



Sen. Sue Rezin

Adopted in Senate on Oct 29, 2019

10100HB3608sam001

LRB101 10557 HLH 64090 a

1 AMENDMENT TO HOUSE BILL 3608

2 AMENDMENT NO. _____. Amend House Bill 3608 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Use Tax Act is amended by changing Section
5 3-50 as follows:

6 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

7 Sec. 3-50. Manufacturing and assembly exemption. The
8 manufacturing and assembling machinery and equipment exemption
9 includes machinery and equipment that replaces machinery and
10 equipment in an existing manufacturing facility as well as
11 machinery and equipment that are for use in an expanded or new
12 manufacturing facility. The machinery and equipment exemption
13 also includes machinery and equipment used in the general
14 maintenance or repair of exempt machinery and equipment or for
15 in-house manufacture of exempt machinery and equipment.
16 Beginning on July 1, 2017, the manufacturing and assembling

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

14 (1) "Manufacturing process" means the production of an
15 article of tangible personal property, whether the article
16 is a finished product or an article for use in the process
17 of manufacturing or assembling a different article of
18 tangible personal property, by a procedure commonly
19 regarded as manufacturing, processing, fabricating, or
20 refining that changes some existing material into a
21 material with a different form, use, or name. In relation
22 to a recognized integrated business composed of a series of
23 operations that collectively constitute manufacturing, or
24 individually constitute manufacturing operations, the
25 manufacturing process commences with the first operation
26 or stage of production in the series and does not end until

1 the completion of the final product in the last operation
2 or stage of production in the series. For purposes of this
3 exemption, photoprocessing is a manufacturing process of
4 tangible personal property for wholesale or retail sale.

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

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

16 (4) "Equipment" includes an independent device or tool
17 separate from machinery but essential to an integrated
18 manufacturing or assembly process; including computers
19 used primarily in a manufacturer's computer assisted
20 design, computer assisted manufacturing (CAD/CAM) system;
21 any subunit or assembly comprising a component of any
22 machinery or auxiliary, adjunct, or attachment parts of
23 machinery, such as tools, dies, jigs, fixtures, patterns,
24 and molds; and any parts that require periodic replacement
25 in the course of normal operation; but does not include
26 hand tools. Equipment includes chemicals or chemicals

1 acting as catalysts but only if the chemicals or chemicals
2 acting as catalysts effect a direct and immediate change
3 upon a product being manufactured or assembled for
4 wholesale or retail sale or lease.

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

1 agency, or unit of federal, State, or local government.

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

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

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

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

1 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 This exemption includes the sale of exempted types of machinery
12 or equipment to a purchaser who is not the manufacturer, but
13 who rents or leases the use of the property to a manufacturer.
14 The purchaser of the machinery and equipment who has an active
15 resale registration number shall furnish that number to the
16 seller at the time of purchase. A purchaser ~~user~~ of the
17 machinery, equipment, or tools without an active resale
18 registration number shall prepare a certificate of exemption
19 ~~for each transaction~~ stating facts establishing the exemption
20 ~~for that transaction~~, and that certificate shall be available
21 to the Department for inspection or audit. The Department shall
22 prescribe the form of the certificate. Informal rulings,
23 opinions, or letters issued by the Department in response to an
24 inquiry or request for an opinion from any person regarding the
25 coverage and applicability of this exemption to specific
26 devices shall be published, maintained as a public record, and

1 made available for public inspection and copying. If the
2 informal ruling, opinion, or letter contains trade secrets or
3 other confidential information, where possible, the Department
4 shall delete that information before publication. Whenever
5 informal rulings, opinions, or letters contain a policy of
6 general applicability, the Department shall formulate and
7 adopt that policy as a rule in accordance with the Illinois
8 Administrative Procedure Act.

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

11 (Source: P.A. 100-22, eff. 7-6-17; 101-9, eff. 6-5-19.)

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

14 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

15 Sec. 2. Definitions. In this Act:

16 "Use" means the exercise by any person of any right or
17 power over tangible personal property incident to the ownership
18 of that property, but does not include the sale or use for
19 demonstration by him of that property in any form as tangible
20 personal property in the regular course of business. "Use" does
21 not mean the interim use of tangible personal property nor the
22 physical incorporation of tangible personal property, as an
23 ingredient or constituent, into other tangible personal
24 property, (a) which is sold in the regular course of business

1 or (b) which the person incorporating such ingredient or
2 constituent therein has undertaken at the time of such purchase
3 to cause to be transported in interstate commerce to
4 destinations outside the State of Illinois.

