



Sen. Mike Simmons

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1 AMENDMENT TO SENATE BILL 1137

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1137 by replacing  
3 everything after the enacting clause with the following:

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

6 (35 ILCS 105/3-5)

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

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

16 (2) Personal property purchased by a not-for-profit

1 Illinois county fair association for use in conducting,  
2 operating, or promoting the county fair.

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

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

1 limited liability company is organized and operated  
2 exclusively for educational purposes. On and after July 1,  
3 1987, however, no entity otherwise eligible for this exemption  
4 shall make tax-free purchases unless it has an active  
5 exemption identification number issued by the Department.

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

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

22 (7) Farm chemicals.

23 (8) Legal tender, currency, medallions, or gold or silver  
24 coinage issued by the State of Illinois, the government of the  
25 United States of America, or the government of any foreign  
26 country, and bullion.

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

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

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

26           Farm machinery and equipment shall include precision

1 farming equipment that is installed or purchased to be  
2 installed on farm machinery and equipment including, but not  
3 limited to, tractors, harvesters, sprayers, planters, seeders,  
4 or spreaders. Precision farming equipment includes, but is not  
5 limited to, soil testing sensors, computers, monitors,  
6 software, global positioning and mapping systems, and other  
7 such equipment.

8 Farm machinery and equipment also includes computers,  
9 sensors, software, and related equipment used primarily in the  
10 computer-assisted operation of production agriculture  
11 facilities, equipment, and activities such as, but not limited  
12 to, the collection, monitoring, and correlation of animal and  
13 crop data for the purpose of formulating animal diets and  
14 agricultural chemicals. This item (11) is exempt from the  
15 provisions of Section 3-90.

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

23 Beginning July 1, 2013, fuel and petroleum products sold  
24 to or used by an air carrier, certified by the carrier to be  
25 used for consumption, shipment, or storage in the conduct of  
26 its business as an air common carrier, for a flight that (i) is

1 engaged in foreign trade or is engaged in trade between the  
2 United States and any of its possessions and (ii) transports  
3 at least one individual or package for hire from the city of  
4 origination to the city of final destination on the same  
5 aircraft, without regard to a change in the flight number of  
6 that aircraft.

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

15 (14) Until July 1, 2003, oil field exploration, drilling,  
16 and production equipment, including (i) rigs and parts of  
17 rigs, rotary rigs, cable tool rigs, and workover rigs, (ii)  
18 pipe and tubular goods, including casing and drill strings,  
19 (iii) pumps and pump-jack units, (iv) storage tanks and flow  
20 lines, (v) any individual replacement part for oil field  
21 exploration, drilling, and production equipment, and (vi)  
22 machinery and equipment purchased for lease; but excluding  
23 motor vehicles required to be registered under the Illinois  
24 Vehicle Code.

25 (15) Photoprocessing machinery and equipment, including  
26 repair and replacement parts, both new and used, including

1 that manufactured on special order, certified by the purchaser  
2 to be used primarily for photoprocessing, and including  
3 photoprocessing machinery and equipment purchased for lease.

4 (16) Until July 1, 2023, coal and aggregate exploration,  
5 mining, off-highway hauling, processing, maintenance, and  
6 reclamation equipment, including replacement parts and  
7 equipment, and including equipment purchased for lease, but  
8 excluding motor vehicles required to be registered under the  
9 Illinois Vehicle Code. The changes made to this Section by  
10 Public Act 97-767 apply on and after July 1, 2003, but no claim  
11 for credit or refund is allowed on or after August 16, 2013  
12 (the effective date of Public Act 98-456) for such taxes paid  
13 during the period beginning July 1, 2003 and ending on August  
14 16, 2013 (the effective date of Public Act 98-456).

