



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB2481

Introduced 1/22/2020, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/2	from Ch. 120, par. 439.2
35 ILCS 120/1	from Ch. 120, par. 440
625 ILCS 5/3-1001	from Ch. 95 1/2, par. 3-1001

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that, beginning 30 days after the effective date of the amendatory Act, the term "selling price" no longer includes the value of traded-in motor vehicles. Amends the Illinois Vehicle Code. In a Section concerning the use tax on motor vehicles, makes changes concerning the amount of the tax. Provides that the tax on motorcycles, motor driven cycles, and mopeds shall be the same as for all other motor vehicles. Effective immediately.

LRB101 16485 HLH 65865 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 2  
5 as follows:

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

7 Sec. 2. Definitions.

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

1 retailers' original cost price the tax imposed by this Act, and  
2 no credit for that tax is permitted if the watercraft or  
3 aircraft is subsequently sold by the retailer. "Use" does not  
4 mean the physical incorporation of tangible personal property,  
5 to the extent not first subjected to a use for which it was  
6 purchased, as an ingredient or constituent, into other tangible  
7 personal property (a) which is sold in the regular course of  
8 business or (b) which the person incorporating such ingredient  
9 or constituent therein has undertaken at the time of such  
10 purchase to cause to be transported in interstate commerce to  
11 destinations outside the State of Illinois: Provided that the  
12 property purchased is deemed to be purchased for the purpose of  
13 resale, despite first being used, to the extent to which it is  
14 resold as an ingredient of an intentionally produced product or  
15 by-product of manufacturing.

16 "Watercraft" means a Class 2, Class 3, or Class 4  
17 watercraft as defined in Section 3-2 of the Boat Registration  
18 and Safety Act, a personal watercraft, or any boat equipped  
19 with an inboard motor.

20 "Purchase at retail" means the acquisition of the ownership  
21 of or title to tangible personal property through a sale at  
22 retail.

23 "Purchaser" means anyone who, through a sale at retail,  
24 acquires the ownership of tangible personal property for a  
25 valuable consideration.

26 "Sale at retail" means any transfer of the ownership of or

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

18 "Sale at retail" shall also be construed to include any  
19 Illinois florist's sales transaction in which the purchase  
20 order is received in Illinois by a florist and the sale is for  
21 use or consumption, but the Illinois florist has a florist in  
22 another state deliver the property to the purchaser or the  
23 purchaser's donee in such other state.

24 Nonreusable tangible personal property that is used by  
25 persons engaged in the business of operating a restaurant,  
26 cafeteria, or drive-in is a sale for resale when it is

1 transferred to customers in the ordinary course of business as  
2 part of the sale of food or beverages and is used to deliver,  
3 package, or consume food or beverages, regardless of where  
4 consumption of the food or beverages occurs. Examples of those  
5 items include, but are not limited to nonreusable, paper and  
6 plastic cups, plates, baskets, boxes, sleeves, buckets or other  
7 containers, utensils, straws, placemats, napkins, doggie bags,  
8 and wrapping or packaging materials that are transferred to  
9 customers as part of the sale of food or beverages in the  
10 ordinary course of business.

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

15 "Selling price" means the consideration for a sale valued  
16 in money whether received in money or otherwise, including  
17 cash, credits, property other than as hereinafter provided, and  
18 services, but, prior to January 1, 2020 and beginning again 30  
19 days after the effective date of this amendatory Act of the  
20 101st General Assembly, not including the value of or credit  
21 given for traded-in tangible personal property where the item  
22 that is traded-in is of like kind and character as that which  
23 is being sold; beginning January 1, 2020 and until 30 days  
24 after the effective date of this amendatory Act of the 101st  
25 General Assembly, "selling price" includes the portion of the  
26 value of or credit given for traded-in motor vehicles of the

