which is
23 transmitted or distributed over a cable television system
24 in this State;

25 (8) engaging in activities in Illinois, which
26 activities in the state in which the supply business

1 engaging in such activities is located would constitute
2 maintaining a place of business in that state; or

3 (9) beginning October 1, 2018, making sales of service
4 to purchasers in Illinois from outside of Illinois if:

5 (A) the cumulative gross receipts from sales of
6 service to purchasers in Illinois are \$100,000 or more;
7 or

8 (B) the serviceman enters into 200 or more separate
9 transactions for sales of service to purchasers in
10 Illinois.

11 The serviceman shall determine on a quarterly basis,
12 ending on the last day of March, June, September, and
13 December, whether he or she meets the criteria of either
14 subparagraph (A) or (B) of this paragraph (9) for the
15 preceding 12-month period. If the serviceman meets the
16 criteria of either subparagraph (A) or (B) for a 12-month
17 period, he or she is considered a serviceman maintaining a
18 place of business in this State and is required to collect
19 and remit the tax imposed under this Act and file returns
20 for one year. At the end of that one-year period, the
21 serviceman shall determine whether the serviceman met the
22 criteria of either subparagraph (A) or (B) during the
23 preceding 12-month period. If the serviceman met the
24 criteria in either subparagraph (A) or (B) for the
25 preceding 12-month period, he or she is considered a
26 serviceman maintaining a place of business in this State

1 and is required to collect and remit the tax imposed under
2 this Act and file returns for the subsequent year. If at
3 the end of a one-year period a serviceman that was required
4 to collect and remit the tax imposed under this Act
5 determines that he or she did not meet the criteria in
6 either subparagraph (A) or (B) during the preceding
7 12-month period, the serviceman subsequently shall
8 determine on a quarterly basis, ending on the last day of
9 March, June, September, and December, whether he or she
10 meets the criteria of either subparagraph (A) or (B) for
11 the preceding 12-month period.

12 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
13 100-587, eff. 6-4-18; 100-863, eff. 8-14-18.)

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

16 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

17 Sec. 2. In this Act:

18 "Transfer" means any transfer of the title to property or
19 of the ownership of property whether or not the transferor
20 retains title as security for the payment of amounts due him
21 from the transferee.

22 "Cost Price" means the consideration paid by the serviceman
23 for a purchase valued in money, whether paid in money or
24 otherwise, including cash, credits and services, and shall be

1 determined without any deduction on account of the supplier's
2 cost of the property sold or on account of any other expense
3 incurred by the supplier. When a serviceman contracts out part
4 or all of the services required in his sale of service, it
5 shall be presumed that the cost price to the serviceman of the
6 property transferred to him by his or her subcontractor is
7 equal to 50% of the subcontractor's charges to the serviceman
8 in the absence of proof of the consideration paid by the
9 subcontractor for the purchase of such property.

10 "Department" means the Department of Revenue.

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

16 "Sale of Service" means any transaction except:

17 (a) A retail sale of tangible personal property taxable
18 under the Retailers' Occupation Tax Act or under the Use Tax
19 Act.

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

23 (c) Except as hereinafter provided, a sale or transfer of
24 tangible personal property as an incident to the rendering of
25 service for or by any governmental body or for or by any
26 corporation, society, association, foundation or institution

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

10 (d) (Blank).

11 (d-1) A sale or transfer of tangible personal property as
12 an incident to the rendering of service for owners, lessors or
13 shippers of tangible personal property which is utilized by
14 interstate carriers for hire for use as rolling stock moving in
15 interstate commerce, and equipment operated by a
16 telecommunications provider, licensed as a common carrier by
17 the Federal Communications Commission, which is permanently
18 installed in or affixed to aircraft moving in interstate
19 commerce.

