



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 2247

2 AMENDMENT NO. _____. Amend Senate Bill 2247 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Broadband Investment Act.

6 Section 3. The Illinois Procurement Code is amended by
7 changing Section 1-10 as follows:

8 (30 ILCS 500/1-10)

9 Sec. 1-10. Application.

10 (a) This Code applies only to procurements for which
11 bidders, offerors, potential contractors, or contractors were
12 first solicited on or after July 1, 1998. This Code shall not
13 be construed to affect or impair any contract, or any
14 provision of a contract, entered into based on a solicitation
15 prior to the implementation date of this Code as described in

1 Article 99, including, but not limited to, any covenant
2 entered into with respect to any revenue bonds or similar
3 instruments. All procurements for which contracts are
4 solicited between the effective date of Articles 50 and 99 and
5 July 1, 1998 shall be substantially in accordance with this
6 Code and its intent.

7 (b) This Code shall apply regardless of the source of the
8 funds with which the contracts are paid, including federal
9 assistance moneys. This Code shall not apply to:

10 (1) Contracts between the State and its political
11 subdivisions or other governments, or between State
12 governmental bodies, except as specifically provided in
13 this Code.

14 (2) Grants, except for the filing requirements of
15 Section 20-80.

16 (3) Purchase of care, except as provided in Section
17 5-30.6 of the Illinois Public Aid Code and this Section.

18 (4) Hiring of an individual as an employee and not as
19 an independent contractor, whether pursuant to an
20 employment code or policy or by contract directly with
21 that individual.

22 (5) Collective bargaining contracts.

23 (6) Purchase of real estate, except that notice of
24 this type of contract with a value of more than \$25,000
25 must be published in the Procurement Bulletin within 10
26 calendar days after the deed is recorded in the county of

1 jurisdiction. The notice shall identify the real estate
2 purchased, the names of all parties to the contract, the
3 value of the contract, and the effective date of the
4 contract.

5 (7) Contracts necessary to prepare for anticipated
6 litigation, enforcement actions, or investigations,
7 provided that the chief legal counsel to the Governor
8 shall give his or her prior approval when the procuring
9 agency is one subject to the jurisdiction of the Governor,
10 and provided that the chief legal counsel of any other
11 procuring entity subject to this Code shall give his or
12 her prior approval when the procuring entity is not one
13 subject to the jurisdiction of the Governor.

14 (8) (Blank).

15 (9) Procurement expenditures by the Illinois
16 Conservation Foundation when only private funds are used.

17 (10) (Blank).

18 (11) Public-private agreements entered into according
19 to the procurement requirements of Section 20 of the
20 Public-Private Partnerships for Transportation Act and
21 design-build agreements entered into according to the
22 procurement requirements of Section 25 of the
23 Public-Private Partnerships for Transportation Act.

24 (12) (A) Contracts for legal, financial, and other
25 professional and artistic services entered into by the
26 Illinois Finance Authority in which the State of Illinois

1 is not obligated. Such contracts shall be awarded through
2 a competitive process authorized by the members of the
3 Illinois Finance Authority and are subject to Sections
4 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,
5 as well as the final approval by the members of the
6 Illinois Finance Authority of the terms of the contract.

7 (B) Contracts for legal and financial services entered
8 into by the Illinois Housing Development Authority in
9 connection with the issuance of bonds in which the State
10 of Illinois is not obligated. Such contracts shall be
11 awarded through a competitive process authorized by the
12 members of the Illinois Housing Development Authority and
13 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
14 and 50-37 of this Code, as well as the final approval by
15 the members of the Illinois Housing Development Authority
16 of the terms of the contract.

17 (13) Contracts for services, commodities, and
18 equipment to support the delivery of timely forensic
19 science services in consultation with and subject to the
20 approval of the Chief Procurement Officer as provided in
21 subsection (d) of Section 5-4-3a of the Unified Code of
22 Corrections, except for the requirements of Sections
23 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
24 Code; however, the Chief Procurement Officer may, in
25 writing with justification, waive any certification
26 required under Article 50 of this Code. For any contracts

1 for services which are currently provided by members of a
2 collective bargaining agreement, the applicable terms of
3 the collective bargaining agreement concerning
4 subcontracting shall be followed.

5 On and after January 1, 2019, this paragraph (13),
6 except for this sentence, is inoperative.

7 (14) Contracts for participation expenditures required
8 by a domestic or international trade show or exhibition of
9 an exhibitor, member, or sponsor.

10 (15) Contracts with a railroad or utility that
11 requires the State to reimburse the railroad or utilities
12 for the relocation of utilities for construction or other
13 public purpose. Contracts included within this paragraph
14 (15) shall include, but not be limited to, those
15 associated with: relocations, crossings, installations,
16 and maintenance. For the purposes of this paragraph (15),
17 "railroad" means any form of non-highway ground
18 transportation that runs on rails or electromagnetic
19 guideways and "utility" means: (1) public utilities as
20 defined in Section 3-105 of the Public Utilities Act, (2)
21 telecommunications carriers as defined in Section 13-202
22 of the Public Utilities Act, (3) electric cooperatives as
23 defined in Section 3.4 of the Electric Supplier Act, (4)
24 telephone or telecommunications cooperatives as defined in
25 Section 13-212 of the Public Utilities Act, (5) rural
26 water or waste water systems with 10,000 connections or

1 less, (6) a holder as defined in Section 21-201 of the
2 Public Utilities Act, and (7) municipalities owning or
3 operating utility systems consisting of public utilities
4 as that term is defined in Section 11-117-2 of the
5 Illinois Municipal Code.

6 (16) Procurement expenditures necessary for the
7 Department of Public Health to provide the delivery of
8 timely newborn screening services in accordance with the
9 Newborn Metabolic Screening Act.

10 (17) Procurement expenditures necessary for the
11 Department of Agriculture, the Department of Financial and
12 Professional Regulation, the Department of Human Services,
13 and the Department of Public Health to implement the
14 Compassionate Use of Medical Cannabis Program and Opioid
15 Alternative Pilot Program requirements and ensure access
16 to medical cannabis for patients with debilitating medical
17 conditions in accordance with the Compassionate Use of
18 Medical Cannabis Program Act.

19 (18) This Code does not apply to any procurements
20 necessary for the Department of Agriculture, the
21 Department of Financial and Professional Regulation, the
22 Department of Human Services, the Department of Commerce
23 and Economic Opportunity, and the Department of Public
24 Health to implement the Cannabis Regulation and Tax Act if
25 the applicable agency has made a good faith determination
26 that it is necessary and appropriate for the expenditure

1 to fall within this exemption and if the process is
2 conducted in a manner substantially in accordance with the
3 requirements of Sections 20-160, 25-60, 30-22, 50-5,
4 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
5 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
6 Section 50-35, compliance applies only to contracts or
7 subcontracts over \$100,000. Notice of each contract
8 entered into under this paragraph (18) that is related to
9 the procurement of goods and services identified in
10 paragraph (1) through (9) of this subsection shall be
11 published in the Procurement Bulletin within 14 calendar
12 days after contract execution. The Chief Procurement
13 Officer shall prescribe the form and content of the
14 notice. Each agency shall provide the Chief Procurement
15 Officer, on a monthly basis, in the form and content
16 prescribed by the Chief Procurement Officer, a report of
17 contracts that are related to the procurement of goods and
18 services identified in this subsection. At a minimum, this
19 report shall include the name of the contractor, a
20 description of the supply or service provided, the total
21 amount of the contract, the term of the contract, and the
22 exception to this Code utilized. A copy of any or all of
23 these contracts shall be made available to the Chief
24 Procurement Officer immediately upon request. The Chief
25 Procurement Officer shall submit a report to the Governor
26 and General Assembly no later than November 1 of each year

1 that includes, at a minimum, an annual summary of the
2 monthly information reported to the Chief Procurement
3 Officer. This exemption becomes inoperative 5 years after
4 June 25, 2022 ~~June 25, 2019~~ (the effective date of Public
5 ~~Act 101-27~~).

6 (19) Acquisition of modifications or adjustments,
7 limited to assistive technology devices and assistive
8 technology services, adaptive equipment, repairs, and
9 replacement parts to provide reasonable accommodations (i)
10 that enable a qualified applicant with a disability to
11 complete the job application process and be considered for
12 the position such qualified applicant desires, (ii) that
13 modify or adjust the work environment to enable a
14 qualified current employee with a disability to perform
15 the essential functions of the position held by that
16 employee, (iii) to enable a qualified current employee
17 with a disability to enjoy equal benefits and privileges
18 of employment as are enjoyed by ~~its~~ other similarly
19 situated employees without disabilities, and (iv) that
20 allow a customer, client, claimant, or member of the
21 public seeking State services full use and enjoyment of
22 and access to its programs, services, or benefits.

23 For purposes of this paragraph (19):

24 "Assistive technology devices" means any item, piece
25 of equipment, or product system, whether acquired
26 commercially off the shelf, modified, or customized, that

1 is used to increase, maintain, or improve functional
2 capabilities of individuals with disabilities.

3 "Assistive technology services" means any service that
4 directly assists an individual with a disability in
5 selection, acquisition, or use of an assistive technology
6 device.

7 "Qualified" has the same meaning and use as provided
8 under the federal Americans with Disabilities Act when
9 describing an individual with a disability.

10 (20) ~~(19)~~ Procurement expenditures necessary for the
11 Illinois Commerce Commission to hire third-party
12 facilitators pursuant to Sections 16-105.17 and ~~Section~~
13 16-108.18 of the Public Utilities Act or an ombudsman
14 pursuant to Section 16-107.5 of the Public Utilities Act,
15 a facilitator pursuant to Section 16-105.17 of the Public
16 Utilities Act, or a grid auditor pursuant to Section
17 16-105.10 of the Public Utilities Act.

18 Notwithstanding any other provision of law, for contracts
19 entered into on or after October 1, 2017 under an exemption
20 provided in any paragraph of this subsection (b), except
21 paragraph (1), (2), or (5), each State agency shall post to the
22 appropriate procurement bulletin the name of the contractor, a
23 description of the supply or service provided, the total
24 amount of the contract, the term of the contract, and the
25 exception to the Code utilized. The chief procurement officer
26 shall submit a report to the Governor and General Assembly no

1 later than November 1 of each year that shall include, at a
2 minimum, an annual summary of the monthly information reported
3 to the chief procurement officer.

4 (c) This Code does not apply to the electric power
5 procurement process provided for under Section 1-75 of the
6 Illinois Power Agency Act and Section 16-111.5 of the Public
7 Utilities Act.

8 (d) Except for Section 20-160 and Article 50 of this Code,
9 and as expressly required by Section 9.1 of the Illinois
10 Lottery Law, the provisions of this Code do not apply to the
11 procurement process provided for under Section 9.1 of the
12 Illinois Lottery Law.

13 (e) This Code does not apply to the process used by the
14 Capital Development Board to retain a person or entity to
15 assist the Capital Development Board with its duties related
16 to the determination of costs of a clean coal SNG brownfield
17 facility, as defined by Section 1-10 of the Illinois Power
18 Agency Act, as required in subsection (h-3) of Section 9-220
19 of the Public Utilities Act, including calculating the range
20 of capital costs, the range of operating and maintenance
21 costs, or the sequestration costs or monitoring the
22 construction of clean coal SNG brownfield facility for the
23 full duration of construction.

24 (f) (Blank).

25 (g) (Blank).

26 (g-5) This Code does not apply to the leasing of

1 State-owned facilities by a wireless carrier, as defined in
2 Section 2 of the Emergency Telephone System Act, and does not
3 apply to the leasing of State-owned facilities by a cable
4 operator, a holder, or a provider of broadband services, as
5 those terms are defined by Section 21-201 of the Public
6 Utilities Act.

7 (h) This Code does not apply to the process to procure or
8 contracts entered into in accordance with Sections 11-5.2 and
9 11-5.3 of the Illinois Public Aid Code.

10 (i) Each chief procurement officer may access records
11 necessary to review whether a contract, purchase, or other
12 expenditure is or is not subject to the provisions of this
13 Code, unless such records would be subject to attorney-client
14 privilege.

15 (j) This Code does not apply to the process used by the
16 Capital Development Board to retain an artist or work or works
17 of art as required in Section 14 of the Capital Development
18 Board Act.

19 (k) This Code does not apply to the process to procure
20 contracts, or contracts entered into, by the State Board of
21 Elections or the State Electoral Board for hearing officers
22 appointed pursuant to the Election Code.

23 (l) This Code does not apply to the processes used by the
24 Illinois Student Assistance Commission to procure supplies and
25 services paid for from the private funds of the Illinois
26 Prepaid Tuition Fund. As used in this subsection (l), "private

1 funds" means funds derived from deposits paid into the
2 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

3 (m) This Code shall apply regardless of the source of
4 funds with which contracts are paid, including federal
5 assistance moneys. Except as specifically provided in this
6 Code, this Code shall not apply to procurement expenditures
7 necessary for the Department of Public Health to conduct the
8 Healthy Illinois Survey in accordance with Section 2310-431 of
9 the Department of Public Health Powers and Duties Law of the
10 Civil Administrative Code of Illinois.

11 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
12 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff
13 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662,
14 eff. 9-15-21; revised 11-23-21.)

15 Section 5. The Illinois Income Tax Act is amended by
16 changing Section 201 as follows:

17 (35 ILCS 5/201)

18 Sec. 201. Tax imposed.

19 (a) In general. A tax measured by net income is hereby
20 imposed on every individual, corporation, trust and estate for
21 each taxable year ending after July 31, 1969 on the privilege
22 of earning or receiving income in or as a resident of this
23 State. Such tax shall be in addition to all other occupation or
24 privilege taxes imposed by this State or by any municipal

1 corporation or political subdivision thereof.

2 (b) Rates. The tax imposed by subsection (a) of this
3 Section shall be determined as follows, except as adjusted by
4 subsection (d-1):

5 (1) In the case of an individual, trust or estate, for
6 taxable years ending prior to July 1, 1989, an amount
7 equal to 2 1/2% of the taxpayer's net income for the
8 taxable year.

9 (2) In the case of an individual, trust or estate, for
10 taxable years beginning prior to July 1, 1989 and ending
11 after June 30, 1989, an amount equal to the sum of (i) 2
12 1/2% of the taxpayer's net income for the period prior to
13 July 1, 1989, as calculated under Section 202.3, and (ii)
14 3% of the taxpayer's net income for the period after June
15 30, 1989, as calculated under Section 202.3.

16 (3) In the case of an individual, trust or estate, for
17 taxable years beginning after June 30, 1989, and ending
18 prior to January 1, 2011, an amount equal to 3% of the
19 taxpayer's net income for the taxable year.

