

SB3352



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3352

Introduced 2/14/2020, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

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

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that, for any leased property (currently, for motor vehicles only), "selling price" means the consideration received by the lessor pursuant to the lease contract and includes certain amounts received by the lessor that are not calculated at the time the lease is executed. Provides for an exemption to the extent of any personal property lease transaction tax paid to a home rule municipality. Effective immediately.

LRB101 18615 HLH 70058 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Sections
5 2 and 3-5 as follows:

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

7 Sec. 2. Definitions.

8 "Use" means the exercise by any person of any right or
9 power over tangible personal property incident to the ownership
10 of that property, except that it does not include the sale of
11 such property in any form as tangible personal property in the
12 regular course of business to the extent that such property is
13 not first subjected to a use for which it was purchased, 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, not including the
19 value of or credit given for traded-in tangible personal
20 property where the item that is traded-in is of like kind and
21 character as that which is being sold; beginning January 1,
22 2020, "selling price" includes the portion of the value of or
23 credit given for traded-in motor vehicles of the First Division
24 as defined in Section 1-146 of the Illinois Vehicle Code of
25 like kind and character as that which is being sold that
26 exceeds \$10,000. "Selling price" shall be determined without

1 any deduction on account of the cost of the property sold, the
2 cost of materials used, labor or service cost or any other
3 expense whatsoever, but does not include interest or finance
4 charges which appear as separate items on the bill of sale or
5 sales contract nor charges that are added to prices by sellers
6 on account of the seller's tax liability under the Retailers'
7 Occupation Tax Act, or on account of the seller's duty to
8 collect, from the purchaser, the tax that is imposed by this
9 Act, or, except as otherwise provided with respect to any
10 cigarette tax imposed by a home rule unit, on account of the
11 seller's tax liability under any local occupation tax
12 administered by the Department, or, except as otherwise
13 provided with respect to any cigarette tax imposed by a home
14 rule unit on account of the seller's duty to collect, from the
15 purchasers, the tax that is imposed under any local use tax
16 administered by the Department. Effective December 1, 1985,
17 "selling price" shall include charges that are added to prices
18 by sellers on account of the seller's tax liability under the
19 Cigarette Tax Act, on account of the seller's duty to collect,
20 from the purchaser, the tax imposed under the Cigarette Use Tax
21 Act, and on account of the seller's duty to collect, from the
22 purchaser, any cigarette tax imposed by a home rule unit.

23 Notwithstanding any law to the contrary, for any motor
24 vehicle, as defined in Section 1-146 of the Vehicle Code, that
25 is sold on or after January 1, 2015 for the purpose of leasing
26 the vehicle for a defined period that is longer than one year

1 and (1) is a motor vehicle of the second division that: (A) is
2 a self-contained motor vehicle designed or permanently
3 converted to provide living quarters for recreational,
4 camping, or travel use, with direct walk through access to the
5 living quarters from the driver's seat; (B) is of the van
6 configuration designed for the transportation of not less than
7 nor more than 16 passengers; or (C) has a gross vehicle
8 weight rating of 8,000 pounds or less or (2) is a motor vehicle
9 of the first division, and on and after January 1, 2021, for
10 any leased item of tangible personal property, other than
11 computer software and property subject to the Rental Purchase
12 Agreement Occupation and Use Tax Act, "selling price" or
13 "amount of sale" means the consideration received by the lessor
14 pursuant to the lease contract, including amounts due at lease
15 signing and all monthly or other regular payments charged over
16 the term of the lease. Also included in the selling price is
17 any amount received by the lessor from the lessee for the
18 leased vehicle or other leased property that is not calculated
19 at the time the lease is executed, including, but not limited
20 to, excess mileage charges and charges for excess wear and
21 tear. For sales that occur in Illinois, with respect to any
22 amount received by the lessor from the lessee for the leased
23 vehicle or other leased property that is not calculated at the
24 time the lease is executed, the lessor who purchased the motor
25 vehicle or other leased property does not incur the tax imposed
26 by the Use Tax Act on those amounts, and the retailer who makes