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

26 Notwithstanding any law to the contrary, for any motor

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

1 tax imposed by this Act or to pay the tax imposed by the  
2 Retailers' Occupation Tax Act on those amounts. However, the  
3 lessor who purchased the motor vehicle assumes the liability  
4 for reporting and paying the tax on those amounts directly to  
5 the Department in the same form (Illinois Retailers' Occupation  
6 Tax, and local retailers' occupation taxes, if applicable) in  
7 which the retailer would have reported and paid such tax if the  
8 retailer had accounted for the tax to the Department. For  
9 amounts received by the lessor from the lessee that are not  
10 calculated at the time the lease is executed, the lessor must  
11 file the return and pay the tax to the Department by the due  
12 date otherwise required by this Act for returns other than  
13 transaction returns. If the retailer is entitled under this Act  
14 to a discount for collecting and remitting the tax imposed  
15 under this Act to the Department with respect to the sale of  
16 the motor vehicle to the lessor, then the right to the discount  
17 provided in this Act shall be transferred to the lessor with  
18 respect to the tax paid by the lessor for any amount received  
19 by the lessor from the lessee for the leased vehicle that is  
20 not calculated at the time the lease is executed; provided that  
21 the discount is only allowed if the return is timely filed and  
22 for amounts timely paid. The "selling price" of a motor vehicle  
23 that is sold on or after January 1, 2015 for the purpose of  
24 leasing for a defined period of longer than one year shall not  
25 be reduced by the value of or credit given for traded-in  
26 tangible personal property owned by the lessor, nor shall it be



1 reduced by the value of or credit given for traded-in tangible  
2 personal property owned by the lessee, regardless of whether  
3 the trade-in value thereof is assigned by the lessee to the  
4 lessor. In the case of a motor vehicle that is sold for the  
5 purpose of leasing for a defined period of longer than one  
6 year, the sale occurs at the time of the delivery of the  
7 vehicle, regardless of the due date of any lease payments. A  
8 lessor who incurs a Retailers' Occupation Tax liability on the  
9 sale of a motor vehicle coming off lease may not take a credit  
10 against that liability for the Use Tax the lessor paid upon the  
11 purchase of the motor vehicle (or for any tax the lessor paid  
12 with respect to any amount received by the lessor from the  
13 lessee for the leased vehicle that was not calculated at the  
14 time the lease was executed) if the selling price of the motor  
15 vehicle at the time of purchase was calculated using the  
16 definition of "selling price" as defined in this paragraph.  
17 Notwithstanding any other provision of this Act to the  
18 contrary, lessors shall file all returns and make all payments  
19 required under this paragraph to the Department by electronic  
20 means in the manner and form as required by the Department.  
21 This paragraph does not apply to leases of motor vehicles for  
22 which, at the time the lease is entered into, the term of the  
23 lease is not a defined period, including leases with a defined  
24 initial period with the option to continue the lease on a  
25 month-to-month or other basis beyond the initial defined  
26 period.

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

9           "Department" means the Department of Revenue.

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

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

17          A person who holds himself or herself out as being engaged  
18 (or who habitually engages) in selling tangible personal  
19 property at retail is a retailer hereunder with respect to such  
20 sales (and not primarily in a service occupation)  
21 notwithstanding the fact that such person designs and produces  
22 such tangible personal property on special order for the  
23 purchaser and in such a way as to render the property of value  
24 only to such purchaser, if such tangible personal property so  
25 produced on special order serves substantially the same  
26 function as stock or standard items of tangible personal

1 property that are sold at retail.

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

21 A person who is the recipient of a grant or contract under  
22 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
23 serves meals to participants in the federal Nutrition Program  
24 for the Elderly in return for contributions established in  
25 amount by the individual participant pursuant to a schedule of  
26 suggested fees as provided for in the federal Act is not a

1 retailer under this Act with respect to such transactions.

2 Persons who engage in the business of transferring tangible  
3 personal property upon the redemption of trading stamps are  
4 retailers hereunder when engaged in such business.

