



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

**HB4840**

Introduced 2/18/2020, by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/2	from Ch. 120, par. 439.2
35 ILCS 105/3-5	
35 ILCS 110/2	from Ch. 120, par. 439.32
35 ILCS 110/3-5	

Amends the Use Tax Act and the Service Use Tax Act. Provides that the demonstration use or interim use of tangible personal property purchased for resale is exempt for a period of 18 months after the retailer or serviceman purchases the tangible personal property for resale. Provides that, if the period of demonstration use or interim use exceeds 18 months, the retailer or serviceman shall pay tax on the original cost price. Effective immediately.

LRB101 17685 HLH 67112 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 2 and 3-5 as follows:

6 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

7 Sec. 2. Definitions.

8 "Use" means the exercise by any person of any right or  
9 power over tangible personal property incident to the ownership  
10 of that property, except that it does not include the sale of  
11 such property in any form as tangible personal property in the  
12 regular course of business to the extent that such property is  
13 not first subjected to a use for which it was purchased;  
14 provided, ~~and does not include the use of such property by its~~  
15 ~~owner for demonstration purposes: Provided~~ that the property  
16 purchased is deemed to be purchased for the purpose of resale,  
17 despite first being used, to the extent to which it is resold  
18 as an ingredient of an intentionally produced product or  
19 by-product of manufacturing. For any item of tangible personal  
20 property purchased for resale before January 1, 2021, "use"  
21 ~~"Use"~~ does not mean the demonstration use or interim use of  
22 such tangible personal property by a retailer before he sells  
23 that tangible personal property. If, however, the period of

1 demonstration use or interim use by the retailer of tangible  
2 personal property purchased for resale before January 1, 2021,  
3 other than watercraft or aircraft, extends beyond June 30,  
4 2022, the retailer shall pay on the retailer's original cost  
5 price the tax imposed by this Act, and no credit for that tax  
6 is permitted if the tangible personal property is subsequently  
7 sold by the retailer. For watercraft or aircraft purchased for  
8 resale before January 1, 2021, For watercraft or aircraft, if  
9 the period of demonstration use or interim use by the retailer  
10 exceeds 18 months, the retailer shall pay on the retailer's  
11 ~~retailers'~~ original cost price the tax imposed by this Act, and  
12 no credit for that tax is permitted if the watercraft or  
13 aircraft is subsequently sold by the retailer. "Use" does not  
14 mean the physical incorporation of tangible personal property,  
15 to the extent not first subjected to a use for which it was  
16 purchased, as an ingredient or constituent, into other tangible  
17 personal property (a) which is sold in the regular course of  
18 business or (b) which the person incorporating such ingredient  
19 or constituent therein has undertaken at the time of such  
20 purchase to cause to be transported in interstate commerce to  
21 destinations outside the State of Illinois: Provided that the  
22 property purchased is deemed to be purchased for the purpose of  
23 resale, despite first being used, to the extent to which it is  
24 resold as an ingredient of an intentionally produced product or  
25 by-product of manufacturing.

26 "Watercraft" means a Class 2, Class 3, or Class 4

1 watercraft as defined in Section 3-2 of the Boat Registration  
2 and Safety Act, a personal watercraft, or any boat equipped  
3 with an inboard motor.

4 "Purchase at retail" means the acquisition of the ownership  
5 of or title to tangible personal property through a sale at  
6 retail.

7 "Purchaser" means anyone who, through a sale at retail,  
8 acquires the ownership of tangible personal property for a  
9 valuable consideration.

10 "Sale at retail" means any transfer of the ownership of or  
11 title to tangible personal property to a purchaser, for the  
12 purpose of use, and not for the purpose of resale in any form  
13 as tangible personal property to the extent not first subjected  
14 to a use for which it was purchased, for a valuable  
15 consideration: Provided that the property purchased is deemed  
16 to be purchased for the purpose of resale, despite first being  
17 used, to the extent to which it is resold as an ingredient of  
18 an intentionally produced product or by-product of  
19 manufacturing. For this purpose, slag produced as an incident  
20 to manufacturing pig iron or steel and sold is considered to be  
21 an intentionally produced by-product of manufacturing. "Sale  
22 at retail" includes any such transfer made for resale unless  
23 made in compliance with Section 2c of the Retailers' Occupation  
24 Tax Act, as incorporated by reference into Section 12 of this  
25 Act. Transactions whereby the possession of the property is  
26 transferred but the seller retains the title as security for

1 payment of the selling price are sales.

2 "Sale at retail" shall also be construed to include any  
3 Illinois florist's sales transaction in which the purchase  
4 order is received in Illinois by a florist and the sale is for  
5 use or consumption, but the Illinois florist has a florist in  
6 another state deliver the property to the purchaser or the  
7 purchaser's donee in such other state.

8 Nonreusable tangible personal property that is used by  
9 persons engaged in the business of operating a restaurant,  
10 cafeteria, or drive-in is a sale for resale when it is  
11 transferred to customers in the ordinary course of business as  
12 part of the sale of food or beverages and is used to deliver,  
13 package, or consume food or beverages, regardless of where  
14 consumption of the food or beverages occurs. Examples of those  
15 items include, but are not limited to nonreusable, paper and  
16 plastic cups, plates, baskets, boxes, sleeves, buckets or other  
17 containers, utensils, straws, placemats, napkins, doggie bags,  
18 and wrapping or packaging materials that are transferred to  
19 customers as part of the sale of food or beverages in the  
20 ordinary course of business.

