



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2180

Introduced 2/26/2021, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 105/2	from Ch. 120, par. 439.2
35 ILCS 105/3-5	
35 ILCS 120/1	from Ch. 120, par. 440
35 ILCS 120/2-5	
35 ILCS 120/2c	from Ch. 120, par. 441c

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that, for any leased property (currently, for motor vehicles only), "selling price" means the consideration received by the lessor pursuant to the lease contract and includes certain amounts received by the lessor that are not calculated at the time the lease is executed. Provides for an exemption to the extent of any personal property lease transaction tax paid to a home rule municipality. Provides that a sale of tangible personal property shall be made tax-free on the ground of being a sale for resale or lease (currently, for resale) if the purchaser has an active registration number or resale number from the Department of Revenue and furnishes that number to the seller in connection with certifying to the seller that any sale to such purchaser is nontaxable because of being a sale for resale or lease (currently, for resale). Effective immediately.

LRB102 13518 HLH 18865 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

7 Sec. 2. Definitions.

8 "Use" means the exercise by any person of any right or
9 power over tangible personal property incident to the
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, not including the
20 value of or credit given for traded-in tangible personal
21 property where the item that is traded-in is of like kind and
22 character as that which is being sold; beginning January 1,
23 2020, "selling price" includes the portion of the value of or
24 credit given for traded-in motor vehicles of the First
25 Division as defined in Section 1-146 of the Illinois Vehicle
26 Code of like kind and character as that which is being sold

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

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

1 the vehicle for a defined period that is longer than one year
2 and (1) is a motor vehicle of the second division that: (A) is
3 a self-contained motor vehicle designed or permanently
4 converted to provide living quarters for recreational,
5 camping, or travel use, with direct walk through access to the
6 living quarters from the driver's seat; (B) is of the van
7 configuration designed for the transportation of not less than
8 7 nor more than 16 passengers; or (C) has a gross vehicle
9 weight rating of 8,000 pounds or less or (2) is a motor vehicle
10 of the first division, and, on and after January 1, 2022, for
11 any item of tangible personal property, other than computer
12 software and property subject to the Rental Purchase Agreement
13 Occupation and Use Tax Act, that the purchaser certifies is
14 purchased for the purpose of leasing, hereinafter referenced
15 to as "leased property", "selling price" or "amount of sale"
16 means the consideration received by the lessor pursuant to the
17 motor vehicle lease contract, or oral or written agreement for
18 other leased property, including amounts due at lease signing
19 and all monthly or other regular payments charged over the
20 term of the lease. Also included in the selling price is any
21 amount received by the lessor from the lessee for the leased
22 vehicle or other leased property that is not calculated at the
23 time the lease is executed, including, but not limited to,
24 excess mileage charges and charges for excess wear and tear.
25 For sales that occur in Illinois, with respect to any amount
26 received by the lessor from the lessee for the leased vehicle

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

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

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

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

16 "Department" means the Department of Revenue.

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

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

24 A person who holds himself or herself out as being engaged
25 (or who habitually engages) in selling tangible personal
26 property at retail is a retailer hereunder with respect to

1 such sales (and not primarily in a service occupation)
2 notwithstanding the fact that such person designs and produces
3 such tangible personal property on special order for the
4 purchaser and in such a way as to render the property of value
5 only to such purchaser, if such tangible personal property so
6 produced on special order serves substantially the same
7 function as stock or standard items of tangible personal
8 property that are sold at retail.

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

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

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

10 Persons who engage in the business of transferring
11 tangible personal property upon the redemption of trading
12 stamps are retailers hereunder when engaged in such business.

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

1 agreement entered into with some other person arising out of
2 or because of such nontaxable business, is a retailer to the
3 extent of the value of the tangible personal property so
4 transferred. If, in such transaction, a separate charge is
5 made for the tangible personal property so transferred, the
6 value of such property, for the purposes of this Act, is the
7 amount so separately charged, but not less than the cost of
8 such property to the transferor; if no separate charge is
9 made, the value of such property, for the purposes of this Act,
10 is the cost to the transferor of such tangible personal
11 property.

12 "Retailer maintaining a place of business in this State",
13 or any like term, means and includes any of the following
14 retailers:

15 (1) A retailer having or maintaining within this
16 State, directly or by a subsidiary, an office,
17 distribution house, sales house, warehouse or other place
18 of business, or any agent or other representative
19 operating within this State under the authority of the
20 retailer or its subsidiary, irrespective of whether such
21 place of business or agent or other representative is
22 located here permanently or temporarily, or whether such
23 retailer or subsidiary is licensed to do business in this
24 State. However, the ownership of property that is located
25 at the premises of a printer with which the retailer has
26 contracted for printing and that consists of the final

1 printed product, property that becomes a part of the final
2 printed product, or copy from which the printed product is
3 produced shall not result in the retailer being deemed to
4 have or maintain an office, distribution house, sales
5 house, warehouse, or other place of business within this
6 State.

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

1 retailer meeting the requirements of this paragraph (1.1)
2 shall be presumed to be maintaining a place of business in
3 this State but may rebut this presumption by submitting
4 proof that the referrals or other activities pursued
5 within this State by such persons were not sufficient to
6 meet the nexus standards of the United States Constitution
7 during the preceding 4 quarterly periods.

8 (1.2) Beginning July 1, 2011, a retailer having a
9 contract with a person located in this State under which:

10 (A) the retailer sells the same or substantially
11 similar line of products as the person located in this
12 State and does so using an identical or substantially
13 similar name, trade name, or trademark as the person
14 located in this State; and

15 (B) the retailer provides a commission or other
16 consideration to the person located in this State
17 based upon the sale of tangible personal property by
18 the retailer.

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

25 (2) (Blank).

26 (3) (Blank).

1 (4) (Blank).

2 (5) (Blank).

3 (6) (Blank).

4 (7) (Blank).

5 (8) (Blank).

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

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

12 (B) the retailer enters into 200 or more separate
13 transactions for the sale of tangible personal
14 property to purchasers in Illinois.

