



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1591

Introduced 2/15/2019, by Sen. Elgie R. Sims, Jr.

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-810 new  
35 ILCS 105/3-5  
35 ILCS 110/3-5  
35 ILCS 115/3-5  
35 ILCS 120/2-5  
35 ILCS 640/2-4

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Creates an exemption for qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Revenue. Amends the Department of Revenue Law of the Civil Administrative Code of Illinois to add provisions concerning those certificates of exemption. Effective immediately.

LRB101 08762 HLH 53849 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 3. The Department of Revenue Law of the Civil  
5 Administrative Code of Illinois is amended by adding Section  
6 2505-810 as follows:

7 (20 ILCS 2505/2505-810 new)

8 Sec. 2505-810. Data center investment.

9 (a) The Department shall issue certificates of exemption  
10 from the Retailers' Occupation Tax Act, the Use Tax Act, the  
11 Service Use Tax Act, and the Service Occupation Tax Act, all  
12 locally-imposed retailers' occupation taxes administered and  
13 collected by the Department, the Chicago non-titled Use Tax,  
14 and the Electricity Excise Tax Act to qualifying Illinois data  
15 centers.

16 (b) For purposes of this Section:

17 "Data center" means a building or a series of buildings  
18 that is rehabilitated or constructed to house working  
19 servers in one physical location or several sites.

20 "Qualifying Illinois data center" means a new or  
21 existing data center that:

22 (1) is located in the State of Illinois;

23 (2) in the case of an existing data center, made a

1 capital investment of at least \$250,000,000  
2 collectively by the data center operator and the  
3 tenants of all of its data centers over the 60-month  
4 period immediately prior to January 1, 2020 or  
5 committed to make a capital investment of at least  
6 \$250,000,000 over a 60-month period commencing before  
7 January 1, 2020 and ending after January 1, 2020; or

8 (3) in the case of a new data center, makes a  
9 capital investment of at least \$250,000,000 over a  
10 60-month period; and

11 (4) in the case of both existing and new data  
12 centers, results in the creation of at least 20  
13 full-time or full-time equivalent new jobs over a  
14 period of 60 months by the data center operator and the  
15 tenants of the data center, collectively, associated  
16 with the operation or maintenance of the data center;  
17 those jobs must have a total compensation equal to or  
18 greater than 120% of the median wage paid to full-time  
19 employees in the county where the data center is  
20 located, as determined by the U.S. Bureau of Labor  
21 Statistics; and

22 (5) is carbon neutral or attains certification  
23 under one or more of the following green building  
24 standards:

25 (A) BREEAM for New Construction or BREEAM

26 In-Use;

1 (B) ENERGY STAR;

2 (C) Envision;

3 (D) ISO 50001-energy management;

4 (E) LEED for Building Design and Construction  
5 or LEED for Operations and Maintenance;

6 (F) Green Globes for New Construction or Green  
7 Globes for Existing Buildings;

8 (G) UL 3223; or

9 (H) an equivalent program approved by the  
10 Department of Commerce and Economic Opportunity.

11 "Full-time equivalent job" means a job in which the new  
12 employee works for the owner, operator, contractor, or  
13 tenant of a data center or for a corporation under contract  
14 with the owner, operator or tenant of a data center at a  
15 rate of at least 35 hours per week. An owner, operator or  
16 tenant who employs labor or services at a specific site or  
17 facility under contract with another may declare one  
18 full-time, permanent job for every 1,820-man hours worked  
19 per year under that contract. Vacations, paid holidays, and  
20 sick time are included in this computation. Overtime is not  
21 considered a part of regular hours.

22 "Qualified tangible personal property" means:  
23 electrical systems and equipment; climate control and  
24 chilling equipment and systems; mechanical systems and  
25 equipment; monitoring and secure systems; emergency  
26 generators; hardware; computers; servers; data storage

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

22 (c) New and existing data centers seeking a certificate of  
23 exemption for new or existing facilities shall apply to the  
24 Department in the manner specified by the Department. The  
25 Department and any data center seeking the exemption, including  
26 a data center operator on behalf of itself and its tenants,

1 must enter into a memorandum of understanding that at a minimum  
2 provides:

3 (1) the details for determining the amount of capital  
4 investment to be made;

5 (2) the number of new jobs created;

6 (3) the timeline for achieving the capital investment  
7 and new job goals;

8 (4) the repayment obligation should those goals not be  
9 achieved and any conditions under which repayment by the  
10 qualifying data center or data center tenant claiming the  
11 exemption will be required; and

12 (5) other provisions as deemed necessary.

13 (d) Beginning July 1, 2021, and each year thereafter, the  
14 Department shall annually report to the Governor and the  
15 General Assembly on the outcomes and effectiveness of this  
16 amendatory Act of the 101st General Assembly that shall include  
17 the following:

18 (1) the name of each recipient business;

19 (2) the location of the project;

20 (3) the estimated value of the credit;

21 (4) the number of new jobs and, if applicable, retained  
22 jobs pledged as a result of the project; and

23 (5) whether or not the project is located in an  
24 underserved area.

25 Section 5. The Use Tax Act is amended by changing Section

1 3-5 as follows:

2 (35 ILCS 105/3-5)

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

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

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

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

1 effective date of Public Act 92-35), however, an entity  
2 otherwise eligible for this exemption shall not make tax-free  
3 purchases unless it has an active identification number issued  
4 by the Department.

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

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

22 (6) Until July 1, 2003 and beginning again on September 1,  
23 2004 through August 30, 2014, graphic arts machinery and  
24 equipment, including repair and replacement parts, both new and  
25 used, and including that manufactured on special order,  
26 certified by the purchaser to be used primarily for graphic



1 arts production, and including machinery and equipment  
2 purchased for lease. Equipment includes chemicals or chemicals  
3 acting as catalysts but only if the chemicals or chemicals  
4 acting as catalysts effect a direct and immediate change upon a  
5 graphic arts product. Beginning on July 1, 2017, graphic arts  
6 machinery and equipment is included in the manufacturing and  
7 assembling machinery and equipment exemption under paragraph  
8 (18).

9 (7) Farm chemicals.

10 (8) Legal tender, currency, medallions, or gold or silver  
11 coinage issued by the State of Illinois, the government of the  
12 United States of America, or the government of any foreign  
13 country, and bullion.

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

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

20 (11) Farm machinery and equipment, both new and used,  
21 including that manufactured on special order, certified by the  
22 purchaser to be used primarily for production agriculture or  
23 State or federal agricultural programs, including individual  
24 replacement parts for the machinery and equipment, including  
25 machinery and equipment purchased for lease, and including  
26 implements of husbandry defined in Section 1-130 of the

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

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

21 Farm machinery and equipment also includes computers,  
22 sensors, software, and related equipment used primarily in the  
23 computer-assisted operation of production agriculture  
24 facilities, equipment, and activities such as, but not limited  
25 to, the collection, monitoring, and correlation of animal and  
26 crop data for the purpose of formulating animal diets and

1 agricultural chemicals. This item (11) is exempt from the  
2 provisions of Section 3-90.

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

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

20 (13) Proceeds of mandatory service charges separately  
21 stated on customers' bills for the purchase and consumption of  
22 food and beverages purchased at retail from a retailer, to the  
23 extent that the proceeds of the service charge are in fact  
24 turned over as tips or as a substitute for tips to the  
25 employees who participate directly in preparing, serving,  
26 hosting or cleaning up the food or beverage function with

1 respect to which the service charge is imposed.

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

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

16 (16) Until July 1, 2023, coal and aggregate exploration,  
17 mining, off-highway hauling, processing, maintenance, and  
18 reclamation equipment, including replacement parts and  
19 equipment, and including equipment purchased for lease, but  
20 excluding motor vehicles required to be registered under the  
21 Illinois Vehicle Code. The changes made to this Section by  
22 Public Act 97-767 apply on and after July 1, 2003, but no claim  
23 for credit or refund is allowed on or after August 16, 2013  
24 (the effective date of Public Act 98-456) for such taxes paid  
25 during the period beginning July 1, 2003 and ending on August  
26 16, 2013 (the effective date of Public Act 98-456).