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

25 "Selling price" means the consideration for a sale valued  
26 in money whether received in money or otherwise, including

1 cash, credits, property other than as hereinafter provided, and  
2 services, but, prior to January 1, 2020, not including the  
3 value of or credit given for traded-in tangible personal  
4 property where the item that is traded-in is of like kind and  
5 character as that which is being sold; beginning January 1,  
6 2020, "selling price" includes the portion of the value of or  
7 credit given for traded-in motor vehicles of the First Division  
8 as defined in Section 1-146 of the Illinois Vehicle Code of  
9 like kind and character as that which is being sold that  
10 exceeds \$10,000. "Selling price" shall be determined without  
11 any deduction on account of the cost of the property sold, the  
12 cost of materials used, labor or service cost or any other  
13 expense whatsoever, but does not include interest or finance  
14 charges which appear as separate items on the bill of sale or  
15 sales contract nor charges that are added to prices by sellers  
16 on account of the seller's tax liability under the Retailers'  
17 Occupation Tax Act, or on account of the seller's duty to  
18 collect, from the purchaser, the tax that is imposed by this  
19 Act, or, except as otherwise provided with respect to any  
20 cigarette tax imposed by a home rule unit, on account of the  
21 seller's tax liability under any local occupation tax  
22 administered by the Department, or, except as otherwise  
23 provided with respect to any cigarette tax imposed by a home  
24 rule unit on account of the seller's duty to collect, from the  
25 purchasers, the tax that is imposed under any local use tax  
26 administered by the Department. Effective December 1, 1985,

1 "selling price" shall include charges that are added to prices  
2 by sellers on account of the seller's tax liability under the  
3 Cigarette Tax Act, on account of the seller's duty to collect,  
4 from the purchaser, the tax imposed under the Cigarette Use Tax  
5 Act, and on account of the seller's duty to collect, from the  
6 purchaser, any cigarette tax imposed by a home rule unit.

7 Notwithstanding any law to the contrary, for any motor  
8 vehicle, as defined in Section 1-146 of the Vehicle Code, that  
9 is sold on or after January 1, 2015 for the purpose of leasing  
10 the vehicle for a defined period that is longer than one year  
11 and (1) is a motor vehicle of the second division that: (A) is  
12 a self-contained motor vehicle designed or permanently  
13 converted to provide living quarters for recreational,  
14 camping, or travel use, with direct walk through access to the  
15 living quarters from the driver's seat; (B) is of the van  
16 configuration designed for the transportation of not less than  
17 7 nor more than 16 passengers; or (C) has a gross vehicle  
18 weight rating of 8,000 pounds or less or (2) is a motor vehicle  
19 of the first division, "selling price" or "amount of sale"  
20 means the consideration received by the lessor pursuant to the  
21 lease contract, including amounts due at lease signing and all  
22 monthly or other regular payments charged over the term of the  
23 lease. Also included in the selling price is any amount  
24 received by the lessor from the lessee for the leased vehicle  
25 that is not calculated at the time the lease is executed,  
26 including, but not limited to, excess mileage charges and

1 charges for excess wear and tear. For sales that occur in  
2 Illinois, with respect to any amount received by the lessor  
3 from the lessee for the leased vehicle that is not calculated  
4 at the time the lease is executed, the lessor who purchased the  
5 motor vehicle does not incur the tax imposed by the Use Tax Act  
6 on those amounts, and the retailer who makes the retail sale of  
7 the motor vehicle to the lessor is not required to collect the  
8 tax imposed by this Act or to pay the tax imposed by the  
9 Retailers' Occupation Tax Act on those amounts. However, the  
10 lessor who purchased the motor vehicle assumes the liability  
11 for reporting and paying the tax on those amounts directly to  
12 the Department in the same form (Illinois Retailers' Occupation  
13 Tax, and local retailers' occupation taxes, if applicable) in  
14 which the retailer would have reported and paid such tax if the  
15 retailer had accounted for the tax to the Department. For  
16 amounts received by the lessor from the lessee that are not  
17 calculated at the time the lease is executed, the lessor must  
18 file the return and pay the tax to the Department by the due  
19 date otherwise required by this Act for returns other than  
20 transaction returns. If the retailer is entitled under this Act  
21 to a discount for collecting and remitting the tax imposed  
22 under this Act to the Department with respect to the sale of  
23 the motor vehicle to the lessor, then the right to the discount  
24 provided in this Act shall be transferred to the lessor with  
25 respect to the tax paid by the lessor for any amount received  
26 by the lessor from the lessee for the leased vehicle that is



1 not calculated at the time the lease is executed; provided that  
2 the discount is only allowed if the return is timely filed and  
3 for amounts timely paid. The "selling price" of a motor vehicle  
4 that is sold on or after January 1, 2015 for the purpose of  
5 leasing for a defined period of longer than one year shall not  
6 be reduced by the value of or credit given for traded-in  
7 tangible personal property owned by the lessor, nor shall it be  
8 reduced by the value of or credit given for traded-in tangible  
9 personal property owned by the lessee, regardless of whether  
10 the trade-in value thereof is assigned by the lessee to the  
11 lessor. In the case of a motor vehicle that is sold for the  
12 purpose of leasing for a defined period of longer than one  
13 year, the sale occurs at the time of the delivery of the  
14 vehicle, regardless of the due date of any lease payments. A  
15 lessor who incurs a Retailers' Occupation Tax liability on the  
16 sale of a motor vehicle coming off lease may not take a credit  
17 against that liability for the Use Tax the lessor paid upon the  
18 purchase of the motor vehicle (or for any tax the lessor paid  
19 with respect to any amount received by the lessor from the  
20 lessee for the leased vehicle that was not calculated at the  
21 time the lease was executed) if the selling price of the motor  
22 vehicle at the time of purchase was calculated using the  
23 definition of "selling price" as defined in this paragraph.  
24 Notwithstanding any other provision of this Act to the  
25 contrary, lessors shall file all returns and make all payments  
26 required under this paragraph to the Department by electronic

1 means in the manner and form as required by the Department.  
2 This paragraph does not apply to leases of motor vehicles for  
3 which, at the time the lease is entered into, the term of the  
4 lease is not a defined period, including leases with a defined  
5 initial period with the option to continue the lease on a  
6 month-to-month or other basis beyond the initial defined  
7 period.

8 The phrase "like kind and character" shall be liberally  
9 construed (including but not limited to any form of motor  
10 vehicle for any form of motor vehicle, or any kind of farm or  
11 agricultural implement for any other kind of farm or  
12 agricultural implement), while not including a kind of item  
13 which, if sold at retail by that retailer, would be exempt from  
14 retailers' occupation tax and use tax as an isolated or  
15 occasional sale.

16 "Department" means the Department of Revenue.

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

22 "Retailer" means and includes every person engaged in the  
23 business of making sales at retail as defined in this Section.

24 A person who holds himself or herself out as being engaged  
25 (or who habitually engages) in selling tangible personal  
26 property at retail is a retailer hereunder with respect to such

1 sales (and not primarily in a service occupation)  
2 notwithstanding the fact that such person designs and produces  
3 such tangible personal property on special order for the  
4 purchaser and in such a way as to render the property of value  
5 only to such purchaser, if such tangible personal property so  
6 produced on special order serves substantially the same  
7 function as stock or standard items of tangible personal  
8 property that are sold at retail.