1 the retail sale of the motor vehicle to the lessor is not
2 required to collect the tax imposed by this Act or to pay the
3 tax imposed by the Retailers' Occupation Tax Act on those
4 amounts. However, the lessor who purchased the motor vehicle or
5 other leased property assumes the liability for reporting and
6 paying the tax on those amounts directly to the Department in
7 the same form (Illinois Retailers' Occupation Tax, and local
8 retailers' occupation taxes, if applicable) in which the
9 retailer would have reported and paid such tax if the retailer
10 had accounted for the tax to the Department. For amounts
11 received by the lessor from the lessee that are not calculated
12 at the time the lease is executed, the lessor must file the
13 return and pay the tax to the Department by the due date
14 otherwise required by this Act for returns other than
15 transaction returns. If the retailer is entitled under this Act
16 to a discount for collecting and remitting the tax imposed
17 under this Act to the Department with respect to the sale of
18 the motor vehicle or other leased property to the lessor, then
19 the right to the discount provided in this Act shall be
20 transferred to the lessor with respect to the tax paid by the
21 lessor for any amount received by the lessor from the lessee
22 for the leased vehicle or other leased property that is not
23 calculated at the time the lease is executed; provided that the
24 discount is only allowed if the return is timely filed and for
25 amounts timely paid. The "selling price" of a motor vehicle
26 that is sold on or after January 1, 2015 for the purpose of

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

1 initial period with the option to continue the lease on a
2 month-to-month or other basis beyond the initial defined
3 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 "Department" means the Department of Revenue.

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

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

20 A person who holds himself or herself out as being engaged
21 (or who habitually engages) in selling tangible personal
22 property at retail is a retailer hereunder with respect to such
23 sales (and not primarily in a service occupation)
24 notwithstanding the fact that such person designs and produces
25 such tangible personal property on special order for the
26 purchaser and in such a way as to render the property of value

1 only to such purchaser, if such tangible personal property so
2 produced on special order serves substantially the same
3 function as stock or standard items of tangible personal
4 property that are sold at retail.

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

24 A person who is the recipient of a grant or contract under
25 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
26 serves meals to participants in the federal Nutrition Program

1 for the Elderly in return for contributions established in
2 amount by the individual participant pursuant to a schedule of
3 suggested fees as provided for in the federal Act is not a
4 retailer under this Act with respect to such transactions.

5 Persons who engage in the business of transferring tangible
6 personal property upon the redemption of trading stamps are
7 retailers hereunder when engaged in such business.

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

1 such property, for the purposes of this Act, is the amount so
2 separately charged, but not less than the cost of such property
3 to the transferor; if no separate charge is made, the value of
4 such property, for the purposes of this Act, is the cost to the
5 transferor of such tangible personal property.

6 "Retailer maintaining a place of business in this State",
7 or any like term, means and includes any of the following
8 retailers:

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

26 (1.1) A retailer having a contract with a person

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

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

3 (A) the retailer sells the same or substantially
4 similar line of products as the person located in this
5 State and does so using an identical or substantially
6 similar name, trade name, or trademark as the person
7 located in this State; and

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

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

18 (2) (Blank).

19 (3) (Blank).

20 (4) (Blank).

21 (5) (Blank).

22 (6) (Blank).

23 (7) (Blank).

24 (8) (Blank).

25 (9) Beginning October 1, 2018, a retailer making sales
26 of tangible personal property to purchasers in Illinois

1 from outside of Illinois if:

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

5 (B) the retailer enters into 200 or more separate
6 transactions for the sale of tangible personal
7 property to purchasers in Illinois.

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

1 collect and remit the tax imposed under this Act determines
2 that he or she did not meet the threshold in either
3 subparagraph (A) or (B) during the preceding 12-month
4 period, the retailer shall subsequently determine on a
5 quarterly basis, ending on the last day of March, June,
6 September, and December, whether he or she meets the
7 threshold of either subparagraph (A) or (B) for the
8 preceding 12-month period.

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

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

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

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

1 eff. 1-1-20; 101-604, eff. 1-1-20.)

2 (35 ILCS 105/3-5)

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

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

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

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

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

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

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

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

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

9 (7) Farm chemicals.

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

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

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

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

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

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

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

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

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

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

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

1 respect to which the service charge is imposed.

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

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

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

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

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

1 pipes, pipelines, or mains. The provisions of Public Act 98-583
2 are declaratory of existing law as to the meaning and scope of
3 this exemption. Beginning on July 1, 2017, the exemption
4 provided by this paragraph (18) includes, but is not limited
5 to, graphic arts machinery and equipment, as defined in
6 paragraph (6) of this Section.