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

7           (18) Manufacturing and assembling machinery and equipment  
8 used primarily in the process of manufacturing or assembling  
9 tangible personal property for wholesale or retail sale or  
10 lease, whether that sale or lease is made directly by the  
11 manufacturer or by some other person, whether the materials  
12 used in the process are owned by the manufacturer or some other  
13 person, or whether that sale or lease is made apart from or as  
14 an incident to the seller's engaging in the service occupation  
15 of producing machines, tools, dies, jigs, patterns, gauges, or  
16 other similar items of no commercial value on special order for  
17 a particular purchaser. The exemption provided by this  
18 paragraph (18) does not include machinery and equipment used in  
19 (i) the generation of electricity for wholesale or retail sale;  
20 (ii) the generation or treatment of natural or artificial gas  
21 for wholesale or retail sale that is delivered to customers  
22 through pipes, pipelines, or mains; or (iii) the treatment of  
23 water for wholesale or retail sale that is delivered to  
24 customers through pipes, pipelines, or mains. The provisions of  
25 Public Act 98-583 are declaratory of existing law as to the  
26 meaning and scope of this exemption. Beginning on July 1, 2017,

1 the exemption provided by this paragraph (18) includes, but is  
2 not limited to, graphic arts machinery and equipment, as  
3 defined in paragraph (6) of this Section.

4 (19) Personal property delivered to a purchaser or  
5 purchaser's donee inside Illinois when the purchase order for  
6 that personal property was received by a florist located  
7 outside Illinois who has a florist located inside Illinois  
8 deliver the personal property.

9 (20) Semen used for artificial insemination of livestock  
10 for direct agricultural production.

11 (21) Horses, or interests in horses, registered with and  
12 meeting the requirements of any of the Arabian Horse Club  
13 Registry of America, Appaloosa Horse Club, American Quarter  
14 Horse Association, United States Trotting Association, or  
15 Jockey Club, as appropriate, used for purposes of breeding or  
16 racing for prizes. This item (21) is exempt from the provisions  
17 of Section 3-90, and the exemption provided for under this item  
18 (21) applies for all periods beginning May 30, 1995, but no  
19 claim for credit or refund is allowed on or after January 1,  
20 2008 for such taxes paid during the period beginning May 30,  
21 2000 and ending on January 1, 2008.

22 (22) Computers and communications equipment utilized for  
23 any hospital purpose and equipment used in the diagnosis,  
24 analysis, or treatment of hospital patients purchased by a  
25 lessor who leases the equipment, under a lease of one year or  
26 longer executed or in effect at the time the lessor would

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

19 (23) Personal property purchased by a lessor who leases the  
20 property, under a lease of one year or longer executed or in  
21 effect at the time the lessor would otherwise be subject to the  
22 tax imposed by this Act, to a governmental body that has been  
23 issued an active sales tax exemption identification number by  
24 the Department under Section 1g of the Retailers' Occupation  
25 Tax Act. If the property is leased in a manner that does not  
26 qualify for this exemption or used in any other non-exempt

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

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

23 (25) Beginning with taxable years ending on or after  
24 December 31, 1995 and ending with taxable years ending on or  
25 before December 31, 2004, personal property that is used in the  
26 performance of infrastructure repairs in this State, including



1 but not limited to municipal roads and streets, access roads,  
2 bridges, sidewalks, waste disposal systems, water and sewer  
3 line extensions, water distribution and purification  
4 facilities, storm water drainage and retention facilities, and  
5 sewage treatment facilities, resulting from a State or  
6 federally declared disaster in Illinois or bordering Illinois  
7 when such repairs are initiated on facilities located in the  
8 declared disaster area within 6 months after the disaster.

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

13 (27) A motor vehicle, as that term is defined in Section  
14 1-146 of the Illinois Vehicle Code, that is donated to a  
15 corporation, limited liability company, society, association,  
16 foundation, or institution that is determined by the Department  
17 to be organized and operated exclusively for educational  
18 purposes. For purposes of this exemption, "a corporation,  
19 limited liability company, society, association, foundation,  
20 or institution organized and operated exclusively for  
21 educational purposes" means all tax-supported public schools,  
22 private schools that offer systematic instruction in useful  
23 branches of learning by methods common to public schools and  
24 that compare favorably in their scope and intensity with the  
25 course of study presented in tax-supported schools, and  
26 vocational or technical schools or institutes organized and

1 operated exclusively to provide a course of study of not less  
2 than 6 weeks duration and designed to prepare individuals to  
3 follow a trade or to pursue a manual, technical, mechanical,  
4 industrial, business, or commercial occupation.

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

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

1 coin-operated amusement and vending machines. This paragraph  
2 is exempt from the provisions of Section 3-90.

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

16 (31) Beginning on August 2, 2001 (the effective date of  
17 Public Act 92-227), computers and communications equipment  
18 utilized for any hospital purpose and equipment used in the  
19 diagnosis, analysis, or treatment of hospital patients  
20 purchased by a lessor who leases the equipment, under a lease  
21 of one year or longer executed or in effect at the time the  
22 lessor would otherwise be subject to the tax imposed by this  
23 Act, to a hospital that has been issued an active tax exemption  
24 identification number by the Department under Section 1g of the  
25 Retailers' Occupation Tax Act. If the equipment is leased in a  
26 manner that does not qualify for this exemption or is used in

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

15 (32) Beginning on August 2, 2001 (the effective date of  
16 Public Act 92-227), personal property purchased by a lessor who  
17 leases the property, under a lease of one year or longer  
18 executed or in effect at the time the lessor would otherwise be  
19 subject to the tax imposed by this Act, to a governmental body  
20 that has been issued an active sales tax exemption  
21 identification number by the Department under Section 1g of the  
22 Retailers' Occupation Tax Act. If the property is leased in a  
23 manner that does not qualify for this exemption or used in any  
24 other nonexempt manner, the lessor shall be liable for the tax  
25 imposed under this Act or the Service Use Tax Act, as the case  
26 may be, based on the fair market value of the property at the

1 time the nonqualifying use occurs. No lessor shall collect or  
2 attempt to collect an amount (however designated) that purports  
3 to reimburse that lessor for the tax imposed by this Act or the  
4 Service Use Tax Act, as the case may be, if the tax has not been  
5 paid by the lessor. If a lessor improperly collects any such  
6 amount from the lessee, the lessee shall have a legal right to  
7 claim a refund of that amount from the lessor. If, however,  
8 that amount is not refunded to the lessee for any reason, the  
9 lessor is liable to pay that amount to the Department. This  
10 paragraph is exempt from the provisions of Section 3-90.

11 (33) On and after July 1, 2003 and through June 30, 2004,  
12 the use in this State of motor vehicles of the second division  
13 with a gross vehicle weight in excess of 8,000 pounds and that  
14 are subject to the commercial distribution fee imposed under  
15 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
16 1, 2004 and through June 30, 2005, the use in this State of  
17 motor vehicles of the second division: (i) with a gross vehicle  
18 weight rating in excess of 8,000 pounds; (ii) that are subject  
19 to the commercial distribution fee imposed under Section  
20 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
21 primarily used for commercial purposes. Through June 30, 2005,  
22 this exemption applies to repair and replacement parts added  
23 after the initial purchase of such a motor vehicle if that  
24 motor vehicle is used in a manner that would qualify for the  
25 rolling stock exemption otherwise provided for in this Act. For  
26 purposes of this paragraph, the term "used for commercial

1 purposes" means the transportation of persons or property in  
2 furtherance of any commercial or industrial enterprise,  
3 whether for-hire or not.

4 (34) Beginning January 1, 2008, tangible personal property  
5 used in the construction or maintenance of a community water  
6 supply, as defined under Section 3.145 of the Environmental  
7 Protection Act, that is operated by a not-for-profit  
8 corporation that holds a valid water supply permit issued under  
9 Title IV of the Environmental Protection Act. This paragraph is  
10 exempt from the provisions of Section 3-90.

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

1 complete, repair, replace, or maintain aircraft and who (i)  
2 hold an Air Agency Certificate and are empowered to operate an  
3 approved repair station by the Federal Aviation  
4 Administration, (ii) have a Class IV Rating, and (iii) conduct  
5 operations in accordance with Part 145 of the Federal Aviation  
6 Regulations. The exemption does not include aircraft operated  
7 by a commercial air carrier providing scheduled passenger air  
8 service pursuant to authority issued under Part 121 or Part 129  
9 of the Federal Aviation Regulations. The changes made to this  
10 paragraph (35) by Public Act 98-534 are declarative of existing  
11 law.

12 (36) Tangible personal property purchased by a  
13 public-facilities corporation, as described in Section  
14 11-65-10 of the Illinois Municipal Code, for purposes of  
15 constructing or furnishing a municipal convention hall, but  
16 only if the legal title to the municipal convention hall is  
17 transferred to the municipality without any further  
18 consideration by or on behalf of the municipality at the time  
19 of the completion of the municipal convention hall or upon the  
20 retirement or redemption of any bonds or other debt instruments  
21 issued by the public-facilities corporation in connection with  
22 the development of the municipal convention hall. This  
23 exemption includes existing public-facilities corporations as  
24 provided in Section 11-65-25 of the Illinois Municipal Code.  
25 This paragraph is exempt from the provisions of Section 3-90.

26 (37) Beginning January 1, 2017, menstrual pads, tampons,

1 and menstrual cups.

