

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 Commerce and Economic
5 Opportunity Law of the Civil Administrative Code of Illinois is
6 amended by adding Section 605-1025 as follows:

7 (20 ILCS 605/605-1025 new)

8 Sec. 605-1025. 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 the Electricity Excise Tax Act, and a credit certification
15 against the taxes imposed under subsections (a) and (b) of
16 Section 201 of the Illinois Income Tax Act to qualifying
17 Illinois data centers.

18 (b) For taxable years beginning on or after January 1,
19 2019, the Department shall award credits against the taxes
20 imposed under subsections (a) and (b) of Section 201 of the
21 Illinois Income Tax Act as provided in Section 229 of the
22 Illinois Income Tax Act.

23 (c) For purposes of this Section:

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

4 "Qualifying Illinois data center" means a new or
5 existing data center that:

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

7 (2) in the case of an existing data center, made a
8 capital investment of at least \$250,000,000
9 collectively by the data center operator and the
10 tenants of all of its data centers over the 60-month
11 period immediately prior to January 1, 2020 or
12 committed to make a capital investment of at least
13 \$250,000,000 over a 60-month period commencing before
14 January 1, 2020 and ending after January 1, 2020; or

15 (3) in the case of a new data center, makes a
16 capital investment of at least \$250,000,000 over a
17 60-month period; and

18 (4) in the case of both existing and new data
19 centers, results in the creation of at least 20
20 full-time or full-time equivalent new jobs over a
21 period of 60 months by the data center operator and the
22 tenants of the data center, collectively, associated
23 with the operation or maintenance of the data center;
24 those jobs must have a total compensation equal to or
25 greater than 120% of the median wage paid to full-time
26 employees in the county where the data center is

1 located, as determined by the U.S. Bureau of Labor
2 Statistics; and

3 (5) is carbon neutral or attains certification
4 under one or more of the following green building
5 standards:

6 (A) BREEAM for New Construction or BREEAM
7 In-Use;

8 (B) ENERGY STAR;

9 (C) Envision;

10 (D) ISO 50001-energy management;

11 (E) LEED for Building Design and Construction
12 or LEED for Operations and Maintenance;

13 (F) Green Globes for New Construction or Green
14 Globes for Existing Buildings;

15 (G) UL 3223; or

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

18 "Full-time equivalent job" means a job in which the new
19 employee works for the owner, operator, contractor, or
20 tenant of a data center or for a corporation under contract
21 with the owner, operator or tenant of a data center at a
22 rate of at least 35 hours per week. An owner, operator or
23 tenant who employs labor or services at a specific site or
24 facility under contract with another may declare one
25 full-time, permanent job for every 1,820 man hours worked
26 per year under that contract. Vacations, paid holidays, and

1 sick time are included in this computation. Overtime is not
2 considered a part of regular hours.

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. "Qualified tangible personal property" also
24 includes building materials physically incorporated in to
25 the qualifying data center.

26 To document the exemption allowed under this Section, the

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

3 (d) New and existing data centers seeking a certificate of
4 exemption for new or existing facilities shall apply to the
5 Department in the manner specified by the Department. The
6 Department and any data center seeking the exemption, including
7 a data center operator on behalf of itself and its tenants,
8 must enter into a memorandum of understanding that at a minimum
9 provides:

10 (1) the details for determining the amount of capital
11 investment to be made;

12 (2) the number of new jobs created;

13 (3) the timeline for achieving the capital investment
14 and new job goals;

15 (4) the repayment obligation should those goals not be
16 achieved and any conditions under which repayment by the
17 qualifying data center or data center tenant claiming the
18 exemption will be required; and

19 (5) other provisions as deemed necessary by the
20 Department.

21 (e) Beginning July 1, 2021, and each year thereafter, the
22 Department shall annually report to the Governor and the
23 General Assembly on the outcomes and effectiveness of this
24 amendatory Act of the 101st General Assembly that shall include
25 the following:

26 (1) the name of each recipient business;

- 1 (2) the location of the project;
2 (3) the estimated value of the credit;
3 (4) the number of new jobs and, if applicable, retained
4 jobs pledged as a result of the project; and
5 (5) whether or not the project is located in an
6 underserved area.

7 (f) New and existing data centers seeking a certificate of
8 exemption related to the rehabilitation or construction of data
9 centers in the State shall require the contractor and all
10 subcontractors to comply with the requirements of Section 30-22
11 of the Illinois Procurement Code as they apply to responsible
12 bidders and to present satisfactory evidence of that compliance
13 to the Department.

14 (g) New and existing data centers seeking a certificate of
15 exemption for the rehabilitation or construction of data
16 centers in the State shall require the contractor to enter into
17 a project labor agreement approved by the Department.

18 Section 4. The Illinois Income Tax Act is amended by adding
19 Section 229 as follows:

20 (35 ILCS 5/229 new)

21 Sec. 229. Data center construction employment tax credit.

22 (a) For tax years beginning on or after January 1, 2019, a
23 taxpayer who has been awarded a credit by the Department of
24 Commerce and Economic Opportunity under Section 605-1025 of the

1 Department of Commerce and Economic Opportunity Law of the
2 Civil Administrative Code of Illinois is entitled to a credit
3 against the taxes imposed under subsections (a) and (b) of
4 Section 201 of this Act. The amount of the credit shall be 20%
5 of the wages paid during the taxable year to a full-time or
6 part-time employee of a construction contractor employed by a
7 certified data center if those wages are paid for the
8 construction of a new data center in a geographic area that
9 meets any one of the following criteria:

10 (1) the area has a poverty rate of at least 20%,
11 according to the latest federal decennial census;

12 (2) 75% or more of the children in the area participate
13 in the federal free lunch program, according to reported
14 statistics from the State Board of Education;

15 (3) 20% or more of the households in the area receive
16 assistance under the Supplemental Nutrition Assistance
17 Program (SNAP); or

18 (4) the area has an average unemployment rate, as
19 determined by the Department of Employment Security, that
20 is more than 120% of the national unemployment average, as
21 determined by the U.S. Department of Labor, for a period of
22 at least 2 consecutive calendar years preceding the date of
23 the application.