5 The isolated or occasional sale of tangible personal  
6 property at retail by a person who does not hold himself out as  
7 being engaged (or who does not habitually engage) in selling  
8 such tangible personal property at retail or a sale through a  
9 bulk vending machine does not make such person a retailer  
10 hereunder. However, any person who is engaged in a business  
11 which is not subject to the tax imposed by the Retailers'  
12 Occupation Tax Act because of involving the sale of or a  
13 contract to sell real estate or a construction contract to  
14 improve real estate, but who, in the course of conducting such  
15 business, transfers tangible personal property to users or  
16 consumers in the finished form in which it was purchased, and  
17 which does not become real estate, under any provision of a  
18 construction contract or real estate sale or real estate sales  
19 agreement entered into with some other person arising out of or  
20 because of such nontaxable business, is a retailer to the  
21 extent of the value of the tangible personal property so  
22 transferred. If, in such transaction, a separate charge is made  
23 for the tangible personal property so transferred, the value of  
24 such property, for the purposes of this Act, is the amount so  
25 separately charged, but not less than the cost of such property  
26 to the transferor; if no separate charge is made, the value of

1 such property, for the purposes of this Act, is the cost to the  
2 transferor of such tangible personal property.

3 "Retailer maintaining a place of business in this State",  
4 or any like term, means and includes any of the following  
5 retailers:

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

23 (1.1) A retailer having a contract with a person  
24 located in this State under which the person, for a  
25 commission or other consideration based upon the sale of  
26 tangible personal property by the retailer, directly or

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

24 (1.2) Beginning July 1, 2011, a retailer having a  
25 contract with a person located in this State under which:

26 (A) the retailer sells the same or substantially

1 similar line of products as the person located in this  
2 State and does so using an identical or substantially  
3 similar name, trade name, or trademark as the person  
4 located in this State; and

5 (B) the retailer provides a commission or other  
6 consideration to the person located in this State based  
7 upon the sale of tangible personal property by the  
8 retailer.

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

15 (2) (Blank).

16 (3) (Blank).

17 (4) (Blank).

18 (5) (Blank).

19 (6) (Blank).

20 (7) (Blank).

21 (8) (Blank).

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

25 (A) the cumulative gross receipts from sales of  
26 tangible personal property to purchasers in Illinois

1           are \$100,000 or more; or

2                   (B) the retailer enters into 200 or more separate  
3           transactions for the sale of tangible personal  
4           property to purchasers in Illinois.

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



1 period, the retailer shall subsequently determine on a  
2 quarterly basis, ending on the last day of March, June,  
3 September, and December, whether he or she meets the  
4 threshold of either subparagraph (A) or (B) for the  
5 preceding 12-month period.

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

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

17 "Bulk vending machine" means a vending machine, containing  
18 unsorted confections, nuts, toys, or other items designed  
19 primarily to be used or played with by children which, when a  
20 coin or coins of a denomination not larger than \$0.50 are  
21 inserted, are dispensed in equal portions, at random and  
22 without selection by the customer.

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

25 Section 10. The Retailers' Occupation Tax Act is amended by

1 changing Section 1 as follows:

2 (35 ILCS 120/1) (from Ch. 120, par. 440)

3 Sec. 1. Definitions. "Sale at retail" means any transfer of  
4 the ownership of or title to tangible personal property to a  
5 purchaser, for the purpose of use or consumption, and not for  
6 the purpose of resale in any form as tangible personal property  
7 to the extent not first subjected to a use for which it was  
8 purchased, for a valuable consideration: Provided that the  
9 property purchased is deemed to be purchased for the purpose of  
10 resale, despite first being used, to the extent to which it is  
11 resold as an ingredient of an intentionally produced product or  
12 byproduct of manufacturing. For this purpose, slag produced as  
13 an incident to manufacturing pig iron or steel and sold is  
14 considered to be an intentionally produced byproduct of  
15 manufacturing. Transactions whereby the possession of the  
16 property is transferred but the seller retains the title as  
17 security for payment of the selling price shall be deemed to be  
18 sales.

19 "Sale at retail" shall be construed to include any transfer  
20 of the ownership of or title to tangible personal property to a  
21 purchaser, for use or consumption by any other person to whom  
22 such purchaser may transfer the tangible personal property  
23 without a valuable consideration, and to include any transfer,  
24 whether made for or without a valuable consideration, for  
25 resale in any form as tangible personal property unless made in

1 compliance with Section 2c of this Act.