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

12 (20) Semen used for artificial insemination of livestock
13 for direct agricultural production.

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

25 (22) Computers and communications equipment utilized for
26 any hospital purpose and equipment used in the diagnosis,

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

22 (23) Personal property purchased by a lessor who leases the
23 property, under a lease of one year or longer executed or in
24 effect at the time the lessor would otherwise be subject to the
25 tax imposed by this Act, to a governmental body that has been
26 issued an active sales tax exemption identification number by

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

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

26 (25) Beginning with taxable years ending on or after

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

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

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

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

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

22 (29) Beginning January 1, 2000 and through December 31,
23 2001, new or used automatic vending machines that prepare and
24 serve hot food and beverages, including coffee, soup, and other
25 items, and replacement parts for these machines. Beginning
26 January 1, 2002 and through June 30, 2003, machines and parts

1 for machines used in commercial, coin-operated amusement and
2 vending business if a use or occupation tax is paid on the
3 gross receipts derived from the use of the commercial,
4 coin-operated amusement and vending machines. This paragraph
5 is exempt from the provisions of Section 3-90.

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

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

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

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

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

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

1 motor vehicle is used in a manner that would qualify for the
2 rolling stock exemption otherwise provided for in this Act. For
3 purposes of this paragraph, the term "used for commercial
4 purposes" means the transportation of persons or property in
5 furtherance of any commercial or industrial enterprise,
6 whether for-hire or not.

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

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

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

1 provided in Section 11-65-25 of the Illinois Municipal Code.
2 This paragraph is exempt from the provisions of Section 3-90.

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

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

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

16 (40) Qualified tangible personal property used in the
17 construction or operation of a data center that has been
18 granted a certificate of exemption by the Department of
19 Commerce and Economic Opportunity, whether that tangible
20 personal property is purchased by the owner, operator, or
21 tenant of the data center or by a contractor or subcontractor
22 of the owner, operator, or tenant. Data centers that would have
23 qualified for a certificate of exemption prior to January 1,
24 2020 had Public Act 101-31 ~~this amendatory Act of the 101st~~
25 ~~General Assembly~~ been in effect, may apply for and obtain an
26 exemption for subsequent purchases of computer equipment or

1 enabling software purchased or leased to upgrade, supplement,
2 or replace computer equipment or enabling software purchased or
3 leased in the original investment that would have qualified.

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

9 For the purposes of this item (40):

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

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

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

15 This item (40) is exempt from the provisions of Section
16 3-90.

17 (41) Beginning on January 1, 2021, non-titled tangible
18 personal property. other than computer software and property
19 subject to the Rental Purchase Agreement Occupation and Use Tax
20 Act, to the extent of the personal property lease transaction
21 tax paid to a home rule municipality. This item (41) is exempt
22 from the provisions of Section 3-90.

23 (Source: P.A. 100-22, eff. 7-6-17; 100-437, eff. 1-1-18;
24 100-594, eff. 6-29-18; 100-863, eff. 8-14-18; 100-1171, eff.
25 1-4-19; 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-81, eff.
26 7-12-19; revised 9-23-19.)

1 Section 10. The Retailers' Occupation Tax Act is amended by
2 changing Sections 1 and 2-5 as follows:

3 (35 ILCS 120/1) (from Ch. 120, par. 440)

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

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

1 whether made for or without a valuable consideration, for
2 resale in any form as tangible personal property unless made in
3 compliance with Section 2c of this Act.

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

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

19 Nonreusable tangible personal property that is used by
20 persons engaged in the business of operating a restaurant,
21 cafeteria, or drive-in is a sale for resale when it is
22 transferred to customers in the ordinary course of business as
23 part of the sale of food or beverages and is used to deliver,
24 package, or consume food or beverages, regardless of where
25 consumption of the food or beverages occurs. Examples of those
26 items include, but are not limited to nonreusable, paper and

1 plastic cups, plates, baskets, boxes, sleeves, buckets or other
2 containers, utensils, straws, placemats, napkins, doggie bags,
3 and wrapping or packaging materials that are transferred to
4 customers as part of the sale of food or beverages in the
5 ordinary course of business.

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

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

1 occasional dinners, socials or similar activities of a person
2 organized and operated exclusively for charitable, religious
3 or educational purposes, whether or not such activities are
4 open to the public.

