

SB0058



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0058

Introduced 1/29/2021, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

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

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that, beginning 120 days after the effective date of the amendatory Act, the term "selling price" no longer includes the value of traded-in motor vehicles. Amends the Illinois Vehicle Code. In a Section concerning the use tax on motor vehicles, makes changes concerning the amount of the tax. Provides that the tax on motorcycles, motor driven cycles, and mopeds shall be the same as for all other motor vehicles. Effective immediately.

LRB102 04504 HLH 14523 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

7 Sec. 2. Definitions.

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

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

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

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

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

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

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

25 Nonreusable tangible personal property that is used by
26 persons engaged in the business of operating a restaurant,

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

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

16 "Selling price" means the consideration for a sale valued
17 in money whether received in money or otherwise, including
18 cash, credits, property other than as hereinafter provided,
19 and services, but, prior to January 1, 2020 and beginning
20 again 120 days after the effective date of this amendatory Act
21 of the 102nd General Assembly, not including the value of or
22 credit given for traded-in tangible personal property where
23 the item that is traded-in is of like kind and character as
24 that which is being sold; beginning January 1, 2020 and until
25 120 days after the effective date of this amendatory Act of the
26 102nd General Assembly, "selling price" includes the portion

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

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

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

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

1 defined period.

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

10 "Department" means the Department of Revenue.

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

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

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

1 function as stock or standard items of tangible personal
2 property that are sold at retail.

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

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

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

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

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

1 amount so separately charged, but not less than the cost of
2 such property to the transferor; if no separate charge is
3 made, the value of such property, for the purposes of this Act,
4 is the cost to the transferor of such tangible personal
5 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
10 State, directly or by a subsidiary, an office,
11 distribution house, sales house, warehouse or other place
12 of business, or any agent or other representative
13 operating within this State under the authority of the
14 retailer or its subsidiary, irrespective of whether such
15 place of business or agent or other representative is
16 located here permanently or temporarily, or whether such
17 retailer or subsidiary is licensed to do business in this
18 State. However, the ownership of property that is located
19 at the premises of a printer with which the retailer has
20 contracted for printing and that consists of the final
21 printed product, property that becomes a part of the final
22 printed product, or copy from which the printed product is
23 produced shall not result in the retailer being deemed to
24 have or maintain an office, distribution house, sales
25 house, warehouse, or other place of business within this
26 State.

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

1 during the preceding 4 quarterly periods.

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

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

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

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

19 (2) (Blank).

20 (3) (Blank).

21 (4) (Blank).

22 (5) (Blank).

23 (6) (Blank).

24 (7) (Blank).

25 (8) (Blank).

26 (9) Beginning October 1, 2018, a retailer making sales

1 of tangible personal property to purchasers in Illinois
2 from outside of Illinois if:

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

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

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

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

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

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

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

1 (Source: P.A. 100-587, eff. 6-4-18; 101-9, eff. 6-5-19;
2 101-31, eff. 1-1-20; 101-604, eff. 1-1-20.)

3 Section 10. The Retailers' Occupation Tax Act is amended
4 by changing Section 1 as follows:

5 (35 ILCS 120/1) (from Ch. 120, par. 440)

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

22 "Sale at retail" shall be construed to include any
23 transfer of the ownership of or title to tangible personal
24 property to a purchaser, for use or consumption by any other

1 person to whom such purchaser may transfer the tangible
2 personal property without a valuable consideration, and to
3 include any transfer, whether made for or without a valuable
4 consideration, for resale in any form as tangible personal
5 property unless made in compliance with Section 2c of this
6 Act.

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

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

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

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

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

14 A person whose activities are organized and conducted
15 primarily as a not-for-profit service enterprise, and who
16 engages in selling tangible personal property at retail
17 (whether to the public or merely to members and their guests)
18 is engaged in the business of selling tangible personal
19 property at retail with respect to such transactions,
20 excepting only a person organized and operated exclusively for
21 charitable, religious or educational purposes either (1), to
22 the extent of sales by such person to its members, students,
23 patients or inmates of tangible personal property to be used
24 primarily for the purposes of such person, or (2), to the
25 extent of sales by such person of tangible personal property
26 which is not sold or offered for sale by persons organized for

1 profit. The selling of school books and school supplies by
2 schools at retail to students is not "primarily for the
3 purposes of" the school which does such selling. The
4 provisions of this paragraph shall not apply to nor subject to
5 taxation occasional dinners, socials or similar activities of
6 a person organized and operated exclusively for charitable,
7 religious or educational purposes, whether or not such
8 activities are open to the public.