9 A person whose activities are organized and conducted  
10 primarily as a not-for-profit service enterprise, and who  
11 engages in selling tangible personal property at retail  
12 (whether to the public or merely to members and their guests)  
13 is a retailer with respect to such transactions, excepting only  
14 a person organized and operated exclusively for charitable,  
15 religious or educational purposes either (1), to the extent of  
16 sales by such person to its members, students, patients or  
17 inmates of tangible personal property to be used primarily for  
18 the purposes of such person, or (2), to the extent of sales by  
19 such person of tangible personal property which is not sold or  
20 offered for sale by persons organized for profit. The selling  
21 of school books and school supplies by schools at retail to  
22 students is not "primarily for the purposes of" the school  
23 which does such selling. This paragraph does not apply to nor  
24 subject to taxation occasional dinners, social or similar  
25 activities of a person organized and operated exclusively for  
26 charitable, religious or educational purposes, whether or not

1 such activities are open to the public.

2 A person who is the recipient of a grant or contract under  
3 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
4 serves meals to participants in the federal Nutrition Program  
5 for the Elderly in return for contributions established in  
6 amount by the individual participant pursuant to a schedule of  
7 suggested fees as provided for in the federal Act is not a  
8 retailer under this Act with respect to such transactions.

9 Persons who engage in the business of transferring tangible  
10 personal property upon the redemption of trading stamps are  
11 retailers hereunder when engaged in such business.

12 The isolated or occasional sale of tangible personal  
13 property at retail by a person who does not hold himself out as  
14 being engaged (or who does not habitually engage) in selling  
15 such tangible personal property at retail or a sale through a  
16 bulk vending machine does not make such person a retailer  
17 hereunder. However, any person who is engaged in a business  
18 which is not subject to the tax imposed by the Retailers'  
19 Occupation Tax Act because of involving the sale of or a  
20 contract to sell real estate or a construction contract to  
21 improve real estate, but who, in the course of conducting such  
22 business, transfers tangible personal property to users or  
23 consumers in the finished form in which it was purchased, and  
24 which does not become real estate, under any provision of a  
25 construction contract or real estate sale or real estate sales  
26 agreement entered into with some other person arising out of or

1 because of such nontaxable business, is a retailer to the  
2 extent of the value of the tangible personal property so  
3 transferred. If, in such transaction, a separate charge is made  
4 for the tangible personal property so transferred, the value of  
5 such property, for the purposes of this Act, is the amount so  
6 separately charged, but not less than the cost of such property  
7 to the transferor; if no separate charge is made, the value of  
8 such property, for the purposes of this Act, is the cost to the  
9 transferor of such tangible personal property.

10 "Retailer maintaining a place of business in this State",  
11 or any like term, means and includes any of the following  
12 retailers:

13 (1) A retailer having or maintaining within this State,  
14 directly or by a subsidiary, an office, distribution house,  
15 sales house, warehouse or other place of business, or any  
16 agent or other representative operating within this State  
17 under the authority of the retailer or its subsidiary,  
18 irrespective of whether such place of business or agent or  
19 other representative is located here permanently or  
20 temporarily, or whether such retailer or subsidiary is  
21 licensed to do business in this State. However, the  
22 ownership of property that is located at the premises of a  
23 printer with which the retailer has contracted for printing  
24 and that consists of the final printed product, property  
25 that becomes a part of the final printed product, or copy  
26 from which the printed product is produced shall not result

1 in the retailer being deemed to have or maintain an office,  
2 distribution house, sales house, warehouse, or other place  
3 of business within this State.

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

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

5 (1.2) Beginning July 1, 2011, a retailer having a  
6 contract with a person located in this State under which:

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

12 (B) the retailer provides a commission or other  
13 consideration to the person located in this State based  
14 upon the sale of tangible personal property by the  
15 retailer.

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

22 (2) (Blank).

23 (3) (Blank).

24 (4) (Blank).

25 (5) (Blank).

26 (6) (Blank).

1 (7) (Blank).

2 (8) (Blank).

3 (9) Beginning October 1, 2018, a retailer making sales  
4 of tangible personal property to purchasers in Illinois  
5 from outside of Illinois if:

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

9 (B) the retailer enters into 200 or more separate  
10 transactions for the sale of tangible personal  
11 property to purchasers in Illinois.

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



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

13 Beginning January 1, 2020, neither the gross receipts  
14 from nor the number of separate transactions for sales of  
15 tangible personal property to purchasers in Illinois that a  
16 retailer makes through a marketplace facilitator and for  
17 which the retailer has received a certification from the  
18 marketplace facilitator pursuant to Section 2d of this Act  
19 shall be included for purposes of determining whether he or  
20 she has met the thresholds of this paragraph (9).

21 (10) Beginning January 1, 2020, a marketplace  
22 facilitator that meets a threshold set forth in subsection  
23 (b) of Section 2d of this Act.

24 "Bulk vending machine" means a vending machine, containing  
25 unsorted confections, nuts, toys, or other items designed  
26 primarily to be used or played with by children which, when a

1 coin or coins of a denomination not larger than \$0.50 are  
2 inserted, are dispensed in equal portions, at random and  
3 without selection by the customer.

4 (Source: P.A. 100-587, eff. 6-4-18; 101-9, eff. 6-5-19; 101-31,  
5 eff. 1-1-20; 101-604, eff. 1-1-20.)

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  
24 support of arts or cultural programming, activities, or  
25 services. These organizations include, but are not limited to,

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

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

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

26 (6) Until July 1, 2003 and beginning again on September 1,

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

13 (7) Farm chemicals.

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

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

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

24 (11) Farm machinery and equipment, both new and used,  
25 including that manufactured on special order, certified by the  
26 purchaser to be used primarily for production agriculture or

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

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

25 Farm machinery and equipment also includes computers,  
26 sensors, software, and related equipment used primarily in the

1 computer-assisted operation of production agriculture  
2 facilities, equipment, and activities such as, but not limited  
3 to, the collection, monitoring, and correlation of animal and  
4 crop data for the purpose of formulating animal diets and  
5 agricultural chemicals. This item (11) is exempt from the  
6 provisions of Section 3-90.