2 (38) Merchandise that is subject to the Rental Purchase  
3 Agreement Occupation and Use Tax. The purchaser must certify  
4 that the item is purchased to be rented subject to a rental  
5 purchase agreement, as defined in the Rental Purchase Agreement  
6 Act, and provide proof of registration under the Rental  
7 Purchase Agreement Occupation and Use Tax Act. This paragraph  
8 is exempt from the provisions of Section 3-90.

9 (39) Tangible personal property purchased by a purchaser  
10 who is exempt from the tax imposed by this Act by operation of  
11 federal law. This paragraph is exempt from the provisions of  
12 Section 3-90.

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



1       The Department shall grant a certificate of exemption under  
2 this item (40) to qualified data centers as defined by  
3 subsection (b) of Section 2505-810 of the Department of Revenue  
4 Law of the Civil Administrative Code of Illinois.

5       For the purposes of this item (40):

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

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

1 electricity necessary to operate qualified tangible  
2 personal property; and all other tangible personal  
3 property that is essential to the operations of a computer  
4 data center. The term "qualified tangible personal  
5 property" also includes building materials physically  
6 incorporated in to the qualifying data center. To document  
7 the exemption allowed under this Section, the retailer must  
8 obtain from the purchaser a copy of the certificate of  
9 eligibility issued by the Department.

10 This item (40) is exempt from the provisions of Section  
11 3-90.

12 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;  
13 100-22, eff. 7-6-17; 100-437, eff. 1-1-18; 100-594, eff.  
14 6-29-18; 100-863, eff. 8-14-18; 100-1171, eff. 1-4-19; revised  
15 1-8-19.)

16 Section 10. The Service Use Tax Act is amended by changing  
17 Section 3-5 as follows:

18 (35 ILCS 110/3-5)

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

21 (1) Personal property purchased from a corporation,  
22 society, association, foundation, institution, or  
23 organization, other than a limited liability company, that is  
24 organized and operated as a not-for-profit service enterprise

1 for the benefit of persons 65 years of age or older if the  
2 personal property was not purchased by the enterprise for the  
3 purpose of resale by the enterprise.

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

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

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

26 (5) 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 or  
4 purchased for lease, certified by the purchaser to be used  
5 primarily for graphic arts production. Equipment includes  
6 chemicals or chemicals acting as catalysts but only if the  
7 chemicals or chemicals acting as catalysts effect a direct and  
8 immediate change upon a graphic arts product. Beginning on July  
9 1, 2017, graphic arts machinery and equipment is included in  
10 the manufacturing and assembling machinery and equipment  
11 exemption under Section 2 of this Act.

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

15 (7) Farm machinery and equipment, both new and used,  
16 including that manufactured on special order, certified by the  
17 purchaser to be used primarily for production agriculture or  
18 State or federal agricultural programs, including individual  
19 replacement parts for the machinery and equipment, including  
20 machinery and equipment purchased for lease, and including  
21 implements of husbandry defined in Section 1-130 of the  
22 Illinois Vehicle Code, farm machinery and agricultural  
23 chemical and fertilizer spreaders, and nurse wagons required to  
24 be registered under Section 3-809 of the Illinois Vehicle Code,  
25 but excluding other motor vehicles required to be registered  
26 under the Illinois Vehicle Code. Horticultural polyhouses or

1 hoop houses used for propagating, growing, or overwintering  
2 plants shall be considered farm machinery and equipment under  
3 this item (7). Agricultural chemical tender tanks and dry boxes  
4 shall include units sold separately from a motor vehicle  
5 required to be licensed and units sold mounted on a motor  
6 vehicle required to be licensed if the selling price of the  
7 tender is separately stated.

8 Farm machinery and equipment shall include precision  
9 farming equipment that is installed or purchased to be  
10 installed on farm machinery and equipment including, but not  
11 limited to, tractors, harvesters, sprayers, planters, seeders,  
12 or spreaders. Precision farming equipment includes, but is not  
13 limited to, soil testing sensors, computers, monitors,  
14 software, global positioning and mapping systems, and other  
15 such equipment.

16 Farm machinery and equipment also includes computers,  
17 sensors, software, and related equipment used primarily in the  
18 computer-assisted operation of production agriculture  
19 facilities, equipment, and activities such as, but not limited  
20 to, the collection, monitoring, and correlation of animal and  
21 crop data for the purpose of formulating animal diets and  
22 agricultural chemicals. This item (7) is exempt from the  
23 provisions of Section 3-75.

24 (8) Until June 30, 2013, fuel and petroleum products sold  
25 to or used by an air common carrier, certified by the carrier  
26 to be used for consumption, shipment, or storage in the conduct

1 of its business as an air common carrier, for a flight destined  
2 for or returning from a location or locations outside the  
3 United States without regard to previous or subsequent domestic  
4 stopovers.

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

15 (9) Proceeds of mandatory service charges separately  
16 stated on customers' bills for the purchase and consumption of  
17 food and beverages acquired as an incident to the purchase of a  
18 service from a serviceman, to the extent that the proceeds of  
19 the service charge are in fact turned over as tips or as a  
20 substitute for tips to the employees who participate directly  
21 in preparing, serving, hosting or cleaning up the food or  
22 beverage function with respect to which the service charge is  
23 imposed.

24 (10) Until July 1, 2003, oil field exploration, drilling,  
25 and production equipment, including (i) rigs and parts of rigs,  
26 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and

1 tubular goods, including casing and drill strings, (iii) pumps  
2 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
3 individual replacement part for oil field exploration,  
4 drilling, and production equipment, and (vi) machinery and  
5 equipment purchased for lease; but excluding motor vehicles  
6 required to be registered under the Illinois Vehicle Code.

7 (11) Proceeds from the sale of photoprocessing machinery  
8 and equipment, including repair and replacement parts, both new  
9 and used, including that manufactured on special order,  
10 certified by the purchaser to be used primarily for  
11 photoprocessing, and including photoprocessing machinery and  
12 equipment purchased for lease.

13 (12) Until July 1, 2023, coal and aggregate exploration,  
14 mining, off-highway hauling, processing, maintenance, and  
15 reclamation equipment, including replacement parts and  
16 equipment, and including equipment purchased for lease, but  
17 excluding motor vehicles required to be registered under the  
18 Illinois Vehicle Code. The changes made to this Section by  
19 Public Act 97-767 apply on and after July 1, 2003, but no claim  
20 for credit or refund is allowed on or after August 16, 2013  
21 (the effective date of Public Act 98-456) for such taxes paid  
22 during the period beginning July 1, 2003 and ending on August  
23 16, 2013 (the effective date of Public Act 98-456).

24 (13) Semen used for artificial insemination of livestock  
25 for direct agricultural production.

26 (14) Horses, or interests in horses, registered with and

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

14 (15) Computers and communications equipment utilized for  
15 any hospital purpose and equipment used in the diagnosis,  
16 analysis, or treatment of hospital patients purchased by a  
17 lessor who leases the equipment, under a lease of one year or  
18 longer executed or in effect at the time the lessor would  
19 otherwise be subject to the tax imposed by this Act, to a  
20 hospital that has been issued an active tax exemption  
21 identification number by the Department under Section 1g of the  
22 Retailers' Occupation Tax Act. If the equipment is leased in a  
23 manner that does not qualify for this exemption or is used in  
24 any other non-exempt manner, the lessor shall be liable for the  
25 tax imposed under this Act or the Use Tax Act, as the case may  
26 be, based on the fair market value of the property at the time



1 the non-qualifying use occurs. No lessor shall collect or  
2 attempt to collect an amount (however designated) that purports  
3 to reimburse that lessor for the tax imposed by this Act or the  
4 Use Tax Act, as the case may be, if the tax has not been paid by  
5 the lessor. If a lessor improperly collects any such amount  
6 from the lessee, the lessee shall have a legal right to claim a  
7 refund of that amount from the lessor. If, however, that amount  
8 is not refunded to the lessee for any reason, the lessor is  
9 liable to pay that amount to the Department.

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

1 refund of that amount from the lessor. If, however, that amount  
2 is not refunded to the lessee for any reason, the lessor is  
3 liable to pay that amount to the Department.

4 (17) 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 donated for  
7 disaster relief to be used in a State or federally declared  
8 disaster area in Illinois or bordering Illinois by a  
9 manufacturer or retailer that is registered in this State to a  
10 corporation, society, association, foundation, or institution  
11 that has been issued a sales tax exemption identification  
12 number by the Department that assists victims of the disaster  
13 who reside within the declared disaster area.

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

26 (19) Beginning July 1, 1999, game or game birds purchased

1 at a "game breeding and hunting preserve area" as that term is  
2 used in the Wildlife Code. This paragraph is exempt from the  
3 provisions of Section 3-75.