20 (d-1.1) On and after July 1, 2003 and through June 30,
21 2004, a sale or transfer of a motor vehicle of the second
22 division with a gross vehicle weight in excess of 8,000 pounds
23 as an incident to the rendering of service if that motor
24 vehicle is subject to the commercial distribution fee imposed
25 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
26 on July 1, 2004 and through June 30, 2005, the use in this

1 State of motor vehicles of the second division: (i) with a
2 gross vehicle weight rating in excess of 8,000 pounds; (ii)
3 that are subject to the commercial distribution fee imposed
4 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
5 that are primarily used for commercial purposes. Through June
6 30, 2005, this exemption applies to repair and replacement
7 parts added after the initial purchase of such a motor vehicle
8 if that motor vehicle is used in a manner that would qualify
9 for the rolling stock exemption otherwise provided for in this
10 Act. For purposes of this paragraph, "used for commercial
11 purposes" means the transportation of persons or property in
12 furtherance of any commercial or industrial enterprise whether
13 for-hire or not.

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

25 (d-3) A sale or transfer of tangible personal property
26 which is produced by the seller thereof on special order in

1 such a way as to have made the applicable tax the Service
2 Occupation Tax or the Service Use Tax, rather than the
3 Retailers' Occupation Tax or the Use Tax, for an interstate
4 carrier by rail which receives the physical possession of such
5 property in Illinois, and which transports such property, or
6 shares with another common carrier in the transportation of
7 such property, out of Illinois on a standard uniform bill of
8 lading showing the seller of the property as the shipper or
9 consignor of such property to a destination outside Illinois,
10 for use outside Illinois.

11 (d-4) Until January 1, 1997, a sale, by a registered
12 serviceman paying tax under this Act to the Department, of
13 special order printed materials delivered outside Illinois and
14 which are not returned to this State, if delivery is made by
15 the seller or agent of the seller, including an agent who
16 causes the product to be delivered outside Illinois by a common
17 carrier or the U.S. postal service.

18 (e) A sale or transfer of machinery and equipment used
19 primarily in the process of the manufacturing or assembling,
20 either in an existing, an expanded or a new manufacturing
21 facility, of tangible personal property for wholesale or retail
22 sale or lease, whether such sale or lease is made directly by
23 the manufacturer or by some other person, whether the materials
24 used in the process are owned by the manufacturer or some other
25 person, or whether such sale or lease is made apart from or as
26 an incident to the seller's engaging in a service occupation

1 and the applicable tax is a Service Occupation Tax or Service
2 Use Tax, rather than Retailers' Occupation Tax or Use Tax. The
3 exemption provided by this paragraph (e) includes production
4 related tangible personal property, as defined in Section 3-50
5 of the Use Tax Act, purchased on or after July 1, 2019. The
6 exemption provided by this paragraph (e) does not include
7 machinery and equipment used in (i) the generation of
8 electricity for wholesale or retail sale; (ii) the generation
9 or treatment of natural or artificial gas for wholesale or
10 retail sale that is delivered to customers through pipes,
11 pipelines, or mains; or (iii) the treatment of water for
12 wholesale or retail sale that is delivered to customers through
13 pipes, pipelines, or mains. The provisions of Public Act 98-583
14 are declaratory of existing law as to the meaning and scope of
15 this exemption. The exemption under this subsection (e) is
16 exempt from the provisions of Section 3-75.

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

24 (g) At the election of any serviceman not required to be
25 otherwise registered as a retailer under Section 2a of the
26 Retailers' Occupation Tax Act, made for each fiscal year sales

1 of service in which the aggregate annual cost price of tangible
2 personal property transferred as an incident to the sales of
3 service is less than 35% (75% in the case of servicemen
4 transferring prescription drugs or servicemen engaged in
5 graphic arts production) of the aggregate annual total gross
6 receipts from all sales of service. The purchase of such
7 tangible personal property by the serviceman shall be subject
8 to tax under the Retailers' Occupation Tax Act and the Use Tax
9 Act. However, if a primary serviceman who has made the election
10 described in this paragraph subcontracts service work to a
11 secondary serviceman who has also made the election described
12 in this paragraph, the primary serviceman does not incur a Use
13 Tax liability if the secondary serviceman (i) has paid or will
14 pay Use Tax on his or her cost price of any tangible personal
15 property transferred to the primary serviceman and (ii)
16 certifies that fact in writing to the primary serviceman.