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

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

24 (13) Proceeds of mandatory service charges separately  
25 stated on customers' bills for the purchase and consumption of  
26 food and beverages purchased at retail from a retailer, to the

1 extent that the proceeds of the service charge are in fact  
2 turned over as tips or as a substitute for tips to the  
3 employees who participate directly in preparing, serving,  
4 hosting or cleaning up the food or beverage function with  
5 respect to which the service charge is imposed.

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

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

20 (16) Until July 1, 2023, coal and aggregate exploration,  
21 mining, off-highway hauling, processing, maintenance, and  
22 reclamation equipment, including replacement parts and  
23 equipment, and including equipment purchased for lease, but  
24 excluding motor vehicles required to be registered under the  
25 Illinois Vehicle Code. The changes made to this Section by  
26 Public Act 97-767 apply on and after July 1, 2003, but no claim

1 for credit or refund is allowed on or after August 16, 2013  
2 (the effective date of Public Act 98-456) for such taxes paid  
3 during the period beginning July 1, 2003 and ending on August  
4 16, 2013 (the effective date of Public Act 98-456).

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

11 (18) Manufacturing and assembling machinery and equipment  
12 used primarily in the process of manufacturing or assembling  
13 tangible personal property for wholesale or retail sale or  
14 lease, whether that sale or lease is made directly by the  
15 manufacturer or by some other person, whether the materials  
16 used in the process are owned by the manufacturer or some other  
17 person, or whether that sale or lease is made apart from or as  
18 an incident to the seller's engaging in the service occupation  
19 of producing machines, tools, dies, jigs, patterns, gauges, or  
20 other similar items of no commercial value on special order for  
21 a particular purchaser. The exemption provided by this  
22 paragraph (18) includes production related tangible personal  
23 property, as defined in Section 3-50, purchased on or after  
24 July 1, 2019. The exemption provided by this paragraph (18)  
25 does not include machinery and equipment used in (i) the  
26 generation of electricity for wholesale or retail sale; (ii)



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

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

16 (20) Semen used for artificial insemination of livestock  
17 for direct agricultural production.

18 (21) Horses, or interests in horses, registered with and  
19 meeting the requirements of any of the Arabian Horse Club  
20 Registry of America, Appaloosa Horse Club, American Quarter  
21 Horse Association, United States Trotting Association, or  
22 Jockey Club, as appropriate, used for purposes of breeding or  
23 racing for prizes. This item (21) is exempt from the provisions  
24 of Section 3-90, and the exemption provided for under this item  
25 (21) applies for all periods beginning May 30, 1995, but no  
26 claim for credit or refund is allowed on or after January 1,

1 2008 for such taxes paid during the period beginning May 30,  
2 2000 and ending on January 1, 2008.

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

26 (23) Personal property purchased by a lessor who leases the

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

20 (24) Beginning with taxable years ending on or after  
21 December 31, 1995 and ending with taxable years ending on or  
22 before December 31, 2004, personal property that is donated for  
23 disaster relief to be used in a State or federally declared  
24 disaster area in Illinois or bordering Illinois by a  
25 manufacturer or retailer that is registered in this State to a  
26 corporation, society, association, foundation, or institution

1 that has been issued a sales tax exemption identification  
2 number by the Department that assists victims of the disaster  
3 who reside within the declared disaster area.

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

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

20 (27) A motor vehicle, as that term is defined in Section  
21 1-146 of the Illinois Vehicle Code, that is donated to a  
22 corporation, limited liability company, society, association,  
23 foundation, or institution that is determined by the Department  
24 to be organized and operated exclusively for educational  
25 purposes. For purposes of this exemption, "a corporation,  
26 limited liability company, society, association, foundation,

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

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

26 (29) Beginning January 1, 2000 and through December 31,

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

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

23 (31) Beginning on August 2, 2001 (the effective date of  
24 Public Act 92-227), computers and communications equipment  
25 utilized for any hospital purpose and equipment used in the  
26 diagnosis, analysis, or treatment of hospital patients

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

22 (32) Beginning on August 2, 2001 (the effective date of  
23 Public Act 92-227), personal property purchased by a lessor who  
24 leases the property, under a lease of one year or longer  
25 executed or in effect at the time the lessor would otherwise be  
26 subject to the tax imposed by this Act, to a governmental body

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

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



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

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

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

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

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

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

7 (37) Beginning January 1, 2017, menstrual pads, tampons,  
8 and menstrual cups.

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

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

20 (40) Qualified tangible personal property used in the  
21 construction or operation of a data center that has been  
22 granted a certificate of exemption by the Department of  
23 Commerce and Economic Opportunity, whether that tangible  
24 personal property is purchased by the owner, operator, or  
25 tenant of the data center or by a contractor or subcontractor  
26 of the owner, operator, or tenant. Data centers that would have

1 qualified for a certificate of exemption prior to January 1,  
2 2020 had Public Act 101-31 ~~this amendatory Act of the 101st~~  
3 ~~General Assembly~~ been in effect, may apply for and obtain an  
4 exemption for subsequent purchases of computer equipment or  
5 enabling software purchased or leased to upgrade, supplement,  
6 or replace computer equipment or enabling software purchased or  
7 leased in the original investment that would have qualified.

8 The Department of Commerce and Economic Opportunity shall  
9 grant a certificate of exemption under this item (40) to  
10 qualified data centers as defined by Section 605-1025 of the  
11 Department of Commerce and Economic Opportunity Law of the  
12 Civil Administrative Code of Illinois.

13 For the purposes of this item (40):

14 "Data center" means a building or a series of buildings  
15 rehabilitated or constructed to house working servers in  
16 one physical location or multiple sites within the State of  
17 Illinois.

18 "Qualified tangible personal property" means:  
19 electrical systems and equipment; climate control and  
20 chilling equipment and systems; mechanical systems and  
21 equipment; monitoring and secure systems; emergency  
22 generators; hardware; computers; servers; data storage  
23 devices; network connectivity equipment; racks; cabinets;  
24 telecommunications cabling infrastructure; raised floor  
25 systems; peripheral components or systems; software;  
26 mechanical, electrical, or plumbing systems; battery

1 systems; cooling systems and towers; temperature control  
2 systems; other cabling; and other data center  
3 infrastructure equipment and systems necessary to operate  
4 qualified tangible personal property, including fixtures;  
5 and component parts of any of the foregoing, including  
6 installation, maintenance, repair, refurbishment, and  
7 replacement of qualified tangible personal property to  
8 generate, transform, transmit, distribute, or manage  
9 electricity necessary to operate qualified tangible  
10 personal property; and all other tangible personal  
11 property that is essential to the operations of a computer  
12 data center. The term "qualified tangible personal  
13 property" also includes building materials physically  
14 incorporated in to the qualifying data center. To document  
15 the exemption allowed under this Section, the retailer must  
16 obtain from the purchaser a copy of the certificate of  
17 eligibility issued by the Department of Commerce and  
18 Economic Opportunity.