4 (20) A motor vehicle, as that term is defined in Section  
5 1-146 of the Illinois Vehicle Code, that is donated to a  
6 corporation, limited liability company, society, association,  
7 foundation, or institution that is determined by the Department  
8 to be organized and operated exclusively for educational  
9 purposes. For purposes of this exemption, "a corporation,  
10 limited liability company, society, association, foundation,  
11 or institution organized and operated exclusively for  
12 educational purposes" means all tax-supported public schools,  
13 private schools that offer systematic instruction in useful  
14 branches of learning by methods common to public schools and  
15 that compare favorably in their scope and intensity with the  
16 course of study presented in tax-supported schools, and  
17 vocational or technical schools or institutes organized and  
18 operated exclusively to provide a course of study of not less  
19 than 6 weeks duration and designed to prepare individuals to  
20 follow a trade or to pursue a manual, technical, mechanical,  
21 industrial, business, or commercial occupation.

22 (21) Beginning January 1, 2000, personal property,  
23 including food, purchased through fundraising events for the  
24 benefit of a public or private elementary or secondary school,  
25 a group of those schools, or one or more school districts if  
26 the events are sponsored by an entity recognized by the school

1 district that consists primarily of volunteers and includes  
2 parents and teachers of the school children. This paragraph  
3 does not apply to fundraising events (i) for the benefit of  
4 private home instruction or (ii) for which the fundraising  
5 entity purchases the personal property sold at the events from  
6 another individual or entity that sold the property for the  
7 purpose of resale by the fundraising entity and that profits  
8 from the sale to the fundraising entity. This paragraph is  
9 exempt from the provisions of Section 3-75.

10 (22) Beginning January 1, 2000 and through December 31,  
11 2001, new or used automatic vending machines that prepare and  
12 serve hot food and beverages, including coffee, soup, and other  
13 items, and replacement parts for these machines. Beginning  
14 January 1, 2002 and through June 30, 2003, machines and parts  
15 for machines used in commercial, coin-operated amusement and  
16 vending business if a use or occupation tax is paid on the  
17 gross receipts derived from the use of the commercial,  
18 coin-operated amusement and vending machines. This paragraph  
19 is exempt from the provisions of Section 3-75.

20 (23) Beginning August 23, 2001 and through June 30, 2016,  
21 food for human consumption that is to be consumed off the  
22 premises where it is sold (other than alcoholic beverages, soft  
23 drinks, and food that has been prepared for immediate  
24 consumption) and prescription and nonprescription medicines,  
25 drugs, medical appliances, and insulin, urine testing  
26 materials, syringes, and needles used by diabetics, for human

1 use, when purchased for use by a person receiving medical  
2 assistance under Article V of the Illinois Public Aid Code who  
3 resides in a licensed long-term care facility, as defined in  
4 the Nursing Home Care Act, or in a licensed facility as defined  
5 in the ID/DD Community Care Act, the MC/DD Act, or the  
6 Specialized Mental Health Rehabilitation Act of 2013.

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

1 pay that amount to the Department. This paragraph is exempt  
2 from the provisions of Section 3-75.

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

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

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

12 (28) Tangible personal property purchased by a  
13 public-facilities corporation, as described in Section  
14 11-65-10 of the Illinois Municipal Code, for purposes of  
15 constructing or furnishing a municipal convention hall, but  
16 only if the legal title to the municipal convention hall is  
17 transferred to the municipality without any further  
18 consideration by or on behalf of the municipality at the time  
19 of the completion of the municipal convention hall or upon the  
20 retirement or redemption of any bonds or other debt instruments  
21 issued by the public-facilities corporation in connection with  
22 the development of the municipal convention hall. This  
23 exemption includes existing public-facilities corporations as  
24 provided in Section 11-65-25 of the Illinois Municipal Code.  
25 This paragraph is exempt from the provisions of Section 3-75.

26 (29) Beginning January 1, 2017, menstrual pads, tampons,



1 and menstrual cups.

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

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

20 The Department shall grant a certificate of exemption under  
21 this item (31) to qualified data centers as defined by  
22 subsection (b) of Section 2505-810 of the Department of Revenue  
23 Law of the Civil Administrative Code of Illinois.

24 For the purposes of this item (31):

25 "Data center" means a building or a series of buildings  
26 rehabilitated or constructed to house working servers in

1 one physical location or multiple sites within the State of  
2 Illinois.

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

1           obtain from the purchaser a copy of the certificate of  
2           eligibility issued by the Department.

3           This item (31) is exempt from the provisions of Section  
4           3-75.

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

8           Section 15. The Service Occupation Tax Act is amended by  
9           changing Section 3-5 as follows:

10           (35 ILCS 115/3-5)

11           Sec. 3-5. Exemptions. The following tangible personal  
12           property is exempt from the tax imposed by this Act:

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

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

23           (3) Personal property purchased by any not-for-profit arts  
24           or cultural organization that establishes, by proof required by

1 the Department by rule, that it has received an exemption under  
2 Section 501(c)(3) of the Internal Revenue Code and that is  
3 organized and operated primarily for the presentation or  
4 support of arts or cultural programming, activities, or  
5 services. These organizations include, but are not limited to,  
6 music and dramatic arts organizations such as symphony  
7 orchestras and theatrical groups, arts and cultural service  
8 organizations, local arts councils, visual arts organizations,  
9 and media arts organizations. On and after July 1, 2001 (the  
10 effective date of Public Act 92-35) ~~this amendatory Act of the~~  
11 ~~92nd General Assembly~~, however, an entity otherwise eligible  
12 for this exemption shall not make tax-free purchases unless it  
13 has an active identification number issued by the Department.

14 (4) 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 (5) Until July 1, 2003 and beginning again on September 1,  
19 2004 through August 30, 2014, graphic arts machinery and  
20 equipment, including repair and replacement parts, both new and  
21 used, and including that manufactured on special order or  
22 purchased for lease, certified by the purchaser to be used  
23 primarily for graphic arts production. Equipment includes  
24 chemicals or chemicals acting as catalysts but only if the  
25 chemicals or chemicals acting as catalysts effect a direct and  
26 immediate change upon a graphic arts product. Beginning on July

1 1, 2017, graphic arts machinery and equipment is included in  
2 the manufacturing and assembling machinery and equipment  
3 exemption under Section 2 of this Act.

4 (6) Personal property sold by a teacher-sponsored student  
5 organization affiliated with an elementary or secondary school  
6 located in Illinois.

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

26 Farm machinery and equipment shall include precision

1 farming equipment that is installed or purchased to be  
2 installed on farm machinery and equipment including, but not  
3 limited to, tractors, harvesters, sprayers, planters, seeders,  
4 or spreaders. Precision farming equipment includes, but is not  
5 limited to, soil testing sensors, computers, monitors,  
6 software, global positioning and mapping systems, and other  
7 such equipment.

8 Farm machinery and equipment also includes computers,  
9 sensors, software, and related equipment used primarily in the  
10 computer-assisted operation of production agriculture  
11 facilities, equipment, and activities such as, but not limited  
12 to, the collection, monitoring, and correlation of animal and  
13 crop data for the purpose of formulating animal diets and  
14 agricultural chemicals. This item (7) is exempt from the  
15 provisions of Section 3-55.

16 (8) Until June 30, 2013, fuel and petroleum products sold  
17 to or used by an air common carrier, certified by the carrier  
18 to be used for consumption, shipment, or storage in the conduct  
19 of its business as an air common carrier, for a flight destined  
20 for or returning from a location or locations outside the  
21 United States without regard to previous or subsequent domestic  
22 stopovers.

23 Beginning July 1, 2013, fuel and petroleum products sold to  
24 or used by an air carrier, certified by the carrier to be used  
25 for consumption, shipment, or storage in the conduct of its  
26 business as an air common carrier, for a flight that (i) is

1 engaged in foreign trade or is engaged in trade between the  
2 United States and any of its possessions and (ii) transports at  
3 least one individual or package for hire from the city of  
4 origination to the city of final destination on the same  
5 aircraft, without regard to a change in the flight number of  
6 that aircraft.

7 (9) Proceeds of mandatory service charges separately  
8 stated on customers' bills for the purchase and consumption of  
9 food and beverages, to the extent that the proceeds of the  
10 service charge are in fact turned over as tips or as a  
11 substitute for tips to the employees who participate directly  
12 in preparing, serving, hosting or cleaning up the food or  
13 beverage function with respect to which the service charge is  
14 imposed.

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

24 (11) Photoprocessing machinery and equipment, including  
25 repair and replacement parts, both new and used, including that  
26 manufactured on special order, certified by the purchaser to be

1 used primarily for photoprocessing, and including  
2 photoprocessing machinery and equipment purchased for lease.