20 (4) In the case of an individual, trust, or estate,
21 for taxable years beginning prior to January 1, 2011, and
22 ending after December 31, 2010, an amount equal to the sum
23 of (i) 3% of the taxpayer's net income for the period prior
24 to January 1, 2011, as calculated under Section 202.5, and
25 (ii) 5% of the taxpayer's net income for the period after
26 December 31, 2010, as calculated under Section 202.5.

1 (5) In the case of an individual, trust, or estate,
2 for taxable years beginning on or after January 1, 2011,
3 and ending prior to January 1, 2015, an amount equal to 5%
4 of the taxpayer's net income for the taxable year.

5 (5.1) In the case of an individual, trust, or estate,
6 for taxable years beginning prior to January 1, 2015, and
7 ending after December 31, 2014, an amount equal to the sum
8 of (i) 5% of the taxpayer's net income for the period prior
9 to January 1, 2015, as calculated under Section 202.5, and
10 (ii) 3.75% of the taxpayer's net income for the period
11 after December 31, 2014, as calculated under Section
12 202.5.

13 (5.2) In the case of an individual, trust, or estate,
14 for taxable years beginning on or after January 1, 2015,
15 and ending prior to July 1, 2017, an amount equal to 3.75%
16 of the taxpayer's net income for the taxable year.

17 (5.3) In the case of an individual, trust, or estate,
18 for taxable years beginning prior to July 1, 2017, and
19 ending after June 30, 2017, an amount equal to the sum of
20 (i) 3.75% of the taxpayer's net income for the period
21 prior to July 1, 2017, as calculated under Section 202.5,
22 and (ii) 4.95% of the taxpayer's net income for the period
23 after June 30, 2017, as calculated under Section 202.5.

24 (5.4) In the case of an individual, trust, or estate,
25 for taxable years beginning on or after July 1, 2017, an
26 amount equal to 4.95% of the taxpayer's net income for the

1 taxable year.

2 (6) In the case of a corporation, for taxable years
3 ending prior to July 1, 1989, an amount equal to 4% of the
4 taxpayer's net income for the taxable year.

5 (7) In the case of a corporation, for taxable years
6 beginning prior to July 1, 1989 and ending after June 30,
7 1989, an amount equal to the sum of (i) 4% of the
8 taxpayer's net income for the period prior to July 1,
9 1989, as calculated under Section 202.3, and (ii) 4.8% of
10 the taxpayer's net income for the period after June 30,
11 1989, as calculated under Section 202.3.

12 (8) In the case of a corporation, for taxable years
13 beginning after June 30, 1989, and ending prior to January
14 1, 2011, an amount equal to 4.8% of the taxpayer's net
15 income for the taxable year.

16 (9) In the case of a corporation, for taxable years
17 beginning prior to January 1, 2011, and ending after
18 December 31, 2010, an amount equal to the sum of (i) 4.8%
19 of the taxpayer's net income for the period prior to
20 January 1, 2011, as calculated under Section 202.5, and
21 (ii) 7% of the taxpayer's net income for the period after
22 December 31, 2010, as calculated under Section 202.5.

23 (10) In the case of a corporation, for taxable years
24 beginning on or after January 1, 2011, and ending prior to
25 January 1, 2015, an amount equal to 7% of the taxpayer's
26 net income for the taxable year.

1 (11) In the case of a corporation, for taxable years
2 beginning prior to January 1, 2015, and ending after
3 December 31, 2014, an amount equal to the sum of (i) 7% of
4 the taxpayer's net income for the period prior to January
5 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
6 of the taxpayer's net income for the period after December
7 31, 2014, as calculated under Section 202.5.

8 (12) In the case of a corporation, for taxable years
9 beginning on or after January 1, 2015, and ending prior to
10 July 1, 2017, an amount equal to 5.25% of the taxpayer's
11 net income for the taxable year.

12 (13) In the case of a corporation, for taxable years
13 beginning prior to July 1, 2017, and ending after June 30,
14 2017, an amount equal to the sum of (i) 5.25% of the
15 taxpayer's net income for the period prior to July 1,
16 2017, as calculated under Section 202.5, and (ii) 7% of
17 the taxpayer's net income for the period after June 30,
18 2017, as calculated under Section 202.5.

19 (14) In the case of a corporation, for taxable years
20 beginning on or after July 1, 2017, an amount equal to 7%
21 of the taxpayer's net income for the taxable year.

22 The rates under this subsection (b) are subject to the
23 provisions of Section 201.5.

24 (b-5) Surcharge; sale or exchange of assets, properties,
25 and intangibles of organization gaming licensees. For each of
26 taxable years 2019 through 2027, a surcharge is imposed on all

1 taxpayers on income arising from the sale or exchange of
2 capital assets, depreciable business property, real property
3 used in the trade or business, and Section 197 intangibles (i)
4 of an organization licensee under the Illinois Horse Racing
5 Act of 1975 and (ii) of an organization gaming licensee under
6 the Illinois Gambling Act. The amount of the surcharge is
7 equal to the amount of federal income tax liability for the
8 taxable year attributable to those sales and exchanges. The
9 surcharge imposed shall not apply if:

10 (1) the organization gaming license, organization
11 license, or racetrack property is transferred as a result
12 of any of the following:

13 (A) bankruptcy, a receivership, or a debt
14 adjustment initiated by or against the initial
15 licensee or the substantial owners of the initial
16 licensee;

17 (B) cancellation, revocation, or termination of
18 any such license by the Illinois Gaming Board or the
19 Illinois Racing Board;

20 (C) a determination by the Illinois Gaming Board
21 that transfer of the license is in the best interests
22 of Illinois gaming;

23 (D) the death of an owner of the equity interest in
24 a licensee;

25 (E) the acquisition of a controlling interest in
26 the stock or substantially all of the assets of a

1 publicly traded company;

2 (F) a transfer by a parent company to a wholly
3 owned subsidiary; or

4 (G) the transfer or sale to or by one person to
5 another person where both persons were initial owners
6 of the license when the license was issued; or

7 (2) the controlling interest in the organization
8 gaming license, organization license, or racetrack
9 property is transferred in a transaction to lineal
10 descendants in which no gain or loss is recognized or as a
11 result of a transaction in accordance with Section 351 of
12 the Internal Revenue Code in which no gain or loss is
13 recognized; or

14 (3) live horse racing was not conducted in 2010 at a
15 racetrack located within 3 miles of the Mississippi River
16 under a license issued pursuant to the Illinois Horse
17 Racing Act of 1975.

18 The transfer of an organization gaming license,
19 organization license, or racetrack property by a person other
20 than the initial licensee to receive the organization gaming
21 license is not subject to a surcharge. The Department shall
22 adopt rules necessary to implement and administer this
23 subsection.

24 (c) Personal Property Tax Replacement Income Tax.
25 Beginning on July 1, 1979 and thereafter, in addition to such
26 income tax, there is also hereby imposed the Personal Property

1 Tax Replacement Income Tax measured by net income on every
2 corporation (including Subchapter S corporations), partnership
3 and trust, for each taxable year ending after June 30, 1979.
4 Such taxes are imposed on the privilege of earning or
5 receiving income in or as a resident of this State. The
6 Personal Property Tax Replacement Income Tax shall be in
7 addition to the income tax imposed by subsections (a) and (b)
8 of this Section and in addition to all other occupation or
9 privilege taxes imposed by this State or by any municipal
10 corporation or political subdivision thereof.

11 (d) Additional Personal Property Tax Replacement Income
12 Tax Rates. The personal property tax replacement income tax
13 imposed by this subsection and subsection (c) of this Section
14 in the case of a corporation, other than a Subchapter S
15 corporation and except as adjusted by subsection (d-1), shall
16 be an additional amount equal to 2.85% of such taxpayer's net
17 income for the taxable year, except that beginning on January
18 1, 1981, and thereafter, the rate of 2.85% specified in this
19 subsection shall be reduced to 2.5%, and in the case of a
20 partnership, trust or a Subchapter S corporation shall be an
21 additional amount equal to 1.5% of such taxpayer's net income
22 for the taxable year.

23 (d-1) Rate reduction for certain foreign insurers. In the
24 case of a foreign insurer, as defined by Section 35A-5 of the
25 Illinois Insurance Code, whose state or country of domicile
26 imposes on insurers domiciled in Illinois a retaliatory tax

1 (excluding any insurer whose premiums from reinsurance assumed
2 are 50% or more of its total insurance premiums as determined
3 under paragraph (2) of subsection (b) of Section 304, except
4 that for purposes of this determination premiums from
5 reinsurance do not include premiums from inter-affiliate
6 reinsurance arrangements), beginning with taxable years ending
7 on or after December 31, 1999, the sum of the rates of tax
8 imposed by subsections (b) and (d) shall be reduced (but not
9 increased) to the rate at which the total amount of tax imposed
10 under this Act, net of all credits allowed under this Act,
11 shall equal (i) the total amount of tax that would be imposed
12 on the foreign insurer's net income allocable to Illinois for
13 the taxable year by such foreign insurer's state or country of
14 domicile if that net income were subject to all income taxes
15 and taxes measured by net income imposed by such foreign
16 insurer's state or country of domicile, net of all credits
17 allowed or (ii) a rate of zero if no such tax is imposed on
18 such income by the foreign insurer's state of domicile. For
19 the purposes of this subsection (d-1), an inter-affiliate
20 includes a mutual insurer under common management.

21 (1) For the purposes of subsection (d-1), in no event
22 shall the sum of the rates of tax imposed by subsections
23 (b) and (d) be reduced below the rate at which the sum of:

24 (A) the total amount of tax imposed on such
25 foreign insurer under this Act for a taxable year, net
26 of all credits allowed under this Act, plus

1 (B) the privilege tax imposed by Section 409 of
2 the Illinois Insurance Code, the fire insurance
3 company tax imposed by Section 12 of the Fire
4 Investigation Act, and the fire department taxes
5 imposed under Section 11-10-1 of the Illinois
6 Municipal Code,

7 equals 1.25% for taxable years ending prior to December
8 31, 2003, or 1.75% for taxable years ending on or after
9 December 31, 2003, of the net taxable premiums written for
10 the taxable year, as described by subsection (1) of
11 Section 409 of the Illinois Insurance Code. This paragraph
12 will in no event increase the rates imposed under
13 subsections (b) and (d).

14 (2) Any reduction in the rates of tax imposed by this
15 subsection shall be applied first against the rates
16 imposed by subsection (b) and only after the tax imposed
17 by subsection (a) net of all credits allowed under this
18 Section other than the credit allowed under subsection (i)
19 has been reduced to zero, against the rates imposed by
20 subsection (d).

21 This subsection (d-1) is exempt from the provisions of
22 Section 250.

23 (e) Investment credit. A taxpayer shall be allowed a
24 credit against the Personal Property Tax Replacement Income
25 Tax for investment in qualified property.

26 (1) A taxpayer shall be allowed a credit equal to .5%

1 of the basis of qualified property placed in service
2 during the taxable year, provided such property is placed
3 in service on or after July 1, 1984. There shall be allowed
4 an additional credit equal to .5% of the basis of
5 qualified property placed in service during the taxable
6 year, provided such property is placed in service on or
7 after July 1, 1986, and the taxpayer's base employment
8 within Illinois has increased by 1% or more over the
9 preceding year as determined by the taxpayer's employment
10 records filed with the Illinois Department of Employment
11 Security. Taxpayers who are new to Illinois shall be
12 deemed to have met the 1% growth in base employment for the
13 first year in which they file employment records with the
14 Illinois Department of Employment Security. The provisions
15 added to this Section by Public Act 85-1200 (and restored
16 by Public Act 87-895) shall be construed as declaratory of
17 existing law and not as a new enactment. If, in any year,
18 the increase in base employment within Illinois over the
19 preceding year is less than 1%, the additional credit
20 shall be limited to that percentage times a fraction, the
21 numerator of which is .5% and the denominator of which is
22 1%, but shall not exceed .5%. The investment credit shall
23 not be allowed to the extent that it would reduce a
24 taxpayer's liability in any tax year below zero, nor may
25 any credit for qualified property be allowed for any year
26 other than the year in which the property was placed in

1 service in Illinois. For tax years ending on or after
2 December 31, 1987, and on or before December 31, 1988, the
3 credit shall be allowed for the tax year in which the
4 property is placed in service, or, if the amount of the
5 credit exceeds the tax liability for that year, whether it
6 exceeds the original liability or the liability as later
7 amended, such excess may be carried forward and applied to
8 the tax liability of the 5 taxable years following the
9 excess credit years if the taxpayer (i) makes investments
10 which cause the creation of a minimum of 2,000 full-time
11 equivalent jobs in Illinois, (ii) is located in an
12 enterprise zone established pursuant to the Illinois
13 Enterprise Zone Act and (iii) is certified by the
14 Department of Commerce and Community Affairs (now
15 Department of Commerce and Economic Opportunity) as
16 complying with the requirements specified in clause (i)
17 and (ii) by July 1, 1986. The Department of Commerce and
18 Community Affairs (now Department of Commerce and Economic
19 Opportunity) shall notify the Department of Revenue of all
20 such certifications immediately. For tax years ending
21 after December 31, 1988, the credit shall be allowed for
22 the tax year in which the property is placed in service,
23 or, if the amount of the credit exceeds the tax liability
24 for that year, whether it exceeds the original liability
25 or the liability as later amended, such excess may be
26 carried forward and applied to the tax liability of the 5

1 taxable years following the excess credit years. The
2 credit shall be applied to the earliest year for which
3 there is a liability. If there is credit from more than one
4 tax year that is available to offset a liability, earlier
5 credit shall be applied first.

6 (2) The term "qualified property" means property
7 which:

8 (A) is tangible, whether new or used, including
9 buildings and structural components of buildings and
10 signs that are real property, but not including land
11 or improvements to real property that are not a
12 structural component of a building such as
13 landscaping, sewer lines, local access roads, fencing,
14 parking lots, and other appurtenances;

15 (B) is depreciable pursuant to Section 167 of the
16 Internal Revenue Code, except that "3-year property"
17 as defined in Section 168(c)(2)(A) of that Code is not
18 eligible for the credit provided by this subsection
19 (e);

20 (C) is acquired by purchase as defined in Section
21 179(d) of the Internal Revenue Code;

22 (D) is used in Illinois by a taxpayer who is
23 primarily engaged in manufacturing, or in mining coal
24 or fluorite, or in retailing, or was placed in service
25 on or after July 1, 2006 in a River Edge Redevelopment
26 Zone established pursuant to the River Edge

1 Redevelopment Zone Act; and

2 (E) has not previously been used in Illinois in
3 such a manner and by such a person as would qualify for
4 the credit provided by this subsection (e) or
5 subsection (f).