19 This item (40) is exempt from the provisions of Section  
20 3-90.

21 (41) For any item of tangible personal property purchased  
22 for resale on or after January 1, 2021, the demonstration use  
23 or interim use of the tangible personal property by a retailer  
24 is exempt from the tax imposed by this Act for a period of 18  
25 months after the retailer purchases the tangible personal  
26 property for resale. If the period of demonstration use or

1 interim use by the retailer exceeds 18 months, the retailer  
2 shall pay tax on the retailer's original cost price the tax  
3 imposed by this Act, and no credit for that tax is permitted if  
4 the tangible personal property is subsequently sold by the  
5 retailer. This item (41) is exempt from the provisions of  
6 Section 3-90.

7 (Source: P.A. 100-22, eff. 7-6-17; 100-437, eff. 1-1-18;  
8 100-594, eff. 6-29-18; 100-863, eff. 8-14-18; 100-1171, eff.  
9 1-4-19; 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-81, eff.  
10 7-12-19; revised 9-23-19.)

11 Section 10. The Service Use Tax Act is amended by changing  
12 Sections 2 and 3-5 as follows:

13 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

14 Sec. 2. Definitions. In this Act:

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

1 constituent therein has undertaken at the time of such purchase  
2 to cause to be transported in interstate commerce to  
3 destinations outside the State of Illinois. For any item of  
4 tangible personal property purchased tax-free for resale  
5 before January 1, 2021, "use" does not mean the demonstration  
6 use or interim use of such tangible personal property by a  
7 serviceman before he transfers that tangible personal property  
8 incident to a sale of service. If, however, the period of  
9 demonstration use or interim use by the serviceman of tangible  
10 personal property purchased tax-free for resale before January  
11 1, 2021 extends beyond June 30, 2022, the serviceman shall pay  
12 on the serviceman's original cost price the tax imposed by this  
13 Act or the Use Tax Act, and no credit for that tax is permitted  
14 against any Service Occupation Tax liability incurred by the  
15 serviceman if the tangible personal property is subsequently  
16 transferred by the serviceman incident to a sale of service.

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

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

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

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

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

19 "Department" means the Department of Revenue.

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

25 "Sale of service" means any transaction except:

26 (1) a retail sale of tangible personal property taxable



1 under the Retailers' Occupation Tax Act or under the Use  
2 Tax Act.

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

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

20 (4) (blank).

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

1 telecommunications provider, licensed as a common carrier  
2 by the Federal Communications Commission, which is  
3 permanently installed in or affixed to aircraft moving in  
4 interstate commerce.

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

26 (5) a sale or transfer of machinery and equipment used

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

1           (5a) the repairing, reconditioning or remodeling, for  
2           a common carrier by rail, of tangible personal property  
3           which belongs to such carrier for hire, and as to which  
4           such carrier receives the physical possession of the  
5           repaired, reconditioned or remodeled item of tangible  
6           personal property in Illinois, and which such carrier  
7           transports, 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 person who  
10          repaired, reconditioned or remodeled the property to a  
11          destination outside Illinois, for use outside Illinois.

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

24          (6) until July 1, 2003, a sale or transfer of  
25          distillation machinery and equipment, sold as a unit or kit  
26          and assembled or installed by the retailer, which machinery

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

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

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

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

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

1 or attachment parts of machinery, such as tools, dies, jigs,  
2 fixtures, patterns and molds; or any parts which require  
3 periodic replacement in the course of normal operation; but  
4 shall not include hand tools. Equipment includes chemicals or  
5 chemicals acting as catalysts but only if the chemicals or  
6 chemicals acting as catalysts effect a direct and immediate  
7 change upon a product being manufactured or assembled for  
8 wholesale or retail sale or lease. The purchaser of such  
9 machinery and equipment who has an active resale registration  
10 number shall furnish such number to the seller at the time of  
11 purchase. The purchaser of such machinery and equipment and  
12 tools without an active resale registration number shall  
13 prepare a certificate of exemption stating facts establishing  
14 the exemption, which certificate shall be available to the  
15 Department for inspection or audit. The Department shall  
16 prescribe the form of the 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 Beginning January 1, 2020, neither the gross receipts  
13 from nor the number of separate transactions for sales of  
14 service to purchasers in Illinois that a serviceman makes  
15 through a marketplace facilitator and for which the  
16 serviceman has received a certification from the  
17 marketplace facilitator pursuant to Section 2d of this Act  
18 shall be included for purposes of determining whether he or  
19 she has met the thresholds of this paragraph (9).

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

22 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;  
23 100-587, eff. 6-4-18; 100-863, eff. 8-14-18; 101-9, Article 10,  
24 Section 10-15, eff. 6-5-19; 101-9, Article 25, Section 25-10,  
25 eff. 6-5-19; 101-604, eff. 12-13-19.)

1 (35 ILCS 110/3-5)

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

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

11 (2) Personal property purchased by a non-profit Illinois  
12 county fair association for use in conducting, operating, or  
13 promoting the county fair.

14 (3) Personal property purchased by a not-for-profit arts or  
15 cultural organization that establishes, by proof required by  
16 the Department by rule, that it has received an exemption under  
17 Section 501(c)(3) of the Internal Revenue Code and that is  
18 organized and operated primarily for the presentation or  
19 support of arts or cultural programming, activities, or  
20 services. These organizations include, but are not limited to,  
21 music and dramatic arts organizations such as symphony  
22 orchestras and theatrical groups, arts and cultural service  
23 organizations, local arts councils, visual arts organizations,  
24 and media arts organizations. On and after July 1, 2001 (the  
25 effective date of Public Act 92-35), however, an entity  
26 otherwise eligible for this exemption shall not make tax-free

1 purchases unless it has an active identification number issued  
2 by the Department.

3 (4) Legal tender, currency, medallions, or gold or silver  
4 coinage issued by the State of Illinois, the government of the  
5 United States of America, or the government of any foreign  
6 country, and bullion.