24 If the taxpayer is a partnership, a Subchapter S
25 corporation, or a limited liability company that has elected
26 partnership tax treatment, the credit shall be allowed to the

1 partners, shareholders, or members in accordance with the
2 determination of income and distributive share of income under
3 Sections 702 and 704 and subchapter S of the Internal Revenue
4 Code, as applicable. The Department, in cooperation with the
5 Department of Commerce and Economic Opportunity, shall adopt
6 rules to enforce and administer this Section. This Section is
7 exempt from the provisions of Section 250 of this Act.

8 (b) In no event shall a credit under this Section reduce
9 the taxpayer's liability to less than zero. If the amount of
10 the credit exceeds the tax liability for the year, the excess
11 may be carried forward and applied to the tax liability of the
12 5 taxable years following the excess credit year. The tax
13 credit shall be applied to the earliest year for which there is
14 a tax liability. If there are credits for more than one year
15 that are available to offset a liability, the earlier credit
16 shall be applied first.

17 (c) No credit shall be allowed with respect to any
18 certification for any taxable year ending after the revocation
19 of the certification by the Department of Commerce and Economic
20 Opportunity. Upon receiving notification by the Department of
21 Commerce and Economic Opportunity of the revocation of
22 certification, the Department shall notify the taxpayer that no
23 credit is allowed for any taxable year ending after the
24 revocation date, as stated in such notification. If any credit
25 has been allowed with respect to a certification for a taxable
26 year ending after the revocation date, any refund paid to the

1 taxpayer for that taxable year shall, to the extent of that
2 credit allowed, be an erroneous refund within the meaning of
3 Section 912 of this Act.

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

6 (35 ILCS 105/3-5)

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

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

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

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

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

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

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

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

14 (7) Farm chemicals.

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

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

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

25 (11) Farm machinery and equipment, both new and used,
26 including that manufactured on special order, certified by the

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

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

26 Farm machinery and equipment also includes computers,

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

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

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

25 (13) Proceeds of mandatory service charges separately
26 stated on customers' bills for the purchase and consumption of

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

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

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

21 (16) Until July 1, 2023, coal and aggregate exploration,
22 mining, off-highway hauling, processing, maintenance, and
23 reclamation equipment, including replacement parts and
24 equipment, and including equipment purchased for lease, but
25 excluding motor vehicles required to be registered under the
26 Illinois Vehicle Code. The changes made to this Section by

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

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

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

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

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

14 (20) Semen used for artificial insemination of livestock
15 for direct agricultural production.

16 (21) Horses, or interests in horses, registered with and
17 meeting the requirements of any of the Arabian Horse Club
18 Registry of America, Appaloosa Horse Club, American Quarter
19 Horse Association, United States Trotting Association, or
20 Jockey Club, as appropriate, used for purposes of breeding or
21 racing for prizes. This item (21) is exempt from the provisions
22 of Section 3-90, and the exemption provided for under this item
23 (21) applies for all periods beginning May 30, 1995, but no
24 claim for credit or refund is allowed on or after January 1,
25 2008 for such taxes paid during the period beginning May 30,
26 2000 and ending on January 1, 2008.

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

24 (23) Personal property purchased by a lessor who leases the
25 property, under a lease of one year or longer executed or in
26 effect at the time the lessor would otherwise be subject to the

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

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

1 who reside within the declared disaster area.

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

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

18 (27) A motor vehicle, as that term is defined in Section
19 1-146 of the Illinois Vehicle Code, that is donated to a
20 corporation, limited liability company, society, association,
21 foundation, or institution that is determined by the Department
22 to be organized and operated exclusively for educational
23 purposes. For purposes of this exemption, "a corporation,
24 limited liability company, society, association, foundation,
25 or institution organized and operated exclusively for
26 educational purposes" means all tax-supported public schools,

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

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

24 (29) Beginning January 1, 2000 and through December 31,
25 2001, new or used automatic vending machines that prepare and
26 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning
2 January 1, 2002 and through June 30, 2003, machines and parts
3 for machines used in commercial, coin-operated amusement and
4 vending business if a use or occupation tax is paid on the
5 gross receipts derived from the use of the commercial,
6 coin-operated amusement and vending machines. This paragraph
7 is exempt from the provisions of Section 3-90.

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

21 (31) Beginning on August 2, 2001 (the effective date of
22 Public Act 92-227), computers and communications equipment
23 utilized for any hospital purpose and equipment used in the
24 diagnosis, analysis, or treatment of hospital patients
25 purchased by a lessor who leases the equipment, under a lease
26 of one year or longer executed or in effect at the time the

1 lessor would otherwise be subject to the tax imposed by this
2 Act, to a 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 nonexempt 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 nonqualifying 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. This paragraph is exempt from the provisions of
19 Section 3-90.