5 "Purchased from a serviceman" means the acquisition of the
6 ownership of, or title to, tangible personal property through a
7 sale of service.

8 "Purchaser" means any person who, through a sale of
9 service, acquires the ownership of, or title to, any tangible
10 personal property.

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

23 "Selling price" means the consideration for a sale valued
24 in money whether received in money or otherwise, including
25 cash, credits and service, and shall be determined without any
26 deduction on account of the serviceman's cost of the property

1 sold, the cost of materials used, labor or service cost or any
2 other expense whatsoever, but does not include interest or
3 finance charges which appear as separate items on the bill of
4 sale or sales contract nor charges that are added to prices by
5 sellers on account of the seller's duty to collect, from the
6 purchaser, the tax that is imposed by this Act.

7 "Department" means the Department of Revenue.

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

13 "Sale of service" means any transaction except:

14 (1) a retail sale of tangible personal property taxable
15 under the Retailers' Occupation Tax Act or under the Use
16 Tax Act.

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

20 (3) except as hereinafter provided, a sale or transfer
21 of tangible personal property as an incident to the
22 rendering of service for or by any governmental body, or
23 for or by any corporation, society, association,
24 foundation or institution organized and operated
25 exclusively for charitable, religious or educational
26 purposes or any not-for-profit corporation, society,

1 association, foundation, institution or organization which
2 has no compensated officers or employees and which is
3 organized and operated primarily for the recreation of
4 persons 55 years of age or older. A limited liability
5 company may qualify for the exemption under this paragraph
6 only if the limited liability company is organized and
7 operated exclusively for educational purposes.

8 (4) (blank).

9 (4a) a sale or transfer of tangible personal property
10 as an incident to the rendering of service for owners,
11 lessors, or shippers of tangible personal property which is
12 utilized by interstate carriers for hire for use as rolling
13 stock moving in interstate commerce so long as so used by
14 interstate carriers for hire, and equipment operated by a
15 telecommunications provider, licensed as a common carrier
16 by the Federal Communications Commission, which is
17 permanently installed in or affixed to aircraft moving in
18 interstate commerce.

19 (4a-5) on and after July 1, 2003 and through June 30,
20 2004, a sale or transfer of a motor vehicle of the second
21 division with a gross vehicle weight in excess of 8,000
22 pounds as an incident to the rendering of service if that
23 motor vehicle is subject to the commercial distribution fee
24 imposed under Section 3-815.1 of the Illinois Vehicle Code.
25 Beginning on July 1, 2004 and through June 30, 2005, the
26 use in this State of motor vehicles of the second division:

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

14 (5) a sale or transfer of machinery and equipment used
15 primarily in the process of the manufacturing or
16 assembling, either in an existing, an expanded or a new
17 manufacturing facility, of tangible personal property for
18 wholesale or retail sale or lease, whether such sale or
19 lease is made directly by the manufacturer or by some other
20 person, whether the materials used in the process are owned
21 by the manufacturer or some other person, or whether such
22 sale or lease is made apart from or as an incident to the
23 seller's engaging in a service occupation and the
24 applicable tax is a Service Use Tax or Service Occupation
25 Tax, rather than Use Tax or Retailers' Occupation Tax. The
26 exemption provided by this paragraph (5) includes

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

15 (5a) the repairing, reconditioning or remodeling, for
16 a common carrier by rail, of tangible personal property
17 which belongs to such carrier for hire, and as to which
18 such carrier receives the physical possession of the
19 repaired, reconditioned or remodeled item of tangible
20 personal property in Illinois, and which such carrier
21 transports, or shares with another common carrier in the
22 transportation of such property, out of Illinois on a
23 standard uniform bill of lading showing the person who
24 repaired, reconditioned or remodeled the property to a
25 destination outside Illinois, for use outside Illinois.