3 (12) Until July 1, 2023, coal and aggregate exploration,  
4 mining, off-highway hauling, processing, maintenance, and  
5 reclamation equipment, including replacement parts and  
6 equipment, and including equipment purchased for lease, but  
7 excluding motor vehicles required to be registered under the  
8 Illinois Vehicle Code. The changes made to this Section by  
9 Public Act 97-767 apply on and after July 1, 2003, but no claim  
10 for credit or refund is allowed on or after August 16, 2013  
11 (the effective date of Public Act 98-456) for such taxes paid  
12 during the period beginning July 1, 2003 and ending on August  
13 16, 2013 (the effective date of Public Act 98-456).

14 (13) Beginning January 1, 1992 and through June 30, 2016,  
15 food for human consumption that is to be consumed off the  
16 premises where it is sold (other than alcoholic beverages, soft  
17 drinks and food that has been prepared for immediate  
18 consumption) and prescription and non-prescription medicines,  
19 drugs, medical appliances, and insulin, urine testing  
20 materials, syringes, and needles used by diabetics, for human  
21 use, when purchased for use by a person receiving medical  
22 assistance under Article V of the Illinois Public Aid Code who  
23 resides in a licensed long-term care facility, as defined in  
24 the Nursing Home Care Act, or in a licensed facility as defined  
25 in the ID/DD Community Care Act, the MC/DD Act, or the  
26 Specialized Mental Health Rehabilitation Act of 2013.



1           (14) Semen used for artificial insemination of livestock  
2 for direct agricultural production.

3           (15) Horses, or interests in horses, registered with and  
4 meeting the requirements of any of the Arabian Horse Club  
5 Registry of America, Appaloosa Horse Club, American Quarter  
6 Horse Association, United States Trotting Association, or  
7 Jockey Club, as appropriate, used for purposes of breeding or  
8 racing for prizes. This item (15) is exempt from the provisions  
9 of Section 3-55, and the exemption provided for under this item  
10 (15) applies for all periods beginning May 30, 1995, but no  
11 claim for credit or refund is allowed on or after January 1,  
12 2008 (the effective date of Public Act 95-88) for such taxes  
13 paid during the period beginning May 30, 2000 and ending on  
14 January 1, 2008 (the effective date of Public Act 95-88).

15           (16) Computers and communications equipment utilized for  
16 any hospital purpose and equipment used in the diagnosis,  
17 analysis, or treatment of hospital patients sold to a lessor  
18 who leases the equipment, under a lease of one year or longer  
19 executed or in effect at the time of the purchase, to a  
20 hospital that has been issued an active tax exemption  
21 identification number by the Department under Section 1g of the  
22 Retailers' Occupation Tax Act.

23           (17) Personal property sold to a lessor who leases the  
24 property, under a lease of one year or longer executed or in  
25 effect at the time of the purchase, to a governmental body that  
26 has been issued an active tax exemption identification number

1 by the Department under Section 1g of the Retailers' Occupation  
2 Tax Act.

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

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

25 (20) Beginning July 1, 1999, game or game birds sold at a  
26 "game breeding and hunting preserve area" as that term is used

1 in the Wildlife Code. This paragraph is exempt from the  
2 provisions of Section 3-55.

3 (21) A motor vehicle, as that term is defined in Section  
4 1-146 of the Illinois Vehicle Code, that is donated to a  
5 corporation, limited liability company, society, association,  
6 foundation, or institution that is determined by the Department  
7 to be organized and operated exclusively for educational  
8 purposes. For purposes of this exemption, "a corporation,  
9 limited liability company, society, association, foundation,  
10 or institution organized and operated exclusively for  
11 educational purposes" means all tax-supported public schools,  
12 private schools that offer systematic instruction in useful  
13 branches of learning by methods common to public schools and  
14 that compare favorably in their scope and intensity with the  
15 course of study presented in tax-supported schools, and  
16 vocational or technical schools or institutes organized and  
17 operated exclusively to provide a course of study of not less  
18 than 6 weeks duration and designed to prepare individuals to  
19 follow a trade or to pursue a manual, technical, mechanical,  
20 industrial, business, or commercial occupation.

21 (22) Beginning January 1, 2000, personal property,  
22 including food, purchased through fundraising events for the  
23 benefit of a public or private elementary or secondary school,  
24 a group of those schools, or one or more school districts if  
25 the events are sponsored by an entity recognized by the school  
26 district that consists primarily of volunteers and includes

1 parents and teachers of the school children. This paragraph  
2 does not apply to fundraising events (i) for the benefit of  
3 private home instruction or (ii) for which the fundraising  
4 entity purchases the personal property sold at the events from  
5 another individual or entity that sold the property for the  
6 purpose of resale by the fundraising entity and that profits  
7 from the sale to the fundraising entity. This paragraph is  
8 exempt from the provisions of Section 3-55.

9 (23) Beginning January 1, 2000 and through December 31,  
10 2001, new or used automatic vending machines that prepare and  
11 serve hot food and beverages, including coffee, soup, and other  
12 items, and replacement parts for these machines. Beginning  
13 January 1, 2002 and through June 30, 2003, machines and parts  
14 for machines used in commercial, coin-operated amusement and  
15 vending business if a use or occupation tax is paid on the  
16 gross receipts derived from the use of the commercial,  
17 coin-operated amusement and vending machines. This paragraph  
18 is exempt from the provisions of Section 3-55.

19 (24) Beginning on August 2, 2001 (the effective date of  
20 Public Act 92-227) ~~this amendatory Act of the 92nd General~~  
21 ~~Assembly~~, computers and communications equipment utilized for  
22 any hospital purpose and equipment used in the diagnosis,  
23 analysis, or treatment of hospital patients sold to a lessor  
24 who leases the equipment, under a lease of one year or longer  
25 executed or in effect at the time of the purchase, to a  
26 hospital that has been issued an active tax exemption

1 identification number by the Department under Section 1g of the  
2 Retailers' Occupation Tax Act. This paragraph is exempt from  
3 the provisions of Section 3-55.

4 (25) Beginning on August 2, 2001 (the effective date of  
5 Public Act 92-227) ~~this amendatory Act of the 92nd General~~  
6 ~~Assembly~~, personal property sold to a lessor who leases the  
7 property, under a lease of one year or longer executed or in  
8 effect at the time of the purchase, to a governmental body that  
9 has been issued an active tax exemption identification number  
10 by the Department under Section 1g of the Retailers' Occupation  
11 Tax Act. This paragraph is exempt from the provisions of  
12 Section 3-55.

13 (26) Beginning on January 1, 2002 and through June 30,  
14 2016, tangible personal property purchased from an Illinois  
15 retailer by a taxpayer engaged in centralized purchasing  
16 activities in Illinois who will, upon receipt of the property  
17 in Illinois, temporarily store the property in Illinois (i) for  
18 the purpose of subsequently transporting it outside this State  
19 for use or consumption thereafter solely outside this State or  
20 (ii) for the purpose of being processed, fabricated, or  
21 manufactured into, attached to, or incorporated into other  
22 tangible personal property to be transported outside this State  
23 and thereafter used or consumed solely outside this State. The  
24 Director of Revenue shall, pursuant to rules adopted in  
25 accordance with the Illinois Administrative Procedure Act,  
26 issue a permit to any taxpayer in good standing with the

1 Department who is eligible for the exemption under this  
2 paragraph (26). The permit issued under this paragraph (26)  
3 shall authorize the holder, to the extent and in the manner  
4 specified in the rules adopted under this Act, to purchase  
5 tangible personal property from a retailer exempt from the  
6 taxes imposed by this Act. Taxpayers shall maintain all  
7 necessary books and records to substantiate the use and  
8 consumption of all such tangible personal property outside of  
9 the State of Illinois.

10 (27) Beginning January 1, 2008, tangible personal property  
11 used in the construction or maintenance of a community water  
12 supply, as defined under Section 3.145 of the Environmental  
13 Protection Act, that is operated by a not-for-profit  
14 corporation that holds a valid water supply permit issued under  
15 Title IV of the Environmental Protection Act. This paragraph is  
16 exempt from the provisions of Section 3-55.

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

1 the development of the municipal convention hall. This  
2 exemption includes existing public-facilities corporations as  
3 provided in Section 11-65-25 of the Illinois Municipal Code.  
4 This paragraph is exempt from the provisions of Section 3-55.