17 Tangible personal property transferred incident to the
18 completion of a maintenance agreement is exempt from the tax
19 imposed pursuant to this Act.

20 Exemption (e) also includes machinery and equipment used in
21 the general maintenance or repair of such exempt machinery and
22 equipment or for in-house manufacture of exempt machinery and
23 equipment. On and after July 1, 2017, exemption (e) also
24 includes graphic arts machinery and equipment, as defined in
25 paragraph (5) of Section 3-5. The machinery and equipment
26 exemption does not include machinery and equipment used in (i)

1 the generation of electricity for wholesale or retail sale;
2 (ii) the generation or treatment of natural or artificial gas
3 for wholesale or retail sale that is delivered to customers
4 through pipes, pipelines, or mains; or (iii) the treatment of
5 water for wholesale or retail sale that is delivered to
6 customers through pipes, pipelines, or mains. The provisions of
7 Public Act 98-583 are declaratory of existing law as to the
8 meaning and scope of this exemption. For the purposes of
9 exemption (e), each of these terms shall have the following
10 meanings: (1) "manufacturing process" shall mean the
11 production of any article of tangible personal property,
12 whether such article is a finished product or an article for
13 use in the process of manufacturing or assembling a different
14 article of tangible personal property, by procedures commonly
15 regarded as manufacturing, processing, fabricating, or
16 refining which changes some existing material or materials into
17 a material with a different form, use or name. In relation to a
18 recognized integrated business composed of a series of
19 operations which collectively constitute manufacturing, or
20 individually constitute manufacturing operations, the
21 manufacturing process shall be deemed to commence with the
22 first operation or stage of production in the series, and shall
23 not be deemed to end until the completion of the final product
24 in the last operation or stage of production in the series; and
25 further for purposes of exemption (e), photoprocessing is
26 deemed to be a manufacturing process of tangible personal

1 property for wholesale or retail sale; (2) "assembling process"
2 shall mean the production of any article of tangible personal
3 property, whether such article is a finished product or an
4 article for use in the process of manufacturing or assembling a
5 different article of tangible personal property, by the
6 combination of existing materials in a manner commonly regarded
7 as assembling which results in a material of a different form,
8 use or name; (3) "machinery" shall mean major mechanical
9 machines or major components of such machines contributing to a
10 manufacturing or assembling process; and (4) "equipment" shall
11 include any independent device or tool separate from any
12 machinery but essential to an integrated manufacturing or
13 assembly process; including computers used primarily in a
14 manufacturer's computer assisted design, computer assisted
15 manufacturing (CAD/CAM) system; or any subunit or assembly
16 comprising a component of any machinery or auxiliary, adjunct
17 or attachment parts of machinery, such as tools, dies, jigs,
18 fixtures, patterns and molds; or any parts which require
19 periodic replacement in the course of normal operation; but
20 shall not include hand tools. Equipment includes chemicals or
21 chemicals acting as catalysts but only if the chemicals or
22 chemicals acting as catalysts effect a direct and immediate
23 change upon a product being manufactured or assembled for
24 wholesale or retail sale or lease. The purchaser of such
25 machinery and equipment who has an active resale registration
26 number shall furnish such number to the seller at the time of

1 purchase. The purchaser of such machinery and equipment and
2 tools without an active resale registration number shall
3 furnish to the seller a certificate of exemption for each
4 transaction stating facts establishing the exemption for that
5 transaction, which certificate shall be available to the
6 Department for inspection or audit.