26 (5b) a sale or transfer of tangible personal property

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

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

20 (7) at the election of any serviceman not required to
21 be otherwise registered as a retailer under Section 2a of
22 the Retailers' Occupation Tax Act, made for each fiscal
23 year sales of service in which the aggregate annual cost
24 price of tangible personal property transferred as an
25 incident to the sales of service is less than 35%, or 75%
26 in the case of servicemen transferring prescription drugs

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

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

18 Exemption (5) also includes machinery and equipment used in
19 the general maintenance or repair of such exempt machinery and
20 equipment or for in-house manufacture of exempt machinery and
21 equipment. On and after July 1, 2017, exemption (5) also
22 includes graphic arts machinery and equipment, as defined in
23 paragraph (5) of Section 3-5. The machinery and equipment
24 exemption does not include machinery and equipment used in (i)
25 the generation of electricity for wholesale or retail sale;
26 (ii) the generation or treatment of natural or artificial gas

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

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

1 prepare a certificate of exemption ~~for each transaction~~ stating
2 facts establishing the exemption ~~for that transaction~~, which
3 certificate shall be available to the Department for inspection
4 or audit. The Department shall prescribe the form of the
5 certificate.

6 Any informal rulings, opinions or letters issued by the
7 Department in response to an inquiry or request for any opinion
8 from any person regarding the coverage and applicability of
9 exemption (5) to specific devices shall be published,
10 maintained as a public record, and made available for public
11 inspection and copying. If the informal ruling, opinion or
12 letter contains trade secrets or other confidential
13 information, where possible the Department shall delete such
14 information prior to publication. Whenever such informal
15 rulings, opinions, or letters contain any policy of general
16 applicability, the Department shall formulate and adopt such
17 policy as a rule in accordance with the provisions of the
18 Illinois Administrative Procedure Act.

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

23 The purchase, employment and transfer of such tangible
24 personal property as newsprint and ink for the primary purpose
25 of conveying news (with or without other information) is not a
26 purchase, use or sale of service or of tangible personal

1 property within the meaning of this Act.

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

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

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

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

11 (1) having or maintaining within this State, directly
12 or by a subsidiary, an office, distribution house, sales
13 house, warehouse or other place of business, or any agent
14 or other representative operating within this State under
15 the authority of the serviceman or its subsidiary,
16 irrespective of whether such place of business or agent or
17 other representative is located here permanently or
18 temporarily, or whether such serviceman or subsidiary is
19 licensed to do business in this State;

20 (1.1) having a contract with a person located in this
21 State under which the person, for a commission or other
22 consideration based on the sale of service by the
23 serviceman, directly or indirectly refers potential
24 customers to the serviceman by providing to the potential
25 customers a promotional code or other mechanism that allows
26 the serviceman to track purchases referred by such persons.

1 Examples of mechanisms that allow the serviceman to track
2 purchases referred by such persons include but are not
3 limited to the use of a link on the person's Internet
4 website, promotional codes distributed through the
5 person's hand-delivered or mailed material, and
6 promotional codes distributed by the person through radio
7 or other broadcast media. The provisions of this paragraph
8 (1.1) shall apply only if the cumulative gross receipts
9 from sales of service by the serviceman to customers who
10 are referred to the serviceman by all persons in this State
11 under such contracts exceed \$10,000 during the preceding 4
12 quarterly periods ending on the last day of March, June,
13 September, and December; a serviceman meeting the
14 requirements of this paragraph (1.1) shall be presumed to
15 be maintaining a place of business in this State but may
16 rebut this presumption by submitting proof that the
17 referrals or other activities pursued within this State by
18 such persons were not sufficient to meet the nexus
19 standards of the United States Constitution during the
20 preceding 4 quarterly periods;

21 (1.2) beginning July 1, 2011, having a contract with a
22 person located in this State under which:

23 (A) the serviceman sells the same or substantially
24 similar line of services as the person located in this
25 State and does so using an identical or substantially
26 similar name, trade name, or trademark as the person

1 located in this State; and

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

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

11 (2) soliciting orders for tangible personal property
12 by means of a telecommunication or television shopping
13 system (which utilizes toll free numbers) which is intended
14 by the retailer to be broadcast by cable television or
15 other means of broadcasting, to consumers located in this
16 State;