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

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

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

22 "Selling price" or the "amount of sale" means the
23 consideration for a sale valued in money whether received in
24 money or otherwise, including cash, credits, property, other
25 than as hereinafter provided, and services, but, prior to
26 January 1, 2020, not including the value of or credit given for

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

1 collect, from the purchaser, any cigarette tax imposed by a
2 home rule unit.

3 Notwithstanding any law to the contrary, for any motor
4 vehicle, as defined in Section 1-146 of the Vehicle Code, that
5 is sold on or after January 1, 2015 for the purpose of leasing
6 the vehicle for a defined period that is longer than one year
7 and (1) is a motor vehicle of the second division that: (A) is
8 a self-contained motor vehicle designed or permanently
9 converted to provide living quarters for recreational,
10 camping, or travel use, with direct walk through access to the
11 living quarters from the driver's seat; (B) is of the van
12 configuration designed for the transportation of not less than
13 7 nor more than 16 passengers; or (C) has a gross vehicle
14 weight rating of 8,000 pounds or less or (2) is a motor vehicle
15 of the first division, and on and after January 1, 2021, for
16 any leased item of tangible personal property, other than
17 computer software and property subject to the Rental Purchase
18 Agreement Occupation and Use Tax Act, "selling price" or
19 "amount of sale" means the consideration received by the lessor
20 pursuant to the lease contract, including amounts due at lease
21 signing and all monthly or other regular payments charged over
22 the term of the lease. Also included in the selling price is
23 any amount received by the lessor from the lessee for the
24 leased vehicle or other leased property that is not calculated
25 at the time the lease is executed, including, but not limited
26 to, excess mileage charges and charges for excess wear and

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

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

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

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

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

26 "Department" means the Department of Revenue.

1 "Person" means any natural individual, firm, partnership,
2 association, joint stock company, joint adventure, public or
3 private corporation, limited liability company, or a receiver,
4 executor, trustee, guardian or other representative appointed
5 by order of any court.

6 The isolated or occasional sale of tangible personal
7 property at retail by a person who does not hold himself out as
8 being engaged (or who does not habitually engage) in selling
9 such tangible personal property at retail, or a sale through a
10 bulk vending machine, does not constitute engaging in a
11 business of selling such tangible personal property at retail
12 within the meaning of this Act; provided that any person who is
13 engaged in a business which is not subject to the tax imposed
14 by this Act because of involving the sale of or a contract to
15 sell real estate or a construction contract to improve real
16 estate or a construction contract to engineer, install, and
17 maintain an integrated system of products, but who, in the
18 course of conducting such business, transfers tangible
19 personal property to users or consumers in the finished form in
20 which it was purchased, and which does not become real estate
21 or was not engineered and installed, under any provision of a
22 construction contract or real estate sale or real estate sales
23 agreement entered into with some other person arising out of or
24 because of such nontaxable business, is engaged in the business
25 of selling tangible personal property at retail to the extent
26 of the value of the tangible personal property so transferred.

1 If, in such a transaction, a separate charge is made for the
2 tangible personal property so transferred, the value of such
3 property, for the purpose of this Act, shall be the amount so
4 separately charged, but not less than the cost of such property
5 to the transferor; if no separate charge is made, the value of
6 such property, for the purposes of this Act, is the cost to the
7 transferor of such tangible personal property. Construction
8 contracts for the improvement of real estate consisting of
9 engineering, installation, and maintenance of voice, data,
10 video, security, and all telecommunication systems do not
11 constitute engaging in a business of selling tangible personal
12 property at retail within the meaning of this Act if they are
13 sold at one specified contract price.

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

26 Persons who engage in the business of transferring tangible

1 personal property upon the redemption of trading stamps are
2 engaged in the business of selling such property at retail and
3 shall be liable for and shall pay the tax imposed by this Act
4 on the basis of the retail value of the property transferred
5 upon redemption of such stamps.

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

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

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

24 "Marketplace facilitator" means a person who, pursuant to
25 an agreement with an unrelated third-party marketplace seller,
26 directly or indirectly through one or more affiliates

1 facilitates a retail sale by an unrelated third party
2 marketplace seller by:

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

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

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

18 "Marketplace seller" means a person that makes sales
19 through a marketplace operated by an unrelated third party
20 marketplace facilitator.