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

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

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

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

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

7 (Source: P.A. 100-587, eff. 6-4-18; 101-9, eff. 6-5-19;
8 101-31, eff. 1-1-20; 101-604, eff. 1-1-20.)

9 (35 ILCS 105/3-5)

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

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

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

22 (3) Personal property purchased by a not-for-profit arts
23 or cultural organization that establishes, by proof required
24 by the Department by rule, that it has received an exemption
25 under Section 501(c)(3) of the Internal Revenue Code and that

1 is organized and operated primarily for the presentation or
2 support of arts or cultural programming, activities, or
3 services. These organizations include, but are not limited to,
4 music and dramatic arts organizations such as symphony
5 orchestras and theatrical groups, arts and cultural service
6 organizations, local arts councils, visual arts organizations,
7 and media arts organizations. On and after July 1, 2001 (the
8 effective date of Public Act 92-35), however, an entity
9 otherwise eligible for this exemption shall not make tax-free
10 purchases unless it has an active identification number issued
11 by the Department.

12 (4) Personal property purchased by a governmental body, by
13 a corporation, society, association, foundation, or
14 institution organized and operated exclusively for charitable,
15 religious, or educational purposes, or by a not-for-profit
16 corporation, society, association, foundation, institution, or
17 organization that has no compensated officers or employees and
18 that is organized and operated primarily for the recreation of
19 persons 55 years of age or older. A limited liability company
20 may qualify for the exemption under this paragraph only if the
21 limited liability company is organized and operated
22 exclusively for educational purposes. On and after July 1,
23 1987, however, no entity otherwise eligible for this exemption
24 shall make tax-free purchases unless it has an active
25 exemption identification number issued by the Department.

26 (5) Until July 1, 2003, a passenger car that is a

1 replacement vehicle to the extent that the purchase price of
2 the car is subject to the Replacement Vehicle Tax.

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

16 (7) Farm chemicals.

17 (8) Legal tender, currency, medallions, or gold or silver
18 coinage issued by the State of Illinois, the government of the
19 United States of America, or the government of any foreign
20 country, and bullion.

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

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

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

20 Farm machinery and equipment shall include precision
21 farming equipment that is installed or purchased to be
22 installed on farm machinery and equipment including, but not
23 limited to, tractors, harvesters, sprayers, planters, seeders,
24 or spreaders. Precision farming equipment includes, but is not
25 limited to, soil testing sensors, computers, monitors,
26 software, global positioning and mapping systems, and other

1 such equipment.

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

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

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

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

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

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

24 (16) Until July 1, 2023, coal and aggregate exploration,
25 mining, off-highway hauling, processing, maintenance, and
26 reclamation equipment, including replacement parts and

1 equipment, and including equipment purchased for lease, but
2 excluding motor vehicles required to be registered under the
3 Illinois Vehicle Code. The changes made to this Section by
4 Public Act 97-767 apply on and after July 1, 2003, but no claim
5 for credit or refund is allowed on or after August 16, 2013
6 (the effective date of Public Act 98-456) for such taxes paid
7 during the period beginning July 1, 2003 and ending on August
8 16, 2013 (the effective date of Public Act 98-456).

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

15 (18) Manufacturing and assembling machinery and equipment
16 used primarily in the process of manufacturing or assembling
17 tangible personal property for wholesale or retail sale or
18 lease, whether that sale or lease is made directly by the
19 manufacturer or by some other person, whether the materials
20 used in the process are owned by the manufacturer or some other
21 person, or whether that sale or lease is made apart from or as
22 an incident to the seller's engaging in the service occupation
23 of producing machines, tools, dies, jigs, patterns, gauges, or
24 other similar items of no commercial value on special order
25 for a particular purchaser. The exemption provided by this
26 paragraph (18) includes production related tangible personal

1 property, as defined in Section 3-50, purchased on or after
2 July 1, 2019. The exemption provided by this paragraph (18)
3 does not include machinery and equipment used in (i) the
4 generation of electricity for wholesale or retail sale; (ii)
5 the generation or treatment of natural or artificial gas for
6 wholesale or retail sale that is delivered to customers
7 through pipes, pipelines, or mains; or (iii) the treatment of
8 water for wholesale or retail sale that is delivered to
9 customers through pipes, pipelines, or mains. The provisions
10 of Public Act 98-583 are declaratory of existing law as to the
11 meaning and scope of this exemption. Beginning on July 1,
12 2017, the exemption provided by this paragraph (18) includes,
13 but is not limited to, graphic arts machinery and equipment,
14 as defined in paragraph (6) of this Section.

15 (19) Personal property delivered to a purchaser or
16 purchaser's donee inside Illinois when the purchase order for
17 that personal property was received by a florist located
18 outside Illinois who has a florist located inside Illinois
19 deliver the personal property.

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

22 (21) Horses, or interests in horses, registered with and
23 meeting the requirements of any of the Arabian Horse Club
24 Registry of America, Appaloosa Horse Club, American Quarter
25 Horse Association, United States Trotting Association, or
26 Jockey Club, as appropriate, used for purposes of breeding or

1 racing for prizes. This item (21) is exempt from the
2 provisions of Section 3-90, and the exemption provided for
3 under this item (21) applies for all periods beginning May 30,
4 1995, but no claim for credit or refund is allowed on or after
5 January 1, 2008 for such taxes paid during the period
6 beginning May 30, 2000 and ending on January 1, 2008.

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

1 lessor. If, however, that amount is not refunded to the lessee
2 for any reason, the lessor is liable to pay that amount to the
3 Department.

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

25 (24) 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 donated
2 for disaster relief to be used in a State or federally declared
3 disaster area in Illinois or bordering Illinois by a
4 manufacturer or retailer that is registered in this State to a
5 corporation, society, association, foundation, or institution
6 that has been issued a sales tax exemption identification
7 number by the Department that assists victims of the disaster
8 who reside within the declared disaster area.