2 Sales of tangible personal property, which property, to the  
3 extent not first subjected to a use for which it was purchased,  
4 as an ingredient or constituent, goes into and forms a part of  
5 tangible personal property subsequently the subject of a "Sale  
6 at retail", are not sales at retail as defined in this Act:  
7 Provided that the property purchased is deemed to be purchased  
8 for the purpose of resale, despite first being used, to the  
9 extent to which it is resold as an ingredient of an  
10 intentionally produced product or byproduct of manufacturing.

11 "Sale at retail" shall be construed to include any Illinois  
12 florist's sales transaction in which the purchase order is  
13 received in Illinois by a florist and the sale is for use or  
14 consumption, but the Illinois florist has a florist in another  
15 state deliver the property to the purchaser or the purchaser's  
16 donee in such other state.

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

1 and wrapping or packaging materials that are transferred to  
2 customers as part of the sale of food or beverages in the  
3 ordinary course of business.

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

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

1 or educational purposes, whether or not such activities are  
2 open to the public.

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

11 "Purchaser" means anyone who, through a sale at retail,  
12 acquires the ownership of or title to tangible personal  
13 property for a valuable consideration.

14 "Reseller of motor fuel" means any person engaged in the  
15 business of selling or delivering or transferring title of  
16 motor fuel to another person other than for use or consumption.  
17 No person shall act as a reseller of motor fuel within this  
18 State without first being registered as a reseller pursuant to  
19 Section 2c or a retailer pursuant to Section 2a.

20 "Selling price" or the "amount of sale" means the  
21 consideration for a sale valued in money whether received in  
22 money or otherwise, including cash, credits, property, other  
23 than as hereinafter provided, and services, but, prior to  
24 January 1, 2020 and beginning again 30 days after the effective  
25 date of this amendatory Act of the 101st General Assembly, not  
26 including the value of or credit given for traded-in tangible

1 personal property where the item that is traded-in is of like  
2 kind and character as that which is being sold; beginning  
3 January 1, 2020 and until 30 days after the effective date of  
4 this amendatory Act of the 101st General Assembly, "selling  
5 price" includes the portion of the value of or credit given for  
6 traded-in motor vehicles of the First Division as defined in  
7 Section 1-146 of the Illinois Vehicle Code of like kind and  
8 character as that which is being sold that exceeds \$10,000.  
9 "Selling price" shall be determined without any deduction on  
10 account of the cost of the property sold, the cost of materials  
11 used, labor or service cost or any other expense whatsoever,  
12 but does not include charges that are added to prices by  
13 sellers on account of the seller's tax liability under this  
14 Act, or on account of the seller's duty to collect, from the  
15 purchaser, the tax that is imposed by the Use Tax Act, or,  
16 except as otherwise provided with respect to any cigarette tax  
17 imposed by a home rule unit, on account of the seller's tax  
18 liability under any local occupation tax administered by the  
19 Department, or, except as otherwise provided with respect to  
20 any cigarette tax imposed by a home rule unit on account of the  
21 seller's duty to collect, from the purchasers, the tax that is  
22 imposed under any local use tax administered by the Department.  
23 Effective December 1, 1985, "selling price" shall include  
24 charges that are added to prices by sellers on account of the  
25 seller's tax liability under the Cigarette Tax Act, on account  
26 of the sellers' duty to collect, from the purchaser, the tax

1 imposed under the Cigarette Use Tax Act, and on account of the  
2 seller's duty to collect, from the purchaser, any cigarette tax  
3 imposed by a home rule unit.

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

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



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

1 period, including leases with a defined initial period with the  
2 option to continue the lease on a month-to-month or other basis  
3 beyond the initial defined period.

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

12 "Gross receipts" from the sales of tangible personal  
13 property at retail means the total selling price or the amount  
14 of such sales, as hereinbefore defined. In the case of charge  
15 and time sales, the amount thereof shall be included only as  
16 and when payments are received by the seller. Receipts or other  
17 consideration derived by a seller from the sale, transfer or  
18 assignment of accounts receivable to a wholly owned subsidiary  
19 will not be deemed payments prior to the time the purchaser  
20 makes payment on such accounts.

21 "Department" means the Department of Revenue.