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

21 (18) Manufacturing and assembling machinery and equipment  
22 used primarily in the process of manufacturing or assembling  
23 tangible personal property for wholesale or retail sale or  
24 lease, whether that sale or lease is made directly by the  
25 manufacturer or by some other person, whether the materials  
26 used in the process are owned by the manufacturer or some other

1 person, or whether that sale or lease is made apart from or as  
2 an incident to the seller's engaging in the service occupation  
3 of producing machines, tools, dies, jigs, patterns, gauges, or  
4 other similar items of no commercial value on special order  
5 for a particular purchaser. The exemption provided by this  
6 paragraph (18) includes production related tangible personal  
7 property, as defined in Section 3-50, purchased on or after  
8 July 1, 2019. The exemption provided by this paragraph (18)  
9 does not include machinery and equipment used in (i) the  
10 generation of electricity for wholesale or retail sale; (ii)  
11 the generation or treatment of natural or artificial gas for  
12 wholesale or retail sale that is delivered to customers  
13 through pipes, pipelines, or mains; or (iii) the treatment of  
14 water for wholesale or retail sale that is delivered to  
15 customers through pipes, pipelines, or mains. The provisions  
16 of Public Act 98-583 are declaratory of existing law as to the  
17 meaning and scope of this exemption. Beginning on July 1,  
18 2017, the exemption provided by this paragraph (18) includes,  
19 but is not limited to, graphic arts machinery and equipment,  
20 as defined in paragraph (6) of this Section. On and after  
21 January 1, 2023, machinery and equipment purchased for use in  
22 an environmental justice community is no longer exempt from  
23 the tax imposed by this Act under this provision if used in a  
24 facility that requires a major source permit under the  
25 Illinois Environmental Protection Act. As used in this  
26 paragraph (18), "environmental justice community" has the same



1 meaning, based on existing methodologies and findings, used in  
2 the Illinois Solar for All Program, as may be updated by the  
3 Illinois Power Agency and the Program Administrator of that  
4 Program.

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

10 (20) Semen used for artificial insemination of livestock  
11 for direct agricultural production.

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

23 (22) Computers and communications equipment utilized for  
24 any hospital purpose and equipment used in the diagnosis,  
25 analysis, or treatment of hospital patients purchased by a  
26 lessor who leases the equipment, under a lease of one year or

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

20 (23) Personal property purchased by a lessor who leases  
21 the property, under a lease of one year or longer executed or  
22 in effect at the time the lessor would otherwise be subject to  
23 the tax imposed by this Act, to a governmental body that has  
24 been issued an active sales tax exemption identification  
25 number by the Department under Section 1g of the Retailers'  
26 Occupation Tax Act. If the property is leased in a manner that

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

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

25 (25) Beginning with taxable years ending on or after  
26 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is used in  
2 the performance of infrastructure repairs in this State,  
3 including but not limited to municipal roads and streets,  
4 access roads, bridges, sidewalks, waste disposal systems,  
5 water and sewer line extensions, water distribution and  
6 purification facilities, storm water drainage and retention  
7 facilities, and sewage treatment facilities, resulting from a  
8 State or federally declared disaster in Illinois or bordering  
9 Illinois when such repairs are initiated on facilities located  
10 in the declared disaster area within 6 months after the  
11 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  
20 Department to be organized and operated exclusively for  
21 educational purposes. For purposes of this exemption, "a  
22 corporation, limited liability company, society, association,  
23 foundation, or institution organized and operated exclusively  
24 for educational purposes" means all tax-supported public  
25 schools, private schools that offer systematic instruction in  
26 useful branches of learning by methods common to public

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

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

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

1 Beginning January 1, 2002 and through June 30, 2003, machines  
2 and parts for machines used in commercial, coin-operated  
3 amusement and vending business if a use or occupation tax is  
4 paid on the gross receipts derived from the use of the  
5 commercial, coin-operated amusement and vending machines. This  
6 paragraph is exempt from the provisions of Section 3-90.

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

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

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

19 (32) Beginning on August 2, 2001 (the effective date of  
20 Public Act 92-227), personal property purchased by a lessor  
21 who leases the property, under a lease of one year or longer  
22 executed or in effect at the time the lessor would otherwise be  
23 subject to the tax imposed by this Act, to a governmental body  
24 that has been issued an active sales tax exemption  
25 identification number by the Department under Section 1g of  
26 the Retailers' Occupation Tax Act. If the property is leased

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

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



1 2005, this exemption applies to repair and replacement parts  
2 added after the initial purchase of such a motor vehicle if  
3 that motor vehicle is used in a manner that would qualify for  
4 the rolling stock exemption otherwise provided for in this  
5 Act. For purposes of this paragraph, the term "used for  
6 commercial purposes" means the transportation of persons or  
7 property in furtherance of any commercial or industrial  
8 enterprise, whether for-hire or not.