6 (3) For purposes of this subsection (e),
7 "manufacturing" means the material staging and production
8 of tangible personal property by procedures commonly
9 regarded as manufacturing, processing, fabrication, or
10 assembling which changes some existing material into new
11 shapes, new qualities, or new combinations. For purposes
12 of this subsection (e) the term "mining" shall have the
13 same meaning as the term "mining" in Section 613(c) of the
14 Internal Revenue Code. For purposes of this subsection
15 (e), the term "retailing" means the sale of tangible
16 personal property for use or consumption and not for
17 resale, or services rendered in conjunction with the sale
18 of tangible personal property for use or consumption and
19 not for resale. For purposes of this subsection (e),
20 "tangible personal property" has the same meaning as when
21 that term is used in the Retailers' Occupation Tax Act,
22 and, for taxable years ending after December 31, 2008,
23 does not include the generation, transmission, or
24 distribution of electricity.

25 (4) The basis of qualified property shall be the basis
26 used to compute the depreciation deduction for federal

1 income tax purposes.

2 (5) If the basis of the property for federal income
3 tax depreciation purposes is increased after it has been
4 placed in service in Illinois by the taxpayer, the amount
5 of such increase shall be deemed property placed in
6 service on the date of such increase in basis.

7 (6) The term "placed in service" shall have the same
8 meaning as under Section 46 of the Internal Revenue Code.

9 (7) If during any taxable year, any property ceases to
10 be qualified property in the hands of the taxpayer within
11 48 months after being placed in service, or the situs of
12 any qualified property is moved outside Illinois within 48
13 months after being placed in service, the Personal
14 Property Tax Replacement Income Tax for such taxable year
15 shall be increased. Such increase shall be determined by
16 (i) recomputing the investment credit which would have
17 been allowed for the year in which credit for such
18 property was originally allowed by eliminating such
19 property from such computation and, (ii) subtracting such
20 recomputed credit from the amount of credit previously
21 allowed. For the purposes of this paragraph (7), a
22 reduction of the basis of qualified property resulting
23 from a redetermination of the purchase price shall be
24 deemed a disposition of qualified property to the extent
25 of such reduction.

26 (8) Unless the investment credit is extended by law,

1 the basis of qualified property shall not include costs
2 incurred after December 31, 2018, except for costs
3 incurred pursuant to a binding contract entered into on or
4 before December 31, 2018.

5 (9) Each taxable year ending before December 31, 2000,
6 a partnership may elect to pass through to its partners
7 the credits to which the partnership is entitled under
8 this subsection (e) for the taxable year. A partner may
9 use the credit allocated to him or her under this
10 paragraph only against the tax imposed in subsections (c)
11 and (d) of this Section. If the partnership makes that
12 election, those credits shall be allocated among the
13 partners in the partnership in accordance with the rules
14 set forth in Section 704(b) of the Internal Revenue Code,
15 and the rules promulgated under that Section, and the
16 allocated amount of the credits shall be allowed to the
17 partners for that taxable year. The partnership shall make
18 this election on its Personal Property Tax Replacement
19 Income Tax return for that taxable year. The election to
20 pass through the credits shall be irrevocable.

21 For taxable years ending on or after December 31,
22 2000, a partner that qualifies its partnership for a
23 subtraction under subparagraph (I) of paragraph (2) of
24 subsection (d) of Section 203 or a shareholder that
25 qualifies a Subchapter S corporation for a subtraction
26 under subparagraph (S) of paragraph (2) of subsection (b)

1 of Section 203 shall be allowed a credit under this
2 subsection (e) equal to its share of the credit earned
3 under this subsection (e) during the taxable year by the
4 partnership or Subchapter S corporation, determined in
5 accordance with the determination of income and
6 distributive share of income under Sections 702 and 704
7 and Subchapter S of the Internal Revenue Code. This
8 paragraph is exempt from the provisions of Section 250.

9 (f) Investment credit; Enterprise Zone; River Edge
10 Redevelopment Zone.

11 (1) A taxpayer shall be allowed a credit against the
12 tax imposed by subsections (a) and (b) of this Section for
13 investment in qualified property which is placed in
14 service in an Enterprise Zone created pursuant to the
15 Illinois Enterprise Zone Act or, for property placed in
16 service on or after July 1, 2006, a River Edge
17 Redevelopment Zone established pursuant to the River Edge
18 Redevelopment Zone Act. For partners, shareholders of
19 Subchapter S corporations, and owners of limited liability
20 companies, if the liability company is treated as a
21 partnership for purposes of federal and State income
22 taxation, there shall be allowed a credit under this
23 subsection (f) to be determined in accordance with the
24 determination of income and distributive share of income
25 under Sections 702 and 704 and Subchapter S of the
26 Internal Revenue Code. The credit shall be .5% of the

1 basis for such property. The credit shall be available
2 only in the taxable year in which the property is placed in
3 service in the Enterprise Zone or River Edge Redevelopment
4 Zone and shall not be allowed to the extent that it would
5 reduce a taxpayer's liability for the tax imposed by
6 subsections (a) and (b) of this Section to below zero. For
7 tax years ending on or after December 31, 1985, the credit
8 shall be allowed for the tax year in which the property is
9 placed in service, or, if the amount of the credit exceeds
10 the tax liability for that year, whether it exceeds the
11 original liability or the liability as later amended, such
12 excess may be carried forward and applied to the tax
13 liability of the 5 taxable years following the excess
14 credit year. The credit shall be applied to the earliest
15 year for which there is a liability. If there is credit
16 from more than one tax year that is available to offset a
17 liability, the credit accruing first in time shall be
18 applied first.

19 (2) The term qualified property means property which:

20 (A) is tangible, whether new or used, including
21 buildings and structural components of buildings;

22 (B) is depreciable pursuant to Section 167 of the
23 Internal Revenue Code, except that "3-year property"
24 as defined in Section 168(c)(2)(A) of that Code is not
25 eligible for the credit provided by this subsection
26 (f);

1 (C) is acquired by purchase as defined in Section
2 179(d) of the Internal Revenue Code;

3 (D) is used in the Enterprise Zone or River Edge
4 Redevelopment Zone by the taxpayer; and

5 (E) has not been previously used in Illinois in
6 such a manner and by such a person as would qualify for
7 the credit provided by this subsection (f) or
8 subsection (e).

9 (3) The basis of qualified property shall be the basis
10 used to compute the depreciation deduction for federal
11 income tax purposes.

12 (4) If the basis of the property for federal income
13 tax depreciation purposes is increased after it has been
14 placed in service in the Enterprise Zone or River Edge
15 Redevelopment Zone by the taxpayer, the amount of such
16 increase shall be deemed property placed in service on the
17 date of such increase in basis.

18 (5) The term "placed in service" shall have the same
19 meaning as under Section 46 of the Internal Revenue Code.

20 (6) If during any taxable year, any property ceases to
21 be qualified property in the hands of the taxpayer within
22 48 months after being placed in service, or the situs of
23 any qualified property is moved outside the Enterprise
24 Zone or River Edge Redevelopment Zone within 48 months
25 after being placed in service, the tax imposed under
26 subsections (a) and (b) of this Section for such taxable

1 year shall be increased. Such increase shall be determined
2 by (i) recomputing the investment credit which would have
3 been allowed for the year in which credit for such
4 property was originally allowed by eliminating such
5 property from such computation, and (ii) subtracting such
6 recomputed credit from the amount of credit previously
7 allowed. For the purposes of this paragraph (6), a
8 reduction of the basis of qualified property resulting
9 from a redetermination of the purchase price shall be
10 deemed a disposition of qualified property to the extent
11 of such reduction.

12 (7) There shall be allowed an additional credit equal
13 to 0.5% of the basis of qualified property placed in
14 service during the taxable year in a River Edge
15 Redevelopment Zone, provided such property is placed in
16 service on or after July 1, 2006, and the taxpayer's base
17 employment within Illinois has increased by 1% or more
18 over the preceding year as determined by the taxpayer's
19 employment records filed with the Illinois Department of
20 Employment Security. Taxpayers who are new to Illinois
21 shall be deemed to have met the 1% growth in base
22 employment for the first year in which they file
23 employment records with the Illinois Department of
24 Employment Security. If, in any year, the increase in base
25 employment within Illinois over the preceding year is less
26 than 1%, the additional credit shall be limited to that

1 percentage times a fraction, the numerator of which is
2 0.5% and the denominator of which is 1%, but shall not
3 exceed 0.5%.

4 (8) For taxable years beginning on or after January 1,
5 2021, there shall be allowed an Enterprise Zone
6 construction jobs credit against the taxes imposed under
7 subsections (a) and (b) of this Section as provided in
8 Section 13 of the Illinois Enterprise Zone Act.

9 The credit or credits may not reduce the taxpayer's
10 liability to less than zero. If the amount of the credit or
11 credits exceeds the taxpayer's liability, the excess may
12 be carried forward and applied against the taxpayer's
13 liability in succeeding calendar years in the same manner
14 provided under paragraph (4) of Section 211 of this Act.
15 The credit or credits shall be applied to the earliest
16 year for which there is a tax liability. If there are
17 credits from more than one taxable year that are available
18 to offset a liability, the earlier credit shall be applied
19 first.

20 For partners, shareholders of Subchapter S
21 corporations, and owners of limited liability companies,
22 if the liability company is treated as a partnership for
23 the purposes of federal and State income taxation, there
24 shall be allowed a credit under this Section to be
25 determined in accordance with the determination of income
26 and distributive share of income under Sections 702 and

1 704 and Subchapter S of the Internal Revenue Code.

2 The total aggregate amount of credits awarded under
3 the Blue Collar Jobs Act (Article 20 of Public Act 101-9)
4 shall not exceed \$20,000,000 in any State fiscal year.

5 This paragraph (8) is exempt from the provisions of
6 Section 250.

7 (g) (Blank).

8 (h) Investment credit; High Impact Business.

9 (1) Subject to subsections (b) and (b-5) of Section
10 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall
11 be allowed a credit against the tax imposed by subsections
12 (a) and (b) of this Section for investment in qualified
13 property which is placed in service by a Department of
14 Commerce and Economic Opportunity designated High Impact
15 Business. The credit shall be .5% of the basis for such
16 property. The credit shall not be available (i) until the
17 minimum investments in qualified property set forth in
18 subdivision (a)(3)(A) of Section 5.5 of the Illinois
19 Enterprise Zone Act have been satisfied or (ii) until the
20 time authorized in subsection (b-5) of the Illinois
21 Enterprise Zone Act for entities designated as High Impact
22 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
23 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
24 Act, and shall not be allowed to the extent that it would
25 reduce a taxpayer's liability for the tax imposed by
26 subsections (a) and (b) of this Section to below zero. The

1 credit applicable to such investments shall be taken in
2 the taxable year in which such investments have been
3 completed. The credit for additional investments beyond
4 the minimum investment by a designated high impact
5 business authorized under subdivision (a)(3)(A) of Section
6 5.5 of the Illinois Enterprise Zone Act shall be available
7 only in the taxable year in which the property is placed in
8 service and shall not be allowed to the extent that it
9 would reduce a taxpayer's liability for the tax imposed by
10 subsections (a) and (b) of this Section to below zero. For
11 tax years ending on or after December 31, 1987, the credit
12 shall be allowed for the tax year in which the property is
13 placed in service, or, if the amount of the credit exceeds
14 the tax liability for that year, whether it exceeds the
15 original liability or the liability as later amended, such
16 excess may be carried forward and applied to the tax
17 liability of the 5 taxable years following the excess
18 credit year. The credit shall be applied to the earliest
19 year for which there is a liability. If there is credit
20 from more than one tax year that is available to offset a
21 liability, the credit accruing first in time shall be
22 applied first.

23 Changes made in this subdivision (h)(1) by Public Act
24 88-670 restore changes made by Public Act 85-1182 and
25 reflect existing law.

26 (2) The term qualified property means property which:

1 (A) is tangible, whether new or used, including
2 buildings and structural components of buildings;

3 (B) is depreciable pursuant to Section 167 of the
4 Internal Revenue Code, except that "3-year property"
5 as defined in Section 168(c)(2)(A) of that Code is not
6 eligible for the credit provided by this subsection
7 (h);

8 (C) is acquired by purchase as defined in Section
9 179(d) of the Internal Revenue Code; and

10 (D) is not eligible for the Enterprise Zone
11 Investment Credit provided by subsection (f) of this
12 Section.

13 (3) The basis of qualified property shall be the basis
14 used to compute the depreciation deduction for federal
15 income tax purposes.

16 (4) If the basis of the property for federal income
17 tax depreciation purposes is increased after it has been
18 placed in service in a federally designated Foreign Trade
19 Zone or Sub-Zone located in Illinois by the taxpayer, the
20 amount of such increase shall be deemed property placed in
21 service on the date of such increase in basis.

22 (5) The term "placed in service" shall have the same
23 meaning as under Section 46 of the Internal Revenue Code.

24 (6) If during any taxable year ending on or before
25 December 31, 1996, any property ceases to be qualified
26 property in the hands of the taxpayer within 48 months

1 after being placed in service, or the situs of any
2 qualified property is moved outside Illinois within 48
3 months after being placed in service, the tax imposed
4 under subsections (a) and (b) of this Section for such
5 taxable year shall be increased. Such increase shall be
6 determined by (i) recomputing the investment credit which
7 would have been allowed for the year in which credit for
8 such property was originally allowed by eliminating such
9 property from such computation, and (ii) subtracting such
10 recomputed credit from the amount of credit previously
11 allowed. For the purposes of this paragraph (6), a
12 reduction of the basis of qualified property resulting
13 from a redetermination of the purchase price shall be
14 deemed a disposition of qualified property to the extent
15 of such reduction.

16 (7) Beginning with tax years ending after December 31,
17 1996, if a taxpayer qualifies for the credit under this
18 subsection (h) and thereby is granted a tax abatement and
19 the taxpayer relocates its entire facility in violation of
20 the explicit terms and length of the contract under
21 Section 18-183 of the Property Tax Code, the tax imposed
22 under subsections (a) and (b) of this Section shall be
23 increased for the taxable year in which the taxpayer
24 relocated its facility by an amount equal to the amount of
25 credit received by the taxpayer under this subsection (h).

26 (h-5) High Impact Business construction jobs credit. For

1 taxable years beginning on or after January 1, 2021, there
2 shall also be allowed a High Impact Business construction jobs
3 credit against the tax imposed under subsections (a) and (b)
4 of this Section as provided in subsections (i) and (j) of
5 Section 5.5 of the Illinois Enterprise Zone Act.