9 (25) Beginning with taxable years ending on or after
10 December 31, 1995 and ending with taxable years ending on or
11 before December 31, 2004, personal property that is used in
12 the performance of infrastructure repairs in this State,
13 including but not limited to municipal roads and streets,
14 access roads, bridges, sidewalks, waste disposal systems,
15 water and sewer line extensions, water distribution and
16 purification facilities, storm water drainage and retention
17 facilities, and sewage treatment facilities, resulting from a
18 State or federally declared disaster in Illinois or bordering
19 Illinois when such repairs are initiated on facilities located
20 in the declared disaster area within 6 months after the
21 disaster.

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

26 (27) A motor vehicle, as that term is defined in Section

1 1-146 of the Illinois Vehicle Code, that is donated to a
2 corporation, limited liability company, society, association,
3 foundation, or institution that is determined by the
4 Department to be organized and operated exclusively for
5 educational purposes. For purposes of this exemption, "a
6 corporation, limited liability company, society, association,
7 foundation, or institution organized and operated exclusively
8 for educational purposes" means all tax-supported public
9 schools, private schools that offer systematic instruction in
10 useful branches of learning by methods common to public
11 schools and that compare favorably in their scope and
12 intensity with the course of study presented in tax-supported
13 schools, and vocational or technical schools or institutes
14 organized and operated exclusively to provide a course of
15 study of not less than 6 weeks duration and designed to prepare
16 individuals to follow a trade or to pursue a manual,
17 technical, mechanical, industrial, business, or commercial
18 occupation.

19 (28) Beginning January 1, 2000, personal property,
20 including food, purchased through fundraising events for the
21 benefit of a public or private elementary or secondary school,
22 a group of those schools, or one or more school districts if
23 the events are sponsored by an entity recognized by the school
24 district that consists primarily of volunteers and includes
25 parents and teachers of the school children. This paragraph
26 does not apply to fundraising events (i) for the benefit of

1 private home instruction or (ii) for which the fundraising
2 entity purchases the personal property sold at the events from
3 another individual or entity that sold the property for the
4 purpose of resale by the fundraising entity and that profits
5 from the sale to the fundraising entity. This paragraph is
6 exempt from the provisions of Section 3-90.

7 (29) Beginning January 1, 2000 and through December 31,
8 2001, new or used automatic vending machines that prepare and
9 serve hot food and beverages, including coffee, soup, and
10 other items, and replacement parts for these machines.
11 Beginning January 1, 2002 and through June 30, 2003, machines
12 and parts for machines used in commercial, coin-operated
13 amusement and vending business if a use or occupation tax is
14 paid on the gross receipts derived from the use of the
15 commercial, coin-operated amusement and vending machines. This
16 paragraph is exempt from the provisions of Section 3-90.

17 (30) Beginning January 1, 2001 and through June 30, 2016,
18 food for human consumption that is to be consumed off the
19 premises where it is sold (other than alcoholic beverages,
20 soft drinks, and food that has been prepared for immediate
21 consumption) and prescription and nonprescription medicines,
22 drugs, medical appliances, and insulin, urine testing
23 materials, syringes, and needles used by diabetics, for human
24 use, when purchased for use by a person receiving medical
25 assistance under Article V of the Illinois Public Aid Code who
26 resides in a licensed long-term care facility, as defined in

1 the Nursing Home Care Act, or in a licensed facility as defined
2 in the ID/DD Community Care Act, the MC/DD Act, or the
3 Specialized Mental Health Rehabilitation Act of 2013.

4 (31) Beginning on August 2, 2001 (the effective date of
5 Public Act 92-227), computers and communications equipment
6 utilized for any hospital purpose and equipment used in the
7 diagnosis, analysis, or treatment of hospital patients
8 purchased by a lessor who leases the equipment, under a lease
9 of one year or longer executed or in effect at the time the
10 lessor would otherwise be subject to the tax imposed by this
11 Act, to a hospital that has been issued an active tax exemption
12 identification number by the Department under Section 1g of
13 the Retailers' Occupation Tax Act. If the equipment is leased
14 in a manner that does not qualify for this exemption or is used
15 in any other nonexempt manner, the lessor shall be liable for
16 the tax imposed under this Act or the Service Use Tax Act, as
17 the case may be, based on the fair market value of the property
18 at the time the nonqualifying use occurs. No lessor shall
19 collect or attempt to collect an amount (however designated)
20 that purports to reimburse that lessor for the tax imposed by
21 this Act or the Service Use Tax Act, as the case may be, if the
22 tax has not been paid by the lessor. If a lessor improperly
23 collects any such amount from the lessee, the lessee shall
24 have a legal right to claim a refund of that amount from the
25 lessor. If, however, that amount is not refunded to the lessee
26 for any reason, the lessor is liable to pay that amount to the

1 Department. This paragraph is exempt from the provisions of
2 Section 3-90.

3 (32) Beginning on August 2, 2001 (the effective date of
4 Public Act 92-227), personal property purchased by a lessor
5 who leases the property, under a lease of one year or longer
6 executed or in effect at the time the lessor would otherwise be
7 subject to the tax imposed by this Act, to a governmental body
8 that has been issued an active sales tax exemption
9 identification number by the Department under Section 1g of
10 the Retailers' Occupation Tax Act. If the property is leased
11 in a manner that does not qualify for this exemption or used in
12 any other nonexempt manner, the lessor shall be liable for the
13 tax imposed under this Act or the Service Use Tax Act, as the
14 case may be, based on the fair market value of the property at
15 the time the nonqualifying use occurs. No lessor shall collect
16 or attempt to collect an amount (however designated) that
17 purports to reimburse that lessor for the tax imposed by this
18 Act or the Service Use Tax Act, as the case may be, if the tax
19 has not been paid by the lessor. If a lessor improperly
20 collects any such amount from the lessee, the lessee shall
21 have a legal right to claim a refund of that amount from the
22 lessor. If, however, that amount is not refunded to the lessee
23 for any reason, the lessor is liable to pay that amount to the
24 Department. This paragraph is exempt from the provisions of
25 Section 3-90.

