

SB1686



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1686

Introduced 2/15/2019, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-55
35 ILCS 110/3-45

from Ch. 120, par. 439.3-55
from Ch. 120, par. 439.33-45

Amends the Use Tax Act and the Service Use Tax Act. Provides that the multistate exemption includes the return of property of an out-of-State lessor or purchaser to this State for storage, repair, or refurbishment, so long as the property is not used by a lessee or purchaser in this State. Effective immediately.

LRB101 07399 HLH 54044 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Use Tax Act is amended by changing Section
5 3-55 as follows:

6 (35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

7 Sec. 3-55. Multistate exemption. To prevent actual or
8 likely multistate taxation, the tax imposed by this Act does
9 not apply to the use of tangible personal property in this
10 State under the following circumstances:

11 (a) The use, in this State, of tangible personal property
12 acquired outside this State by a nonresident individual and
13 brought into this State by the individual for his or her own
14 use while temporarily within this State or while passing
15 through this State.

16 (b) (Blank).

17 (c) The use, in this State, by owners, lessors, or shippers
18 of tangible personal property that is utilized by interstate
19 carriers for hire for use as rolling stock moving in interstate
20 commerce as long as so used by the interstate carriers for
21 hire, and equipment operated by a telecommunications provider,
22 licensed as a common carrier by the Federal Communications
23 Commission, which is permanently installed in or affixed to

1 aircraft moving in interstate commerce.

2 (d) The use, in this State, of tangible personal property
3 that is acquired outside this State and caused to be brought
4 into this State by a person who has already paid a tax in
5 another State in respect to the sale, purchase, or use of that
6 property, to the extent of the amount of the tax properly due
7 and paid in the other State.

8 (e) The temporary storage, in this State, of tangible
9 personal property that is acquired outside this State and that,
10 after being brought into this State and stored here
11 temporarily, is used solely outside this State or is physically
12 attached to or incorporated into other tangible personal
13 property that is used solely outside this State, or is altered
14 by converting, fabricating, manufacturing, printing,
15 processing, or shaping, and, as altered, is used solely outside
16 this State. For purposes of this subsection, use in this State
17 does not include the return of the property of a lessor or
18 purchaser to this state for storage, repair or refurbishment so
19 long as the property is not utilized by a lessee or purchaser
20 in this State. Refurbishment includes the replacement of
21 component parts as well as upgrades.

22 (e-5) The return of property of an out-of-State lessor or
23 purchaser to this State for storage, repair, or refurbishment,
24 so long as the property is not used by a lessee or purchaser in
25 this State. As used in this subsection (e-5), refurbishment
26 includes the replacement of component parts as well as

1 upgrades.

2 (f) The temporary storage in this State of building
3 materials and fixtures that are acquired either in this State
4 or outside this State by an Illinois registered combination
5 retailer and construction contractor, and that the purchaser
6 thereafter uses outside this State by incorporating that
7 property into real estate located outside this State.

8 (g) The use or purchase of tangible personal property by a
9 common carrier by rail or motor that receives the physical
10 possession of the property in Illinois, and that transports the
11 property, or shares with another common carrier in the
12 transportation of the property, out of Illinois on a standard
13 uniform bill of lading showing the seller of the property as
14 the shipper or consignor of the property to a destination
15 outside Illinois, for use outside Illinois.

16 (h) Except as provided in subsection (h-1), the use, in
17 this State, of a motor vehicle that was sold in this State to a
18 nonresident, even though the motor vehicle is delivered to the
19 nonresident in this State, if the motor vehicle is not to be
20 titled in this State, and if a drive-away permit is issued to
21 the motor vehicle as provided in Section 3-603 of the Illinois
22 Vehicle Code or if the nonresident purchaser has vehicle
23 registration plates to transfer to the motor vehicle upon
24 returning to his or her home state. The issuance of the
25 drive-away permit or having the out-of-state registration
26 plates to be transferred shall be prima facie evidence that the

1 motor vehicle will not be titled in this State.

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

1 sale. The tax collected under this Act in accordance with this
2 subsection (h-1) shall be proportionately distributed as if the
3 tax were collected at the 6.25% general rate imposed under this
4 Act.

5 (h-2) The following exemptions apply with respect to
6 certain aircraft:

7 (1) Beginning on July 1, 2007, no tax is imposed under
8 this Act on the purchase of an aircraft, as defined in
9 Section 3 of the Illinois Aeronautics Act, if all of the
10 following conditions are met:

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

18 (B) the aircraft is not based or registered in this
19 State after the purchase of the aircraft; and

20 (C) the purchaser provides the Department with a
21 signed and dated certification, on a form prescribed by
22 the Department, certifying that the requirements of
23 this item (1) are met. The certificate must also
24 include the name and address of the purchaser, the
25 address of the location where the aircraft is to be
26 titled or registered, the address of the primary

1 physical location of the aircraft, and other
2 information that the Department may reasonably
3 require.

4 (2) Beginning on July 1, 2007, no tax is imposed under
5 this Act on the use of an aircraft, as defined in Section 3
6 of the Illinois Aeronautics Act, that is temporarily
7 located in this State for the purpose of a prepurchase
8 evaluation if all of the following conditions are met:

9 (A) the aircraft is not based or registered in this
10 State after the prepurchase evaluation; and

11 (B) the purchaser provides the Department with a
12 signed and dated certification, on a form prescribed by
13 the Department, certifying that the requirements of
14 this item (2) are met. The certificate must also
15 include the name and address of the purchaser, the
16 address of the location where the aircraft is to be
17 titled or registered, the address of the primary
18 physical location of the aircraft, and other
19 information that the Department may reasonably
20 require.