20 (32) Beginning on August 2, 2001 (the effective date of
21 Public Act 92-227), personal property purchased by a lessor who
22 leases the property, under a lease of one year or longer
23 executed or in effect at the time the lessor would otherwise be
24 subject to the tax imposed by this Act, to a governmental body
25 that has been issued an active sales tax exemption
26 identification number by the Department under Section 1g of the

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

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

1 this exemption applies to repair and replacement parts added
2 after the initial purchase of such a motor vehicle if that
3 motor vehicle is used in a manner that would qualify for the
4 rolling stock exemption otherwise provided for in this Act. For
5 purposes of this paragraph, the term "used for commercial
6 purposes" means the transportation of persons or property in
7 furtherance of any commercial or industrial enterprise,
8 whether for-hire or not.

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

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

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

17 (36) Tangible personal property purchased by 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 3-90.

5 (37) Beginning January 1, 2017, menstrual pads, tampons,
6 and menstrual cups.

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

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

18 (40) Beginning on January 1, 2020, qualified tangible
19 personal property used in the construction or operation of a
20 data center that has been granted a certificate of exemption by
21 the Department of Commerce and Economic Opportunity, whether
22 that tangible personal property is purchased by the owner,
23 operator, or tenant of the data center or by a contractor or
24 subcontractor of the owner, operator, or tenant. Data centers
25 that would have qualified for a certificate of exemption prior
26 to January 1, 2020 had this amendatory Act of the 101st General

1 Assembly been in effect, may apply for and obtain an exemption
2 for subsequent purchases of computer equipment or enabling
3 software purchased or leased to upgrade, supplement, or replace
4 computer equipment or enabling software purchased or leased in
5 the original investment that would have qualified.

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

11 For the purposes of this item (40):

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

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

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

17 This item (40) is exempt from the provisions of Section
18 3-90.

19 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;
20 100-22, eff. 7-6-17; 100-437, eff. 1-1-18; 100-594, eff.
21 6-29-18; 100-863, eff. 8-14-18; 100-1171, eff. 1-4-19; revised
22 1-8-19.)

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

1 (35 ILCS 110/3-5)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 line extensions, water distribution and purification
2 facilities, storm water drainage and retention facilities, and
3 sewage treatment facilities, resulting from a State or
4 federally declared disaster in Illinois or bordering Illinois
5 when such repairs are initiated on facilities located in the
6 declared disaster area within 6 months after the disaster.

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

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

1 follow a trade or to pursue a manual, technical, mechanical,
2 industrial, business, or commercial occupation.

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

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

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

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

1 tax imposed under this Act or the Use Tax Act, as the case may
2 be, based on the fair market value of the property at the time
3 the nonqualifying use occurs. No lessor shall collect or
4 attempt to collect an amount (however designated) that purports
5 to reimburse that lessor for the tax imposed by this Act or the
6 Use Tax Act, as the case may be, if the tax has not been paid by
7 the lessor. If a lessor improperly collects any such amount
8 from the lessee, the lessee shall have a legal right to claim a
9 refund of that amount from the lessor. If, however, that amount
10 is not refunded to the lessee for any reason, the lessor is
11 liable to pay that amount to the Department. This paragraph is
12 exempt from the provisions of Section 3-75.

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

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

10 (26) 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 3-75.

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

1 engines or power plants are installed or uninstalled upon any
2 such aircraft. "Consumable supplies" include, but are not
3 limited to, adhesive, tape, sandpaper, general purpose
4 lubricants, cleaning solution, latex gloves, and protective
5 films. This exemption applies only to the use of qualifying
6 tangible personal property transferred incident to the
7 modification, refurbishment, completion, replacement, repair,
8 or maintenance of aircraft by persons who (i) hold an Air
9 Agency Certificate and are empowered to operate an approved
10 repair station by the Federal Aviation Administration, (ii)
11 have a Class IV Rating, and (iii) conduct operations in
12 accordance with Part 145 of the Federal Aviation Regulations.
13 The exemption does not include aircraft operated by a
14 commercial air carrier providing scheduled passenger air
15 service pursuant to authority issued under Part 121 or Part 129
16 of the Federal Aviation Regulations. The changes made to this
17 paragraph (27) by Public Act 98-534 are declarative of existing
18 law.

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

1 retirement or redemption of any bonds or other debt instruments
2 issued by the public-facilities corporation in connection with
3 the development of the municipal convention hall. This
4 exemption includes existing public-facilities corporations as
5 provided in Section 11-65-25 of the Illinois Municipal Code.
6 This paragraph is exempt from the provisions of Section 3-75.

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

9 (30) Tangible personal property transferred to 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 3-75.

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

1 The Department of Commerce and Economic Opportunity shall
2 grant a certificate of exemption under this item (31) to
3 qualified data centers as defined by Section 605-1025 of the
4 Department of Commerce and Economic Opportunity Law of the
5 Civil Administrative Code of Illinois.

6 For the purposes of this item (31):

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

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

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

12 This item (31) is exempt from the provisions of Section
13 3-75.

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

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

19 (35 ILCS 115/3-5)

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

22 (1) Personal property sold by a corporation, society,
23 association, foundation, institution, or organization, other
24 than a limited liability company, that is organized and

1 operated as a not-for-profit service enterprise for the benefit
2 of persons 65 years of age or older if the personal property
3 was not purchased by the enterprise for the purpose of resale
4 by the enterprise.

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

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

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

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

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

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

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

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

17 Farm machinery and equipment also includes computers,
18 sensors, software, and related equipment used primarily in the
19 computer-assisted operation of production agriculture
20 facilities, equipment, and activities such as, but not limited
21 to, the collection, monitoring, and correlation of animal and
22 crop data for the purpose of formulating animal diets and
23 agricultural chemicals. This item (7) is exempt from the
24 provisions of Section 3-55.