26 (33) On and after July 1, 2003 and through June 30, 2004,

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

19 (34) Beginning January 1, 2008, tangible personal property
20 used in the construction or maintenance of a community water
21 supply, as defined under Section 3.145 of the Environmental
22 Protection Act, that is operated by a not-for-profit
23 corporation that holds a valid water supply permit issued
24 under Title IV of the Environmental Protection Act. This
25 paragraph is exempt from the provisions of Section 3-90.

26 (35) Beginning January 1, 2010 and continuing through

1 December 31, 2024, materials, parts, equipment, components,
2 and furnishings incorporated into or upon an aircraft as part
3 of the modification, refurbishment, completion, replacement,
4 repair, or maintenance of the aircraft. This exemption
5 includes consumable supplies used in the modification,
6 refurbishment, completion, replacement, repair, and
7 maintenance of aircraft, but excludes any materials, parts,
8 equipment, components, and consumable supplies used in the
9 modification, replacement, repair, and maintenance of aircraft
10 engines or power plants, whether such engines or power plants
11 are installed or uninstalled upon any such aircraft.
12 "Consumable supplies" include, but are not limited to,
13 adhesive, tape, sandpaper, general purpose lubricants,
14 cleaning solution, latex gloves, and protective films. This
15 exemption applies only to the use of qualifying tangible
16 personal property by persons who modify, refurbish, complete,
17 repair, replace, or maintain aircraft and who (i) hold an Air
18 Agency Certificate and are empowered to operate an approved
19 repair station by the Federal Aviation Administration, (ii)
20 have a Class IV Rating, and (iii) conduct operations in
21 accordance with Part 145 of the Federal Aviation Regulations.
22 The exemption does not include aircraft operated by a
23 commercial air carrier providing scheduled passenger air
24 service pursuant to authority issued under Part 121 or Part
25 129 of the Federal Aviation Regulations. The changes made to
26 this paragraph (35) by Public Act 98-534 are declarative of

1 existing law. It is the intent of the General Assembly that the
2 exemption under this paragraph (35) applies continuously from
3 January 1, 2010 through December 31, 2024; however, no claim
4 for credit or refund is allowed for taxes paid as a result of
5 the disallowance of this exemption on or after January 1, 2015
6 and prior to the effective date of this amendatory Act of the
7 101st General Assembly.

8 (36) Tangible personal property purchased by a
9 public-facilities corporation, as described in Section
10 11-65-10 of the Illinois Municipal Code, for purposes of
11 constructing or furnishing a municipal convention hall, but
12 only if the legal title to the municipal convention hall is
13 transferred to the municipality without any further
14 consideration by or on behalf of the municipality at the time
15 of the completion of the municipal convention hall or upon the
16 retirement or redemption of any bonds or other debt
17 instruments issued by the public-facilities corporation in
18 connection with the development of the municipal convention
19 hall. This exemption includes existing public-facilities
20 corporations as provided in Section 11-65-25 of the Illinois
21 Municipal Code. This paragraph is exempt from the provisions
22 of Section 3-90.

23 (37) Beginning January 1, 2017, menstrual pads, tampons,
24 and menstrual cups.

25 (38) Merchandise that is subject to the Rental Purchase
26 Agreement Occupation and Use Tax. The purchaser must certify

1 that the item is purchased to be rented subject to a rental
2 purchase agreement, as defined in the Rental Purchase
3 Agreement Act, and provide proof of registration under the
4 Rental Purchase Agreement Occupation and Use Tax Act. This
5 paragraph is exempt from the provisions of Section 3-90.

6 (39) Tangible personal property purchased by a purchaser
7 who is exempt from the tax imposed by this Act by operation of
8 federal law. This paragraph is exempt from the provisions of
9 Section 3-90.

10 (40) Qualified tangible personal property used in the
11 construction or operation of a data center that has been
12 granted a certificate of exemption by the Department of
13 Commerce and Economic Opportunity, whether that tangible
14 personal property is purchased by the owner, operator, or
15 tenant of the data center or by a contractor or subcontractor
16 of the owner, operator, or tenant. Data centers that would
17 have qualified for a certificate of exemption prior to January
18 1, 2020 had Public Act 101-31 been in effect may apply for and
19 obtain an exemption for subsequent purchases of computer
20 equipment or enabling software purchased or leased to upgrade,
21 supplement, or replace computer equipment or enabling software
22 purchased or leased in the original investment that would have
23 qualified.

24 The Department of Commerce and Economic Opportunity shall
25 grant a certificate of exemption under this item (40) to
26 qualified data centers as defined by Section 605-1025 of the

1 Department of Commerce and Economic Opportunity Law of the
2 Civil Administrative Code of Illinois.

3 For the purposes of this item (40):

4 "Data center" means a building or a series of
5 buildings rehabilitated or constructed to house working
6 servers in one physical location or multiple sites within
7 the State of Illinois.

8 "Qualified tangible personal property" means:
9 electrical systems and equipment; climate control and
10 chilling equipment and systems; mechanical systems and
11 equipment; monitoring and secure systems; emergency
12 generators; hardware; computers; servers; data storage
13 devices; network connectivity equipment; racks; cabinets;
14 telecommunications cabling infrastructure; raised floor
15 systems; peripheral components or systems; software;
16 mechanical, electrical, or plumbing systems; battery
17 systems; cooling systems and towers; temperature control
18 systems; other cabling; and other data center
19 infrastructure equipment and systems necessary to operate
20 qualified tangible personal property, including fixtures;
21 and component parts of any of the foregoing, including
22 installation, maintenance, repair, refurbishment, and
23 replacement of qualified tangible personal property to
24 generate, transform, transmit, distribute, or manage
25 electricity necessary to operate qualified tangible
26 personal property; and all other tangible personal

1 property that is essential to the operations of a computer
2 data center. The term "qualified tangible personal
3 property" also includes building materials physically
4 incorporated in to the qualifying data center. To document
5 the exemption allowed under this Section, the retailer
6 must obtain from the purchaser a copy of the certificate
7 of eligibility issued by the Department of Commerce and
8 Economic Opportunity.