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

1           The isolated or occasional sale of tangible personal  
2 property at retail by a person who does not hold himself out as  
3 being engaged (or who does not habitually engage) in selling  
4 such tangible personal property at retail, or a sale through a  
5 bulk vending machine, does not constitute engaging in a  
6 business of selling such tangible personal property at retail  
7 within the meaning of this Act; provided that any person who is  
8 engaged in a business which is not subject to the tax imposed  
9 by this Act because of involving the sale of or a contract to  
10 sell real estate or a construction contract to improve real  
11 estate or a construction contract to engineer, install, and  
12 maintain an integrated system of products, but who, in the  
13 course of conducting such business, transfers tangible  
14 personal property to users or consumers in the finished form in  
15 which it was purchased, and which does not become real estate  
16 or was not engineered and installed, under any provision of a  
17 construction contract or real estate sale or real estate sales  
18 agreement entered into with some other person arising out of or  
19 because of such nontaxable business, is engaged in the business  
20 of selling tangible personal property at retail to the extent  
21 of the value of the tangible personal property so transferred.  
22 If, in such a transaction, a separate charge is made for the  
23 tangible personal property so transferred, the value of such  
24 property, for the purpose of this Act, shall be the amount so  
25 separately charged, but not less than the cost of such property  
26 to the transferor; if no separate charge is made, the value of

1 such property, for the purposes of this Act, is the cost to the  
2 transferor of such tangible personal property. Construction  
3 contracts for the improvement of real estate consisting of  
4 engineering, installation, and maintenance of voice, data,  
5 video, security, and all telecommunication systems do not  
6 constitute engaging in a business of selling tangible personal  
7 property at retail within the meaning of this Act if they are  
8 sold at one specified contract price.

9 A person who holds himself or herself out as being engaged  
10 (or who habitually engages) in selling tangible personal  
11 property at retail is a person engaged in the business of  
12 selling tangible personal property at retail hereunder with  
13 respect to such sales (and not primarily in a service  
14 occupation) notwithstanding the fact that such person designs  
15 and produces such tangible personal property on special order  
16 for the purchaser and in such a way as to render the property  
17 of value only to such purchaser, if such tangible personal  
18 property so produced on special order serves substantially the  
19 same function as stock or standard items of tangible personal  
20 property that are sold at retail.

21 Persons who engage in the business of transferring tangible  
22 personal property upon the redemption of trading stamps are  
23 engaged in the business of selling such property at retail and  
24 shall be liable for and shall pay the tax imposed by this Act  
25 on the basis of the retail value of the property transferred  
26 upon redemption of such stamps.

1 "Bulk vending machine" means a vending machine, containing  
2 unsorted confections, nuts, toys, or other items designed  
3 primarily to be used or played with by children which, when a  
4 coin or coins of a denomination not larger than \$0.50 are  
5 inserted, are dispensed in equal portions, at random and  
6 without selection by the customer.

7 "Remote retailer" means a retailer that does not maintain  
8 within this State, directly or by a subsidiary, an office,  
9 distribution house, sales house, warehouse or other place of  
10 business, or any agent or other representative operating within  
11 this State under the authority of the retailer or its  
12 subsidiary, irrespective of whether such place of business or  
13 agent is located here permanently or temporarily or whether  
14 such retailer or subsidiary is licensed to do business in this  
15 State.

16 "Marketplace" means a physical or electronic place, forum,  
17 platform, application, or other method by which a marketplace  
18 seller sells or offers to sell items.

19 "Marketplace facilitator" means a person who, pursuant to  
20 an agreement with an unrelated third-party marketplace seller,  
21 directly or indirectly through one or more affiliates  
22 facilitates a retail sale by an unrelated third party  
23 marketplace seller by:

24 (1) listing or advertising for sale by the marketplace  
25 seller in a marketplace, tangible personal property that is  
26 subject to tax under this Act; and

1           (2) either directly or indirectly, through agreements  
2           or arrangements with third parties, collecting payment  
3           from the customer and transmitting that payment to the  
4           marketplace seller regardless of whether the marketplace  
5           facilitator receives compensation or other consideration  
6           in exchange for its services.

7           A person who provides advertising services, including  
8           listing products for sale, is not considered a marketplace  
9           facilitator, so long as the advertising service platform or  
10          forum does not engage, directly or indirectly through one or  
11          more affiliated persons, in the activities described in  
12          paragraph (2) of this definition of "marketplace facilitator".