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

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

1 are installed or uninstalled upon any such aircraft.  
2 "Consumable supplies" include, but are not limited to,  
3 adhesive, tape, sandpaper, general purpose lubricants,  
4 cleaning solution, latex gloves, and protective films. This  
5 exemption applies only to the use of qualifying tangible  
6 personal property by persons who modify, refurbish, complete,  
7 repair, replace, or maintain aircraft and who (i) hold an Air  
8 Agency Certificate and are empowered to operate an approved  
9 repair station by the Federal Aviation Administration, (ii)  
10 have a Class IV Rating, and (iii) conduct operations in  
11 accordance with Part 145 of the Federal Aviation Regulations.  
12 The exemption does not include aircraft operated by a  
13 commercial air carrier providing scheduled passenger air  
14 service pursuant to authority issued under Part 121 or Part  
15 129 of the Federal Aviation Regulations. The changes made to  
16 this paragraph (35) by Public Act 98-534 are declarative of  
17 existing law. It is the intent of the General Assembly that the  
18 exemption under this paragraph (35) applies continuously from  
19 January 1, 2010 through December 31, 2024; however, no claim  
20 for credit or refund is allowed for taxes paid as a result of  
21 the disallowance of this exemption on or after January 1, 2015  
22 and prior to the effective date of this amendatory Act of the  
23 101st General Assembly.

24 (36) Tangible personal property purchased by a  
25 public-facilities corporation, as described in Section  
26 11-65-10 of the Illinois Municipal Code, for purposes of

1 constructing or furnishing a municipal convention hall, but  
2 only if the legal title to the municipal convention hall is  
3 transferred to the municipality without any further  
4 consideration by or on behalf of the municipality at the time  
5 of the completion of the municipal convention hall or upon the  
6 retirement or redemption of any bonds or other debt  
7 instruments issued by the public-facilities corporation in  
8 connection with the development of the municipal convention  
9 hall. This exemption includes existing public-facilities  
10 corporations as provided in Section 11-65-25 of the Illinois  
11 Municipal Code. This paragraph is exempt from the provisions  
12 of Section 3-90.

13 (37) Beginning January 1, 2017, menstrual pads, tampons,  
14 and menstrual cups.

15 (38) Merchandise that is subject to the Rental Purchase  
16 Agreement Occupation and Use Tax. The purchaser must certify  
17 that the item is purchased to be rented subject to a rental  
18 purchase agreement, as defined in the Rental Purchase  
19 Agreement Act, and provide proof of registration under the  
20 Rental Purchase Agreement Occupation and Use Tax Act. This  
21 paragraph is exempt from the provisions of Section 3-90.

22 (39) Tangible personal property purchased by a purchaser  
23 who is exempt from the tax imposed by this Act by operation of  
24 federal law. This paragraph is exempt from the provisions of  
25 Section 3-90.

26 (40) Qualified tangible personal property used in the

1 construction or operation of a data center that has been  
2 granted a certificate of exemption by the Department of  
3 Commerce and Economic Opportunity, whether that tangible  
4 personal property is purchased by the owner, operator, or  
5 tenant of the data center or by a contractor or subcontractor  
6 of the owner, operator, or tenant. Data centers that would  
7 have qualified for a certificate of exemption prior to January  
8 1, 2020 had Public Act 101-31 been in effect may apply for and  
9 obtain an exemption for subsequent purchases of computer  
10 equipment or enabling software purchased or leased to upgrade,  
11 supplement, or replace computer equipment or enabling software  
12 purchased or leased in the original investment that would have  
13 qualified.

14 The Department of Commerce and Economic Opportunity shall  
15 grant a certificate of exemption under this item (40) to  
16 qualified data centers as defined by Section 605-1025 of the  
17 Department of Commerce and Economic Opportunity Law of the  
18 Civil Administrative Code of Illinois.