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

22 (35 ILCS 120/2-5)

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

1 (1) Farm chemicals.

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

22 Farm machinery and equipment shall include precision
23 farming equipment that is installed or purchased to be
24 installed on farm machinery and equipment including, but
25 not limited to, tractors, harvesters, sprayers, planters,
26 seeders, or spreaders. Precision farming equipment

1 includes, but is not limited to, soil testing sensors,
2 computers, monitors, software, global positioning and
3 mapping systems, and other such equipment.

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

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

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

1 effect a direct and immediate change upon a graphic arts
2 product. Beginning on July 1, 2017, graphic arts machinery
3 and equipment is included in the manufacturing and
4 assembling machinery and equipment exemption under
5 paragraph (14).

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

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

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

16 (8) Personal property sold to an Illinois county fair
17 association for use in conducting, operating, or promoting
18 the county fair.

19 (9) Personal property sold to a not-for-profit arts or
20 cultural organization that establishes, by proof required
21 by the Department by rule, that it has received an
22 exemption under Section 501(c)(3) of the Internal Revenue
23 Code and that is organized and operated primarily for the
24 presentation or support of arts or cultural programming,
25 activities, or services. These organizations include, but
26 are not limited to, music and dramatic arts organizations

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

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

15 (11) Personal property sold to a governmental body, to
16 a corporation, society, association, foundation, or
17 institution organized and operated exclusively for
18 charitable, religious, or educational purposes, or to a
19 not-for-profit corporation, society, association,
20 foundation, institution, or organization that has no
21 compensated officers or employees and that is organized and
22 operated primarily for the recreation of persons 55 years
23 of age or older. A limited liability company may qualify
24 for the exemption under this paragraph only if the limited
25 liability company is organized and operated exclusively
26 for educational purposes. On and after July 1, 1987,

1 however, no entity otherwise eligible for this exemption
2 shall make tax-free purchases unless it has an active
3 identification number issued by the Department.

4 (12) (Blank).

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

25 (13) Proceeds from sales to owners, lessors, or
26 shippers of tangible personal property that is utilized by

1 interstate carriers for hire for use as rolling stock
2 moving in interstate commerce and equipment operated by a
3 telecommunications provider, licensed as a common carrier
4 by the Federal Communications Commission, which is
5 permanently installed in or affixed to aircraft moving in
6 interstate commerce.

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

1 are declaratory of existing law as to the meaning and scope
2 of this exemption. Beginning on July 1, 2017, the exemption
3 provided by this paragraph (14) includes, but is not
4 limited to, graphic arts machinery and equipment, as
5 defined in paragraph (4) of this Section.

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

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

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

26 (18) Legal tender, currency, medallions, or gold or

1 silver coinage issued by the State of Illinois, the
2 government of the United States of America, or the
3 government of any foreign country, and bullion.

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

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

20 (21) Until July 1, 2023, coal and aggregate
21 exploration, mining, off-highway hauling, processing,
22 maintenance, and reclamation equipment, including
23 replacement parts and equipment, and including equipment
24 purchased for lease, but excluding motor vehicles required
25 to be registered under the Illinois Vehicle Code. The
26 changes made to this Section by Public Act 97-767 apply on

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

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

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

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

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

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

19 (25-5) The exemption under item (25) does not apply if
20 the state in which the motor vehicle will be titled does
21 not allow a reciprocal exemption for a motor vehicle sold
22 and delivered in that state to an Illinois resident but
23 titled in Illinois. The tax collected under this Act on the
24 sale of a motor vehicle in this State to a resident of
25 another state that does not allow a reciprocal exemption
26 shall be imposed at a rate equal to the state's rate of tax

1 on taxable property in the state in which the purchaser is
2 a resident, except that the tax shall not exceed the tax
3 that would otherwise be imposed under this Act. At the time
4 of the sale, the purchaser shall execute a statement,
5 signed under penalty of perjury, of his or her intent to
6 title the vehicle in the state in which the purchaser is a
7 resident within 30 days after the sale and of the fact of
8 the payment to the State of Illinois of tax in an amount
9 equivalent to the state's rate of tax on taxable property
10 in his or her state of residence and shall submit the
11 statement to the appropriate tax collection agency in his
12 or her state of residence. In addition, the retailer must
13 retain a signed copy of the statement in his or her
14 records. Nothing in this item shall be construed to require
15 the removal of the vehicle from this state following the
16 filing of an intent to title the vehicle in the purchaser's
17 state of residence if the purchaser titles the vehicle in
18 his or her state of residence within 30 days after the date
19 of sale. The tax collected under this Act in accordance
20 with this item (25-5) shall be proportionately distributed
21 as if the tax were collected at the 6.25% general rate
22 imposed under this Act.