13          "Marketplace seller" means a person that makes sales  
14          through a marketplace operated by an unrelated third party  
15          marketplace facilitator.

16          (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 1-1-20.)

17          Section 15. The Illinois Vehicle Code is amended by  
18          changing Section 3-1001 as follows:

19                 (625 ILCS 5/3-1001) (from Ch. 95 1/2, par. 3-1001)

20          Sec. 3-1001. A tax is hereby imposed on the privilege of  
21          using, in this State, any motor vehicle as defined in Section  
22          1-146 of this Code acquired by gift, transfer, or purchase, and  
23          having a year model designation preceding the year of  
24          application for title by 5 or fewer years prior to October 1,

1 1985 and 10 or fewer years on and after October 1, 1985 and  
2 prior to January 1, 1988. On and after January 1, 1988, the tax  
3 shall apply to all motor vehicles without regard to model year.  
4 Except that the tax shall not apply

5 (i) if the use of the motor vehicle is otherwise taxed  
6 under the Use Tax Act;

7 (ii) if the motor vehicle is bought and used by a  
8 governmental agency or a society, association, foundation  
9 or institution organized and operated exclusively for  
10 charitable, religious or educational purposes;

11 (iii) if the use of the motor vehicle is not subject to  
12 the Use Tax Act by reason of subsection (a), (b), (c), (d),  
13 (e) or (f) of Section 3-55 of that Act dealing with the  
14 prevention of actual or likely multistate taxation;

15 (iv) to implements of husbandry;

16 (v) when a junking certificate is issued pursuant to  
17 Section 3-117(a) of this Code;

18 (vi) when a vehicle is subject to the replacement  
19 vehicle tax imposed by Section 3-2001 of this Act;

20 (vii) when the transfer is a gift to a beneficiary in  
21 the administration of an estate and the beneficiary is a  
22 surviving spouse.

23 Prior to January 1, 1988, the rate of tax shall be 5% of  
24 the selling price for each purchase of a motor vehicle covered  
25 by Section 3-1001 of this Code. Except as hereinafter provided,  
26 beginning January 1, 1988 and until 30 days after the effective

1 date of this amendatory Act of the 101st General Assembly, the  
 2 rate of tax shall be as follows for transactions in which the  
 3 selling price of the motor vehicle is less than \$15,000:

4	Number of Years Transpired After	Applicable Tax
5	Model Year of Motor Vehicle	
6	1 or less	\$390
7	2	290
8	3	215
9	4	165
10	5	115
11	6	90
12	7	80
13	8	65
14	9	50
15	10	40
16	over 10	25

17 Except as hereinafter provided, beginning January 1, 1988 and  
 18 until 30 days after the effective date of this amendatory Act  
 19 of the 101st General Assembly, the rate of tax shall be as  
 20 follows for transactions in which the selling price of the  
 21 motor vehicle is \$15,000 or more:

22	Selling Price	Applicable Tax
23	\$15,000 - \$19,999	\$ 750
24	\$20,000 - \$24,999	\$1,000
25	\$25,000 - \$29,999	\$1,250
26	\$30,000 and over	\$1,500



1       Except as hereinafter provided, beginning 30 days after the  
2 effective date of this amendatory Act of the 101st General  
3 Assembly, the rate of tax shall be as follows for transactions  
4 in which the selling price of the motor vehicle is less than  
5 \$15,000:

6           (1) if one year or less has transpired after the model  
7 year of the vehicle, then the applicable tax is \$465;

8           (2) if 2 years have transpired after the model year of  
9 the motor vehicle, then the applicable tax is \$365;

10          (3) if 3 years have transpired after the model year of  
11 the motor vehicle, then the applicable tax is \$290;

12          (4) if 4 years have transpired after the model year of  
13 the motor vehicle, then the applicable tax is \$240;

14          (5) if 5 years have transpired after the model year of  
15 the motor vehicle, then the applicable tax is \$190;

16          (6) if 6 years have transpired after the model year of  
17 the motor vehicle, then the applicable tax is \$165;

18          (7) if 7 years have transpired after the model year of  
19 the motor vehicle, then the applicable tax is \$155;

20          (8) if 8 years have transpired after the model year of  
21 the motor vehicle, then the applicable tax is \$140;

22          (9) if 9 years have transpired after the model year of  
23 the motor vehicle, then the applicable tax is \$125;

24          (10) if 10 years have transpired after the model year  
25 of the motor vehicle, then the applicable tax is \$115; and

26          (11) if more than 10 years have transpired after the

1       model year of the motor vehicle, then the applicable tax is  
2       \$100.