9 This item (40) is exempt from the provisions of Section
10 3-90.

11 (41) Beginning on January 1, 2022, non-titled tangible
12 personal property. other than computer software and property
13 subject to the Rental Purchase Agreement Occupation and Use
14 Tax Act, to the extent of a personal property lease
15 transaction tax paid to a home rule municipality. This
16 exemption does not extend to any locally imposed retailers'
17 occupation tax imposed under the Illinois Municipal Code or
18 Counties Code and administered and collected by the
19 Department. This item (41) is exempt from the provisions of
20 Section 3-90.

21 (Source: P.A. 100-22, eff. 7-6-17; 100-437, eff. 1-1-18;
22 100-594, eff. 6-29-18; 100-863, eff. 8-14-18; 100-1171, eff.
23 1-4-19; 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-81, eff.
24 7-12-19; 101-629, eff. 2-5-20.)

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

1 by changing Sections 1, 2-5, and 2c as follows:

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

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

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

1 property unless made in compliance with Section 2c of this
2 Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Notwithstanding any law to the contrary, for any motor
4 vehicle, as defined in Section 1-146 of the Vehicle Code, that
5 is sold on or after January 1, 2015 for the purpose of leasing
6 the vehicle for a defined period that is longer than one year
7 and (1) is a motor vehicle of the second division that: (A) is
8 a self-contained motor vehicle designed or permanently
9 converted to provide living quarters for recreational,
10 camping, or travel use, with direct walk through access to the
11 living quarters from the driver's seat; (B) is of the van
12 configuration designed for the transportation of not less than
13 7 nor more than 16 passengers; or (C) has a gross vehicle
14 weight rating of 8,000 pounds or less or (2) is a motor vehicle
15 of the first division, and, on and after January 1, 2022, for
16 any item of tangible personal property, other than computer
17 software and property subject to the Rental Purchase Agreement
18 Occupation and Use Tax Act, that the purchaser certifies is
19 purchased for the purpose of leasing, hereinafter referenced
20 to as "leased property", "selling price" or "amount of sale"
21 means the consideration received by the lessor pursuant to the
22 motor vehicle lease contract, or oral or written agreement for
23 other leased property, including amounts due at lease signing
24 and all monthly or other regular payments charged over the
25 term of the lease. Also included in the selling price is any
26 amount received by the lessor from the lessee for the leased

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

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

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

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

20 "Gross receipts" from the sales of tangible personal
21 property at retail means the total selling price or the amount
22 of such sales, as hereinbefore defined. In the case of charge
23 and time sales, the amount thereof shall be included only as
24 and when payments are received by the seller. Receipts or
25 other consideration derived by a seller from the sale,
26 transfer or assignment of accounts receivable to a wholly

1 owned subsidiary will not be deemed payments prior to the time
2 the purchaser makes payment on such accounts.

3 "Department" means the Department of Revenue.

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

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

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

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 person engaged in the business of
21 selling tangible personal property at retail hereunder with
22 respect to such sales (and not primarily in a service
23 occupation) notwithstanding the fact that such person designs
24 and produces such tangible personal property on special order
25 for the purchaser and in such a way as to render the property
26 of value only to such purchaser, if such tangible personal

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

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

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

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

25 "Marketplace" means a physical or electronic place, forum,
26 platform, application, or other method by which a marketplace

1 seller sells or offers to sell items.

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

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

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

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

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

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

1 (35 ILCS 120/2-5)

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

5 (1) Farm chemicals.

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

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

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

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

24 (4) Until July 1, 2003 and beginning again September
25 1, 2004 through August 30, 2014, graphic arts machinery
26 and equipment, including repair and replacement parts,

1 both new and used, and including that manufactured on
2 special order or purchased for lease, certified by the
3 purchaser to be used primarily for graphic arts
4 production. Equipment includes chemicals or chemicals
5 acting as catalysts but only if the chemicals or chemicals
6 acting as catalysts effect a direct and immediate change
7 upon a graphic arts product. Beginning on July 1, 2017,
8 graphic arts machinery and equipment is included in the
9 manufacturing and assembling machinery and equipment
10 exemption under paragraph (14).

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

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

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

21 (8) Personal property sold to an Illinois county fair
22 association for use in conducting, operating, or promoting
23 the county fair.

24 (9) Personal property sold to a not-for-profit arts or
25 cultural organization that establishes, by proof required
26 by the Department by rule, that it has received an

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

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

20 (11) Personal property sold to a governmental body, to
21 a corporation, society, association, foundation, or
22 institution organized and operated exclusively for
23 charitable, religious, or educational purposes, or to a
24 not-for-profit corporation, society, association,
25 foundation, institution, or organization that has no
26 compensated officers or employees and that is organized

1 and operated primarily for the recreation of persons 55
2 years of age or older. A limited liability company may
3 qualify for the exemption under this paragraph only if the
4 limited liability company is organized and operated
5 exclusively for educational purposes. On and after July 1,
6 1987, however, no entity otherwise eligible for this
7 exemption shall make tax-free purchases unless it has an
8 active identification number issued by the Department.

9 (12) (Blank).

10 (12-5) On and after July 1, 2003 and through June 30,
11 2004, motor vehicles of the second division with a gross
12 vehicle weight in excess of 8,000 pounds that are subject
13 to the commercial distribution fee imposed under Section
14 3-815.1 of the Illinois Vehicle Code. Beginning on July 1,
15 2004 and through June 30, 2005, the use in this State of
16 motor vehicles of the second division: (i) with a gross
17 vehicle weight rating in excess of 8,000 pounds; (ii) that
18 are subject to the commercial distribution fee imposed
19 under Section 3-815.1 of the Illinois Vehicle Code; and
20 (iii) that are primarily used for commercial purposes.
21 Through June 30, 2005, this exemption applies to repair
22 and replacement parts added after the initial purchase of
23 such a motor vehicle if that motor vehicle is used in a
24 manner that would qualify for the rolling stock exemption
25 otherwise provided for in this Act. For purposes of this
26 paragraph, "used for commercial purposes" means the

1 transportation of persons or property in furtherance of
2 any commercial or industrial enterprise whether for-hire
3 or not.