7 (5) Until July 1, 2003 and beginning again on September 1,  
8 2004 through August 30, 2014, graphic arts machinery and  
9 equipment, including repair and replacement parts, both new and  
10 used, and including that manufactured on special order or  
11 purchased for lease, certified by the purchaser to be used  
12 primarily for graphic arts production. Equipment includes  
13 chemicals or chemicals acting as catalysts but only if the  
14 chemicals or chemicals acting as catalysts effect a direct and  
15 immediate change upon a graphic arts product. Beginning on July  
16 1, 2017, graphic arts machinery and equipment is included in  
17 the manufacturing and assembling machinery and equipment  
18 exemption under Section 2 of this Act.

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

22 (7) Farm machinery and equipment, both new and used,  
23 including that manufactured on special order, certified by the  
24 purchaser to be used primarily for production agriculture or  
25 State or federal agricultural programs, including individual  
26 replacement parts for the machinery and equipment, including



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

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

23 Farm machinery and equipment also includes computers,  
24 sensors, software, and related equipment used primarily in the  
25 computer-assisted operation of production agriculture  
26 facilities, equipment, and activities such as, but not limited

1 to, the collection, monitoring, and correlation of animal and  
2 crop data for the purpose of formulating animal diets and  
3 agricultural chemicals. This item (7) is exempt from the  
4 provisions of Section 3-75.

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

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

22 (9) Proceeds of mandatory service charges separately  
23 stated on customers' bills for the purchase and consumption of  
24 food and beverages acquired as an incident to the purchase of a  
25 service from a serviceman, to the extent that the proceeds of  
26 the service charge are in fact turned over as tips or as a

1 substitute for tips to the employees who participate directly  
2 in preparing, serving, hosting or cleaning up the food or  
3 beverage function with respect to which the service charge is  
4 imposed.

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

14 (11) Proceeds from the sale of photoprocessing machinery  
15 and equipment, including repair and replacement parts, both new  
16 and used, including that manufactured on special order,  
17 certified by the purchaser to be used primarily for  
18 photoprocessing, and including photoprocessing machinery and  
19 equipment purchased for lease.

20 (12) Until July 1, 2023, coal and aggregate exploration,  
21 mining, off-highway hauling, processing, maintenance, and  
22 reclamation equipment, including replacement parts and  
23 equipment, and including equipment purchased for lease, but  
24 excluding motor vehicles required to be registered under the  
25 Illinois Vehicle Code. The changes made to this Section by  
26 Public Act 97-767 apply on and after July 1, 2003, but no claim

1 for credit or refund is allowed on or after August 16, 2013  
2 (the effective date of Public Act 98-456) for such taxes paid  
3 during the period beginning July 1, 2003 and ending on August  
4 16, 2013 (the effective date of Public Act 98-456).

5 (13) Semen used for artificial insemination of livestock  
6 for direct agricultural production.

7 (14) Horses, or interests in horses, registered with and  
8 meeting the requirements of any of the Arabian Horse Club  
9 Registry of America, Appaloosa Horse Club, American Quarter  
10 Horse Association, United States Trotting Association, or  
11 Jockey Club, as appropriate, used for purposes of breeding or  
12 racing for prizes. This item (14) is exempt from the provisions  
13 of Section 3-75, and the exemption provided for under this item  
14 (14) applies for all periods beginning May 30, 1995, but no  
15 claim for credit or refund is allowed on or after January 1,  
16 2008 (the effective date of Public Act 95-88) for such taxes  
17 paid during the period beginning May 30, 2000 and ending on  
18 January 1, 2008 (the effective date of Public Act 95-88).

19 (15) Computers and communications equipment utilized for  
20 any hospital purpose and equipment used in the diagnosis,  
21 analysis, or treatment of hospital patients purchased by a  
22 lessor who leases the equipment, under a lease of one year or  
23 longer executed or in effect at the time the lessor would  
24 otherwise be subject to the tax imposed by this Act, to a  
25 hospital that has been issued an active tax exemption  
26 identification number by the Department under Section 1g of the

1 Retailers' Occupation Tax Act. If the equipment is leased in a  
2 manner that does not qualify for this exemption or is used in  
3 any other non-exempt manner, the lessor shall be liable for the  
4 tax imposed under this Act or the Use Tax Act, as the case may  
5 be, based on the fair market value of the property at the time  
6 the non-qualifying use occurs. No lessor shall collect or  
7 attempt to collect an amount (however designated) that purports  
8 to reimburse that lessor for the tax imposed by this Act or the  
9 Use Tax Act, as the case may be, if the tax has not been paid by  
10 the lessor. If a lessor improperly collects any such amount  
11 from the lessee, the lessee shall have a legal right to claim a  
12 refund of that amount from the lessor. If, however, that amount  
13 is not refunded to the lessee for any reason, the lessor is  
14 liable to pay that amount to the Department.

15 (16) Personal property purchased by a lessor who leases the  
16 property, under a lease of one year or longer executed or in  
17 effect at the time the lessor would otherwise be subject to the  
18 tax imposed by this Act, to a governmental body that has been  
19 issued an active tax exemption identification number by the  
20 Department under Section 1g of the Retailers' Occupation Tax  
21 Act. If the property is leased in a manner that does not  
22 qualify for this exemption or is used in any other non-exempt  
23 manner, the lessor shall be liable for the tax imposed under  
24 this Act or the Use Tax Act, as the case may be, based on the  
25 fair market value of the property at the time the  
26 non-qualifying use occurs. No lessor shall collect or attempt

1 to collect an amount (however designated) that purports to  
2 reimburse that lessor for the tax imposed by this Act or the  
3 Use Tax Act, as the case may be, if the tax has not been paid by  
4 the lessor. If a lessor improperly collects any such amount  
5 from the lessee, the lessee shall have a legal right to claim a  
6 refund of that amount from the lessor. If, however, that amount  
7 is not refunded to the lessee for any reason, the lessor is  
8 liable to pay that amount to the Department.

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

19 (18) Beginning with taxable years ending on or after  
20 December 31, 1995 and ending with taxable years ending on or  
21 before December 31, 2004, personal property that is used in the  
22 performance of infrastructure repairs in this State, including  
23 but not limited to municipal roads and streets, access roads,  
24 bridges, sidewalks, waste disposal systems, water and sewer  
25 line extensions, water distribution and purification  
26 facilities, storm water drainage and retention facilities, and

1 sewage treatment facilities, resulting from a State or  
2 federally declared disaster in Illinois or bordering Illinois  
3 when such repairs are initiated on facilities located in the  
4 declared disaster area within 6 months after the disaster.