6 The credit or credits may not reduce the taxpayer's
7 liability to less than zero. If the amount of the credit or
8 credits exceeds the taxpayer's liability, the excess may be
9 carried forward and applied against the taxpayer's liability
10 in succeeding calendar years in the manner provided under
11 paragraph (4) of Section 211 of this Act. The credit or credits
12 shall be applied to the earliest year for which there is a tax
13 liability. If there are credits from more than one taxable
14 year that are available to offset a liability, the earlier
15 credit shall be applied first.

16 For partners, shareholders of Subchapter S corporations,
17 and owners of limited liability companies, if the liability
18 company is treated as a partnership for the purposes of
19 federal and State income taxation, there shall be allowed a
20 credit under this Section to be determined in accordance with
21 the determination of income and distributive share of income
22 under Sections 702 and 704 and Subchapter S of the Internal
23 Revenue Code.

24 The total aggregate amount of credits awarded under the
25 Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not
26 exceed \$20,000,000 in any State fiscal year.

1 This subsection (h-5) is exempt from the provisions of
2 Section 250.

3 (i) Credit for Personal Property Tax Replacement Income
4 Tax. For tax years ending prior to December 31, 2003, a credit
5 shall be allowed against the tax imposed by subsections (a)
6 and (b) of this Section for the tax imposed by subsections (c)
7 and (d) of this Section. This credit shall be computed by
8 multiplying the tax imposed by subsections (c) and (d) of this
9 Section by a fraction, the numerator of which is base income
10 allocable to Illinois and the denominator of which is Illinois
11 base income, and further multiplying the product by the tax
12 rate imposed by subsections (a) and (b) of this Section.

13 Any credit earned on or after December 31, 1986 under this
14 subsection which is unused in the year the credit is computed
15 because it exceeds the tax liability imposed by subsections
16 (a) and (b) for that year (whether it exceeds the original
17 liability or the liability as later amended) may be carried
18 forward and applied to the tax liability imposed by
19 subsections (a) and (b) of the 5 taxable years following the
20 excess credit year, provided that no credit may be carried
21 forward to any year ending on or after December 31, 2003. This
22 credit shall be applied first to the earliest year for which
23 there is a liability. If there is a credit under this
24 subsection from more than one tax year that is available to
25 offset a liability the earliest credit arising under this
26 subsection shall be applied first.

1 If, during any taxable year ending on or after December
2 31, 1986, the tax imposed by subsections (c) and (d) of this
3 Section for which a taxpayer has claimed a credit under this
4 subsection (i) is reduced, the amount of credit for such tax
5 shall also be reduced. Such reduction shall be determined by
6 recomputing the credit to take into account the reduced tax
7 imposed by subsections (c) and (d). If any portion of the
8 reduced amount of credit has been carried to a different
9 taxable year, an amended return shall be filed for such
10 taxable year to reduce the amount of credit claimed.

11 (j) Training expense credit. Beginning with tax years
12 ending on or after December 31, 1986 and prior to December 31,
13 2003, a taxpayer shall be allowed a credit against the tax
14 imposed by subsections (a) and (b) under this Section for all
15 amounts paid or accrued, on behalf of all persons employed by
16 the taxpayer in Illinois or Illinois residents employed
17 outside of Illinois by a taxpayer, for educational or
18 vocational training in semi-technical or technical fields or
19 semi-skilled or skilled fields, which were deducted from gross
20 income in the computation of taxable income. The credit
21 against the tax imposed by subsections (a) and (b) shall be
22 1.6% of such training expenses. For partners, shareholders of
23 subchapter S corporations, and owners of limited liability
24 companies, if the liability company is treated as a
25 partnership for purposes of federal and State income taxation,
26 there shall be allowed a credit under this subsection (j) to be

1 determined in accordance with the determination of income and
2 distributive share of income under Sections 702 and 704 and
3 subchapter S of the Internal Revenue Code.

4 Any credit allowed under this subsection which is unused
5 in the year the credit is earned may be carried forward to each
6 of the 5 taxable years following the year for which the credit
7 is first computed until it is used. This credit shall be
8 applied first to the earliest year for which there is a
9 liability. If there is a credit under this subsection from
10 more than one tax year that is available to offset a liability,
11 the earliest credit arising under this subsection shall be
12 applied first. No carryforward credit may be claimed in any
13 tax year ending on or after December 31, 2003.

14 (k) Research and development credit. For tax years ending
15 after July 1, 1990 and prior to December 31, 2003, and
16 beginning again for tax years ending on or after December 31,
17 2004, and ending prior to January 1, 2027, a taxpayer shall be
18 allowed a credit against the tax imposed by subsections (a)
19 and (b) of this Section for increasing research activities in
20 this State. The credit allowed against the tax imposed by
21 subsections (a) and (b) shall be equal to 6 1/2% of the
22 qualifying expenditures for increasing research activities in
23 this State. For partners, shareholders of subchapter S
24 corporations, and owners of limited liability companies, if
25 the liability company is treated as a partnership for purposes
26 of federal and State income taxation, there shall be allowed a

1 credit under this subsection to be determined in accordance
2 with the determination of income and distributive share of
3 income under Sections 702 and 704 and subchapter S of the
4 Internal Revenue Code.

5 For purposes of this subsection, "qualifying expenditures"
6 means the qualifying expenditures as defined for the federal
7 credit for increasing research activities which would be
8 allowable under Section 41 of the Internal Revenue Code and
9 which are conducted in this State, "qualifying expenditures
10 for increasing research activities in this State" means the
11 excess of qualifying expenditures for the taxable year in
12 which incurred over qualifying expenditures for the base
13 period, "qualifying expenditures for the base period" means
14 the average of the qualifying expenditures for each year in
15 the base period, and "base period" means the 3 taxable years
16 immediately preceding the taxable year for which the
17 determination is being made.

18 Any credit in excess of the tax liability for the taxable
19 year may be carried forward. A taxpayer may elect to have the
20 unused credit shown on its final completed return carried over
21 as a credit against the tax liability for the following 5
22 taxable years or until it has been fully used, whichever
23 occurs first; provided that no credit earned in a tax year
24 ending prior to December 31, 2003 may be carried forward to any
25 year ending on or after December 31, 2003.

26 If an unused credit is carried forward to a given year from

1 2 or more earlier years, that credit arising in the earliest
2 year will be applied first against the tax liability for the
3 given year. If a tax liability for the given year still
4 remains, the credit from the next earliest year will then be
5 applied, and so on, until all credits have been used or no tax
6 liability for the given year remains. Any remaining unused
7 credit or credits then will be carried forward to the next
8 following year in which a tax liability is incurred, except
9 that no credit can be carried forward to a year which is more
10 than 5 years after the year in which the expense for which the
11 credit is given was incurred.

12 No inference shall be drawn from Public Act 91-644 in
13 construing this Section for taxable years beginning before
14 January 1, 1999.

15 It is the intent of the General Assembly that the research
16 and development credit under this subsection (k) shall apply
17 continuously for all tax years ending on or after December 31,
18 2004 and ending prior to January 1, 2027, including, but not
19 limited to, the period beginning on January 1, 2016 and ending
20 on July 6, 2017 (the effective date of Public Act 100-22). All
21 actions taken in reliance on the continuation of the credit
22 under this subsection (k) by any taxpayer are hereby
23 validated.

24 (l) Environmental Remediation Tax Credit.

25 (i) For tax years ending after December 31, 1997 and
26 on or before December 31, 2001, a taxpayer shall be

1 allowed a credit against the tax imposed by subsections
2 (a) and (b) of this Section for certain amounts paid for
3 unreimbursed eligible remediation costs, as specified in
4 this subsection. For purposes of this Section,
5 "unreimbursed eligible remediation costs" means costs
6 approved by the Illinois Environmental Protection Agency
7 ("Agency") under Section 58.14 of the Environmental
8 Protection Act that were paid in performing environmental
9 remediation at a site for which a No Further Remediation
10 Letter was issued by the Agency and recorded under Section
11 58.10 of the Environmental Protection Act. The credit must
12 be claimed for the taxable year in which Agency approval
13 of the eligible remediation costs is granted. The credit
14 is not available to any taxpayer if the taxpayer or any
15 related party caused or contributed to, in any material
16 respect, a release of regulated substances on, in, or
17 under the site that was identified and addressed by the
18 remedial action pursuant to the Site Remediation Program
19 of the Environmental Protection Act. After the Pollution
20 Control Board rules are adopted pursuant to the Illinois
21 Administrative Procedure Act for the administration and
22 enforcement of Section 58.9 of the Environmental
23 Protection Act, determinations as to credit availability
24 for purposes of this Section shall be made consistent with
25 those rules. For purposes of this Section, "taxpayer"
26 includes a person whose tax attributes the taxpayer has

1 succeeded to under Section 381 of the Internal Revenue
2 Code and "related party" includes the persons disallowed a
3 deduction for losses by paragraphs (b), (c), and (f)(1) of
4 Section 267 of the Internal Revenue Code by virtue of
5 being a related taxpayer, as well as any of its partners.
6 The credit allowed against the tax imposed by subsections
7 (a) and (b) shall be equal to 25% of the unreimbursed
8 eligible remediation costs in excess of \$100,000 per site,
9 except that the \$100,000 threshold shall not apply to any
10 site contained in an enterprise zone as determined by the
11 Department of Commerce and Community Affairs (now
12 Department of Commerce and Economic Opportunity). The
13 total credit allowed shall not exceed \$40,000 per year
14 with a maximum total of \$150,000 per site. For partners
15 and shareholders of subchapter S corporations, there shall
16 be allowed a credit under this subsection to be determined
17 in accordance with the determination of income and
18 distributive share of income under Sections 702 and 704
19 and subchapter S of the Internal Revenue Code.

20 (ii) A credit allowed under this subsection that is
21 unused in the year the credit is earned may be carried
22 forward to each of the 5 taxable years following the year
23 for which the credit is first earned until it is used. The
24 term "unused credit" does not include any amounts of
25 unreimbursed eligible remediation costs in excess of the
26 maximum credit per site authorized under paragraph (i).

1 This credit shall be applied first to the earliest year
2 for which there is a liability. If there is a credit under
3 this subsection from more than one tax year that is
4 available to offset a liability, the earliest credit
5 arising under this subsection shall be applied first. A
6 credit allowed under this subsection may be sold to a
7 buyer as part of a sale of all or part of the remediation
8 site for which the credit was granted. The purchaser of a
9 remediation site and the tax credit shall succeed to the
10 unused credit and remaining carry-forward period of the
11 seller. To perfect the transfer, the assignor shall record
12 the transfer in the chain of title for the site and provide
13 written notice to the Director of the Illinois Department
14 of Revenue of the assignor's intent to sell the
15 remediation site and the amount of the tax credit to be
16 transferred as a portion of the sale. In no event may a
17 credit be transferred to any taxpayer if the taxpayer or a
18 related party would not be eligible under the provisions
19 of subsection (i).

20 (iii) For purposes of this Section, the term "site"
21 shall have the same meaning as under Section 58.2 of the
22 Environmental Protection Act.

23 (m) Education expense credit. Beginning with tax years
24 ending after December 31, 1999, a taxpayer who is the
25 custodian of one or more qualifying pupils shall be allowed a
26 credit against the tax imposed by subsections (a) and (b) of

1 this Section for qualified education expenses incurred on
2 behalf of the qualifying pupils. The credit shall be equal to
3 25% of qualified education expenses, but in no event may the
4 total credit under this subsection claimed by a family that is
5 the custodian of qualifying pupils exceed (i) \$500 for tax
6 years ending prior to December 31, 2017, and (ii) \$750 for tax
7 years ending on or after December 31, 2017. In no event shall a
8 credit under this subsection reduce the taxpayer's liability
9 under this Act to less than zero. Notwithstanding any other
10 provision of law, for taxable years beginning on or after
11 January 1, 2017, no taxpayer may claim a credit under this
12 subsection (m) if the taxpayer's adjusted gross income for the
13 taxable year exceeds (i) \$500,000, in the case of spouses
14 filing a joint federal tax return or (ii) \$250,000, in the case
15 of all other taxpayers. This subsection is exempt from the
16 provisions of Section 250 of this Act.

17 For purposes of this subsection:

18 "Qualifying pupils" means individuals who (i) are
19 residents of the State of Illinois, (ii) are under the age of
20 21 at the close of the school year for which a credit is
21 sought, and (iii) during the school year for which a credit is
22 sought were full-time pupils enrolled in a kindergarten
23 through twelfth grade education program at any school, as
24 defined in this subsection.

25 "Qualified education expense" means the amount incurred on
26 behalf of a qualifying pupil in excess of \$250 for tuition,

1 book fees, and lab fees at the school in which the pupil is
2 enrolled during the regular school year.

3 "School" means any public or nonpublic elementary or
4 secondary school in Illinois that is in compliance with Title
5 VI of the Civil Rights Act of 1964 and attendance at which
6 satisfies the requirements of Section 26-1 of the School Code,
7 except that nothing shall be construed to require a child to
8 attend any particular public or nonpublic school to qualify
9 for the credit under this Section.

10 "Custodian" means, with respect to qualifying pupils, an
11 Illinois resident who is a parent, the parents, a legal
12 guardian, or the legal guardians of the qualifying pupils.

13 (n) River Edge Redevelopment Zone site remediation tax
14 credit.

15 (i) For tax years ending on or after December 31,
16 2006, a taxpayer shall be allowed a credit against the tax
17 imposed by subsections (a) and (b) of this Section for
18 certain amounts paid for unreimbursed eligible remediation
19 costs, as specified in this subsection. For purposes of
20 this Section, "unreimbursed eligible remediation costs"
21 means costs approved by the Illinois Environmental
22 Protection Agency ("Agency") under Section 58.14a of the
23 Environmental Protection Act that were paid in performing
24 environmental remediation at a site within a River Edge
25 Redevelopment Zone for which a No Further Remediation
26 Letter was issued by the Agency and recorded under Section

1 58.10 of the Environmental Protection Act. The credit must
2 be claimed for the taxable year in which Agency approval
3 of the eligible remediation costs is granted. The credit
4 is not available to any taxpayer if the taxpayer or any
5 related party caused or contributed to, in any material
6 respect, a release of regulated substances on, in, or
7 under the site that was identified and addressed by the
8 remedial action pursuant to the Site Remediation Program
9 of the Environmental Protection Act. Determinations as to
10 credit availability for purposes of this Section shall be
11 made consistent with rules adopted by the Pollution
12 Control Board pursuant to the Illinois Administrative
13 Procedure Act for the administration and enforcement of
14 Section 58.9 of the Environmental Protection Act. For
15 purposes of this Section, "taxpayer" includes a person
16 whose tax attributes the taxpayer has succeeded to under
17 Section 381 of the Internal Revenue Code and "related
18 party" includes the persons disallowed a deduction for
19 losses by paragraphs (b), (c), and (f)(1) of Section 267
20 of the Internal Revenue Code by virtue of being a related
21 taxpayer, as well as any of its partners. The credit
22 allowed against the tax imposed by subsections (a) and (b)
23 shall be equal to 25% of the unreimbursed eligible
24 remediation costs in excess of \$100,000 per site.