5 (29) Beginning January 1, 2010, materials, parts,  
6 equipment, components, and furnishings incorporated into or  
7 upon an aircraft as part of the modification, refurbishment,  
8 completion, replacement, repair, or maintenance of the  
9 aircraft. This exemption includes consumable supplies used in  
10 the modification, refurbishment, completion, replacement,  
11 repair, and maintenance of aircraft, but excludes any  
12 materials, parts, equipment, components, and consumable  
13 supplies used in the modification, replacement, repair, and  
14 maintenance of aircraft engines or power plants, whether such  
15 engines or power plants are installed or uninstalled upon any  
16 such aircraft. "Consumable supplies" include, but are not  
17 limited to, adhesive, tape, sandpaper, general purpose  
18 lubricants, cleaning solution, latex gloves, and protective  
19 films. This exemption applies only to the transfer of  
20 qualifying tangible personal property incident to the  
21 modification, refurbishment, completion, replacement, repair,  
22 or maintenance of an aircraft by persons who (i) hold an Air  
23 Agency Certificate and are empowered to operate an approved  
24 repair station by the Federal Aviation Administration, (ii)  
25 have a Class IV Rating, and (iii) conduct operations in  
26 accordance with Part 145 of the Federal Aviation Regulations.

1 The exemption does not include aircraft operated by a  
2 commercial air carrier providing scheduled passenger air  
3 service pursuant to authority issued under Part 121 or Part 129  
4 of the Federal Aviation Regulations. The changes made to this  
5 paragraph (29) by Public Act 98-534 are declarative of existing  
6 law.

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

9 (31) Tangible personal property transferred to a purchaser  
10 who is exempt from tax by operation of federal law. This  
11 paragraph is exempt from the provisions of Section 3-55.

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

26 The Department shall grant a certificate of exemption under



1 this item (32) to qualified data centers as defined by  
2 subsection (b) of Section 2505-810 of the Department of Revenue  
3 Law of the Civil Administrative Code of Illinois.

4 For the purposes of this item (32):

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

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

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

9 This item (32) is exempt from the provisions of Section  
10 3-55.

11 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;  
12 100-22, eff. 7-6-17; 100-594, eff. 6-29-18; 100-1171, eff.  
13 1-4-19; revised 1-8-19.)

14 Section 20. The Retailers' Occupation Tax Act is amended by  
15 changing Section 2-5 as follows:

16 (35 ILCS 120/2-5)

17 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
18 sale of the following tangible personal property are exempt  
19 from the tax imposed by this Act:

20 (1) Farm chemicals.

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

1 including individual replacement parts for the machinery  
2 and equipment, including machinery and equipment purchased  
3 for lease, and including implements of husbandry defined in  
4 Section 1-130 of the Illinois Vehicle Code, farm machinery  
5 and agricultural chemical and fertilizer spreaders, and  
6 nurse wagons required to be registered under Section 3-809  
7 of the Illinois Vehicle Code, but excluding other motor  
8 vehicles required to be registered under the Illinois  
9 Vehicle Code. Horticultural polyhouses or hoop houses used  
10 for propagating, growing, or overwintering plants shall be  
11 considered farm machinery and equipment under this item  
12 (2). Agricultural chemical tender tanks and dry boxes shall  
13 include units sold separately from a motor vehicle required  
14 to be licensed and units sold mounted on a motor vehicle  
15 required to be licensed, if the selling price of the tender  
16 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  
20 not limited to, tractors, harvesters, sprayers, planters,  
21 seeders, or spreaders. Precision farming equipment  
22 includes, but is not limited to, soil testing sensors,  
23 computers, monitors, software, global positioning and  
24 mapping systems, and other such equipment.

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

1 the computer-assisted operation of production agriculture  
2 facilities, equipment, and activities such as, but not  
3 limited to, the collection, monitoring, and correlation of  
4 animal and crop data for the purpose of formulating animal  
5 diets and agricultural chemicals. This item (2) is exempt  
6 from the provisions of Section 2-70.

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

14 (4) Until July 1, 2003 and beginning again September 1,  
15 2004 through August 30, 2014, graphic arts machinery and  
16 equipment, including repair and replacement parts, both  
17 new and used, and including that manufactured on special  
18 order or purchased for lease, certified by the purchaser to  
19 be used primarily for graphic arts production. Equipment  
20 includes chemicals or chemicals acting as catalysts but  
21 only if the chemicals or chemicals acting as catalysts  
22 effect a direct and immediate change upon a graphic arts  
23 product. Beginning on July 1, 2017, graphic arts machinery  
24 and equipment is included in the manufacturing and  
25 assembling machinery and equipment exemption under  
26 paragraph (14).

1           (5) A motor vehicle that is used for automobile  
2           renting, as defined in the Automobile Renting Occupation  
3           and Use Tax Act. This paragraph is exempt from the  
4           provisions of Section 2-70.

5           (6) Personal property sold by a teacher-sponsored  
6           student organization affiliated with an elementary or  
7           secondary school located in Illinois.

8           (7) Until July 1, 2003, proceeds of that portion of the  
9           selling price of a passenger car the sale of which is  
10          subject to the Replacement Vehicle Tax.

11          (8) Personal property sold to an Illinois county fair  
12          association for use in conducting, operating, or promoting  
13          the county fair.

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

1 exemption shall not make tax-free purchases unless it has  
2 an active identification number issued by the Department.

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

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

25 (12) (Blank).

26 (12-5) On and after July 1, 2003 and through June 30,

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

20               (13) Proceeds from sales to owners, lessors, or  
21               shippers of tangible personal property that is utilized by  
22               interstate carriers for hire for use as rolling stock  
23               moving in interstate commerce and equipment operated by a  
24               telecommunications provider, licensed as a common carrier  
25               by the Federal Communications Commission, which is  
26               permanently installed in or affixed to aircraft moving in

1 interstate commerce.

2 (14) Machinery and equipment that will be used by the  
3 purchaser, or a lessee of the purchaser, primarily in the  
4 process of manufacturing or assembling tangible personal  
5 property for wholesale or retail sale or lease, whether the  
6 sale or lease is made directly by the manufacturer or by  
7 some other person, whether the materials used in the  
8 process are owned by the manufacturer or some other person,  
9 or whether the sale or lease is made apart from or as an  
10 incident to the seller's engaging in the service occupation  
11 of producing machines, tools, dies, jigs, patterns,  
12 gauges, or other similar items of no commercial value on  
13 special order for a particular purchaser. The exemption  
14 provided by this paragraph (14) does not include machinery  
15 and equipment used in (i) the generation of electricity for  
16 wholesale or retail sale; (ii) the generation or treatment  
17 of natural or artificial gas for wholesale or retail sale  
18 that is delivered to customers through pipes, pipelines, or  
19 mains; or (iii) the treatment of water for wholesale or  
20 retail sale that is delivered to customers through pipes,  
21 pipelines, or mains. The provisions of Public Act 98-583  
22 are declaratory of existing law as to the meaning and scope  
23 of this exemption. Beginning on July 1, 2017, the exemption  
24 provided by this paragraph (14) includes, but is not  
25 limited to, graphic arts machinery and equipment, as  
26 defined in paragraph (4) of this Section.



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

9           (16) Tangible personal property sold to a purchaser if  
10          the purchaser is exempt from use tax by operation of  
11          federal law. This paragraph is exempt from the provisions  
12          of Section 2-70.

13          (17) Tangible personal property sold to a common  
14          carrier by rail or motor that receives the physical  
15          possession of the property in Illinois and that transports  
16          the property, or shares with another common carrier in the  
17          transportation of the property, out of Illinois on a  
18          standard uniform bill of lading showing the seller of the  
19          property as the shipper or consignor of the property to a  
20          destination outside Illinois, for use outside Illinois.

21          (18) Legal tender, currency, medallions, or gold or  
22          silver coinage issued by the State of Illinois, the  
23          government of the United States of America, or the  
24          government of any foreign country, and bullion.

25          (19) Until July 1, 2003, oil field exploration,  
26          drilling, and production equipment, including (i) rigs and

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

9 (20) Photoprocessing machinery and equipment,  
10 including repair and replacement parts, both new and used,  
11 including that manufactured on special order, certified by  
12 the purchaser to be used primarily for photoprocessing, and  
13 including photoprocessing machinery and equipment  
14 purchased for lease.

15 (21) Until July 1, 2023, coal and aggregate  
16 exploration, mining, off-highway hauling, processing,  
17 maintenance, and reclamation equipment, including  
18 replacement parts and equipment, and including equipment  
19 purchased for lease, but excluding motor vehicles required  
20 to be registered under the Illinois Vehicle Code. The  
21 changes made to this Section by Public Act 97-767 apply on  
22 and after July 1, 2003, but no claim for credit or refund  
23 is allowed on or after August 16, 2013 (the effective date  
24 of Public Act 98-456) for such taxes paid during the period  
25 beginning July 1, 2003 and ending on August 16, 2013 (the  
26 effective date of Public Act 98-456).

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

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

18           (23) A transaction in which the purchase order is  
19 received by a florist who is located outside Illinois, but  
20 who has a florist located in Illinois deliver the property  
21 to the purchaser or the purchaser's donee in Illinois.

