

# HB0424



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB0424**

Introduced 2/8/2021, by Rep. Jonathan Carroll and Tony McCombie

#### SYNOPSIS AS INTRODUCED:

35 ILCS 120/2-5

Amends the Retailers' Occupation Tax Act. Provides that a teacher who is employed by an educational institution that is exempt from the tax under the Act is presumed to be making an exempt purchase if he or she (i) purchases materials and supplies, (ii) possesses a copy of the educational institution's exemption number, and (iii) presents identification at the time of the sale.

LRB102 04059 HLH 14075 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 Retailers' Occupation Tax Act is amended by  
5 changing Section 2-5 as follows:

6 (35 ILCS 120/2-5)

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

10 (1) Farm chemicals.

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

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

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

17 Farm machinery and equipment also includes computers,  
18 sensors, software, and related equipment used primarily in  
19 the computer-assisted operation of production agriculture  
20 facilities, equipment, and activities such as, but not  
21 limited to, the collection, monitoring, and correlation of  
22 animal and crop data for the purpose of formulating animal  
23 diets and agricultural chemicals. This item (2) is exempt  
24 from the provisions of Section 2-70.

25 (3) Until July 1, 2003, distillation machinery and  
26 equipment, sold as a unit or kit, assembled or installed

1 by the retailer, certified by the user to be used only for  
2 the production of ethyl alcohol that will be used for  
3 consumption as motor fuel or as a component of motor fuel  
4 for the personal use of the user, and not subject to sale  
5 or resale.

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

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

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

26 (7) Until July 1, 2003, proceeds of that portion of

1 the selling price of a passenger car the sale of which is  
2 subject to the Replacement Vehicle Tax.

3 (8) Personal property sold to an Illinois county fair  
4 association for use in conducting, operating, or promoting  
5 the county fair.

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

21 (10) Personal property sold by a corporation, society,  
22 association, foundation, institution, or organization,  
23 other than a limited liability company, that is organized  
24 and operated as a not-for-profit service enterprise for  
25 the benefit of persons 65 years of age or older if the  
26 personal property was not purchased by the enterprise for

1 the purpose of resale by the enterprise.

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

17 A teacher who is employed by an educational  
18 institution that is exempt from the tax under this Act is  
19 presumed to be making an exempt purchase if he or she (i)  
20 purchases materials and supplies, (ii) possesses a copy of  
21 the educational institution's exemption number, and (iii)  
22 presents identification at the time of the sale. As used  
23 in this paragraph (11), "materials and supplies" means  
24 amounts paid for instructional materials or supplies that  
25 are designated for classroom use in any public or  
26 non-public school in the State.

1 (12) (Blank).

2 (12-5) On and after July 1, 2003 and through June 30,  
3 2004, motor vehicles of the second division with a gross  
4 vehicle weight in excess of 8,000 pounds that are subject  
5 to the commercial distribution fee imposed under Section  
6 3-815.1 of the Illinois Vehicle Code. Beginning on July 1,  
7 2004 and through June 30, 2005, the use in this State of  
8 motor vehicles of the second division: (i) with a gross  
9 vehicle weight rating in excess of 8,000 pounds; (ii) that  
10 are subject to the commercial distribution fee imposed  
11 under Section 3-815.1 of the Illinois Vehicle Code; and  
12 (iii) that are primarily used for commercial purposes.  
13 Through June 30, 2005, this exemption applies to repair  
14 and replacement parts added after the initial purchase of  
15 such a motor vehicle if that motor vehicle is used in a  
16 manner that would qualify for the rolling stock exemption  
17 otherwise provided for in this Act. For purposes of this  
18 paragraph, "used for commercial purposes" means the  
19 transportation of persons or property in furtherance of  
20 any commercial or industrial enterprise whether for-hire  
21 or not.

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

1 by the Federal Communications Commission, which is  
2 permanently installed in or affixed to aircraft moving in  
3 interstate commerce.

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



1 provided by this paragraph (14) includes, but is not  
2 limited to, graphic arts machinery and equipment, as  
3 defined in paragraph (4) of this Section.

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

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

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

24 (18) Legal tender, currency, medallions, or gold or  
25 silver coinage issued by the State of Illinois, the  
26 government of the United States of America, or the

1 government of any foreign country, and bullion.

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

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

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

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

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

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

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

25 (24) Fuel consumed or used in the operation of ships,  
26 barges, or vessels that are used primarily in or for the

1 transportation of property or the conveyance of persons  
2 for hire on rivers bordering on this State if the fuel is  
3 delivered by the seller to the purchaser's barge, ship, or  
4 vessel while it is afloat upon that bordering river.