25 (ii) A credit allowed under this subsection that is
26 unused in the year the credit is earned may be carried

1 forward to each of the 5 taxable years following the year
2 for which the credit is first earned until it is used. This
3 credit shall be applied first to the earliest year for
4 which there is a liability. If there is a credit under this
5 subsection from more than one tax year that is available
6 to offset a liability, the earliest credit arising under
7 this subsection shall be applied first. A credit allowed
8 under this subsection may be sold to a buyer as part of a
9 sale of all or part of the remediation site for which the
10 credit was granted. The purchaser of a remediation site
11 and the tax credit shall succeed to the unused credit and
12 remaining carry-forward period of the seller. To perfect
13 the transfer, the assignor shall record the transfer in
14 the chain of title for the site and provide written notice
15 to the Director of the Illinois Department of Revenue of
16 the assignor's intent to sell the remediation site and the
17 amount of the tax credit to be transferred as a portion of
18 the sale. In no event may a credit be transferred to any
19 taxpayer if the taxpayer or a related party would not be
20 eligible under the provisions of subsection (i).

21 (iii) For purposes of this Section, the term "site"
22 shall have the same meaning as under Section 58.2 of the
23 Environmental Protection Act.

24 (n-5) For taxable years beginning on or after the earlier
25 of: (i) January 1, 2025; or (ii) January 1 of the calendar year
26 immediately following the calendar year in which the State

1 reports to the United States Department of the Treasury that
2 all federal funds received under the American Rescue Plan Act
3 of 2021 have been fully expended, a taxpayer shall be allowed
4 an annual credit against the tax imposed by subsections (a)
5 and (b) of this Section of an amount equal to 15% of the cost
6 of equipment and materials incorporated into or used in the
7 business of providing broadband services in a county in the
8 State with a population of fewer than 40,000 people or a
9 township in the State with a population density of less than 50
10 households per square mile in a county with a population of
11 less than 300,000 people during that year. For partners,
12 shareholders of Subchapter S corporations, and owners of
13 limited liability companies, if the liability company is
14 treated as a partnership for purposes of federal and State
15 income taxation, there shall be allowed a credit under this
16 subsection to be determined in accordance with the
17 determination of income and distributive share of income under
18 Sections 702 and 704 and Subchapter S of the Internal Revenue
19 Code. Such annual credits shall be allowed commencing with the
20 taxable year in which such property is placed in service and
21 continue for 9 consecutive years thereafter. The aggregate
22 credit established by the subsection taken in any one tax year
23 shall not reduce taxpayer's tax liability under subsections
24 (a) and (b) of Section 201 by more than 50%; provided, however,
25 that any tax credit claimed under this subsection but not used
26 in any taxable year may be carried forward for 10 consecutive

1 years from the close of the tax year in which the credits were
2 earned. The maximum aggregate amount of credits that may be
3 claimed under this subsection shall not exceed the original
4 investment made by the taxpayer in the qualifying equipment.

5 For purposes this subsection: (i) "broadband service"
6 means a service provided by wireline or wireless means capable
7 of delivering high-speed internet access at speeds of at least
8 25 megabits per second of download speed and 3 megabits per
9 second of upload speed; and (ii) "equipment, and materials
10 incorporated into or used in the business of providing
11 broadband services", means all equipment and materials
12 machinery, software, or other tangible personal property
13 deployed in Illinois on or after January 1, 2023 that is used
14 in whole or in part in producing, broadcasting, distributing,
15 sending, receiving, storing, transmitting, retransmitting,
16 amplifying, switching, or routing broadband services,
17 including the monitoring, testing, maintaining, enabling, or
18 facilitating of such equipment, machinery, software, or other
19 infrastructure. Such property includes, but is not limited to,
20 wires, cables including fiber optic cables, antennas, poles,
21 switches, routers, amplifiers, rectifiers, repeaters,
22 receivers, multiplexers, duplexers, transmitters, power
23 equipment, backup power equipment, diagnostic equipment,
24 storage devices, modems, and other general central office
25 equipment, such as channel cards, frames, and cabinets.

26 The Department may award no more than \$25,000,000 in

1 credits under this subsection (n-5) in any taxable year. The
2 credit under this subsection (n-5) may be taken for property
3 placed in service on or after January 1, 2023; however, the
4 credit may not be taken until a taxable year beginning on or
5 after the earlier of: (i) January 1, 2025; or (ii) January 1 of
6 the calendar year immediately following the calendar year in
7 which the State reports to the United States Department of the
8 Treasury that all federal funds received under the American
9 Rescue Plan Act of 2021 have been fully expended. The credit
10 under this subsection (n-5) does not apply to property placed
11 in service on or after December 31 of the seventh calendar year
12 to occur after the earlier of: (i) January 1, 2025; or (ii)
13 January 1 of the calendar year immediately following the
14 calendar year in which the State reports to the United States
15 Department of the Treasury that all federal funds received
16 under the American Rescue Plan Act of 2021 have been fully
17 expended.

18 (o) For each of taxable years during the Compassionate Use
19 of Medical Cannabis Program, a surcharge is imposed on all
20 taxpayers on income arising from the sale or exchange of
21 capital assets, depreciable business property, real property
22 used in the trade or business, and Section 197 intangibles of
23 an organization registrant under the Compassionate Use of
24 Medical Cannabis Program Act. The amount of the surcharge is
25 equal to the amount of federal income tax liability for the
26 taxable year attributable to those sales and exchanges. The

1 surcharge imposed does not apply if:

2 (1) the medical cannabis cultivation center
3 registration, medical cannabis dispensary registration, or
4 the property of a registration is transferred as a result
5 of any of the following:

6 (A) bankruptcy, a receivership, or a debt
7 adjustment initiated by or against the initial
8 registration or the substantial owners of the initial
9 registration;

10 (B) cancellation, revocation, or termination of
11 any registration by the Illinois Department of Public
12 Health;

13 (C) a determination by the Illinois Department of
14 Public Health that transfer of the registration is in
15 the best interests of Illinois qualifying patients as
16 defined by the Compassionate Use of Medical Cannabis
17 Program Act;

18 (D) the death of an owner of the equity interest in
19 a registrant;

20 (E) the acquisition of a controlling interest in
21 the stock or substantially all of the assets of a
22 publicly traded company;

23 (F) a transfer by a parent company to a wholly
24 owned subsidiary; or

25 (G) the transfer or sale to or by one person to
26 another person where both persons were initial owners

1 of the registration when the registration was issued;
2 or

3 (2) the cannabis cultivation center registration,
4 medical cannabis dispensary registration, or the
5 controlling interest in a registrant's property is
6 transferred in a transaction to lineal descendants in
7 which no gain or loss is recognized or as a result of a
8 transaction in accordance with Section 351 of the Internal
9 Revenue Code in which no gain or loss is recognized.

10 (p) Pass-through entity tax.

11 (1) For taxable years ending on or after December 31,
12 2021 and beginning prior to January 1, 2026, a partnership
13 (other than a publicly traded partnership under Section
14 7704 of the Internal Revenue Code) or Subchapter S
15 corporation may elect to apply the provisions of this
16 subsection. A separate election shall be made for each
17 taxable year. Such election shall be made at such time,
18 and in such form and manner as prescribed by the
19 Department, and, once made, is irrevocable.

20 (2) Entity-level tax. A partnership or Subchapter S
21 corporation electing to apply the provisions of this
22 subsection shall be subject to a tax for the privilege of
23 earning or receiving income in this State in an amount
24 equal to 4.95% of the taxpayer's net income for the
25 taxable year.

26 (3) Net income defined.

1 (A) In general. For purposes of paragraph (2), the
2 term net income has the same meaning as defined in
3 Section 202 of this Act, except that the following
4 provisions shall not apply:

5 (i) the standard exemption allowed under
6 Section 204;

7 (ii) the deduction for net losses allowed
8 under Section 207;

9 (iii) in the case of an S corporation, the
10 modification under Section 203(b)(2)(S); and

11 (iv) in the case of a partnership, the
12 modifications under Section 203(d)(2)(H) and
13 Section 203(d)(2)(I).

14 (B) Special rule for tiered partnerships. If a
15 taxpayer making the election under paragraph (1) is a
16 partner of another taxpayer making the election under
17 paragraph (1), net income shall be computed as
18 provided in subparagraph (A), except that the taxpayer
19 shall subtract its distributive share of the net
20 income of the electing partnership (including its
21 distributive share of the net income of the electing
22 partnership derived as a distributive share from
23 electing partnerships in which it is a partner).

24 (4) Credit for entity level tax. Each partner or
25 shareholder of a taxpayer making the election under this
26 Section shall be allowed a credit against the tax imposed

1 under subsections (a) and (b) of Section 201 of this Act
2 for the taxable year of the partnership or Subchapter S
3 corporation for which an election is in effect ending
4 within or with the taxable year of the partner or
5 shareholder in an amount equal to 4.95% times the partner
6 or shareholder's distributive share of the net income of
7 the electing partnership or Subchapter S corporation, but
8 not to exceed the partner's or shareholder's share of the
9 tax imposed under paragraph (1) which is actually paid by
10 the partnership or Subchapter S corporation. If the
11 taxpayer is a partnership or Subchapter S corporation that
12 is itself a partner of a partnership making the election
13 under paragraph (1), the credit under this paragraph shall
14 be allowed to the taxpayer's partners or shareholders (or
15 if the partner is a partnership or Subchapter S
16 corporation then its partners or shareholders) in
17 accordance with the determination of income and
18 distributive share of income under Sections 702 and 704
19 and Subchapter S of the Internal Revenue Code. If the
20 amount of the credit allowed under this paragraph exceeds
21 the partner's or shareholder's liability for tax imposed
22 under subsections (a) and (b) of Section 201 of this Act
23 for the taxable year, such excess shall be treated as an
24 overpayment for purposes of Section 909 of this Act.

25 (5) Nonresidents. A nonresident individual who is a
26 partner or shareholder of a partnership or Subchapter S

1 corporation for a taxable year for which an election is in
2 effect under paragraph (1) shall not be required to file
3 an income tax return under this Act for such taxable year
4 if the only source of net income of the individual (or the
5 individual and the individual's spouse in the case of a
6 joint return) is from an entity making the election under
7 paragraph (1) and the credit allowed to the partner or
8 shareholder under paragraph (4) equals or exceeds the
9 individual's liability for the tax imposed under
10 subsections (a) and (b) of Section 201 of this Act for the
11 taxable year.

12 (6) Liability for tax. Except as provided in this
13 paragraph, a partnership or Subchapter S making the
14 election under paragraph (1) is liable for the
15 entity-level tax imposed under paragraph (2). If the
16 electing partnership or corporation fails to pay the full
17 amount of tax deemed assessed under paragraph (2), the
18 partners or shareholders shall be liable to pay the tax
19 assessed (including penalties and interest). Each partner
20 or shareholder shall be liable for the unpaid assessment
21 based on the ratio of the partner's or shareholder's share
22 of the net income of the partnership over the total net
23 income of the partnership. If the partnership or
24 Subchapter S corporation fails to pay the tax assessed
25 (including penalties and interest) and thereafter an
26 amount of such tax is paid by the partners or

1 shareholders, such amount shall not be collected from the
2 partnership or corporation.

3 (7) Foreign tax. For purposes of the credit allowed
4 under Section 601(b)(3) of this Act, tax paid by a
5 partnership or Subchapter S corporation to another state
6 which, as determined by the Department, is substantially
7 similar to the tax imposed under this subsection, shall be
8 considered tax paid by the partner or shareholder to the
9 extent that the partner's or shareholder's share of the
10 income of the partnership or Subchapter S corporation
11 allocated and apportioned to such other state bears to the
12 total income of the partnership or Subchapter S
13 corporation allocated or apportioned to such other state.

14 (8) Suspension of withholding. The provisions of
15 Section 709.5 of this Act shall not apply to a partnership
16 or Subchapter S corporation for the taxable year for which
17 an election under paragraph (1) is in effect.

18 (9) Requirement to pay estimated tax. For each taxable
19 year for which an election under paragraph (1) is in
20 effect, a partnership or Subchapter S corporation is
21 required to pay estimated tax for such taxable year under
22 Sections 803 and 804 of this Act if the amount payable as
23 estimated tax can reasonably be expected to exceed \$500.

24 (10) The provisions of this subsection shall apply
25 only with respect to taxable years for which the
26 limitation on individual deductions applies under Section

1 164(b) (6) of the Internal Revenue Code.

2 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;
3 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff.
4 8-20-21; 102-658, eff. 8-27-21.)

5 Section 10. The Use Tax Act is amended by changing
6 Sections 2 and 3-5 as follows:

7 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

8 Sec. 2. Definitions. As used in this Act:

9 "Broadband service" means a service provided by wireline
10 or wireless means capable of delivering high-speed internet
11 access at speeds of at least 25 megabits per second of download
12 speed and 3 megabits per second of upload speed.

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

1 demonstration use or interim use of tangible personal property
2 by a retailer before he sells that tangible personal property.
3 For watercraft or aircraft, if the period of demonstration use
4 or interim use by the retailer exceeds 18 months, the retailer
5 shall pay on the retailers' original cost price the tax
6 imposed by this Act, and no credit for that tax is permitted if
7 the watercraft or aircraft is subsequently sold by the
8 retailer. "Use" does not mean the physical incorporation of
9 tangible personal property, to the extent not first subjected
10 to a use for which it was purchased, as an ingredient or
11 constituent, into other tangible personal property (a) which
12 is sold in the regular course of business or (b) which the
13 person incorporating such ingredient or constituent therein
14 has undertaken at the time of such purchase to cause to be
15 transported in interstate commerce to destinations outside the
16 State of Illinois: Provided that the property purchased is
17 deemed to be purchased for the purpose of resale, despite
18 first being used, to the extent to which it is resold as an
19 ingredient of an intentionally produced product or by-product
20 of manufacturing.

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

25 "Purchase at retail" means the acquisition of the
26 ownership of or title to tangible personal property through a

1 sale at retail.

2 "Purchaser" means anyone who, through a sale at retail,
3 acquires the ownership of tangible personal property for a
4 valuable consideration.