25 (8) Until June 30, 2013, fuel and petroleum products sold
26 to or used by an air common carrier, certified by the carrier

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

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

16 (9) Proceeds of mandatory service charges separately
17 stated on customers' bills for the purchase and consumption of
18 food and beverages, to the extent that the proceeds of the
19 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) Photoprocessing machinery and equipment, including
8 repair and replacement parts, both new and used, including that
9 manufactured on special order, certified by the purchaser to be
10 used primarily for photoprocessing, and including
11 photoprocessing machinery and equipment purchased for lease.

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

23 (13) Beginning January 1, 1992 and through June 30, 2016,
24 food for human consumption that is to be consumed off the
25 premises where it is sold (other than alcoholic beverages, soft
26 drinks and food that has been prepared for immediate

1 consumption) and prescription and non-prescription medicines,
2 drugs, medical appliances, and insulin, urine testing
3 materials, syringes, and needles used by diabetics, for human
4 use, when purchased for use by a person receiving medical
5 assistance under Article V of the Illinois Public Aid Code who
6 resides in a licensed long-term care facility, as defined in
7 the Nursing Home Care Act, or in a licensed facility as defined
8 in the ID/DD Community Care Act, the MC/DD Act, or the
9 Specialized Mental Health Rehabilitation Act of 2013.

10 (14) Semen used for artificial insemination of livestock
11 for direct agricultural production.

12 (15) Horses, or interests in horses, registered with and
13 meeting the requirements of any of the Arabian Horse Club
14 Registry of America, Appaloosa Horse Club, American Quarter
15 Horse Association, United States Trotting Association, or
16 Jockey Club, as appropriate, used for purposes of breeding or
17 racing for prizes. This item (15) is exempt from the provisions
18 of Section 3-55, and the exemption provided for under this item
19 (15) applies for all periods beginning May 30, 1995, but no
20 claim for credit or refund is allowed on or after January 1,
21 2008 (the effective date of Public Act 95-88) for such taxes
22 paid during the period beginning May 30, 2000 and ending on
23 January 1, 2008 (the effective date of Public Act 95-88).

24 (16) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients sold to a lessor

1 who leases the equipment, under a lease of one year or longer
2 executed or in effect at the time of the purchase, to a
3 hospital that has been issued an active tax exemption
4 identification number by the Department under Section 1g of the
5 Retailers' Occupation Tax Act.

6 (17) 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.

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

22 (19) Beginning with taxable years ending on or after
23 December 31, 1995 and ending with taxable years ending on or
24 before December 31, 2004, personal property that is used in the
25 performance of infrastructure repairs in this State, including
26 but not limited to municipal roads and streets, access roads,

1 bridges, sidewalks, waste disposal systems, water and sewer
2 line extensions, water distribution and purification
3 facilities, storm water drainage and retention facilities, and
4 sewage treatment facilities, resulting from a State or
5 federally declared disaster in Illinois or bordering Illinois
6 when such repairs are initiated on facilities located in the
7 declared disaster area within 6 months after the disaster.

8 (20) Beginning July 1, 1999, game or game birds sold at a
9 "game breeding and hunting preserve area" as that term is used
10 in the Wildlife Code. This paragraph is exempt from the
11 provisions of Section 3-55.

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

1 than 6 weeks duration and designed to prepare individuals to
2 follow a trade or to pursue a manual, technical, mechanical,
3 industrial, business, or commercial occupation.

4 (22) Beginning January 1, 2000, personal property,
5 including food, purchased through fundraising events for the
6 benefit of a public or private elementary or secondary school,
7 a group of those schools, or one or more school districts if
8 the events are sponsored by an entity recognized by the school
9 district that consists primarily of volunteers and includes
10 parents and teachers of the school children. This paragraph
11 does not apply to fundraising events (i) for the benefit of
12 private home instruction or (ii) for which the fundraising
13 entity purchases the personal property sold at the events from
14 another individual or entity that sold the property for the
15 purpose of resale by the fundraising entity and that profits
16 from the sale to the fundraising entity. This paragraph is
17 exempt from the provisions of Section 3-55.

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

1 is exempt from the provisions of Section 3-55.

2 (24) Beginning on August 2, 2001 (the effective date of
3 Public Act 92-227) ~~this amendatory Act of the 92nd General~~
4 ~~Assembly~~, computers and communications equipment utilized for
5 any hospital purpose and equipment used in the diagnosis,
6 analysis, or treatment of hospital patients sold to a lessor
7 who leases the equipment, under a lease of one year or longer
8 executed or in effect at the time of the purchase, to a
9 hospital that has been issued an active tax exemption
10 identification number by the Department under Section 1g of the
11 Retailers' Occupation Tax Act. This paragraph is exempt from
12 the provisions of Section 3-55.

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

22 (26) Beginning on January 1, 2002 and through June 30,
23 2016, tangible personal property purchased from an Illinois
24 retailer by a taxpayer engaged in centralized purchasing
25 activities in Illinois who will, upon receipt of the property
26 in Illinois, temporarily store the property in Illinois (i) for

1 the purpose of subsequently transporting it outside this State
2 for use or consumption thereafter solely outside this State or
3 (ii) for the purpose of being processed, fabricated, or
4 manufactured into, attached to, or incorporated into other
5 tangible personal property to be transported outside this State
6 and thereafter used or consumed solely outside this State. The
7 Director of Revenue shall, pursuant to rules adopted in
8 accordance with the Illinois Administrative Procedure Act,
9 issue a permit to any taxpayer in good standing with the
10 Department who is eligible for the exemption under this
11 paragraph (26). The permit issued under this paragraph (26)
12 shall authorize the holder, to the extent and in the manner
13 specified in the rules adopted under this Act, to purchase
14 tangible personal property from a retailer exempt from the
15 taxes imposed by this Act. Taxpayers shall maintain all
16 necessary books and records to substantiate the use and
17 consumption of all such tangible personal property outside of
18 the State of Illinois.