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

18 (25-5) The exemption under item (25) does not apply if  
19 the state in which the motor vehicle will be titled does  
20 not allow a reciprocal exemption for a motor vehicle sold  
21 and delivered in that state to an Illinois resident but  
22 titled in Illinois. The tax collected under this Act on  
23 the sale of a motor vehicle in this State to a resident of  
24 another state that does not allow a reciprocal exemption  
25 shall be imposed at a rate equal to the state's rate of tax  
26 on taxable property in the state in which the purchaser is

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

22 (25-7) Beginning on July 1, 2007, no tax is imposed  
23 under this Act on the sale of an aircraft, as defined in  
24 Section 3 of the Illinois Aeronautics Act, if all of the  
25 following conditions are met:

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

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

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

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

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

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

26 "Registered in this State" means an aircraft

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

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

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

9 (27) Horses, or interests in horses, registered with  
10 and meeting the requirements of any of the Arabian Horse  
11 Club Registry of America, Appaloosa Horse Club, American  
12 Quarter Horse Association, United States Trotting  
13 Association, or Jockey Club, as appropriate, used for  
14 purposes of breeding or racing for prizes. This item (27)  
15 is exempt from the provisions of Section 2-70, and the  
16 exemption provided for under this item (27) applies for  
17 all periods beginning May 30, 1995, but no claim for  
18 credit or refund is allowed on or after January 1, 2008  
19 (the effective date of Public Act 95-88) for such taxes  
20 paid during the period beginning May 30, 2000 and ending  
21 on January 1, 2008 (the effective date of Public Act  
22 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  
10          of 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  
19          tax 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  
25          used in the performance of infrastructure repairs in this  
26          State, including but not limited to municipal roads and



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

9 (32) Beginning July 1, 1999, game or game birds sold  
10 at a "game breeding and hunting preserve area" as that  
11 term is used in the Wildlife Code. This paragraph is  
12 exempt from 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  
15 donated to a corporation, limited liability company,  
16 society, association, foundation, or institution that is  
17 determined by the Department to be organized and operated  
18 exclusively for educational purposes. For purposes of this  
19 exemption, "a corporation, limited liability company,  
20 society, association, foundation, or institution organized  
21 and operated exclusively for educational purposes" means  
22 all tax-supported public schools, private schools that  
23 offer systematic instruction in useful branches of  
24 learning by methods common to public schools and that  
25 compare favorably in their scope and intensity with the  
26 course of study presented in tax-supported schools, and

1 vocational or technical schools or institutes organized  
2 and operated exclusively to provide a course of study of  
3 not less than 6 weeks duration and designed to prepare  
4 individuals to follow a trade or to pursue a manual,  
5 technical, 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  
19 the 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  
23 31, 2001, new or used automatic vending machines that  
24 prepare and serve hot food and beverages, including  
25 coffee, soup, and other items, and replacement parts for  
26 these machines. Beginning January 1, 2002 and through June

1           30, 2003, machines and parts for machines used in  
2 commercial, coin-operated amusement and vending business  
3 if a use or occupation tax is paid on the gross receipts  
4 derived from the use of the commercial, coin-operated  
5 amusement and vending machines. This paragraph is exempt  
6 from the 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  
9 off the premises where it is sold (other than alcoholic  
10 beverages, soft drinks, and food that has been prepared  
11 for 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  
15 by a person receiving medical assistance under Article V  
16 of 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  
24 treatment of hospital patients sold to a lessor who leases  
25 the equipment, under a lease of one year or longer  
26 executed or in effect at the time of the purchase, to a

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

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

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

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

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

18 (40) Beginning January 1, 2010 and continuing through  
19 December 31, 2024, materials, parts, equipment,  
20 components, and furnishings incorporated into or upon an  
21 aircraft as part of the modification, refurbishment,  
22 completion, replacement, repair, or maintenance of the  
23 aircraft. This exemption includes consumable supplies used  
24 in the modification, refurbishment, completion,  
25 replacement, repair, and maintenance of aircraft, but  
26 excludes any materials, parts, equipment, components, and

1 consumable supplies used in the modification, replacement,  
2 repair, and maintenance of aircraft engines or power  
3 plants, whether such engines or power plants are installed  
4 or uninstalled upon any such aircraft. "Consumable  
5 supplies" include, but are not limited to, adhesive, tape,  
6 sandpaper, general purpose lubricants, cleaning solution,  
7 latex gloves, and protective films. This exemption applies  
8 only to the sale of qualifying tangible personal property  
9 to persons who modify, refurbish, complete, replace, or  
10 maintain an aircraft and who (i) hold an Air Agency  
11 Certificate and are empowered to operate an approved  
12 repair station by the Federal Aviation Administration,  
13 (ii) have a Class IV Rating, and (iii) conduct operations  
14 in accordance with Part 145 of the Federal Aviation  
15 Regulations. The exemption does not include aircraft  
16 operated by a commercial air carrier providing scheduled  
17 passenger air service pursuant to authority issued under  
18 Part 121 or Part 129 of the Federal Aviation Regulations.  
19 The changes made to this paragraph (40) by Public Act  
20 98-534 are declarative of existing law. It is the intent  
21 of the General Assembly that the exemption under this  
22 paragraph (40) applies continuously from January 1, 2010  
23 through December 31, 2024; however, no claim for credit or  
24 refund is allowed for taxes paid as a result of the  
25 disallowance of this exemption on or after January 1, 2015  
26 and prior to the effective date of this amendatory Act of

1 the 101st General Assembly.

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

17 (42) Beginning January 1, 2017, menstrual pads,  
18 tampons, and menstrual cups.

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

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

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

22           For the purposes of this item (44):

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



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

1 certificate of eligibility issued by the Department of  
2 Commerce and Economic Opportunity.

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

5 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;  
6 100-437, eff. 1-1-18; 100-594, eff. 6-29-18; 100-863, eff.  
7 8-14-18; 100-1171, eff. 1-4-19; 101-31, eff. 6-28-19; 101-81,  
8 eff. 7-12-19; 101-629, eff. 2-5-20.)