5 "Sale at retail" means any transfer of the ownership of or
6 title to tangible personal property to a purchaser, for the
7 purpose of use, and not for the purpose of resale in any form
8 as tangible personal property to the extent not first
9 subjected to a use for which it was purchased, for a valuable
10 consideration: Provided that the property purchased is deemed
11 to be purchased for the purpose of resale, despite first being
12 used, to the extent to which it is resold as an ingredient of
13 an intentionally produced product or by-product of
14 manufacturing. For this purpose, slag produced as an incident
15 to manufacturing pig iron or steel and sold is considered to be
16 an intentionally produced by-product of manufacturing. "Sale
17 at retail" includes any such transfer made for resale unless
18 made in compliance with Section 2c of the Retailers'
19 Occupation Tax Act, as incorporated by reference into Section
20 12 of this Act. Transactions whereby the possession of the
21 property is transferred but the seller retains the title as
22 security for payment of the selling price are sales.

23 "Sale at retail" shall also be construed to include any
24 Illinois florist's sales transaction in which the purchase
25 order is received in Illinois by a florist and the sale is for
26 use or consumption, but the Illinois florist has a florist in

1 another state deliver the property to the purchaser or the
2 purchaser's donee in such other state.

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

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

20 "Selling price" means the consideration for a sale valued
21 in money whether received in money or otherwise, including
22 cash, credits, property other than as hereinafter provided,
23 and services, but, prior to January 1, 2020 and beginning
24 again on January 1, 2022, not including the value of or credit
25 given for traded-in tangible personal property where the item
26 that is traded-in is of like kind and character as that which

1 is being sold; beginning January 1, 2020 and until January 1,
2 2022, "selling price" includes the portion of the value of or
3 credit given for traded-in motor vehicles of the First
4 Division as defined in Section 1-146 of the Illinois Vehicle
5 Code of like kind and character as that which is being sold
6 that exceeds \$10,000. "Selling price" shall be determined
7 without any deduction on account of the cost of the property
8 sold, the cost of materials used, labor or service cost or any
9 other expense whatsoever, but does not include interest or
10 finance charges which appear as separate items on the bill of
11 sale or sales contract nor charges that are added to prices by
12 sellers on account of the seller's tax liability under the
13 Retailers' Occupation Tax Act, or on account of the seller's
14 duty to collect, from the purchaser, the tax that is imposed by
15 this Act, or, except as otherwise provided with respect to any
16 cigarette tax imposed by a home rule unit, on account of the
17 seller's tax liability under any local occupation tax
18 administered by the Department, or, except as otherwise
19 provided with respect to any cigarette tax imposed by a home
20 rule unit on account of the seller's duty to collect, from the
21 purchasers, the tax that is imposed under any local use tax
22 administered by the Department. Effective December 1, 1985,
23 "selling price" shall include charges that are added to prices
24 by sellers on account of the seller's tax liability under the
25 Cigarette Tax Act, on account of the seller's duty to collect,
26 from the purchaser, the tax imposed under the Cigarette Use

1 Tax Act, and on account of the seller's duty to collect, from
2 the purchaser, any cigarette tax imposed by a 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, "selling price" or "amount of sale"
16 means the consideration received by the lessor pursuant to the
17 lease contract, including amounts due at lease signing and all
18 monthly or other regular payments charged over the term of the
19 lease. Also included in the selling price is any amount
20 received by the lessor from the lessee for the leased vehicle
21 that is not calculated at the time the lease is executed,
22 including, but not limited to, excess mileage charges and
23 charges for excess wear and tear. For sales that occur in
24 Illinois, with respect to any amount received by the lessor
25 from the lessee for the leased vehicle that is not calculated
26 at the time the lease is executed, the lessor who purchased the

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

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

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

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

12 "Department" means the Department of Revenue.

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

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

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

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

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

25 A person who is the recipient of a grant or contract under
26 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and

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

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

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 make such person a retailer
14 hereunder. However, any person who is engaged in a business
15 which is not subject to the tax imposed by the Retailers'
16 Occupation Tax Act because of involving the sale of or a
17 contract to sell real estate or a construction contract to
18 improve real estate, but who, in the course of conducting such
19 business, transfers tangible personal property to users or
20 consumers in the finished form in which it was purchased, and
21 which does not become real estate, under any provision of a
22 construction contract or real estate sale or real estate sales
23 agreement entered into with some other person arising out of
24 or because of such nontaxable business, is a retailer to the
25 extent of the value of the tangible personal property so
26 transferred. If, in such transaction, a separate charge is

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

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

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

1 house, warehouse, or other place of business within this
2 State.

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

1 within this State by such persons were not sufficient to
2 meet the nexus standards of the United States Constitution
3 during the preceding 4 quarterly periods.

4 (1.2) Beginning July 1, 2011, a retailer having a
5 contract with a person located in this State under which:

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

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

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

21 (2) (Blank).

22 (3) (Blank).

23 (4) (Blank).

24 (5) (Blank).

25 (6) (Blank).

26 (7) (Blank).

1 (8) (Blank).

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

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

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

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

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

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

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

23 "Bulk vending machine" means a vending machine, containing
24 unsorted confections, nuts, toys, or other items designed
25 primarily to be used or played with by children which, when a
26 coin or coins of a denomination not larger than \$0.50 are

1 inserted, are dispensed in equal portions, at random and
2 without selection by the customer.

3 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 1-1-20;
4 101-604, eff. 1-1-20; 102-353, eff. 1-1-22.)

5 (35 ILCS 105/3-5)

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

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

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

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

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

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

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

25 (6) Until July 1, 2003 and beginning again on September 1,
26 2004 through August 30, 2014, graphic arts machinery and

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

12 (7) Farm chemicals.

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

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

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

23 (11) Farm machinery and equipment, both new and used,
24 including that manufactured on special order, certified by the
25 purchaser to be used primarily for production agriculture or
26 State or federal agricultural programs, including individual

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

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

24 Farm machinery and equipment also includes computers,
25 sensors, software, and related equipment used primarily in the
26 computer-assisted operation of production agriculture

1 facilities, equipment, and activities such as, but not limited
2 to, the collection, monitoring, and correlation of animal and
3 crop data for the purpose of formulating animal diets and
4 agricultural chemicals. This item (11) is exempt from the
5 provisions of Section 3-90.

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

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

23 (13) Proceeds of mandatory service charges separately
24 stated on customers' bills for the purchase and consumption of
25 food and beverages purchased at retail from a retailer, to the
26 extent that the proceeds of the service charge are in fact

1 turned over as tips or as a substitute for tips to the
2 employees who participate directly in preparing, serving,
3 hosting or cleaning up the food or beverage function with
4 respect to which the service charge is imposed.

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

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

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

1 for credit or refund is allowed on or after August 16, 2013
2 (the effective date of Public Act 98-456) for such taxes paid
3 during the period beginning July 1, 2003 and ending on August
4 16, 2013 (the effective date of Public Act 98-456).

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

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

1 the 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 of
4 water for wholesale or retail sale that is delivered to
5 customers through pipes, pipelines, or mains. The provisions
6 of Public Act 98-583 are declaratory of existing law as to the
7 meaning and scope of this exemption. Beginning on July 1,
8 2017, the exemption provided by this paragraph (18) includes,
9 but is not limited to, graphic arts machinery and equipment,
10 as defined in paragraph (6) of this Section.

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

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

18 (21) Horses, or interests in horses, registered with and
19 meeting the requirements of any of the Arabian Horse Club
20 Registry of America, Appaloosa Horse Club, American Quarter
21 Horse Association, United States Trotting Association, or
22 Jockey Club, as appropriate, used for purposes of breeding or
23 racing for prizes. This item (21) is exempt from the
24 provisions of Section 3-90, and the exemption provided for
25 under this item (21) applies for all periods beginning May 30,
26 1995, but no claim for credit or refund is allowed on or after

1 January 1, 2008 for such taxes paid during the period
2 beginning May 30, 2000 and ending on January 1, 2008.

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

26 (23) Personal property purchased by a lessor who leases

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

21 (24) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is donated
24 for disaster relief to be used in a State or federally declared
25 disaster area in Illinois or bordering Illinois by a
26 manufacturer or retailer that is registered in this State to a

1 corporation, society, association, foundation, or institution
2 that has been issued a sales tax exemption identification
3 number by the Department that assists victims of the disaster
4 who reside within the declared disaster area.

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

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

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

1 educational purposes. For purposes of this exemption, "a
2 corporation, limited liability company, society, association,
3 foundation, or institution organized and operated exclusively
4 for educational purposes" means all tax-supported public
5 schools, private schools that offer systematic instruction in
6 useful branches of learning by methods common to public
7 schools and that compare favorably in their scope and
8 intensity with the course of study presented in tax-supported
9 schools, and vocational or technical schools or institutes
10 organized and operated exclusively to provide a course of
11 study of 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 (28) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits

1 from the sale to the fundraising entity. This paragraph is
2 exempt from the provisions of Section 3-90.

3 (29) Beginning January 1, 2000 and through December 31,
4 2001, new or used automatic vending machines that prepare and
5 serve hot food and beverages, including coffee, soup, and
6 other items, and replacement parts for these machines.
7 Beginning January 1, 2002 and through June 30, 2003, machines
8 and parts for machines used in commercial, coin-operated
9 amusement and vending business if a use or occupation tax is
10 paid on the gross receipts derived from the use of the
11 commercial, coin-operated amusement and vending machines. This
12 paragraph is exempt from the provisions of Section 3-90.

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

26 (31) Beginning on August 2, 2001 (the effective date of

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

25 (32) Beginning on August 2, 2001 (the effective date of
26 Public Act 92-227), personal property purchased by a lessor

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

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

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

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

22 (35) Beginning January 1, 2010 and continuing through
23 December 31, 2024, materials, parts, equipment, components,
24 and furnishings incorporated into or upon an aircraft as part
25 of the modification, refurbishment, completion, replacement,
26 repair, or maintenance of the aircraft. This exemption

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

1 the disallowance of this exemption on or after January 1, 2015
2 and prior to the effective date of this amendatory Act of the
3 101st General Assembly.

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

19 (37) Beginning January 1, 2017 and through December 31,
20 2026, menstrual pads, tampons, and menstrual cups.

21 (38) Merchandise that is subject to the Rental Purchase
22 Agreement Occupation and Use Tax. The purchaser must certify
23 that the item is purchased to be rented subject to a rental
24 purchase agreement, as defined in the Rental Purchase
25 Agreement Act, and provide proof of registration under the
26 Rental Purchase Agreement Occupation and Use Tax Act. This

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

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

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

20 The Department of Commerce and Economic Opportunity shall
21 grant a certificate of exemption under this item (40) to
22 qualified data centers as defined by Section 605-1025 of the
23 Department of Commerce and Economic Opportunity Law of the
24 Civil Administrative Code of Illinois.

25 For the purposes of this item (40):

26 "Data center" means a building or a series of

1 buildings rehabilitated or constructed to house working
2 servers in one physical location or multiple sites within
3 the State of Illinois.

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

1 the exemption allowed under this Section, the retailer
2 must obtain from the purchaser a copy of the certificate
3 of eligibility issued by the Department of Commerce and
4 Economic Opportunity.

5 This item (40) is exempt from the provisions of Section
6 3-90.

7 (41) Beginning on the earlier of: (i) January 1, 2025; or
8 (ii) January 1 of the calendar year immediately following the
9 calendar year in which the State reports to the United States
10 Department of the Treasury that all federal funds received
11 under the American Rescue Plan Act of 2021 have been fully
12 expended, and continuing through December 31 of the fifth
13 calendar year to occur after the earlier of: (i) January 1,
14 2025; or (ii) January 1 of the calendar year immediately
15 following the calendar year in which the State reports to the
16 United States Department of the Treasury that all federal
17 funds received under the American Rescue Plan Act of 2021 have
18 been fully expended, equipment and material deployed after
19 January 1, 2023 in a county in the State with a population of
20 fewer than 40,000 people or a township in the State with a
21 population density of less than 50 households per square mile
22 in a county with a population of less than 300,000 people
23 during that year that is incorporated into or used in the
24 business of providing broadband services, including all
25 equipment and material, machinery, software, or other tangible
26 personal property that is used in whole or in part in

1 producing, broadcasting, distributing, sending, receiving,
2 storing, transmitting, retransmitting, amplifying, switching,
3 or routing broadband services, including the monitoring,
4 testing, maintaining, enabling, or facilitating of such
5 equipment, machinery, software, or other infrastructure. Such
6 property includes, but is not limited to, wires, cables
7 including fiber optic cables, antennas, poles, switches,
8 routers, amplifiers, rectifiers, repeaters, receivers,
9 multiplexers, duplexers, transmitters, power equipment, backup
10 power equipment, diagnostic equipment, storage devices,
11 modems, and other general central office equipment, such as
12 channel cards, frames, and cabinets. The exemption under this
13 item (41) may be taken for property placed in service on or
14 after January 1, 2023; however, the credit may not be taken
15 until a taxable year beginning on or after the earlier of: (i)
16 January 1, 2025; or (ii) January 1 of the calendar year
17 immediately following the calendar year in which the State
18 reports to the United States Department of the Treasury that
19 all federal funds received under the American Rescue Plan Act
20 of 2021 have been fully expended.

21 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;
22 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff.
23 6-17-21.)

24 Section 15. The Service Use Tax Act is amended by changing
25 Sections 2 and 3-5 as follows:

1 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

2 Sec. 2. Definitions. In this Act:

3 "Broadband service" means a service provided by wireline
4 or wireless means capable of delivering high-speed internet
5 access at speeds of at least 25 megabits per second of download
6 speed and 3 megabits per second of upload speed.

7 "Use" means the exercise by any person of any right or
8 power over tangible personal property incident to the
9 ownership of that property, but does not include the sale or
10 use for demonstration by him of that property in any form as
11 tangible personal property in the regular course of business.

12 "Use" does not mean the interim use of tangible personal
13 property nor the physical incorporation of tangible personal
14 property, as an ingredient or constituent, into other tangible
15 personal property, (a) which is sold in the regular course of
16 business or (b) which the person incorporating such ingredient
17 or constituent therein has undertaken at the time of such
18 purchase to cause to be transported in interstate commerce to
19 destinations outside the State of Illinois.

20 "Purchased from a serviceman" means the acquisition of the
21 ownership of, or title to, tangible personal property through
22 a sale of service.

23 "Purchaser" means any person who, through a sale of
24 service, acquires the ownership of, or title to, any tangible
25 personal property.