19 (27) Beginning January 1, 2008, tangible personal property
20 used in the construction or maintenance of a community water
21 supply, as defined under Section 3.145 of the Environmental
22 Protection Act, that is operated by a not-for-profit
23 corporation that holds a valid water supply permit issued under
24 Title IV of the Environmental Protection Act. This paragraph is
25 exempt from the provisions of Section 3-55.

26 (28) Tangible personal property sold to a

1 public-facilities corporation, as described in Section
2 11-65-10 of the Illinois Municipal Code, for purposes of
3 constructing or furnishing a municipal convention hall, but
4 only if the legal title to the municipal convention hall is
5 transferred to the municipality without any further
6 consideration by or on behalf of the municipality at the time
7 of the completion of the municipal convention hall or upon the
8 retirement or redemption of any bonds or other debt instruments
9 issued by the public-facilities corporation in connection with
10 the development of the municipal convention hall. This
11 exemption includes existing public-facilities corporations as
12 provided in Section 11-65-25 of the Illinois Municipal Code.
13 This paragraph is exempt from the provisions of Section 3-55.

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

1 lubricants, cleaning solution, latex gloves, and protective
2 films. This exemption applies only to the transfer of
3 qualifying tangible personal property incident to the
4 modification, refurbishment, completion, replacement, repair,
5 or maintenance of an aircraft by persons who (i) hold an Air
6 Agency Certificate and are empowered to operate an approved
7 repair station by the Federal Aviation Administration, (ii)
8 have a Class IV Rating, and (iii) conduct operations in
9 accordance with Part 145 of the Federal Aviation Regulations.
10 The exemption does not include aircraft operated by a
11 commercial air carrier providing scheduled passenger air
12 service pursuant to authority issued under Part 121 or Part 129
13 of the Federal Aviation Regulations. The changes made to this
14 paragraph (29) by Public Act 98-534 are declarative of existing
15 law.

16 (30) Beginning January 1, 2017, menstrual pads, tampons,
17 and menstrual cups.

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

21 (32) Beginning on January 1, 2020, qualified tangible
22 personal property used in the construction or operation of a
23 data center that has been granted a certificate of exemption by
24 the Department of Commerce and Economic Opportunity, whether
25 that tangible personal property is purchased by the owner,
26 operator, or tenant of the data center or by a contractor or

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

9 The Department of Commerce and Economic Opportunity shall
10 grant a certificate of exemption under this item (32) to
11 qualified data centers as defined by Section 605-1025 of the
12 Department of Commerce and Economic Opportunity Law of the
13 Civil Administrative Code of Illinois.

14 For the purposes of this item (32):

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

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

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

20 This item (32) is exempt from the provisions of Section
21 3-55.

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

25 Section 20. The Retailers' Occupation Tax Act is amended by

1 changing Section 2-5 as follows:

2 (35 ILCS 120/2-5)

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

6 (1) Farm chemicals.

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

1 is separately stated.

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

10 Farm machinery and equipment also includes computers,
11 sensors, software, and related equipment used primarily in
12 the computer-assisted operation of production agriculture
13 facilities, equipment, and activities such as, but not
14 limited to, the collection, monitoring, and correlation of
15 animal and crop data for the purpose of formulating animal
16 diets and agricultural chemicals. This item (2) is exempt
17 from the provisions of Section 2-70.

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

25 (4) Until July 1, 2003 and beginning again September 1,
26 2004 through August 30, 2014, graphic arts machinery and

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

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

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

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

22 (8) Personal property sold to an Illinois county fair
23 association for use in conducting, operating, or promoting
24 the county fair.

25 (9) Personal property sold to a not-for-profit arts or
26 cultural organization that establishes, by proof required

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

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

21 (11) Personal property sold to a governmental body, to
22 a corporation, society, association, foundation, or
23 institution organized and operated exclusively for
24 charitable, religious, or educational purposes, or to a
25 not-for-profit corporation, society, association,
26 foundation, institution, or organization that has no

1 compensated officers or employees and that is organized and
2 operated primarily for the recreation of persons 55 years
3 of age or older. A limited liability company may qualify
4 for the exemption under this paragraph only if the limited
5 liability company is organized and operated exclusively
6 for educational purposes. On and after July 1, 1987,
7 however, no entity otherwise eligible for this exemption
8 shall make tax-free purchases unless it has an active
9 identification number issued by the Department.

10 (12) (Blank).

11 (12-5) On and after July 1, 2003 and through June 30,
12 2004, motor vehicles of the second division with a gross
13 vehicle weight in excess of 8,000 pounds that are subject
14 to the commercial distribution fee imposed under Section
15 3-815.1 of the Illinois Vehicle Code. Beginning on July 1,
16 2004 and through June 30, 2005, the use in this State of
17 motor vehicles of the second division: (i) with a gross
18 vehicle weight rating in excess of 8,000 pounds; (ii) that
19 are subject to the commercial distribution fee imposed
20 under Section 3-815.1 of the Illinois Vehicle Code; and
21 (iii) that are primarily used for commercial purposes.
22 Through June 30, 2005, this exemption applies to repair and
23 replacement parts added after the initial purchase of such
24 a motor vehicle if that motor vehicle is used in a manner
25 that would qualify for the rolling stock exemption
26 otherwise provided for in this Act. For purposes of this

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

5 (13) Proceeds from sales to owners, lessors, or
6 shippers of tangible personal property that is utilized by
7 interstate carriers for hire for use as rolling stock
8 moving in interstate commerce and equipment operated by a
9 telecommunications provider, licensed as a common carrier
10 by the Federal Communications Commission, which is
11 permanently installed in or affixed to aircraft moving in
12 interstate commerce.