3       Except as hereinafter provided, beginning 30 days after the  
4       effective date of this amendatory Act of the 101st General  
5       Assembly, the rate of tax shall be as follows for transactions  
6       in which the selling price of the motor vehicle is \$15,000 or  
7       more:

8               (1) if the selling price is \$15,000 or more, but less  
9               than \$20,000, then the applicable tax shall be \$850;

10              (2) if the selling price is \$20,000 or more, but less  
11              than \$25,000, then the applicable tax shall be \$1,100;

12              (3) if the selling price is \$25,000 or more, but less  
13              than \$30,000, then the applicable tax shall be \$1,350;

14              (4) if the selling price is \$30,000 or more, but less  
15              than \$50,000, then the applicable tax shall be \$1,600;

16              (5) if the selling price is \$50,000 or more, but less  
17              than \$100,000, then the applicable tax shall be \$2,600;

18              (6) if the selling price is \$100,000 or more, but less  
19              than \$1,000,000, then the applicable tax shall be \$5,100;

20       and

21              (7) if the selling price is \$1,000,000 or more, then  
22              the applicable tax shall be \$10,100.

23       For the following transactions, the tax rate shall be \$15 for  
24       each motor vehicle acquired in such transaction:

25              (i) when the transferee or purchaser is the spouse,  
26              mother, father, brother, sister or child of the transferor;

1 (ii) when the transfer is a gift to a beneficiary in  
2 the administration of an estate and the beneficiary is not  
3 a surviving spouse;

4 (iii) when a motor vehicle which has once been  
5 subjected to the Illinois retailers' occupation tax or use  
6 tax is transferred in connection with the organization,  
7 reorganization, dissolution or partial liquidation of an  
8 incorporated or unincorporated business wherein the  
9 beneficial ownership is not changed.

10 A claim that the transaction is taxable under subparagraph  
11 (i) shall be supported by such proof of family relationship as  
12 provided by rules of the Department.

13 Until 30 days after the effective date of this amendatory  
14 Act of the 101st General Assembly, for ~~For~~ a transaction in  
15 which a motorcycle, motor driven cycle or moped is acquired the  
16 tax rate shall be \$25. For a transaction on or after 30 days  
17 after the effective date of this amendatory Act of the 101st  
18 General Assembly, the tax rate for motorcycles, motor driven  
19 cycles, and mopeds shall be the same as for all other motor  
20 vehicles.

21 On and after October 1, 1985 and until the first day of the  
22 first month to begin not less than 30 days after the effective  
23 date of this amendatory Act of the 101st General Assembly, 1/12  
24 of \$5,000,000 of the moneys received by the Department of  
25 Revenue pursuant to this Section shall be paid each month into  
26 the Build Illinois Fund; on and after the first day of the

1 first month to begin not less than 30 days after the effective  
2 date of this amendatory Act of the 101st General Assembly, 1/12  
3 of \$40,000,000 of the moneys received by the Department of  
4 Revenue pursuant to this Section shall be paid each month into  
5 the Build Illinois Fund; and the remainder shall be paid into  
6 the General Revenue Fund.

7       The tax imposed by this Section shall be abated and no  
8 longer imposed when the amount deposited to secure the bonds  
9 issued pursuant to the Build Illinois Bond Act is sufficient to  
10 provide for the payment of the principal of, and interest and  
11 premium, if any, on the bonds, as certified to the State  
12 Comptroller and the Director of Revenue by the Director of the  
13 Governor's Office of Management and Budget.

14 (Source: P.A. 96-554, eff. 1-1-10.)".

15       Section 99. Effective date. This Act takes effect upon  
16 becoming law.