1 "Cost price" means the consideration paid by the
2 serviceman for a purchase valued in money, whether paid in
3 money or otherwise, including cash, credits and services, and
4 shall be determined without any deduction on account of the
5 supplier's cost of the property sold or on account of any other
6 expense incurred by the supplier. When a serviceman contracts
7 out part or all of the services required in his sale of
8 service, it shall be presumed that the cost price to the
9 serviceman of the property transferred to him or her by his or
10 her subcontractor is equal to 50% of the subcontractor's
11 charges to the serviceman in the absence of proof of the
12 consideration paid by the subcontractor for the purchase of
13 such property.

14 "Selling price" means the consideration for a sale valued
15 in money whether received in money or otherwise, including
16 cash, credits and service, and shall be determined without any
17 deduction on account of the serviceman's cost of the property
18 sold, the cost of materials used, labor or service cost or any
19 other expense whatsoever, but does not include interest or
20 finance charges which appear as separate items on the bill of
21 sale or sales contract nor charges that are added to prices by
22 sellers on account of the seller's duty to collect, from the
23 purchaser, the tax that is imposed by this Act.

24 "Department" means the Department of Revenue.

25 "Person" means any natural individual, firm, partnership,
26 association, joint stock company, joint venture, public or

1 private corporation, limited liability company, and any
2 receiver, executor, trustee, guardian or other representative
3 appointed by order of any court.

4 "Sale of service" means any transaction except:

5 (1) a retail sale of tangible personal property
6 taxable under the Retailers' Occupation Tax Act or under
7 the Use Tax Act.

8 (2) a sale of tangible personal property for the
9 purpose of resale made in compliance with Section 2c of
10 the Retailers' Occupation Tax Act.

11 (3) except as hereinafter provided, a sale or transfer
12 of tangible personal property as an incident to the
13 rendering of service for or by any governmental body, or
14 for or by any corporation, society, association,
15 foundation or institution organized and operated
16 exclusively for charitable, religious or educational
17 purposes or any not-for-profit corporation, society,
18 association, foundation, institution or organization which
19 has no compensated officers or employees and which is
20 organized and operated primarily for the recreation of
21 persons 55 years of age or older. A limited liability
22 company may qualify for the exemption under this paragraph
23 only if the limited liability company is organized and
24 operated exclusively for educational purposes.

25 (4) (blank).

26 (4a) a sale or transfer of tangible personal property

1 as an incident to the rendering of service for owners,
2 lessors, or shippers of tangible personal property which
3 is utilized by interstate carriers for hire for use as
4 rolling stock moving in interstate commerce so long as so
5 used by interstate carriers for hire, and equipment
6 operated by a telecommunications provider, licensed as a
7 common carrier by the Federal Communications Commission,
8 which is permanently installed in or affixed to aircraft
9 moving in interstate commerce.

10 (4a-5) on and after July 1, 2003 and through June 30,
11 2004, a sale or transfer of a motor vehicle of the second
12 division with a gross vehicle weight in excess of 8,000
13 pounds as an incident to the rendering of service if that
14 motor vehicle is subject to the commercial distribution
15 fee imposed under Section 3-815.1 of the Illinois Vehicle
16 Code. Beginning on July 1, 2004 and through June 30, 2005,
17 the use in this State of motor vehicles of the second
18 division: (i) with a gross vehicle weight rating in excess
19 of 8,000 pounds; (ii) that are subject to the commercial
20 distribution fee imposed under Section 3-815.1 of the
21 Illinois Vehicle Code; and (iii) that are primarily used
22 for commercial purposes. Through June 30, 2005, this
23 exemption applies to repair and replacement parts added
24 after the initial purchase of such a motor vehicle if that
25 motor vehicle is used in a manner that would qualify for
26 the rolling stock exemption otherwise provided for in this

1 Act. For purposes of this paragraph, "used for commercial
2 purposes" means the transportation of persons or property
3 in furtherance of any commercial or industrial enterprise
4 whether for-hire or not.

5 (5) a sale or transfer of machinery and equipment used
6 primarily in the process of the manufacturing or
7 assembling, either in an existing, an expanded or a new
8 manufacturing facility, of tangible personal property for
9 wholesale or retail sale or lease, whether such sale or
10 lease is made directly by the manufacturer or by some
11 other person, whether the materials used in the process
12 are owned by the manufacturer or some other person, or
13 whether such sale or lease is made apart from or as an
14 incident to the seller's engaging in a service occupation
15 and the applicable tax is a Service Use Tax or Service
16 Occupation Tax, rather than Use Tax or Retailers'
17 Occupation Tax. The exemption provided by this paragraph
18 (5) includes production related tangible personal
19 property, as defined in Section 3-50 of the Use Tax Act,
20 purchased on or after July 1, 2019. The exemption provided
21 by this paragraph (5) does not include machinery and
22 equipment used in (i) the generation of electricity for
23 wholesale or retail sale; (ii) the generation or treatment
24 of natural or artificial gas for wholesale or retail sale
25 that is delivered to customers through pipes, pipelines,
26 or mains; or (iii) the treatment of water for wholesale or

1 retail sale that is delivered to customers through pipes,
2 pipelines, or mains. The provisions of Public Act 98-583
3 are declaratory of existing law as to the meaning and
4 scope of this exemption. The exemption under this
5 paragraph (5) is exempt from the provisions of Section
6 3-75.

7 (5a) the repairing, reconditioning or remodeling, for
8 a common carrier by rail, of tangible personal property
9 which belongs to such carrier for hire, and as to which
10 such carrier receives the physical possession of the
11 repaired, reconditioned or remodeled item of tangible
12 personal property in Illinois, and which such carrier
13 transports, or shares with another common carrier in the
14 transportation of such property, out of Illinois on a
15 standard uniform bill of lading showing the person who
16 repaired, reconditioned or remodeled the property to a
17 destination outside Illinois, for use outside Illinois.

18 (5b) a sale or transfer of tangible personal property
19 which is produced by the seller thereof on special order
20 in such a way as to have made the applicable tax the
21 Service Occupation Tax or the Service Use Tax, rather than
22 the Retailers' Occupation Tax or the Use Tax, for an
23 interstate carrier by rail which receives the physical
24 possession of such property in Illinois, and which
25 transports such property, or shares with another common
26 carrier in the transportation of such property, out of

1 Illinois on a standard uniform bill of lading showing the
2 seller of the property as the shipper or consignor of such
3 property to a destination outside Illinois, for use
4 outside Illinois.

5 (6) until July 1, 2003, a sale or transfer of
6 distillation machinery and equipment, sold as a unit or
7 kit and assembled or installed by the retailer, which
8 machinery and equipment is certified by the user to be
9 used only for the production of ethyl alcohol that will be
10 used for consumption as motor fuel or as a component of
11 motor fuel for the personal use of such user and not
12 subject to sale or resale.

13 (7) at the election of any serviceman not required to
14 be otherwise registered as a retailer under Section 2a of
15 the Retailers' Occupation Tax Act, made for each fiscal
16 year sales of service in which the aggregate annual cost
17 price of tangible personal property transferred as an
18 incident to the sales of service is less than 35%, or 75%
19 in the case of servicemen transferring prescription drugs
20 or servicemen engaged in graphic arts production, of the
21 aggregate annual total gross receipts from all sales of
22 service. The purchase of such tangible personal property
23 by the serviceman shall be subject to tax under the
24 Retailers' Occupation Tax Act and the Use Tax Act.
25 However, if a primary serviceman who has made the election
26 described in this paragraph subcontracts service work to a

1 secondary serviceman who has also made the election
2 described in this paragraph, the primary serviceman does
3 not incur a Use Tax liability if the secondary serviceman
4 (i) has paid or will pay Use Tax on his or her cost price
5 of any tangible personal property transferred to the
6 primary serviceman and (ii) certifies that fact in writing
7 to the primary serviceman.

8 Tangible personal property transferred incident to the
9 completion of a maintenance agreement is exempt from the tax
10 imposed pursuant to this Act.

11 Exemption (5) also includes machinery and equipment used
12 in the general maintenance or repair of such exempt machinery
13 and equipment or for in-house manufacture of exempt machinery
14 and equipment. On and after July 1, 2017, exemption (5) also
15 includes graphic arts machinery and equipment, as defined in
16 paragraph (5) of Section 3-5. The machinery and equipment
17 exemption does not include machinery and equipment used in (i)
18 the generation of electricity for wholesale or retail sale;
19 (ii) the generation or treatment of natural or artificial gas
20 for wholesale or retail sale that is delivered to customers
21 through pipes, pipelines, or mains; or (iii) the treatment of
22 water for wholesale or retail sale that is delivered to
23 customers through pipes, pipelines, or mains. The provisions
24 of Public Act 98-583 are declaratory of existing law as to the
25 meaning and scope of this exemption. For the purposes of
26 exemption (5), each of these terms shall have the following

1 meanings: (1) "manufacturing process" shall mean the
2 production of any article of tangible personal property,
3 whether such article is a finished product or an article for
4 use in the process of manufacturing or assembling a different
5 article of tangible personal property, by procedures commonly
6 regarded as manufacturing, processing, fabricating, or
7 refining which changes some existing material or materials
8 into a material with a different form, use or name. In relation
9 to a recognized integrated business composed of a series of
10 operations which collectively constitute manufacturing, or
11 individually constitute manufacturing operations, the
12 manufacturing process shall be deemed to commence with the
13 first operation or stage of production in the series, and
14 shall not be deemed to end until the completion of the final
15 product in the last operation or stage of production in the
16 series; and further, for purposes of exemption (5),
17 photoprocessing is deemed to be a manufacturing process of
18 tangible personal property for wholesale or retail sale; (2)
19 "assembling process" shall mean the production of any article
20 of tangible personal property, whether such article is a
21 finished product or an article for use in the process of
22 manufacturing or assembling a different article of tangible
23 personal property, by the combination of existing materials in
24 a manner commonly regarded as assembling which results in a
25 material of a different form, use or name; (3) "machinery"
26 shall mean major mechanical machines or major components of

1 such machines contributing to a manufacturing or assembling
2 process; and (4) "equipment" shall include any independent
3 device or tool separate from any machinery but essential to an
4 integrated manufacturing or assembly process; including
5 computers used primarily in a manufacturer's computer assisted
6 design, computer assisted manufacturing (CAD/CAM) system; or
7 any subunit or assembly comprising a component of any
8 machinery or auxiliary, adjunct or attachment parts of
9 machinery, such as tools, dies, jigs, fixtures, patterns and
10 molds; or any parts which require periodic replacement in the
11 course of normal operation; but shall not include hand tools.
12 Equipment includes chemicals or chemicals acting as catalysts
13 but only if the chemicals or chemicals acting as catalysts
14 effect a direct and immediate change upon a product being
15 manufactured or assembled for wholesale or retail sale or
16 lease. The purchaser of such machinery and equipment who has
17 an active resale registration number shall furnish such number
18 to the seller at the time of purchase. The purchaser of such
19 machinery and equipment and tools without an active resale
20 registration number shall prepare a certificate of exemption
21 stating facts establishing the exemption, which certificate
22 shall be available to the Department for inspection or audit.
23 The Department shall prescribe the form of the certificate.

24 Any informal rulings, opinions or letters issued by the
25 Department in response to an inquiry or request for any
26 opinion from any person regarding the coverage and

1 applicability of exemption (5) to specific devices shall be
2 published, maintained as a public record, and made available
3 for public inspection and copying. If the informal ruling,
4 opinion or letter contains trade secrets or other confidential
5 information, where possible the Department shall delete such
6 information prior to publication. Whenever such informal
7 rulings, opinions, or letters contain any policy of general
8 applicability, the Department shall formulate and adopt such
9 policy as a rule in accordance with the provisions of the
10 Illinois Administrative Procedure Act.

11 On and after July 1, 1987, no entity otherwise eligible
12 under exemption (3) of this Section shall make tax-free
13 purchases unless it has an active exemption identification
14 number issued by the Department.

15 The purchase, employment and transfer of such tangible
16 personal property as newsprint and ink for the primary purpose
17 of conveying news (with or without other information) is not a
18 purchase, use or sale of service or of tangible personal
19 property within the meaning of this Act.

20 "Serviceman" means any person who is engaged in the
21 occupation of making sales of service.

22 "Sale at retail" means "sale at retail" as defined in the
23 Retailers' Occupation Tax Act.

24 "Supplier" means any person who makes sales of tangible
25 personal property to servicemen for the purpose of resale as
26 an incident to a sale of service.

1 "Serviceman maintaining a place of business in this
2 State", or any like term, means and includes any serviceman:

3 (1) having or maintaining within this State, directly
4 or by a subsidiary, an office, distribution house, sales
5 house, warehouse or other place of business, or any agent
6 or other representative operating within this State under
7 the authority of the serviceman or its subsidiary,
8 irrespective of whether such place of business or agent or
9 other representative is located here permanently or
10 temporarily, or whether such serviceman or subsidiary is
11 licensed to do business in this State;

12 (1.1) having a contract with a person located in this
13 State under which the person, for a commission or other
14 consideration based on the sale of service by the
15 serviceman, directly or indirectly refers potential
16 customers to the serviceman by providing to the potential
17 customers a promotional code or other mechanism that
18 allows the serviceman to track purchases referred by such
19 persons. Examples of mechanisms that allow the serviceman
20 to track purchases referred by such persons include but
21 are not limited to the use of a link on the person's
22 Internet website, promotional codes distributed through
23 the person's hand-delivered or mailed material, and
24 promotional codes distributed by the person through radio
25 or other broadcast media. The provisions of this paragraph
26 (1.1) shall apply only if the cumulative gross receipts

1 from sales of service by the serviceman to customers who
2 are referred to the serviceman by all persons in this
3 State under such contracts exceed \$10,000 during the
4 preceding 4 quarterly periods ending on the last day of
5 March, June, September, and December; a serviceman meeting
6 the requirements of this paragraph (1.1) shall be presumed
7 to be maintaining a place of business in this State but may
8 rebut this presumption by submitting proof that the
9 referrals or other activities pursued within this State by
10 such persons were not sufficient to meet the nexus
11 standards of the United States Constitution during the
12 preceding 4 quarterly periods;

13 (1.2) beginning July 1, 2011, having a contract with a
14 person located in this State under which:

15 (A) the serviceman sells the same or substantially
16 similar line of services as the person located in this
17 State and does so using an identical or substantially
18 similar name, trade name, or trademark as the person
19 located in this State; and

20 (B) the serviceman provides a commission or other
21 consideration to the person located in this State
22 based upon the sale of services by the serviceman.