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

1 wholesale or retail sale; (ii) the generation or treatment
2 of natural or artificial gas for wholesale or retail sale
3 that is delivered to customers through pipes, pipelines, or
4 mains; or (iii) the treatment of water for wholesale or
5 retail sale that is delivered to customers through pipes,
6 pipelines, or mains. The provisions of Public Act 98-583
7 are declaratory of existing law as to the meaning and scope
8 of this exemption. Beginning on July 1, 2017, the exemption
9 provided by this paragraph (14) includes, but is not
10 limited to, graphic arts machinery and equipment, as
11 defined in paragraph (4) of this Section.

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

20 (16) Tangible personal property sold to a purchaser if
21 the purchaser is exempt from use tax by operation of
22 federal law. This paragraph is exempt from the provisions
23 of Section 2-70.

24 (17) Tangible personal property sold to a common
25 carrier by rail or motor that receives the physical
26 possession of the property in Illinois and that transports

1 the property, or shares with another common carrier in the
2 transportation of the property, out of Illinois on a
3 standard uniform bill of lading showing the seller of the
4 property as the shipper or consignor of the property to a
5 destination outside Illinois, for use outside Illinois.

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

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

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

26 (21) Until July 1, 2023, coal and aggregate

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

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

19 Beginning July 1, 2013, fuel and petroleum products
20 sold to or used by an air carrier, certified by the carrier
21 to be used for consumption, shipment, or storage in the
22 conduct of its business as an air common carrier, for a
23 flight that (i) is engaged in foreign trade or is engaged
24 in trade between the United States and any of its
25 possessions and (ii) transports at least one individual or
26 package for hire from the city of origination to the city

1 of final destination on the same aircraft, without regard
2 to a change in the flight number of that aircraft.

3 (23) A transaction in which the purchase order is
4 received by a florist who is located outside Illinois, but
5 who has a florist located in Illinois deliver the property
6 to the purchaser or the purchaser's donee in Illinois.

7 (24) Fuel consumed or used in the operation of ships,
8 barges, or vessels that are used primarily in or for the
9 transportation of property or the conveyance of persons for
10 hire on rivers bordering on this State if the fuel is
11 delivered by the seller to the purchaser's barge, ship, or
12 vessel while it is afloat upon that bordering river.

13 (25) Except as provided in item (25-5) of this Section,
14 a motor vehicle sold in this State to a nonresident even
15 though the motor vehicle is delivered to the nonresident in
16 this State, if the motor vehicle is not to be titled in
17 this State, and if a drive-away permit is issued to the
18 motor vehicle as provided in Section 3-603 of the Illinois
19 Vehicle Code or if the nonresident purchaser has vehicle
20 registration plates to transfer to the motor vehicle upon
21 returning to his or her home state. The issuance of the
22 drive-away permit or having the out-of-state registration
23 plates to be transferred is prima facie evidence that the
24 motor vehicle will not be titled in this State.

25 (25-5) The exemption under item (25) does not apply if
26 the state in which the motor vehicle will be titled does

1 not allow a reciprocal exemption for a motor vehicle sold
2 and delivered in that state to an Illinois resident but
3 titled in Illinois. The tax collected under this Act on the
4 sale of a motor vehicle in this State to a resident of
5 another state that does not allow a reciprocal exemption
6 shall be imposed at a rate equal to the state's rate of tax
7 on taxable property in the state in which the purchaser is
8 a resident, except that the tax shall not exceed the tax
9 that would otherwise be imposed under this Act. At the time
10 of the sale, the purchaser shall execute a statement,
11 signed under penalty of perjury, of his or her intent to
12 title the vehicle in the state in which the purchaser is a
13 resident within 30 days after the sale and of the fact of
14 the payment to the State of Illinois of tax in an amount
15 equivalent to the state's rate of tax on taxable property
16 in his or her state of residence and shall submit the
17 statement to the appropriate tax collection agency in his
18 or her state of residence. In addition, the retailer must
19 retain a signed copy of the statement in his or her
20 records. Nothing in this item shall be construed to require
21 the removal of the vehicle from this state following the
22 filing of an intent to title the vehicle in the purchaser's
23 state of residence if the purchaser titles the vehicle in
24 his or her state of residence within 30 days after the date
25 of sale. The tax collected under this Act in accordance
26 with this item (25-5) shall be proportionately distributed

1 as if the tax were collected at the 6.25% general rate
2 imposed under this Act.

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

7 (1) the aircraft leaves this State within 15 days
8 after the later of either the issuance of the final
9 billing for the sale of the aircraft, or the authorized
10 approval for return to service, completion of the
11 maintenance record entry, and completion of the test
12 flight and ground test for inspection, as required by
13 14 C.F.R. 91.407;

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

16 (3) the seller retains in his or her books and
17 records and provides to the Department a signed and
18 dated certification from the purchaser, on a form
19 prescribed by the Department, certifying that the
20 requirements of this item (25-7) are met. The
21 certificate must also include the name and address of
22 the purchaser, the address of the location where the
23 aircraft is to be titled or registered, the address of
24 the primary physical location of the aircraft, and
25 other information that the Department may reasonably
26 require.

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

2 "Based in this State" means hangared, stored, or
3 otherwise used, excluding post-sale customizations as
4 defined in this Section, for 10 or more days in each
5 12-month period immediately following the date of the sale
6 of the aircraft.