7 Except as provided in Section 2d of this Act, the rolling
8 stock exemption applies to rolling stock used by an interstate
9 carrier for hire, even just between points in Illinois, if such
10 rolling stock transports, for hire, persons whose journeys or
11 property whose shipments originate or terminate outside
12 Illinois.

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

26 On and after July 1, 1987, no entity otherwise eligible

1 under exemption (c) of this Section shall make tax-free
2 purchases unless it has an active exemption identification
3 number issued by the Department.

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

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

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

11 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
12 100-863, eff. 8-14-18.)

13 Section 20. The Retailers' Occupation Tax Act is amended by
14 changing Section 2-45 as follows:

15 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

16 Sec. 2-45. Manufacturing and assembly exemption. The
17 manufacturing and assembly machinery and equipment exemption
18 includes machinery and equipment that replaces machinery and
19 equipment in an existing manufacturing facility as well as
20 machinery and equipment that are for use in an expanded or new
21 manufacturing facility.

22 The machinery and equipment exemption also includes
23 machinery and equipment used in the general maintenance or
24 repair of exempt machinery and equipment or for in-house

1 manufacture of exempt machinery and equipment. Beginning on
2 July 1, 2017, the manufacturing and assembling machinery and
3 equipment exemption also includes graphic arts machinery and
4 equipment, as defined in paragraph (4) of Section 2-5. The
5 machinery and equipment exemption does not include machinery
6 and equipment used in (i) the generation of electricity for
7 wholesale or retail sale; (ii) the generation or treatment of
8 natural or artificial gas for wholesale or retail sale that is
9 delivered to customers through pipes, pipelines, or mains; or
10 (iii) the treatment of water for wholesale or retail sale that
11 is delivered to customers through pipes, pipelines, or mains.
12 The provisions of this amendatory Act of the 98th General
13 Assembly are declaratory of existing law as to the meaning and
14 scope of this exemption. For the purposes of this exemption,
15 terms have the following meanings:

16 (1) "Manufacturing process" means the production of an
17 article of tangible personal property, whether the article
18 is a finished product or an article for use in the process
19 of manufacturing or assembling a different article of
20 tangible personal property, by a procedure commonly
21 regarded as manufacturing, processing, fabricating, or
22 refining that changes some existing material or materials
23 into a material with a different form, use, or name. In
24 relation to a recognized integrated business composed of a
25 series of operations that collectively constitute
26 manufacturing, or individually constitute manufacturing

1 operations, the manufacturing process commences with the
2 first operation or stage of production in the series and
3 does not end until the completion of the final product in
4 the last operation or stage of production in the series.
5 For purposes of this exemption, photoprocessing is a
6 manufacturing process of tangible personal property for
7 wholesale or retail sale.

8 (2) "Assembling process" means the production of an
9 article of tangible personal property, whether the article
10 is a finished product or an article for use in the process
11 of manufacturing or assembling a different article of
12 tangible personal property, by the combination of existing
13 materials in a manner commonly regarded as assembling that
14 results in a material of a different form, use, or name.

15 (3) "Machinery" means major mechanical machines or
16 major components of those machines contributing to a
17 manufacturing or assembling process.

18 (4) "Equipment" includes an independent device or tool
19 separate from machinery but essential to an integrated
20 manufacturing or assembly process; including computers
21 used primarily in a manufacturer's computer assisted
22 design, computer assisted manufacturing (CAD/CAM) system;
23 any subunit or assembly comprising a component of any
24 machinery or auxiliary, adjunct, or attachment parts of
25 machinery, such as tools, dies, jigs, fixtures, patterns,
26 and molds; and any parts that require periodic replacement

1 in the course of normal operation; but does not include
2 hand tools. Equipment includes chemicals or chemicals
3 acting as catalysts but only if the chemicals or chemicals
4 acting as catalysts effect a direct and immediate change
5 upon a product being manufactured or assembled for
6 wholesale or retail sale or lease.