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

22 (4) soliciting orders for tangible personal property
23 by mail if the solicitations are substantial and recurring
24 and if the retailer benefits from any banking, financing,
25 debt collection, telecommunication, or marketing
26 activities occurring in this State or benefits from the

1 location in this State of authorized installation,
2 servicing, or repair facilities;

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

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

9 (7) pursuant to a contract with a cable television
10 operator located in this State, soliciting orders for
11 tangible personal property by means of advertising which is
12 transmitted or distributed over a cable television system
13 in this State;

14 (8) engaging in activities in Illinois, which
15 activities in the state in which the supply business
16 engaging in such activities is located would constitute
17 maintaining a place of business in that state; or

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

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

23 (B) the serviceman enters into 200 or more separate
24 transactions for sales of service to purchasers in
25 Illinois.

26 The serviceman shall determine on a quarterly basis,

1 ending on the last day of March, June, September, and
2 December, whether he or she meets the criteria of either
3 subparagraph (A) or (B) of this paragraph (9) for the
4 preceding 12-month period. If the serviceman meets the
5 criteria of either subparagraph (A) or (B) for a 12-month
6 period, he or she is considered a serviceman maintaining a
7 place of business in this State and is required to collect
8 and remit the tax imposed under this Act and file returns
9 for one year. At the end of that one-year period, the
10 serviceman shall determine whether the serviceman met the
11 criteria of either subparagraph (A) or (B) during the
12 preceding 12-month period. If the serviceman met the
13 criteria in either subparagraph (A) or (B) for the
14 preceding 12-month period, he or she is considered a
15 serviceman maintaining a place of business in this State
16 and is required to collect and remit the tax imposed under
17 this Act and file returns for the subsequent year. If at
18 the end of a one-year period a serviceman that was required
19 to collect and remit the tax imposed under this Act
20 determines that he or she did not meet the criteria in
21 either subparagraph (A) or (B) during the preceding
22 12-month period, the serviceman subsequently shall
23 determine on a quarterly basis, ending on the last day of
24 March, June, September, and December, whether he or she
25 meets the criteria of either subparagraph (A) or (B) for
26 the preceding 12-month period.

1 Beginning January 1, 2020, neither the gross receipts
2 from nor the number of separate transactions for sales of
3 service to purchasers in Illinois that a serviceman makes
4 through a marketplace facilitator and for which the
5 serviceman has received a certification from the
6 marketplace facilitator pursuant to Section 2d of this Act
7 shall be included for purposes of determining whether he or
8 she has met the thresholds of this paragraph (9).

9 (10) Beginning January 1, 2020, a marketplace
10 facilitator, as defined in Section 2d of this Act.

11 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
12 100-587, eff. 6-4-18; 100-863, eff. 8-14-18; 101-9, Article 10,
13 Section 10-15, eff. 6-5-19; 101-9, Article 25, Section 25-10,
14 eff. 6-5-19; revised 7-10-19.)

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

17 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

18 Sec. 2. In this Act:

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

23 "Cost Price" means the consideration paid by the serviceman
24 for a purchase valued in money, whether paid in money or

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

11 "Department" means the Department of Revenue.

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

17 "Sale of Service" means any transaction except:

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

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

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

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

11 (d) (Blank).

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

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

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

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

26 (d-3) A sale or transfer of tangible personal property

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

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

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

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

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

25 (g) At the election of any serviceman not required to be
26 otherwise registered as a retailer under Section 2a of the

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

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

21 Exemption (e) also includes machinery and equipment used in
22 the general maintenance or repair of such exempt machinery and
23 equipment or for in-house manufacture of exempt machinery and
24 equipment. On and after July 1, 2017, exemption (e) also
25 includes graphic arts machinery and equipment, as defined in
26 paragraph (5) of Section 3-5. The machinery and equipment

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

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

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

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

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

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

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

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

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

12 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
13 100-863, eff. 8-14-18; 101-9, eff. 6-5-19.)

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

16 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

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

23 The machinery and equipment exemption also includes
24 machinery and equipment used in the general maintenance or

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

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

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

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

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

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

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

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

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

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

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

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

26 The Department shall adopt rules to implement and administer

1 the exemption for production related tangible personal
2 property.

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

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

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

8 (Source: P.A. 100-22, eff. 7-6-17; 101-9, eff. 6-5-19.)".