7 "Registered in this State" means an aircraft
8 registered with the Department of Transportation,
9 Aeronautics Division, or titled or registered with the
10 Federal Aviation Administration to an address located in
11 this State.

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

14 (26) Semen used for artificial insemination of
15 livestock for direct agricultural production.

16 (27) Horses, or interests in horses, registered with
17 and meeting the requirements of any of the Arabian Horse
18 Club Registry of America, Appaloosa Horse Club, American
19 Quarter Horse Association, United States Trotting
20 Association, or Jockey Club, as appropriate, used for
21 purposes of breeding or racing for prizes. This item (27)
22 is exempt from the provisions of Section 2-70, and the
23 exemption provided for under this item (27) applies for all
24 periods beginning May 30, 1995, but no claim for credit or
25 refund is allowed on or after January 1, 2008 (the
26 effective date of Public Act 95-88) for such taxes paid

1 during the period beginning May 30, 2000 and ending on
2 January 1, 2008 (the effective date of Public Act 95-88).

3 (28) Computers and communications equipment utilized
4 for any hospital purpose and equipment used in the
5 diagnosis, analysis, or treatment of hospital patients
6 sold to a lessor who leases the equipment, under a lease of
7 one year or longer executed or in effect at the time of the
8 purchase, to a hospital that has been issued an active tax
9 exemption identification number by the Department under
10 Section 1g of this Act.

11 (29) Personal property sold to a lessor who leases the
12 property, under a lease of one year or longer executed or
13 in effect at the time of the purchase, to a governmental
14 body that has been issued an active tax exemption
15 identification number by the Department under Section 1g of
16 this Act.

17 (30) 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
20 donated for disaster relief to be used in a State or
21 federally declared disaster area in Illinois or bordering
22 Illinois by a manufacturer or retailer that is registered
23 in this State to a corporation, society, association,
24 foundation, or institution that has been issued a sales tax
25 exemption identification number by the Department that
26 assists victims of the disaster who reside within the

1 declared disaster area.

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

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

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

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

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

1 paragraph is exempt from the provisions of Section 2-70.

2 (35) Beginning January 1, 2000 and through December 31,
3 2001, new or used automatic vending machines that prepare
4 and serve hot food and beverages, including coffee, soup,
5 and other items, and replacement parts for these machines.
6 Beginning January 1, 2002 and through June 30, 2003,
7 machines and parts for machines used in commercial,
8 coin-operated amusement and vending business if a use or
9 occupation tax is paid on the gross receipts derived from
10 the use of the commercial, coin-operated amusement and
11 vending machines. This paragraph is exempt from the
12 provisions of Section 2-70.

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

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

10 (37) Beginning August 2, 2001, personal property sold
11 to a lessor who leases the property, under a lease of one
12 year or longer executed or in effect at the time of the
13 purchase, to a governmental body that has been issued an
14 active tax exemption identification number by the
15 Department under Section 1g of this Act. This paragraph is
16 exempt from the provisions of Section 2-70.

17 (38) Beginning on January 1, 2002 and through June 30,
18 2016, tangible personal property purchased from an
19 Illinois retailer by a taxpayer engaged in centralized
20 purchasing activities in Illinois who will, upon receipt of
21 the property in Illinois, temporarily store the property in
22 Illinois (i) for the purpose of subsequently transporting
23 it outside this State for use or consumption thereafter
24 solely outside this State or (ii) for the purpose of being
25 processed, fabricated, or manufactured into, attached to,
26 or incorporated into other tangible personal property to be

1 transported outside this State and thereafter used or
2 consumed solely outside this State. The Director of Revenue
3 shall, pursuant to rules adopted in accordance with the
4 Illinois Administrative Procedure Act, issue a permit to
5 any taxpayer in good standing with the Department who is
6 eligible for the exemption under this paragraph (38). The
7 permit issued under this paragraph (38) shall authorize the
8 holder, to the extent and in the manner specified in the
9 rules adopted under this Act, to purchase tangible personal
10 property from a retailer exempt from the taxes imposed by
11 this Act. Taxpayers shall maintain all necessary books and
12 records to substantiate the use and consumption of all such
13 tangible personal property outside of the State of
14 Illinois.

15 (39) Beginning January 1, 2008, tangible personal
16 property used in the construction or maintenance of a
17 community water supply, as defined under Section 3.145 of
18 the Environmental Protection Act, that is operated by a
19 not-for-profit corporation that holds a valid water supply
20 permit issued under Title IV of the Environmental
21 Protection Act. This paragraph is exempt from the
22 provisions of Section 2-70.

23 (40) Beginning January 1, 2010, materials, parts,
24 equipment, components, and furnishings incorporated into
25 or upon an aircraft as part of the modification,
26 refurbishment, completion, replacement, repair, or

1 maintenance of the aircraft. This exemption includes
2 consumable supplies used in the modification,
3 refurbishment, completion, replacement, repair, and
4 maintenance of aircraft, but excludes any materials,
5 parts, equipment, components, and consumable supplies used
6 in the modification, replacement, repair, and maintenance
7 of aircraft engines or power plants, whether such engines
8 or power plants are installed or uninstalled upon any such
9 aircraft. "Consumable supplies" include, but are not
10 limited to, adhesive, tape, sandpaper, general purpose
11 lubricants, cleaning solution, latex gloves, and
12 protective films. This exemption applies only to the sale
13 of qualifying tangible personal property to persons who
14 modify, refurbish, complete, replace, or maintain an
15 aircraft and who (i) hold an Air Agency Certificate and are
16 empowered to operate an approved repair station by the
17 Federal Aviation Administration, (ii) have a Class IV
18 Rating, and (iii) conduct operations in accordance with
19 Part 145 of the Federal Aviation Regulations. The exemption
20 does not include aircraft operated by a commercial air
21 carrier providing scheduled passenger air service pursuant
22 to authority issued under Part 121 or Part 129 of the
23 Federal Aviation Regulations. The changes made to this
24 paragraph (40) by Public Act 98-534 are declarative of
25 existing law.