7 (5) "Production related tangible personal property"
8 means all tangible personal property that is used or
9 consumed by the purchaser in a manufacturing facility in
10 which a manufacturing process takes place and includes,
11 without limitation, tangible personal property that is
12 purchased for incorporation into real estate within a
13 manufacturing facility, supplies and consumables used in a
14 manufacturing facility including fuels, coolants,
15 solvents, oils, lubricants, and adhesives, hand tools,
16 protective apparel, and fire and safety equipment used or
17 consumed within a manufacturing facility, and tangible
18 personal property that is used or consumed in activities
19 such as research and development, preproduction material
20 handling, receiving, quality control, inventory control,
21 storage, staging, and packaging for shipping and
22 transportation purposes. "Production related tangible
23 personal property" does not include (i) tangible personal
24 property that is used, within or without a manufacturing
25 facility, in sales, purchasing, accounting, fiscal
26 management, marketing, personnel recruitment or selection,

1 or landscaping or (ii) tangible personal property that is
2 required to be titled or registered with a department,
3 agency, or unit of federal, State, or local government.

4 The manufacturing and assembling machinery and equipment
5 exemption includes production related tangible personal
6 property that is purchased on or after July 1, 2007 and on or
7 before June 30, 2008 and on or after July 1, 2019. The
8 exemption for production related tangible personal property
9 purchased on or after July 1, 2007 and before June 30, 2008 is
10 subject to both of the following limitations:

11 (1) The maximum amount of the exemption for any one
12 taxpayer may not exceed 5% of the purchase price of
13 production related tangible personal property that is
14 purchased on or after July 1, 2007 and on or before June
15 30, 2008. A credit under Section 3-85 of this Act may not
16 be earned by the purchase of production related tangible
17 personal property for which an exemption is received under
18 this Section.

19 (2) The maximum aggregate amount of the exemptions for
20 production related tangible personal property awarded
21 under this Act and the Use Tax Act to all taxpayers may not
22 exceed \$10,000,000. If the claims for the exemption exceed
23 \$10,000,000, then the Department shall reduce the amount of
24 the exemption to each taxpayer on a pro rata basis.

25 The Department shall ~~may~~ adopt rules to implement and
26 administer the exemption for production related tangible

1 personal property.

2 The manufacturing and assembling machinery and equipment
3 exemption includes the sale of materials to a purchaser who
4 produces exempted types of machinery, equipment, or tools and
5 who rents or leases that machinery, equipment, or tools to a
6 manufacturer of tangible personal property. This exemption
7 also includes the sale of materials to a purchaser who
8 manufactures those materials into an exempted type of
9 machinery, equipment, or tools that the purchaser uses himself
10 or herself in the manufacturing of tangible personal property.
11 The purchaser of the machinery and equipment who has an active
12 resale registration number shall furnish that number to the
13 seller at the time of purchase. A purchaser of the machinery,
14 equipment, and tools without an active resale registration
15 number shall furnish to the seller a certificate of exemption
16 for each transaction stating facts establishing the exemption
17 for that transaction, and that certificate shall be available
18 to the Department for inspection or audit. Informal rulings,
19 opinions, or letters issued by the Department in response to an
20 inquiry or request for an opinion from any person regarding the
21 coverage and applicability of this exemption to specific
22 devices shall be published, maintained as a public record, and
23 made available for public inspection and copying. If the
24 informal ruling, opinion, or letter contains trade secrets or
25 other confidential information, where possible, the Department
26 shall delete that information before publication. Whenever

1 informal rulings, opinions, or letters contain a policy of
2 general applicability, the Department shall formulate and
3 adopt that policy as a rule in accordance with the Illinois
4 Administrative Procedure Act.

5 The manufacturing and assembling machinery and equipment
6 exemption is exempt from the provisions of Section 2-70.

7 (Source: P.A. 100-22, eff. 7-6-17.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.