22           (24) Fuel consumed or used in the operation of ships,  
23 barges, or vessels that are used primarily in or for the  
24 transportation of property or the conveyance of persons for  
25 hire on rivers bordering on this State if the fuel is  
26 delivered by the seller to the purchaser's barge, ship, or

1 vessel while it is afloat upon that bordering river.

2 (25) Except as provided in item (25-5) of this Section,  
3 a motor vehicle sold in this State to a nonresident even  
4 though the motor vehicle is delivered to the nonresident in  
5 this State, if the motor vehicle is not to be titled in  
6 this State, and if a drive-away permit is issued to the  
7 motor vehicle as provided in Section 3-603 of the Illinois  
8 Vehicle Code or if the nonresident purchaser has vehicle  
9 registration plates to transfer to the motor vehicle upon  
10 returning to his or her home state. The issuance of the  
11 drive-away permit or having the out-of-state registration  
12 plates to be transferred is prima facie evidence that the  
13 motor vehicle will not be titled in this State.

14 (25-5) The exemption under item (25) does not apply if  
15 the state in which the motor vehicle will be titled does  
16 not allow a reciprocal exemption for a motor vehicle sold  
17 and delivered in that state to an Illinois resident but  
18 titled in Illinois. The tax collected under this Act on the  
19 sale of a motor vehicle in this State to a resident of  
20 another state that does not allow a reciprocal exemption  
21 shall be imposed at a rate equal to the state's rate of tax  
22 on taxable property in the state in which the purchaser is  
23 a resident, except that the tax shall not exceed the tax  
24 that would otherwise be imposed under this Act. At the time  
25 of the sale, the purchaser shall execute a statement,  
26 signed under penalty of perjury, of his or her intent to

1 title the vehicle in the state in which the purchaser is a  
2 resident within 30 days after the sale and of the fact of  
3 the payment to the State of Illinois of tax in an amount  
4 equivalent to the state's rate of tax on taxable property  
5 in his or her state of residence and shall submit the  
6 statement to the appropriate tax collection agency in his  
7 or her state of residence. In addition, the retailer must  
8 retain a signed copy of the statement in his or her  
9 records. Nothing in this item shall be construed to require  
10 the removal of the vehicle from this state following the  
11 filing of an intent to title the vehicle in the purchaser's  
12 state of residence if the purchaser titles the vehicle in  
13 his or her state of residence within 30 days after the date  
14 of sale. The tax collected under this Act in accordance  
15 with this item (25-5) shall be proportionately distributed  
16 as if the tax were collected at the 6.25% general rate  
17 imposed under this Act.

18 (25-7) Beginning on July 1, 2007, no tax is imposed  
19 under this Act on the sale of an aircraft, as defined in  
20 Section 3 of the Illinois Aeronautics Act, if all of the  
21 following conditions are met:

22 (1) the aircraft leaves this State within 15 days  
23 after the later of either the issuance of the final  
24 billing for the sale of the aircraft, or the authorized  
25 approval for return to service, completion of the  
26 maintenance record entry, and completion of the test

1 flight and ground test for inspection, as required by  
2 14 C.F.R. 91.407;

3 (2) the aircraft is not based or registered in this  
4 State after the sale of the aircraft; and

5 (3) the seller retains in his or her books and  
6 records and provides to the Department a signed and  
7 dated certification from the purchaser, on a form  
8 prescribed by the Department, certifying that the  
9 requirements of this item (25-7) are met. The  
10 certificate must also include the name and address of  
11 the purchaser, the address of the location where the  
12 aircraft is to be titled or registered, the address of  
13 the primary physical location of the aircraft, and  
14 other information that the Department may reasonably  
15 require.

16 For purposes of this item (25-7):

17 "Based in this State" means hangared, stored, or  
18 otherwise used, excluding post-sale customizations as  
19 defined in this Section, for 10 or more days in each  
20 12-month period immediately following the date of the sale  
21 of the aircraft.

22 "Registered in this State" means an aircraft  
23 registered with the Department of Transportation,  
24 Aeronautics Division, or titled or registered with the  
25 Federal Aviation Administration to an address located in  
26 this State.

1           This paragraph (25-7) is exempt from the provisions of  
2           Section 2-70.

3           (26) Semen used for artificial insemination of  
4           livestock for direct agricultural production.

5           (27) Horses, or interests in horses, registered with  
6           and meeting the requirements of any of the Arabian Horse  
7           Club Registry of America, Appaloosa Horse Club, American  
8           Quarter Horse Association, United States Trotting  
9           Association, or Jockey Club, as appropriate, used for  
10          purposes of breeding or racing for prizes. This item (27)  
11          is exempt from the provisions of Section 2-70, and the  
12          exemption provided for under this item (27) applies for all  
13          periods beginning May 30, 1995, but no claim for credit or  
14          refund is allowed on or after January 1, 2008 (the  
15          effective date of Public Act 95-88) for such taxes paid  
16          during the period beginning May 30, 2000 and ending on  
17          January 1, 2008 (the effective date of Public Act 95-88).

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

26          (29) Personal property sold to a lessor who leases the

1 property, under a lease of one year or longer executed or  
2 in effect at the time of the purchase, to a governmental  
3 body that has been issued an active tax exemption  
4 identification number by the Department under Section 1g of  
5 this Act.

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

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



1 Illinois or bordering Illinois when such repairs are  
2 initiated on facilities located in the declared disaster  
3 area within 6 months after the disaster.

4 (32) Beginning July 1, 1999, game or game birds sold at  
5 a "game breeding and hunting preserve area" as that term is  
6 used in the Wildlife Code. This paragraph is exempt from  
7 the provisions of Section 2-70.

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

1 occupation.

2 (34) Beginning January 1, 2000, personal property,  
3 including food, purchased through fundraising events for  
4 the benefit of a public or private elementary or secondary  
5 school, a group of those schools, or one or more school  
6 districts if the events are sponsored by an entity  
7 recognized by the school district that consists primarily  
8 of volunteers and includes parents and teachers of the  
9 school children. This paragraph does not apply to  
10 fundraising events (i) for the benefit of private home  
11 instruction or (ii) for which the fundraising entity  
12 purchases the personal property sold at the events from  
13 another individual or entity that sold the property for the  
14 purpose of resale by the fundraising entity and that  
15 profits from the sale to the fundraising entity. This  
16 paragraph is exempt from the provisions of Section 2-70.

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

1 provisions of Section 2-70.

2 (35-5) Beginning August 23, 2001 and through June 30,  
3 2016, food for human consumption that is to be consumed off  
4 the premises where it is sold (other than alcoholic  
5 beverages, soft drinks, and food that has been prepared for  
6 immediate consumption) and prescription and  
7 nonprescription medicines, drugs, medical appliances, and  
8 insulin, urine testing materials, syringes, and needles  
9 used by diabetics, for human use, when purchased for use by  
10 a person receiving medical assistance under Article V of  
11 the Illinois Public Aid Code who resides in a licensed  
12 long-term care facility, as defined in the Nursing Home  
13 Care Act, or a licensed facility as defined in the ID/DD  
14 Community Care Act, the MC/DD Act, or the Specialized  
15 Mental Health Rehabilitation Act of 2013.

16 (36) Beginning August 2, 2001, computers and  
17 communications equipment utilized for any hospital purpose  
18 and equipment used in the diagnosis, analysis, or treatment  
19 of hospital patients sold to a lessor who leases the  
20 equipment, under a lease of one year or longer executed or  
21 in effect at the time of the purchase, to a hospital that  
22 has been issued an active tax exemption identification  
23 number by the Department under Section 1g of this Act. This  
24 paragraph is exempt from the provisions of Section 2-70.

25 (37) Beginning August 2, 2001, personal property sold  
26 to a lessor who leases the property, under a lease of one

1 year or longer executed or in effect at the time of the  
2 purchase, to a governmental body that has been issued an  
3 active tax exemption identification number by the  
4 Department under Section 1g of this Act. This paragraph is  
5 exempt from the provisions of Section 2-70.

6 (38) Beginning on January 1, 2002 and through June 30,  
7 2016, tangible personal property purchased from an  
8 Illinois retailer by a taxpayer engaged in centralized  
9 purchasing activities in Illinois who will, upon receipt of  
10 the property in Illinois, temporarily store the property in  
11 Illinois (i) for the purpose of subsequently transporting  
12 it outside this State for use or consumption thereafter  
13 solely outside this State or (ii) for the purpose of being  
14 processed, fabricated, or manufactured into, attached to,  
15 or incorporated into other tangible personal property to be  
16 transported outside this State and thereafter used or  
17 consumed solely outside this State. The Director of Revenue  
18 shall, pursuant to rules adopted in accordance with the  
19 Illinois Administrative Procedure Act, issue a permit to  
20 any taxpayer in good standing with the Department who is  
21 eligible for the exemption under this paragraph (38). The  
22 permit issued under this paragraph (38) shall authorize the  
23 holder, to the extent and in the manner specified in the  
24 rules adopted under this Act, to purchase tangible personal  
25 property from a retailer exempt from the taxes imposed by  
26 this Act. Taxpayers shall maintain all necessary books and

1 records to substantiate the use and consumption of all such  
2 tangible personal property outside of the State of  
3 Illinois.