4 (13) Proceeds from sales to owners, lessors, or
5 shippers of tangible personal property that is utilized by
6 interstate carriers for hire for use as rolling stock
7 moving in interstate commerce and equipment operated by a
8 telecommunications provider, licensed as a common carrier
9 by the Federal Communications Commission, which is
10 permanently installed in or affixed to aircraft moving in
11 interstate commerce.

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

1 generation or treatment of natural or artificial gas for
2 wholesale or retail sale that is delivered to customers
3 through pipes, pipelines, or mains; or (iii) the treatment
4 of water for wholesale or retail sale that is delivered to
5 customers through pipes, pipelines, or mains. The
6 provisions of Public Act 98-583 are declaratory of
7 existing law as to the meaning and scope of this
8 exemption. Beginning on July 1, 2017, the exemption
9 provided by this paragraph (14) includes, but is not
10 limited to, graphic arts machinery and equipment, as
11 defined in paragraph (4) of this Section.

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

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

24 (17) Tangible personal property sold to a common
25 carrier by rail or motor that receives the physical
26 possession of the property in Illinois and that transports

1 the property, or shares with another common carrier in the
2 transportation of the property, out of Illinois on a
3 standard uniform bill of lading showing the seller of the
4 property as the shipper or consignor of the property to a
5 destination outside Illinois, for use outside Illinois.

6 (18) Legal tender, currency, medallions, or gold or
7 silver coinage issued by the State of Illinois, the
8 government of the United States of America, or the
9 government of any foreign country, and bullion.

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

20 (20) Photoprocessing machinery and equipment,
21 including repair and replacement parts, both new and used,
22 including that manufactured on special order, certified by
23 the purchaser to be used primarily for photoprocessing,
24 and including photoprocessing machinery and equipment
25 purchased for lease.

26 (21) Until July 1, 2023, coal and aggregate

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

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

19 Beginning July 1, 2013, fuel and petroleum products
20 sold to or used by an air carrier, certified by the carrier
21 to be used for consumption, shipment, or storage in the
22 conduct of its business as an air common carrier, for a
23 flight that (i) is engaged in foreign trade or is engaged
24 in trade between the United States and any of its
25 possessions and (ii) transports at least one individual or
26 package for hire from the city of origination to the city

1 of final destination on the same aircraft, without regard
2 to a change in the flight number of that aircraft.

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

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

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

26 (25-5) The exemption under item (25) does not apply if

1 the state in which the motor vehicle will be titled does
2 not allow a reciprocal exemption for a motor vehicle sold
3 and delivered in that state to an Illinois resident but
4 titled in Illinois. The tax collected under this Act on
5 the sale of a motor vehicle in this State to a resident of
6 another state that does not allow a reciprocal exemption
7 shall be imposed at a rate equal to the state's rate of tax
8 on taxable property in the state in which the purchaser is
9 a resident, except that the tax shall not exceed the tax
10 that would otherwise be imposed under this Act. At the
11 time of the sale, the purchaser shall execute a statement,
12 signed under penalty of perjury, of his or her intent to
13 title the vehicle in the state in which the purchaser is a
14 resident within 30 days after the sale and of the fact of
15 the payment to the State of Illinois of tax in an amount
16 equivalent to the state's rate of tax on taxable property
17 in his or her state of residence and shall submit the
18 statement to the appropriate tax collection agency in his
19 or her state of residence. In addition, the retailer must
20 retain a signed copy of the statement in his or her
21 records. Nothing in this item shall be construed to
22 require the removal of the vehicle from this state
23 following the filing of an intent to title the vehicle in
24 the purchaser's state of residence if the purchaser titles
25 the vehicle in his or her state of residence within 30 days
26 after the date of sale. The tax collected under this Act in

1 accordance with this item (25-5) shall be proportionately
2 distributed as if the tax were collected at the 6.25%
3 general rate imposed under this Act.

4 (25-7) Beginning on July 1, 2007, no tax is imposed
5 under this Act on the sale of an aircraft, as defined in
6 Section 3 of the Illinois Aeronautics Act, if all of the
7 following conditions are met:

8 (1) the aircraft leaves this State within 15 days
9 after the later of either the issuance of the final
10 billing for the sale of the aircraft, or the
11 authorized approval for return to service, completion
12 of the maintenance record entry, and completion of the
13 test flight and ground test for inspection, as
14 required by 14 C.F.R. 91.407;

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

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

1 require.

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

3 "Based in this State" means hangared, stored, or
4 otherwise used, excluding post-sale customizations as
5 defined in this Section, for 10 or more days in each
6 12-month period immediately following the date of the sale
7 of the aircraft.

8 "Registered in this State" means an aircraft
9 registered with the Department of Transportation,
10 Aeronautics Division, or titled or registered with the
11 Federal Aviation Administration to an address located in
12 this State.

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

15 (26) Semen used for artificial insemination of
16 livestock for direct agricultural production.

17 (27) Horses, or interests in horses, registered with
18 and meeting the requirements of any of the Arabian Horse
19 Club Registry of America, Appaloosa Horse Club, American
20 Quarter Horse Association, United States Trotting
21 Association, or Jockey Club, as appropriate, used for
22 purposes of breeding or racing for prizes. This item (27)
23 is exempt from the provisions of Section 2-70, and the
24 exemption provided for under this item (27) applies for
25 all periods beginning May 30, 1995, but no claim for
26 credit or refund is allowed on or after January 1, 2008

1 (the effective date of Public Act 95-88) for such taxes
2 paid during the period beginning May 30, 2000 and ending
3 on January 1, 2008 (the effective date of Public Act
4 95-88).