26 (41) Tangible personal property sold to a

1 public-facilities corporation, as described in Section
2 11-65-10 of the Illinois Municipal Code, for purposes of
3 constructing or furnishing a municipal convention hall,
4 but only if the legal title to the municipal convention
5 hall is transferred to the municipality without any further
6 consideration by or on behalf of the municipality at the
7 time of the completion of the municipal convention hall or
8 upon the retirement or redemption of any bonds or other
9 debt instruments issued by the public-facilities
10 corporation in connection with the development of the
11 municipal convention hall. This exemption includes
12 existing public-facilities corporations as provided in
13 Section 11-65-25 of the Illinois Municipal Code. This
14 paragraph is exempt from the provisions of Section 2-70.

15 (42) Beginning January 1, 2017, menstrual pads,
16 tampons, and menstrual cups.

17 (43) Merchandise that is subject to the Rental Purchase
18 Agreement Occupation and Use Tax. The purchaser must
19 certify that the item is purchased to be rented subject to
20 a rental purchase agreement, as defined in the Rental
21 Purchase Agreement Act, and provide proof of registration
22 under the Rental Purchase Agreement Occupation and Use Tax
23 Act. This paragraph is exempt from the provisions of
24 Section 2-70.

25 (44) Beginning on January 1, 2020, qualified tangible
26 personal property used in the construction or operation of

1 a data center that has been granted a certificate of
2 exemption by the Department of Commerce and Economic
3 Opportunity, whether that tangible personal property is
4 purchased by the owner, operator, or tenant of the data
5 center or by a contractor or subcontractor of the owner,
6 operator, or tenant. Data centers that would have qualified
7 for a certificate of exemption prior to January 1, 2020 had
8 this amendatory Act of the 101st General Assembly been in
9 effect, may apply for and obtain an exemption for
10 subsequent purchases of computer equipment or enabling
11 software purchased or leased to upgrade, supplement, or
12 replace computer equipment or enabling software purchased
13 or leased in the original investment that would have
14 qualified.

15 The Department of Commerce and Economic Opportunity
16 shall grant a certificate of exemption under this item (44)
17 to qualified data centers as defined by Section 605-1025 of
18 the Department of Commerce and Economic Opportunity Law of
19 the Civil Administrative Code of Illinois.

20 For the purposes of this item (44):

21 "Data center" means a building or a series of
22 buildings rehabilitated or constructed to house
23 working servers in one physical location or multiple
24 sites within the State of Illinois.

25 "Qualified tangible personal property" means:
26 electrical systems and equipment; climate control and

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

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

3 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;
4 100-22, eff. 7-6-17; 100-321, eff. 8-24-17; 100-437, eff.
5 1-1-18; 100-594, eff. 6-29-18; 100-863, eff. 8-14-18;
6 100-1171, eff. 1-4-19; revised 1-8-19.)

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

9 (35 ILCS 640/2-4)

10 Sec. 2-4. Tax imposed.

11 (a) Except as provided in subsection (b), a tax is imposed
12 on the privilege of using in this State electricity purchased
13 for use or consumption and not for resale, other than by
14 municipal corporations owning and operating a local
15 transportation system for public service, at the following
16 rates per kilowatt-hour delivered to the purchaser:

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

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

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

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

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

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

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

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

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

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

14 Provided, that in lieu of the foregoing rates, the tax is
15 imposed on a self-assessing purchaser at the rate of 5.1% of
16 the self-assessing purchaser's purchase price for all
17 electricity distributed, supplied, furnished, sold,
18 transmitted and delivered to the self-assessing purchaser in a
19 month.

20 (b) A tax is imposed on the privilege of using in this
21 State electricity purchased from a municipal system or electric
22 cooperative, as defined in Article XVII of the Public Utilities
23 Act, which has not made an election as permitted by either
24 Section 17-200 or Section 17-300 of such Act, at the lesser of
25 0.32 cents per kilowatt hour of all electricity distributed,
26 supplied, furnished, sold, transmitted, and delivered by such

1 municipal system or electric cooperative to the purchaser or 5%
2 of each such purchaser's purchase price for all electricity
3 distributed, supplied, furnished, sold, transmitted, and
4 delivered by such municipal system or electric cooperative to
5 the purchaser, whichever is the lower rate as applied to each
6 purchaser in each billing period.

7 (c) The tax imposed by this Section 2-4 is not imposed with
8 respect to any use of electricity by business enterprises
9 certified under Section 9-222.1 or 9-222.1A of the Public
10 Utilities Act, as amended, to the extent of such exemption and
11 during the time specified by the Department of Commerce and
12 Economic Opportunity; or with respect to any transaction in
13 interstate commerce, or otherwise, to the extent to which such
14 transaction may not, under the Constitution and statutes of the
15 United States, be made the subject of taxation by this State.

16 (d) Beginning January 1, 2020, a business enterprise that
17 is certified as a qualified data center, as defined by
18 subsection (b) of the Data Center Investment Act, by the
19 Department of Revenue is exempt from the tax imposed under this
20 Section. The Department shall adopt rules to carry out the
21 provisions of this subsection including procedures for
22 applying for the exemption. The Department of Revenue shall
23 notify the public utility of the exemption status of the
24 business enterprise. The exemption shall take effect upon
25 certification of the qualifying data center.

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

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