5 (19) Beginning July 1, 1999, game or game birds purchased  
6 at a "game breeding and hunting preserve area" as that term is  
7 used in the Wildlife Code. This paragraph is exempt from the  
8 provisions of Section 3-75.

9 (20) A motor vehicle, as that term is defined in Section  
10 1-146 of the Illinois Vehicle Code, that is donated to a  
11 corporation, limited liability company, society, association,  
12 foundation, or institution that is determined by the Department  
13 to be organized and operated exclusively for educational  
14 purposes. For purposes of this exemption, "a corporation,  
15 limited liability company, society, association, foundation,  
16 or institution organized and operated exclusively for  
17 educational purposes" means all tax-supported public schools,  
18 private schools that offer systematic instruction in useful  
19 branches of learning by methods common to public schools and  
20 that compare favorably in their scope and intensity with the  
21 course of study presented in tax-supported schools, and  
22 vocational or technical schools or institutes organized and  
23 operated exclusively to provide a course of study of not less  
24 than 6 weeks duration and designed to prepare individuals to  
25 follow a trade or to pursue a manual, technical, mechanical,  
26 industrial, business, or commercial occupation.

1           (21) Beginning January 1, 2000, personal property,  
2 including food, purchased through fundraising events for the  
3 benefit of a public or private elementary or secondary school,  
4 a group of those schools, or one or more school districts if  
5 the events are sponsored by an entity recognized by the school  
6 district that consists primarily of volunteers and includes  
7 parents and teachers of the school children. This paragraph  
8 does not apply to fundraising events (i) for the benefit of  
9 private home instruction or (ii) for which the fundraising  
10 entity purchases the personal property sold at the events from  
11 another individual or entity that sold the property for the  
12 purpose of resale by the fundraising entity and that profits  
13 from the sale to the fundraising entity. This paragraph is  
14 exempt from the provisions of Section 3-75.

15           (22) Beginning January 1, 2000 and through December 31,  
16 2001, new or used automatic vending machines that prepare and  
17 serve hot food and beverages, including coffee, soup, and other  
18 items, and replacement parts for these machines. Beginning  
19 January 1, 2002 and through June 30, 2003, machines and parts  
20 for machines used in commercial, coin-operated amusement and  
21 vending business if a use or occupation tax is paid on the  
22 gross receipts derived from the use of the commercial,  
23 coin-operated amusement and vending machines. This paragraph  
24 is exempt from the provisions of Section 3-75.

25           (23) Beginning August 23, 2001 and through June 30, 2016,  
26 food for human consumption that is to be consumed off the



1 premises where it is sold (other than alcoholic beverages, soft  
2 drinks, and food that has been prepared for immediate  
3 consumption) and prescription and nonprescription medicines,  
4 drugs, medical appliances, and insulin, urine testing  
5 materials, syringes, and needles used by diabetics, for human  
6 use, when purchased for use by a person receiving medical  
7 assistance under Article V of the Illinois Public Aid Code who  
8 resides in a licensed long-term care facility, as defined in  
9 the Nursing Home Care Act, or in a licensed facility as defined  
10 in the ID/DD Community Care Act, the MC/DD Act, or the  
11 Specialized Mental Health Rehabilitation Act of 2013.

12 (24) Beginning on August 2, 2001 (the effective date of  
13 Public Act 92-227), computers and communications equipment  
14 utilized for any hospital purpose and equipment used in the  
15 diagnosis, analysis, or treatment of hospital patients  
16 purchased by a lessor who leases the equipment, under a lease  
17 of one year or longer executed or in effect at the time the  
18 lessor would otherwise be subject to the tax imposed by this  
19 Act, to a hospital that has been issued an active tax exemption  
20 identification number by the Department under Section 1g of the  
21 Retailers' Occupation Tax Act. If the equipment is leased in a  
22 manner that does not qualify for this exemption or is used in  
23 any other nonexempt manner, the lessor shall be liable for the  
24 tax imposed under this Act or the Use Tax Act, as the case may  
25 be, based on the fair market value of the property at the time  
26 the nonqualifying use occurs. No lessor shall collect or

1 attempt to collect an amount (however designated) that purports  
2 to reimburse that lessor for the tax imposed by this Act or the  
3 Use Tax Act, as the case may be, if the tax has not been paid by  
4 the lessor. If a lessor improperly collects any such amount  
5 from the lessee, the lessee shall have a legal right to claim a  
6 refund of that amount from the lessor. If, however, that amount  
7 is not refunded to the lessee for any reason, the lessor is  
8 liable to pay that amount to the Department. This paragraph is  
9 exempt from the provisions of Section 3-75.

10 (25) Beginning on August 2, 2001 (the effective date of  
11 Public Act 92-227), personal property purchased by a lessor who  
12 leases the property, under a lease of one year or longer  
13 executed or in effect at the time the lessor would otherwise be  
14 subject to the tax imposed by this Act, to a governmental body  
15 that has been issued an active tax exemption identification  
16 number by the Department under Section 1g of the Retailers'  
17 Occupation Tax Act. If the property is leased in a manner that  
18 does not qualify for this exemption or is used in any other  
19 nonexempt manner, the lessor shall be liable for the tax  
20 imposed under this Act or the Use Tax Act, as the case may be,  
21 based on the fair market value of the property at the time the  
22 nonqualifying use occurs. No lessor shall collect or attempt to  
23 collect an amount (however designated) that purports to  
24 reimburse that lessor for the tax imposed by this Act or the  
25 Use Tax Act, as the case may be, if the tax has not been paid by  
26 the lessor. If a lessor improperly collects any such amount

1 from the lessee, the lessee shall have a legal right to claim a  
2 refund of that amount from the lessor. If, however, that amount  
3 is not refunded to the lessee for any reason, the lessor is  
4 liable to pay that amount to the Department. This paragraph is  
5 exempt from the provisions of Section 3-75.

6 (26) Beginning January 1, 2008, tangible personal property  
7 used in the construction or maintenance of a community water  
8 supply, as defined under Section 3.145 of the Environmental  
9 Protection Act, that is operated by a not-for-profit  
10 corporation that holds a valid water supply permit issued under  
11 Title IV of the Environmental Protection Act. This paragraph is  
12 exempt from the provisions of Section 3-75.