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

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

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

26 "Selling price" or the "amount of sale" means the

1 consideration for a sale valued in money whether received in
2 money or otherwise, including cash, credits, property, other
3 than as hereinafter provided, and services, but, prior to
4 January 1, 2020 and beginning again 120 days after the
5 effective date of this amendatory Act of the 102nd General
6 Assembly, not including the value of or credit given for
7 traded-in tangible personal property where the item that is
8 traded-in is of like kind and character as that which is being
9 sold; beginning January 1, 2020 and until 120 days after the
10 effective date of this amendatory Act of the 102nd General
11 Assembly, "selling price" includes the portion of the value of
12 or credit given for traded-in motor vehicles of the First
13 Division as defined in Section 1-146 of the Illinois Vehicle
14 Code of like kind and character as that which is being sold
15 that exceeds \$10,000. "Selling price" shall be determined
16 without any deduction on account of the cost of the property
17 sold, the cost of materials used, labor or service cost or any
18 other expense whatsoever, but does not include charges that
19 are added to prices by sellers on account of the seller's tax
20 liability under this Act, or on account of the seller's duty to
21 collect, from the purchaser, the tax that is imposed by the Use
22 Tax Act, or, except as otherwise provided with respect to any
23 cigarette tax imposed by a home rule unit, on account of the
24 seller's tax liability under any local occupation tax
25 administered by the Department, or, except as otherwise
26 provided with respect to any cigarette tax imposed by a home

1 rule unit on account of the seller's duty to collect, from the
2 purchasers, the tax that is imposed under any local use tax
3 administered by the Department. Effective December 1, 1985,
4 "selling price" shall include charges that are added to prices
5 by sellers on account of the seller's tax liability under the
6 Cigarette Tax Act, on account of the sellers' duty to collect,
7 from the purchaser, the tax imposed under the Cigarette Use
8 Tax Act, and on account of the seller's duty to collect, from
9 the purchaser, any cigarette tax imposed by a home rule unit.

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

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

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

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

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

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

1 the purchaser makes payment on such accounts.

2 "Department" means the Department of Revenue.

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

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 constitute engaging in a
13 business of selling such tangible personal property at retail
14 within the meaning of this Act; provided that any person who is
15 engaged in a business which is not subject to the tax imposed
16 by this Act because of involving the sale of or a contract to
17 sell real estate or a construction contract to improve real
18 estate or a construction contract to engineer, install, and
19 maintain an integrated system of products, but who, in the
20 course of conducting such business, transfers tangible
21 personal property to users or consumers in the finished form
22 in which it was purchased, and which does not become real
23 estate or was not engineered and installed, under any
24 provision of a construction contract or real estate sale or
25 real estate sales agreement entered into with some other
26 person arising out of or because of such nontaxable business,

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

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

1 same function as stock or standard items of tangible personal
2 property that are sold at retail.

3 Persons who engage in the business of transferring
4 tangible personal property upon the redemption of trading
5 stamps are engaged in the business of selling such property at
6 retail and shall be liable for and shall pay the tax imposed by
7 this Act on the basis of the retail value of the property
8 transferred upon redemption of such stamps.

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

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

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

1 "Marketplace facilitator" means a person who, pursuant to
2 an agreement with an unrelated third-party marketplace seller,
3 directly or indirectly through one or more affiliates
4 facilitates a retail sale by an unrelated third party
5 marketplace seller by:

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

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

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

21 "Marketplace seller" means a person that makes sales
22 through a marketplace operated by an unrelated third party
23 marketplace facilitator.