19 For the purposes of this item (40):

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

24 "Qualified tangible personal property" means:  
25 electrical systems and equipment; climate control and  
26 chilling equipment and systems; mechanical systems and

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

25 This item (40) is exempt from the provisions of Section  
26 3-90.

1 (Source: P.A. 100-22, eff. 7-6-17; 100-437, eff. 1-1-18;  
2 100-594, eff. 6-29-18; 100-863, eff. 8-14-18; 100-1171, eff.  
3 1-4-19; 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-81, eff.  
4 7-12-19; 101-629, eff. 2-5-20.)

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

7 (35 ILCS 120/2-5)

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

11 (1) Farm chemicals.

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

18 (12-5) On and after July 1, 2003 and through June 30,  
19 2004, motor vehicles of the second division with a gross  
20 vehicle weight in excess of 8,000 pounds that are subject  
21 to the commercial distribution fee imposed under Section  
22 3-815.1 of the Illinois Vehicle Code. Beginning on July 1,  
23 2004 and through June 30, 2005, the use in this State of  
24 motor vehicles of the second division: (i) with a gross  
25 vehicle weight rating in excess of 8,000 pounds; (ii) that  
26 are subject to the commercial distribution fee imposed

1 under Section 3-815.1 of the Illinois Vehicle Code; and  
2 (iii) that are primarily used for commercial purposes.  
3 Through June 30, 2005, this exemption applies to repair  
4 and replacement parts added after the initial purchase of  
5 such a motor vehicle if that motor vehicle is used in a  
6 manner that would qualify for the rolling stock exemption  
7 otherwise provided for in this Act. For purposes of this  
8 paragraph, "used for commercial purposes" means the  
9 transportation of persons or property in furtherance of  
10 any commercial or industrial enterprise whether for-hire  
11 or not.

12 (13) Proceeds from sales to owners, lessors, or  
13 shippers of tangible personal property that is utilized by  
14 interstate carriers for hire for use as rolling stock  
15 moving in interstate commerce and equipment operated by a  
16 telecommunications provider, licensed as a common carrier  
17 by the Federal Communications Commission, which is  
18 permanently installed in or affixed to aircraft moving in  
19 interstate commerce.

20 (14) Machinery and equipment that will be used by the  
21 purchaser, or a lessee of the purchaser, primarily in the  
22 process of manufacturing or assembling tangible personal  
23 property for wholesale or retail sale or lease, whether  
24 the sale or lease is made directly by the manufacturer or  
25 by some other person, whether the materials used in the  
26 process are owned by the manufacturer or some other

1 person, or whether the sale or lease is made apart from or  
2 as an incident to the seller's engaging in the service  
3 occupation of producing machines, tools, dies, jigs,  
4 patterns, gauges, or other similar items of no commercial  
5 value on special order for a particular purchaser. The  
6 exemption provided by this paragraph (14) does not include  
7 machinery and equipment used in (i) the generation of  
8 electricity for wholesale or retail sale; (ii) the  
9 generation or treatment of natural or artificial gas for  
10 wholesale or retail sale that is delivered to customers  
11 through pipes, pipelines, or mains; or (iii) the treatment  
12 of water for wholesale or retail sale that is delivered to  
13 customers through pipes, pipelines, or mains. The  
14 provisions of Public Act 98-583 are declaratory of  
15 existing law as to the meaning and scope of this  
16 exemption. Beginning on July 1, 2017, the exemption  
17 provided by this paragraph (14) includes, but is not  
18 limited to, graphic arts machinery and equipment, as  
19 defined in paragraph (4) of this Section. On and after  
20 January 1, 2023, machinery and equipment purchased for use  
21 in an environmental justice community is no longer exempt  
22 from the tax imposed by this Act under this provision if  
23 used in a facility that requires a major source permit  
24 under the Illinois Environmental Protection Act. As used  
25 in this paragraph (14), "environmental justice community"  
26 has the same meaning, based on existing methodologies and

1       findings, used in the Illinois Solar for All Program, as  
2       may be updated by the Illinois Power Agency and the  
3       Program Administrator of that Program.

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.)".