21 (3) Beginning on July 1, 2007, no tax is imposed under
22 this Act on the use of an aircraft, as defined in Section 3
23 of the Illinois Aeronautics Act, that is temporarily
24 located in this State for the purpose of a post-sale
25 customization if all of the following conditions are met:

26 (A) the aircraft leaves this State within 15 days

1 after the authorized approval for return to service,
2 completion of the maintenance record entry, and
3 completion of the test flight and ground test for
4 inspection, as required by 14 C.F.R. 91.407;

5 (B) the aircraft is not based or registered in this
6 State either before or after the post-sale
7 customization; and

8 (C) the purchaser provides the Department with a
9 signed and dated certification, on a form prescribed by
10 the Department, certifying that the requirements of
11 this item (3) are met. The certificate must also
12 include the name and address of the purchaser, the
13 address of the location where the aircraft is to be
14 titled or registered, the address of the primary
15 physical location of the aircraft, and other
16 information that the Department may reasonably
17 require.

18 If tax becomes due under this subsection (h-2) because of
19 the purchaser's use of the aircraft in this State, the
20 purchaser shall file a return with the Department and pay the
21 tax on the fair market value of the aircraft. This return and
22 payment of the tax must be made no later than 30 days after the
23 aircraft is used in a taxable manner in this State. The tax is
24 based on the fair market value of the aircraft on the date that
25 it is first used in a taxable manner in this State.

26 For purposes of this subsection (h-2):

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

5 "Post-sale customization" means any improvement,
6 maintenance, or repair that is performed on an aircraft
7 following a transfer of ownership of the aircraft.

8 "Prepurchase evaluation" means an examination of an
9 aircraft to provide a potential purchaser with information
10 relevant to the potential purchase.

11 "Registered in this State" means an aircraft registered
12 with the Department of Transportation, Aeronautics Division,
13 or titled or registered with the Federal Aviation
14 Administration to an address located in this State.

15 This subsection (h-2) is exempt from the provisions of
16 Section 3-90.

17 (i) Beginning July 1, 1999, the use, in this State, of fuel
18 acquired outside this State and brought into this State in the
19 fuel supply tanks of locomotives engaged in freight hauling and
20 passenger service for interstate commerce. This subsection is
21 exempt from the provisions of Section 3-90.

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

1 Illinois (i) for the purpose of subsequently transporting it
2 outside this State for use or consumption thereafter solely
3 outside this State or (ii) for the purpose of being processed,
4 fabricated, or manufactured into, attached to, or incorporated
5 into other tangible personal property to be transported outside
6 this State and thereafter used or consumed solely outside this
7 State. The Director of Revenue shall, pursuant to rules adopted
8 in 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 subsection (j). The permit issued under this subsection (j)
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 (Source: P.A. 100-321, eff. 8-24-17.)

20 Section 10. The Service Use Tax Act is amended by changing
21 Section 3-45 as follows:

22 (35 ILCS 110/3-45) (from Ch. 120, par. 439.33-45)

23 Sec. 3-45. Multistate exemption. To prevent actual or
24 likely multistate taxation, the tax imposed by this Act does

1 not apply to the use of tangible personal property in this
2 State under the following circumstances:

3 (a) The use, in this State, of property acquired outside
4 this State by a nonresident individual and brought into this
5 State by the individual for his or her own use while
6 temporarily within this State or while passing through this
7 State.

8 (b) The use, in this State, of property that is acquired
9 outside this State and that is moved into this State for use as
10 rolling stock moving in interstate commerce.

11 (c) The use, in this State, of property that is acquired
12 outside this State and caused to be brought into this State by
13 a person who has already paid a tax in another state in respect
14 to the sale, purchase, or use of that property, to the extent
15 of the amount of the tax properly due and paid in the other
16 state.

17 (d) The temporary storage, in this State, of property that
18 is acquired outside this State and that after being brought
19 into this State and stored here temporarily, is used solely
20 outside this State or is physically attached to or incorporated
21 into other property that is used solely outside this State, or
22 is altered by converting, fabricating, manufacturing,
23 printing, processing, or shaping, and, as altered, is used
24 solely outside this State.

25 (d-5) The return of property of an out-of-State lessor or
26 purchaser to this State for storage, repair, or refurbishment,

1 so long as the property is not used by a lessee or purchaser in
2 this State. As used in this subsection (d-5), refurbishment
3 includes the replacement of component parts as well as
4 upgrades.

5 (e) Beginning July 1, 1999, the use, in this State, of fuel
6 acquired outside this State and brought into this State in the
7 fuel supply tanks of locomotives engaged in freight hauling and
8 passenger service for interstate commerce. This subsection is
9 exempt from the provisions of Section 3-75.

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

1 specified in the rules adopted under this Act, to purchase
2 tangible personal property from a retailer exempt from the
3 taxes imposed by this Act. Taxpayers shall maintain all
4 necessary books and records to substantiate the use and
5 consumption of all such tangible personal property outside of
6 the State of Illinois.

7 (Source: P.A. 97-73, eff. 6-30-11.)

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