5 (28) Computers and communications equipment utilized
6 for any hospital purpose and equipment used in the
7 diagnosis, analysis, or treatment of hospital patients
8 sold to a lessor who leases the equipment, under a lease of
9 one year or longer executed or in effect at the time of the
10 purchase, to a hospital that has been issued an active tax
11 exemption identification number by the Department under
12 Section 1g of this Act.

13 (29) Personal property sold to a lessor who leases the
14 property, under a lease of one year or longer executed or
15 in effect at the time of the purchase, to a governmental
16 body that has been issued an active tax exemption
17 identification number by the Department under Section 1g
18 of this Act.

19 (30) Beginning with taxable years ending on or after
20 December 31, 1995 and ending with taxable years ending on
21 or before December 31, 2004, personal property that is
22 donated for disaster relief to be used in a State or
23 federally declared disaster area in Illinois or bordering
24 Illinois by a manufacturer or retailer that is registered
25 in this State to a corporation, society, association,
26 foundation, or institution that has been issued a sales

1 tax exemption identification number by the Department that
2 assists victims of the disaster who reside within the
3 declared disaster area.

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

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

21 (33) A motor vehicle, as that term is defined in
22 Section 1-146 of the Illinois Vehicle Code, that is
23 donated to a corporation, limited liability company,
24 society, association, foundation, or institution that is
25 determined by the Department to be organized and operated
26 exclusively for educational purposes. For purposes of this

1 exemption, "a corporation, limited liability company,
2 society, association, foundation, or institution organized
3 and operated exclusively for educational purposes" means
4 all tax-supported public schools, private schools that
5 offer systematic instruction in useful branches of
6 learning by methods common to public schools and that
7 compare favorably in their scope and intensity with the
8 course of study presented in tax-supported schools, and
9 vocational or technical schools or institutes organized
10 and operated exclusively to provide a course of study of
11 not less than 6 weeks duration and designed to prepare
12 individuals to follow a trade or to pursue a manual,
13 technical, mechanical, industrial, business, or commercial
14 occupation.

15 (34) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for
17 the benefit of a public or private elementary or secondary
18 school, a group of those schools, or one or more school
19 districts if the events are sponsored by an entity
20 recognized by the school district that consists primarily
21 of volunteers and includes parents and teachers of the
22 school children. This paragraph does not apply to
23 fundraising events (i) for the benefit of private home
24 instruction or (ii) for which the fundraising entity
25 purchases the personal property sold at the events from
26 another individual or entity that sold the property for

1 the purpose of resale by the fundraising entity and that
2 profits from the sale to the fundraising entity. This
3 paragraph is exempt from the provisions of Section 2-70.

4 (35) Beginning January 1, 2000 and through December
5 31, 2001, new or used automatic vending machines that
6 prepare and serve hot food and beverages, including
7 coffee, soup, and other items, and replacement parts for
8 these machines. Beginning January 1, 2002 and through June
9 30, 2003, machines and parts for machines used in
10 commercial, coin-operated amusement and vending business
11 if a use or occupation tax is paid on the gross receipts
12 derived from the use of the commercial, coin-operated
13 amusement and vending machines. This paragraph is exempt
14 from the provisions of Section 2-70.

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

1 Community Care Act, the MC/DD Act, or the Specialized
2 Mental Health Rehabilitation Act of 2013.

3 (36) Beginning August 2, 2001, computers and
4 communications equipment utilized for any hospital purpose
5 and equipment used in the diagnosis, analysis, or
6 treatment of hospital patients sold to a lessor who leases
7 the equipment, under a lease of one year or longer
8 executed or in effect at the time of the purchase, to a
9 hospital that has been issued an active tax exemption
10 identification number by the Department under Section 1g
11 of this Act. This paragraph is exempt from the provisions
12 of Section 2-70.

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

20 (38) Beginning on January 1, 2002 and through June 30,
21 2016, tangible personal property purchased from an
22 Illinois retailer by a taxpayer engaged in centralized
23 purchasing activities in Illinois who will, upon receipt
24 of the property in Illinois, temporarily store the
25 property in Illinois (i) for the purpose of subsequently
26 transporting it outside this State for use or consumption

1 thereafter solely outside this State or (ii) for the
2 purpose of being processed, fabricated, or manufactured
3 into, attached to, or incorporated into other tangible
4 personal property to be transported outside this State and
5 thereafter used or consumed solely outside this State. The
6 Director of Revenue shall, pursuant to rules adopted in
7 accordance with the Illinois Administrative Procedure Act,
8 issue a permit to any taxpayer in good standing with the
9 Department who is eligible for the exemption under this
10 paragraph (38). The permit issued under this paragraph
11 (38) shall authorize the holder, to the extent and in the
12 manner specified in the rules adopted under this Act, to
13 purchase tangible personal property from a retailer exempt
14 from the taxes imposed by this Act. Taxpayers shall
15 maintain all necessary books and records to substantiate
16 the use and consumption of all such tangible personal
17 property outside of the State of Illinois.

18 (39) Beginning January 1, 2008, tangible personal
19 property used in the construction or maintenance of a
20 community water supply, as defined under Section 3.145 of
21 the Environmental Protection Act, that is operated by a
22 not-for-profit corporation that holds a valid water supply
23 permit issued under Title IV of the Environmental
24 Protection Act. This paragraph is exempt from the
25 provisions of Section 2-70.

26 (40) Beginning January 1, 2010 and continuing through

1 December 31, 2024, materials, parts, equipment,
2 components, and furnishings incorporated into or upon an
3 aircraft as part of the modification, refurbishment,
4 completion, replacement, repair, or maintenance of the
5 aircraft. This exemption includes consumable supplies used
6 in the modification, refurbishment, completion,
7 replacement, repair, and maintenance of aircraft, but
8 excludes any materials, parts, equipment, components, and
9 consumable supplies used in the modification, replacement,
10 repair, and maintenance of aircraft engines or power
11 plants, whether such engines or power plants are installed
12 or uninstalled upon any such aircraft. "Consumable
13 supplies" include, but are not limited to, adhesive, tape,
14 sandpaper, general purpose lubricants, cleaning solution,
15 latex gloves, and protective films. This exemption applies
16 only to the sale of qualifying tangible personal property
17 to persons who modify, refurbish, complete, replace, or
18 maintain an aircraft and who (i) hold an Air Agency
19 Certificate and are empowered to operate an approved
20 repair station by the Federal Aviation Administration,
21 (ii) have a Class IV Rating, and (iii) conduct operations
22 in accordance with Part 145 of the Federal Aviation
23 Regulations. The exemption does not include aircraft
24 operated by a commercial air carrier providing scheduled
25 passenger air service pursuant to authority issued under
26 Part 121 or Part 129 of the Federal Aviation Regulations.