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

25 Section 15. The Illinois Vehicle Code is amended by

1 changing Section 3-1001 as follows:

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

3 Sec. 3-1001. A tax is hereby imposed on the privilege of
4 using, in this State, any motor vehicle as defined in Section
5 1-146 of this Code acquired by gift, transfer, or purchase,
6 and having a year model designation preceding the year of
7 application for title by 5 or fewer years prior to October 1,
8 1985 and 10 or fewer years on and after October 1, 1985 and
9 prior to January 1, 1988. On and after January 1, 1988, the tax
10 shall apply to all motor vehicles without regard to model
11 year. Except that the tax shall not apply

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

14 (ii) if the motor vehicle is bought and used by a
15 governmental agency or a society, association, foundation
16 or institution organized and operated exclusively for
17 charitable, religious or educational purposes;

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

22 (iv) to implements of husbandry;

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

25 (vi) when a vehicle is subject to the replacement

1 vehicle tax imposed by Section 3-2001 of this Act;

2 (vii) when the transfer is a gift to a beneficiary in
 3 the administration of an estate and the beneficiary is a
 4 surviving spouse.

5 Prior to January 1, 1988, the rate of tax shall be 5% of
 6 the selling price for each purchase of a motor vehicle covered
 7 by Section 3-1001 of this Code. Except as hereinafter
 8 provided, beginning January 1, 1988 and until 120 days after
 9 the effective date of this amendatory Act of the 102nd General
 10 Assembly, the rate of tax shall be as follows for transactions
 11 in which the selling price of the motor vehicle is less than
 12 \$15,000:

13	Number of Years Transpired After	Applicable Tax
14	Model Year of Motor Vehicle	
15	1 or less	\$390
16	2	290
17	3	215
18	4	165
19	5	115
20	6	90
21	7	80
22	8	65
23	9	50
24	10	40
25	over 10	25

26 Except as hereinafter provided, beginning January 1, 1988 and

1 until 120 days after the effective date of this amendatory Act
2 of the 102nd General Assembly, the rate of tax shall be as
3 follows for transactions in which the selling price of the
4 motor vehicle is \$15,000 or more:

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

10 Except as hereinafter provided, beginning 120 days after
11 the effective date of this amendatory Act of the 102nd General
12 Assembly, the rate of tax shall be as follows for transactions
13 in which the selling price of the motor vehicle is less than
14 \$15,000:

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

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

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

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

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

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

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

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

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

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

9 (11) if more than 10 years have transpired after the
10 model year of the motor vehicle, then the applicable tax
11 is \$100.

12 Except as hereinafter provided, beginning 120 days after
13 the effective date of this amendatory Act of the 102nd General
14 Assembly, the rate of tax shall be as follows for transactions
15 in which the selling price of the motor vehicle is \$15,000 or
16 more:

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

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

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

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

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

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

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

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

8 (i) when the transferee or purchaser is the spouse,
9 mother, father, brother, sister or child of the
10 transferor;

11 (ii) when the transfer is a gift to a beneficiary in
12 the administration of an estate and the beneficiary is not
13 a surviving spouse;

14 (iii) when a motor vehicle which has once been
15 subjected to the Illinois retailers' occupation tax or use
16 tax is transferred in connection with the organization,
17 reorganization, dissolution or partial liquidation of an
18 incorporated or unincorporated business wherein the
19 beneficial ownership is not changed.

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

23 For a transaction in which a motorcycle, motor driven
24 cycle or moped is acquired the tax rate shall be \$25.

25 On and after October 1, 1985 and until the first day of the
26 first month to begin not less than 120 days after the effective

1 date of this amendatory Act of the 102nd General Assembly,
2 1/12 of \$5,000,000 of the moneys received by the Department of
3 Revenue pursuant to this Section shall be paid each month into
4 the Build Illinois Fund; on and after the first day of the
5 first month to begin not less than 120 days after the effective
6 date of this amendatory Act of the 102nd General Assembly,
7 1/12 of \$40,000,000 of the moneys received by the Department
8 of Revenue pursuant to this Section shall be paid each month
9 into the Build Illinois Fund; and the remainder shall be paid
10 into the General Revenue Fund.

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

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.