4 (39) Beginning January 1, 2008, tangible personal  
5 property used in the construction or maintenance of a  
6 community water supply, as defined under Section 3.145 of  
7 the Environmental Protection Act, that is operated by a  
8 not-for-profit corporation that holds a valid water supply  
9 permit issued under Title IV of the Environmental  
10 Protection Act. This paragraph is exempt from the  
11 provisions of Section 2-70.

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

1 protective films. This exemption applies only to the sale  
2 of qualifying tangible personal property to persons who  
3 modify, refurbish, complete, replace, or maintain an  
4 aircraft and who (i) hold an Air Agency Certificate and are  
5 empowered to operate an approved repair station by the  
6 Federal Aviation Administration, (ii) have a Class IV  
7 Rating, and (iii) conduct operations in accordance with  
8 Part 145 of the Federal Aviation Regulations. The exemption  
9 does not include aircraft operated by a commercial air  
10 carrier providing scheduled passenger air service pursuant  
11 to authority issued under Part 121 or Part 129 of the  
12 Federal Aviation Regulations. The changes made to this  
13 paragraph (40) by Public Act 98-534 are declarative of  
14 existing law.

15 (41) Tangible personal property sold to 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,  
19 but only if the legal title to the municipal convention  
20 hall is transferred to the municipality without any further  
21 consideration by or on behalf of the municipality at the  
22 time of the completion of the municipal convention hall or  
23 upon the retirement or redemption of any bonds or other  
24 debt instruments issued by the public-facilities  
25 corporation in connection with the development of the  
26 municipal convention hall. This exemption includes

1 existing public-facilities corporations as provided in  
2 Section 11-65-25 of the Illinois Municipal Code. This  
3 paragraph is exempt from the provisions of Section 2-70.

4 (42) Beginning January 1, 2017, menstrual pads,  
5 tampons, and menstrual cups.

6 (43) Merchandise that is subject to the Rental Purchase  
7 Agreement Occupation and Use Tax. The purchaser must  
8 certify that the item is purchased to be rented subject to  
9 a rental purchase agreement, as defined in the Rental  
10 Purchase Agreement Act, and provide proof of registration  
11 under the Rental Purchase Agreement Occupation and Use Tax  
12 Act. This paragraph is exempt from the provisions of  
13 Section 2-70.

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

1 equipment or enabling software purchased or leased in the  
2 original investment that would have qualified.

3 The Department shall grant a certificate of exemption  
4 under this item (44) to qualified data centers as defined  
5 by subsection (b) of Section 2505-810 of the Department of  
6 Revenue Law of the Civil Administrative Code of Illinois.

7 For the purposes of this item (44):

8 "Data center" means a building or a series of  
9 buildings rehabilitated or constructed to house  
10 working servers in one physical location or multiple  
11 sites within the State of Illinois.

12 "Qualified tangible personal property" means:  
13 electrical systems and equipment; climate control and  
14 chilling equipment and systems; mechanical systems and  
15 equipment; monitoring and secure systems; emergency  
16 generators; hardware; computers; servers; data storage  
17 devices; network connectivity equipment; racks;  
18 cabinets; telecommunications cabling infrastructure;  
19 raised floor systems; peripheral components or  
20 systems; software; mechanical, electrical, or plumbing  
21 systems; battery systems; cooling systems and towers;  
22 temperature control systems; other cabling; and other  
23 data center infrastructure equipment and systems  
24 necessary to operate qualified tangible personal  
25 property, including fixtures; and component parts of  
26 any of the foregoing, including installation,



1 maintenance, repair, refurbishment, and replacement of  
2 qualified tangible personal property to generate,  
3 transform, transmit, distribute, or manage electricity  
4 necessary to operate qualified tangible personal  
5 property; and all other tangible personal property  
6 that is essential to the operations of a computer data  
7 center. The term "qualified tangible personal  
8 property" also includes building materials physically  
9 incorporated in to the qualifying data center. To  
10 document the exemption allowed under this Section, the  
11 retailer must obtain from the purchaser a copy of the  
12 certificate of eligibility issued by the Department.

13 This item (44) is exempt from the provisions of Section  
14 2-70.

15 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;  
16 100-22, eff. 7-6-17; 100-321, eff. 8-24-17; 100-437, eff.  
17 1-1-18; 100-594, eff. 6-29-18; 100-863, eff. 8-14-18;  
18 100-1171, eff. 1-4-19; revised 1-8-19.)

19 Section 25. The Electricity Excise Tax Law is amended by  
20 changing Section 2-4 as follows:

21 (35 ILCS 640/2-4)

22 Sec. 2-4. Tax imposed.

23 (a) Except as provided in subsection (b), a tax is imposed  
24 on the privilege of using in this State electricity purchased

1 for use or consumption and not for resale, other than by  
2 municipal corporations owning and operating a local  
3 transportation system for public service, at the following  
4 rates per kilowatt-hour delivered to the purchaser:

5 (i) For the first 2000 kilowatt-hours used or consumed  
6 in a month: 0.330 cents per kilowatt-hour;

7 (ii) For the next 48,000 kilowatt-hours used or  
8 consumed in a month: 0.319 cents per kilowatt-hour;

9 (iii) For the next 50,000 kilowatt-hours used or  
10 consumed in a month: 0.303 cents per kilowatt-hour;

11 (iv) For the next 400,000 kilowatt-hours used or  
12 consumed in a month: 0.297 cents per kilowatt-hour;

13 (v) For the next 500,000 kilowatt-hours used or  
14 consumed in a month: 0.286 cents per kilowatt-hour;

15 (vi) For the next 2,000,000 kilowatt-hours used or  
16 consumed in a month: 0.270 cents per kilowatt-hour;

17 (vii) For the next 2,000,000 kilowatt-hours used or  
18 consumed in a month: 0.254 cents per kilowatt-hour;

19 (viii) For the next 5,000,000 kilowatt-hours used or  
20 consumed in a month: 0.233 cents per kilowatt-hour;

21 (ix) For the next 10,000,000 kilowatt-hours used or  
22 consumed in a month: 0.207 cents per kilowatt-hour;

23 (x) For all electricity in excess of 20,000,000  
24 kilowatt-hours used or consumed in a month: 0.202 cents per  
25 kilowatt-hour.

26 Provided, that in lieu of the foregoing rates, the tax is

1 imposed on a self-assessing purchaser at the rate of 5.1% of  
2 the self-assessing purchaser's purchase price for all  
3 electricity distributed, supplied, furnished, sold,  
4 transmitted and delivered to the self-assessing purchaser in a  
5 month.

6 (b) A tax is imposed on the privilege of using in this  
7 State electricity purchased from a municipal system or electric  
8 cooperative, as defined in Article XVII of the Public Utilities  
9 Act, which has not made an election as permitted by either  
10 Section 17-200 or Section 17-300 of such Act, at the lesser of  
11 0.32 cents per kilowatt hour of all electricity distributed,  
12 supplied, furnished, sold, transmitted, and delivered by such  
13 municipal system or electric cooperative to the purchaser or 5%  
14 of each such purchaser's purchase price for all electricity  
15 distributed, supplied, furnished, sold, transmitted, and  
16 delivered by such municipal system or electric cooperative to  
17 the purchaser, whichever is the lower rate as applied to each  
18 purchaser in each billing period.

19 (c) The tax imposed by this Section 2-4 is not imposed with  
20 respect to any use of electricity by business enterprises  
21 certified under Section 9-222.1 or 9-222.1A of the Public  
22 Utilities Act, as amended, to the extent of such exemption and  
23 during the time specified by the Department of Commerce and  
24 Economic Opportunity; or with respect to any transaction in  
25 interstate commerce, or otherwise, to the extent to which such  
26 transaction may not, under the Constitution and statutes of the

1 United States, be made the subject of taxation by this State.

2 (d) Beginning January 1, 2020, a business enterprise that  
3 is certified as a qualified data center, as defined by  
4 subsection (b) of the Data Center Investment Act, by the  
5 Department of Revenue is exempt from the tax imposed under this  
6 Section. The Department shall adopt rules to carry out the  
7 provisions of this subsection including procedures for  
8 applying for the exemption. The Department of Revenue shall  
9 notify the public utility of the exemption status of the  
10 business enterprise. The exemption shall take effect upon  
11 certification of the qualifying data center.

12 (Source: P.A. 94-793, eff. 5-19-06.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.