13 (27) Beginning January 1, 2010, materials, parts,  
14 equipment, components, and furnishings incorporated into or  
15 upon an aircraft as part of the modification, refurbishment,  
16 completion, replacement, repair, or maintenance of the  
17 aircraft. This exemption includes consumable supplies used in  
18 the modification, refurbishment, completion, replacement,  
19 repair, and maintenance of aircraft, but excludes any  
20 materials, parts, equipment, components, and consumable  
21 supplies used in the modification, replacement, repair, and  
22 maintenance of aircraft engines or power plants, whether such  
23 engines or power plants are installed or uninstalled upon any  
24 such aircraft. "Consumable supplies" include, but are not  
25 limited to, adhesive, tape, sandpaper, general purpose  
26 lubricants, cleaning solution, latex gloves, and protective

1 films. This exemption applies only to the use of qualifying  
2 tangible personal property transferred incident to the  
3 modification, refurbishment, completion, replacement, repair,  
4 or maintenance of aircraft by persons who (i) hold an Air  
5 Agency Certificate and are empowered to operate an approved  
6 repair station by the Federal Aviation Administration, (ii)  
7 have a Class IV Rating, and (iii) conduct operations in  
8 accordance with Part 145 of the Federal Aviation Regulations.  
9 The exemption does not include aircraft operated by a  
10 commercial air carrier providing scheduled passenger air  
11 service pursuant to authority issued under Part 121 or Part 129  
12 of the Federal Aviation Regulations. The changes made to this  
13 paragraph (27) by Public Act 98-534 are declarative of existing  
14 law.

15 (28) Tangible personal property purchased by a  
16 public-facilities corporation, as described in Section  
17 11-65-10 of the Illinois Municipal Code, for purposes of  
18 constructing or furnishing a municipal convention hall, but  
19 only if the legal title to the municipal convention hall is  
20 transferred to the municipality without any further  
21 consideration by or on behalf of the municipality at the time  
22 of the completion of the municipal convention hall or upon the  
23 retirement or redemption of any bonds or other debt instruments  
24 issued by the public-facilities corporation in connection with  
25 the development of the municipal convention hall. This  
26 exemption includes existing public-facilities corporations as

1 provided in Section 11-65-25 of the Illinois Municipal Code.  
2 This paragraph is exempt from the provisions of Section 3-75.

3 (29) Beginning January 1, 2017, menstrual pads, tampons,  
4 and menstrual cups.

5 (30) Tangible personal property transferred to a purchaser  
6 who is exempt from the tax imposed by this Act by operation of  
7 federal law. This paragraph is exempt from the provisions of  
8 Section 3-75.

9 (31) Qualified tangible personal property used in the  
10 construction or operation of a data center that has been  
11 granted a certificate of exemption by the Department of  
12 Commerce and Economic Opportunity, whether that tangible  
13 personal property is purchased by the owner, operator, or  
14 tenant of the data center or by a contractor or subcontractor  
15 of the owner, operator, or tenant. Data centers that would have  
16 qualified for a certificate of exemption prior to January 1,  
17 2020 had this amendatory Act of the 101st General Assembly been  
18 in effect, may apply for and obtain an exemption for subsequent  
19 purchases of computer equipment or enabling software purchased  
20 or leased to upgrade, supplement, or replace computer equipment  
21 or enabling software purchased or leased in the original  
22 investment that would have qualified.

23 The Department of Commerce and Economic Opportunity shall  
24 grant a certificate of exemption under this item (31) to  
25 qualified data centers as defined by Section 605-1025 of the  
26 Department of Commerce and Economic Opportunity Law of the

1 Civil Administrative Code of Illinois.

2 For the purposes of this item (31):

3 "Data center" means a building or a series of buildings  
4 rehabilitated or constructed to house working servers in  
5 one physical location or multiple sites within the State of  
6 Illinois.

7 "Qualified tangible personal property" means:  
8 electrical systems and equipment; climate control and  
9 chilling equipment and systems; mechanical systems and  
10 equipment; monitoring and secure systems; emergency  
11 generators; hardware; computers; servers; data storage  
12 devices; network connectivity equipment; racks; cabinets;  
13 telecommunications cabling infrastructure; raised floor  
14 systems; peripheral components or systems; software;  
15 mechanical, electrical, or plumbing systems; battery  
16 systems; cooling systems and towers; temperature control  
17 systems; other cabling; and other data center  
18 infrastructure equipment and systems necessary to operate  
19 qualified tangible personal property, including fixtures;  
20 and component parts of any of the foregoing, including  
21 installation, maintenance, repair, refurbishment, and  
22 replacement of qualified tangible personal property to  
23 generate, transform, transmit, distribute, or manage  
24 electricity necessary to operate qualified tangible  
25 personal property; and all other tangible personal  
26 property that is essential to the operations of a computer

1 data center. The term "qualified tangible personal  
2 property" also includes building materials physically  
3 incorporated in to the qualifying data center. To document  
4 the exemption allowed under this Section, the retailer must  
5 obtain from the purchaser a copy of the certificate of  
6 eligibility issued by the Department of Commerce and  
7 Economic Opportunity.

8 This item (31) is exempt from the provisions of Section  
9 3-75.

10 (32) For any item of tangible personal property purchased  
11 tax-free for resale on or after January 1, 2021, the  
12 demonstration use or interim use of the tangible personal  
13 property by a serviceman is exempt from the tax imposed by this  
14 Act or the Use Tax Act for a period of 18 months after the  
15 serviceman purchases the tangible personal property tax-free  
16 for resale. If the period of demonstration use or interim use  
17 by the serviceman exceeds 18 months, the serviceman shall pay  
18 on the serviceman's original cost price the tax imposed by this  
19 Act or the Use Tax Act, and no credit for that tax is permitted  
20 against any Service Occupation Tax liability incurred by the  
21 serviceman if the tangible personal property is subsequently  
22 transferred by the serviceman incident to a sale of service.  
23 This item (32) is exempt from the provisions of Section 3-75.

24 (Source: P.A. 100-22, eff. 7-6-17; 100-594, eff. 6-29-18;  
25 100-1171, eff. 1-4-19; 101-31, eff. 6-28-19; 101-81, eff.  
26 7-12-19.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.