23 (25-7) Beginning on July 1, 2007, no tax is imposed
24 under this Act on the sale of an aircraft, as defined in
25 Section 3 of the Illinois Aeronautics Act, if all of the
26 following conditions are met:

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

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

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

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

22 "Based in this State" means hangared, stored, or
23 otherwise used, excluding post-sale customizations as
24 defined in this Section, for 10 or more days in each
25 12-month period immediately following the date of the sale
26 of the aircraft.

1 "Registered in this State" means an aircraft
2 registered with the Department of Transportation,
3 Aeronautics Division, or titled or registered with the
4 Federal Aviation Administration to an address located in
5 this State.

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

8 (26) Semen used for artificial insemination of
9 livestock for direct agricultural production.

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

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

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

5 (29) Personal property sold to a lessor who leases the
6 property, under a lease of one year or longer executed or
7 in effect at the time of the purchase, to a governmental
8 body that has been issued an active tax exemption
9 identification number by the Department under Section 1g of
10 this Act.

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

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

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

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

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

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

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

22 (35) Beginning January 1, 2000 and through December 31,
23 2001, new or used automatic vending machines that prepare
24 and serve hot food and beverages, including coffee, soup,
25 and other items, and replacement parts for these machines.
26 Beginning January 1, 2002 and through June 30, 2003,

1 machines and parts for machines used in commercial,
2 coin-operated amusement and vending business if a use or
3 occupation tax is paid on the gross receipts derived from
4 the use of the commercial, coin-operated amusement and
5 vending machines. This paragraph is exempt from the
6 provisions of Section 2-70.

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

21 (36) Beginning August 2, 2001, computers and
22 communications equipment utilized for any hospital purpose
23 and equipment used in the diagnosis, analysis, or treatment
24 of hospital patients sold to a lessor who leases the
25 equipment, under a lease of one year or longer executed or
26 in effect at the time of the purchase, to a hospital that

1 has been issued an active tax exemption identification
2 number by the Department under Section 1g of this Act. This
3 paragraph is exempt from the provisions of Section 2-70.

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

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

1 permit issued under this paragraph (38) shall authorize the
2 holder, to the extent and in the manner specified in the
3 rules adopted under this Act, to purchase tangible personal
4 property from a retailer exempt from the taxes imposed by
5 this Act. Taxpayers shall maintain all necessary books and
6 records to substantiate the use and consumption of all such
7 tangible personal property outside of the State of
8 Illinois.

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

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

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

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

1 time of the completion of the municipal convention hall or
2 upon the retirement or redemption of any bonds or other
3 debt instruments issued by the public-facilities
4 corporation in connection with the development of the
5 municipal convention hall. This exemption includes
6 existing public-facilities corporations as provided in
7 Section 11-65-25 of the Illinois Municipal Code. This
8 paragraph is exempt from the provisions of Section 2-70.

9 (42) Beginning January 1, 2017, menstrual pads,
10 tampons, and menstrual cups.

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

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

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

8 The Department of Commerce and Economic Opportunity
9 shall grant a certificate of exemption under this item (44)
10 to qualified data centers as defined by Section 605-1025 of
11 the Department of Commerce and Economic Opportunity Law of
12 the Civil Administrative Code of Illinois.

13 For the purposes of this item (44):

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

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

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

20 This item (44) is exempt from the provisions of Section
21 2-70.

22 (45) Beginning on January 1, 2021, non-titled tangible
23 personal property. other than computer software and
24 property subject to the Rental Purchase Agreement
25 Occupation and Use Tax Act, to the extent of the personal
26 property lease transaction tax paid to a home rule

1 municipality. This item (45) is exempt from the provisions
2 of Section 2-70.

3 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
4 100-437, eff. 1-1-18; 100-594, eff. 6-29-18; 100-863, eff.
5 8-14-18; 100-1171, eff. 1-4-19; 101-31, eff. 6-28-19; 101-81,
6 eff. 7-12-19.)

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