1 The changes made to this paragraph (40) by Public Act
2 98-534 are declarative of existing law. It is the intent
3 of the General Assembly that the exemption under this
4 paragraph (40) applies continuously from January 1, 2010
5 through December 31, 2024; however, no claim for credit or
6 refund is allowed for taxes paid as a result of the
7 disallowance of this exemption on or after January 1, 2015
8 and prior to the effective date of this amendatory Act of
9 the 101st General Assembly.

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

25 (42) Beginning January 1, 2017, menstrual pads,
26 tampons, and menstrual cups.

1 (43) Merchandise that is subject to the Rental
2 Purchase Agreement Occupation and Use Tax. The purchaser
3 must certify that the item is purchased to be rented
4 subject to a rental purchase agreement, as defined in the
5 Rental Purchase Agreement Act, and provide proof of
6 registration under the Rental Purchase Agreement
7 Occupation and Use Tax Act. This paragraph is exempt from
8 the provisions of Section 2-70.

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

24 The Department of Commerce and Economic Opportunity
25 shall grant a certificate of exemption under this item
26 (44) to qualified data centers as defined by Section

1 605-1025 of the Department of Commerce and Economic
2 Opportunity Law of the Civil Administrative Code of
3 Illinois.

4 For the purposes of this item (44):

5 "Data center" means a building or a series of
6 buildings rehabilitated or constructed to house
7 working servers in one physical location or multiple
8 sites within the State of Illinois.

9 "Qualified tangible personal property" means:
10 electrical systems and equipment; climate control and
11 chilling equipment and systems; mechanical systems and
12 equipment; monitoring and secure systems; emergency
13 generators; hardware; computers; servers; data storage
14 devices; network connectivity equipment; racks;
15 cabinets; telecommunications cabling infrastructure;
16 raised floor systems; peripheral components or
17 systems; software; mechanical, electrical, or plumbing
18 systems; battery systems; cooling systems and towers;
19 temperature control systems; other cabling; and other
20 data center infrastructure equipment and systems
21 necessary to operate qualified tangible personal
22 property, including fixtures; and component parts of
23 any of the foregoing, including installation,
24 maintenance, repair, refurbishment, and replacement of
25 qualified tangible personal property to generate,
26 transform, transmit, distribute, or manage electricity

1 necessary to operate qualified tangible personal
2 property; and all other tangible personal property
3 that is essential to the operations of a computer data
4 center. The term "qualified tangible personal
5 property" also includes building materials physically
6 incorporated in to the qualifying data center. To
7 document the exemption allowed under this Section, the
8 retailer must obtain from the purchaser a copy of the
9 certificate of eligibility issued by the Department of
10 Commerce and Economic Opportunity.

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

13 (45) Beginning on January 1, 2022, non-titled tangible
14 personal property, other than computer software and
15 property subject to the Rental Purchase Agreement
16 Occupation and Use Tax Act, to the extent of a personal
17 property lease transaction tax paid to a home rule
18 municipality. This exemption does not extend to any
19 locally imposed retailers' occupation tax imposed under
20 the Illinois Municipal Code or Counties Code and
21 administered and collected by the Department. This item
22 (45) is exempt from the provisions of Section 2-70.

23 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
24 100-437, eff. 1-1-18; 100-594, eff. 6-29-18; 100-863, eff.
25 8-14-18; 100-1171, eff. 1-4-19; 101-31, eff. 6-28-19; 101-81,
26 eff. 7-12-19; 101-629, eff. 2-5-20.)

1 (35 ILCS 120/2c) (from Ch. 120, par. 441c)

2 Sec. 2c. If the purchaser is not registered with the
3 Department as a taxpayer, but claims to be a reseller of the
4 tangible personal property in such a way that such resales are
5 not taxable under this Act or under some other tax law which
6 the Department may administer, such purchaser (except in the
7 case of an out-of-State purchaser who will always resell and
8 deliver the property to his customers outside Illinois) shall
9 apply to the Department for a resale number. Such applicant
10 shall state facts which will show the Department why such
11 applicant is not liable for tax under this Act or under some
12 other tax law which the Department may administer on any of his
13 resales and shall furnish such additional information as the
14 Department may reasonably require.

15 Upon approval of the application, the Department shall
16 assign a resale number to the applicant and shall certify such
17 number to him. The Department may cancel any such number which
18 is obtained through misrepresentation, or which is used to
19 make a purchase tax-free when the purchase in fact is not a
20 purchase for resale, or which no longer applies because of the
21 purchaser's having discontinued the making of tax exempt
22 resales of the property.

23 The Department may restrict the use of the number to one
24 year at a time or to some other definite period if the
25 Department finds it impracticable or otherwise inadvisable to

1 issue such numbers for indefinite periods.

2 Except as provided hereinabove in this Section, a sale
3 shall be made tax-free on the ground of being a sale for resale
4 or lease if the purchaser has an active registration number or
5 resale number from the Department and furnishes that number to
6 the seller in connection with certifying to the seller that
7 any sale to such purchaser is nontaxable because of being a
8 sale for resale or lease.

9 Failure to present an active registration number or resale
10 number and a certification to the seller that a sale is for
11 resale or lease creates a presumption that a sale is not for
12 resale or lease. This presumption may be rebutted by other
13 evidence that all of the seller's sales are sale for resale or
14 lease, or that a particular sale is a sale for resale or lease.
15 (Source: P.A. 83-1463.)

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