23 The provisions of this paragraph (1.2) shall apply only if
24 the cumulative gross receipts from sales of service by the
25 serviceman to customers in this State under all such
26 contracts exceed \$10,000 during the preceding 4 quarterly

1 periods ending on the last day of March, June, September,
2 and December;

3 (2) soliciting orders for tangible personal property
4 by means of a telecommunication or television shopping
5 system (which utilizes toll free numbers) which is
6 intended by the retailer to be broadcast by cable
7 television or other means of broadcasting, to consumers
8 located in this State;

9 (3) pursuant to a contract with a broadcaster or
10 publisher located in this State, soliciting orders for
11 tangible personal property by means of advertising which
12 is disseminated primarily to consumers located in this
13 State and only secondarily to bordering jurisdictions;

14 (4) soliciting orders for tangible personal property
15 by mail if the solicitations are substantial and recurring
16 and if the retailer benefits from any banking, financing,
17 debt collection, telecommunication, or marketing
18 activities occurring in this State or benefits from the
19 location in this State of authorized installation,
20 servicing, or repair facilities;

21 (5) being owned or controlled by the same interests
22 which own or control any retailer engaging in business in
23 the same or similar line of business in this State;

24 (6) having a franchisee or licensee operating under
25 its trade name if the franchisee or licensee is required
26 to collect the tax under this Section;

1 (7) pursuant to a contract with a cable television
2 operator located in this State, soliciting orders for
3 tangible personal property by means of advertising which
4 is transmitted or distributed over a cable television
5 system in this State;

6 (8) engaging in activities in Illinois, which
7 activities in the state in which the supply business
8 engaging in such activities is located would constitute
9 maintaining a place of business in that state; or

10 (9) beginning October 1, 2018, making sales of service
11 to purchasers in Illinois from outside of Illinois if:

12 (A) the cumulative gross receipts from sales of
13 service to purchasers in Illinois are \$100,000 or
14 more; or

15 (B) the serviceman enters into 200 or more
16 separate transactions for sales of service to
17 purchasers in Illinois.

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

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

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

1 (10) Beginning January 1, 2020, a marketplace
2 facilitator, as defined in Section 2d of this Act.

3 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
4 100-587, eff. 6-4-18; 100-863, eff. 8-14-18; 101-9, Article
5 10, Section 10-15, eff. 6-5-19; 101-9, Article 25, Section
6 25-10, eff. 6-5-19; 101-604, eff. 12-13-19.)

7 (35 ILCS 110/3-5)

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

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

17 (2) Personal property purchased by a non-profit Illinois
18 county fair association for use in conducting, operating, or
19 promoting the county fair.

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

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

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

14 (5) Until July 1, 2003 and beginning again on September 1,
15 2004 through August 30, 2014, graphic arts machinery and
16 equipment, including repair and replacement parts, both new
17 and used, and including that manufactured on special order or
18 purchased for lease, certified by the purchaser to be used
19 primarily for graphic arts production. Equipment includes
20 chemicals or chemicals acting as catalysts but only if the
21 chemicals or chemicals acting as catalysts effect a direct and
22 immediate change upon a graphic arts product. Beginning on
23 July 1, 2017, graphic arts machinery and equipment is included
24 in the manufacturing and assembling machinery and equipment
25 exemption under Section 2 of this Act.

26 (6) Personal property purchased from a teacher-sponsored

1 student organization affiliated with an elementary or
2 secondary school located in Illinois.

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

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

1 limited to, soil testing sensors, computers, monitors,
2 software, global positioning and mapping systems, and other
3 such equipment.

4 Farm machinery and equipment also includes computers,
5 sensors, software, and related equipment used primarily in the
6 computer-assisted operation of production agriculture
7 facilities, equipment, and activities such as, but not limited
8 to, the collection, monitoring, and correlation of animal and
9 crop data for the purpose of formulating animal diets and
10 agricultural chemicals. This item (7) is exempt from the
11 provisions of Section 3-75.

12 (8) Until June 30, 2013, fuel and petroleum products sold
13 to or used by an air common 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 flight
16 destined for or returning from a location or locations outside
17 the United States without regard to previous or subsequent
18 domestic stopovers.

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

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

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

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

22 (11) Proceeds from the sale of photoprocessing machinery
23 and equipment, including repair and replacement parts, both
24 new and used, including that manufactured on special order,
25 certified by the purchaser to be used primarily for
26 photoprocessing, and including photoprocessing machinery and

1 equipment purchased for lease.

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

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

15 (14) Horses, or interests in horses, registered with and
16 meeting the requirements of any of the Arabian Horse Club
17 Registry of America, Appaloosa Horse Club, American Quarter
18 Horse Association, United States Trotting Association, or
19 Jockey Club, as appropriate, used for purposes of breeding or
20 racing for prizes. This item (14) is exempt from the
21 provisions of Section 3-75, and the exemption provided for
22 under this item (14) applies for all periods beginning May 30,
23 1995, but no claim for credit or refund is allowed on or after
24 January 1, 2008 (the effective date of Public Act 95-88) for
25 such taxes paid during the period beginning May 30, 2000 and
26 ending on January 1, 2008 (the effective date of Public Act

1 95-88).

2 (15) Computers and communications equipment utilized for
3 any hospital purpose and equipment used in the diagnosis,
4 analysis, or treatment of hospital patients purchased by a
5 lessor who leases the equipment, under a lease of one year or
6 longer executed or in effect at the time the lessor would
7 otherwise be subject to the tax imposed by this Act, to a
8 hospital that has been issued an active tax exemption
9 identification number by the Department under Section 1g of
10 the Retailers' Occupation Tax Act. If the equipment is leased
11 in a manner that does not qualify for this exemption or is used
12 in any other non-exempt manner, the lessor shall be liable for
13 the tax imposed under this Act or the 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 Use Tax Act, as the case may be, if the tax has not
19 been paid by the lessor. If a lessor improperly collects any
20 such amount from the lessee, the lessee shall have a legal
21 right to claim a refund of that amount from the lessor. If,
22 however, that amount is not refunded to the lessee for any
23 reason, the lessor is liable to pay that amount to the
24 Department.

25 (16) Personal property purchased by a lessor who leases
26 the property, under a lease of one year or longer executed or

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

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

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

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

16 (19) Beginning July 1, 1999, game or game birds purchased
17 at a "game breeding and hunting preserve area" as that term is
18 used in the Wildlife Code. This paragraph is exempt from the
19 provisions of Section 3-75.

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

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

13 (21) Beginning January 1, 2000, personal property,
14 including food, purchased through fundraising events for the
15 benefit of a public or private elementary or secondary school,
16 a group of those schools, or one or more school districts if
17 the events are sponsored by an entity recognized by the school
18 district that consists primarily of volunteers and includes
19 parents and teachers of the school children. This paragraph
20 does not apply to fundraising events (i) for the benefit of
21 private home instruction or (ii) for which the fundraising
22 entity purchases the personal property sold at the events from
23 another individual or entity that sold the property for the
24 purpose of resale by the fundraising entity and that profits
25 from the sale to the fundraising entity. This paragraph is
26 exempt from the provisions of Section 3-75.

1 (22) Beginning January 1, 2000 and through December 31,
2 2001, new or used automatic vending machines that prepare and
3 serve hot food and beverages, including coffee, soup, and
4 other items, and replacement parts for these machines.
5 Beginning January 1, 2002 and through June 30, 2003, machines
6 and parts for machines used in commercial, coin-operated
7 amusement and vending business if a use or occupation tax is
8 paid on the gross receipts derived from the use of the
9 commercial, coin-operated amusement and vending machines. This
10 paragraph is exempt from the provisions of Section 3-75.

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

24 (24) Beginning on August 2, 2001 (the effective date of
25 Public Act 92-227), computers and communications equipment
26 utilized for any hospital purpose and equipment used in the

1 diagnosis, analysis, or treatment of hospital patients
2 purchased by a lessor who leases the equipment, under a lease
3 of one year or longer executed or in effect at the time the
4 lessor would otherwise be subject to the tax imposed by this
5 Act, to a hospital that has been issued an active tax exemption
6 identification number by the Department under Section 1g of
7 the Retailers' Occupation Tax Act. If the equipment is leased
8 in a manner that does not qualify for this exemption or is used
9 in any other nonexempt manner, the lessor shall be liable for
10 the tax imposed under this Act or the Use Tax Act, as the case
11 may be, based on the fair market value of the property at the
12 time the nonqualifying use occurs. No lessor shall collect or
13 attempt to collect an amount (however designated) that
14 purports to reimburse that lessor for the tax imposed by this
15 Act or the Use Tax Act, as the case may be, if the tax has not
16 been paid by the lessor. If a lessor improperly collects any
17 such amount from the lessee, the lessee shall have a legal
18 right to claim a refund of that amount from the lessor. If,
19 however, that amount is not refunded to the lessee for any
20 reason, the lessor is liable to pay that amount to the
21 Department. This paragraph is exempt from the provisions of
22 Section 3-75.

23 (25) Beginning on August 2, 2001 (the effective date of
24 Public Act 92-227), personal property purchased by a lessor
25 who leases the property, under a lease of one year or longer
26 executed or in effect at the time the lessor would otherwise be

1 subject to the tax imposed by this Act, to a governmental body
2 that has been issued an active tax exemption identification
3 number by the Department under Section 1g of the Retailers'
4 Occupation Tax Act. If the property is leased in a manner that
5 does not qualify for this exemption or is used in any other
6 nonexempt manner, the lessor shall be liable for the tax
7 imposed under this Act or the Use Tax Act, as the case may be,
8 based on the fair market value of the property at the time the
9 nonqualifying use occurs. No lessor shall collect or attempt
10 to collect an amount (however designated) that purports to
11 reimburse that lessor for the tax imposed by this Act or the
12 Use Tax Act, as the case may be, if the tax has not been paid
13 by the lessor. If a lessor improperly collects any such amount
14 from the lessee, the lessee shall have a legal right to claim a
15 refund of that amount from the lessor. If, however, that
16 amount is not refunded to the lessee for any reason, the lessor
17 is liable to pay that amount to the Department. This paragraph
18 is exempt from the provisions of Section 3-75.

19 (26) 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 3-75.

26 (27) 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 transferred incident to the modification,
17 refurbishment, completion, replacement, repair, or maintenance
18 of aircraft by persons who (i) hold an Air Agency Certificate
19 and are empowered to operate an approved repair station by the
20 Federal Aviation Administration, (ii) have a Class IV Rating,
21 and (iii) conduct operations in accordance with Part 145 of
22 the Federal Aviation Regulations. The exemption does not
23 include aircraft operated by a commercial air carrier
24 providing scheduled passenger air service pursuant to
25 authority issued under Part 121 or Part 129 of the Federal
26 Aviation Regulations. The changes made to this paragraph (27)

1 by Public Act 98-534 are declarative of existing law. It is the
2 intent of the General Assembly that the exemption under this
3 paragraph (27) applies continuously from January 1, 2010
4 through December 31, 2024; however, no claim for credit or
5 refund is allowed for taxes paid as a result of the
6 disallowance of this exemption on or after January 1, 2015 and
7 prior to the effective date of this amendatory Act of the 101st
8 General Assembly.

9 (28) Tangible personal property purchased by a
10 public-facilities corporation, as described in Section
11 11-65-10 of the Illinois Municipal Code, for purposes of
12 constructing or furnishing a municipal convention hall, but
13 only if the legal title to the municipal convention hall is
14 transferred to the municipality without any further
15 consideration by or on behalf of the municipality at the time
16 of the completion of the municipal convention hall or upon the
17 retirement or redemption of any bonds or other debt
18 instruments issued by the public-facilities corporation in
19 connection with the development of the municipal convention
20 hall. This exemption includes existing public-facilities
21 corporations as provided in Section 11-65-25 of the Illinois
22 Municipal Code. This paragraph is exempt from the provisions
23 of Section 3-75.

24 (29) Beginning January 1, 2017 and through December 31,
25 2026, menstrual pads, tampons, and menstrual cups.

26 (30) Tangible personal property transferred to a purchaser

1 who is exempt from the tax imposed by this Act by operation of
2 federal law. This paragraph is exempt from the provisions of
3 Section 3-75.

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

18 The Department of Commerce and Economic Opportunity shall
19 grant a certificate of exemption under this item (31) to
20 qualified data centers as defined by Section 605-1025 of the
21 Department of Commerce and Economic Opportunity Law of the
22 Civil Administrative Code of Illinois.

23 For the purposes of this item (31):

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

1 the State of Illinois.

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

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

3 This item (31) is exempt from the provisions of Section
4 3-75.

5 (32) Beginning on the earlier of: (i) January 1, 2025; or
6 (ii) January 1 of the calendar year immediately following the
7 calendar year in which the State reports to the United States
8 Department of the Treasury that all federal funds received
9 under the American Rescue Plan Act of 2021 have been fully
10 expended, and continuing through December 31 of the fifth
11 calendar year to occur after the earlier of: (i) January 1,
12 2025; or (ii) January 1 of the calendar year immediately
13 following the calendar year in which the State reports to the
14 United States Department of the Treasury that all federal
15 funds received under the American Rescue Plan Act of 2021 have
16 been fully expended, equipment and material deployed after
17 January 1, 2023 in a county in the State with a population of
18 fewer than 40,000 people or a township in the State with a
19 population density of less than 50 households per square mile
20 in a county with a population of less than 300,000 people
21 during that year that is incorporated into or used in the
22 business of providing broadband services, including all
23 equipment and material, machinery, software, or other tangible
24 personal property that is used in whole or in part in
25 producing, broadcasting, distributing, sending, receiving,
26 storing, transmitting, retransmitting, amplifying, switching,

1 or routing broadband services, including the monitoring,
2 testing, maintaining, enabling, or facilitating of such
3 equipment, machinery, software, or other infrastructure. Such
4 property includes, but is not limited to, wires, cables
5 including fiber optic cables, antennas, poles, switches,
6 routers, amplifiers, rectifiers, repeaters, receivers,
7 multiplexers, duplexers, transmitters, power equipment, backup
8 power equipment, diagnostic equipment, storage devices,
9 modems, and other general central office equipment, such as
10 channel cards, frames, and cabinets. The exemption under this
11 item (32) may be taken for property placed in service on or
12 after January 1, 2023; however, the credit may not be taken
13 until a taxable year beginning on or after the earlier of: (i)
14 January 1, 2025; or (ii) January 1 of the calendar year
15 immediately following the calendar year in which the State
16 reports to the United States Department of the Treasury that
17 all federal funds received under the American Rescue Plan Act
18 of 2021 have been fully expended.

19 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
20 101-629, eff. 2-5-20; 102-16, eff. 6-17-21.)

21 Section 20. The Service Occupation Tax Act is amended by
22 changing Sections 2 and 3-5 as follows:

23 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

24 Sec. 2. In this Act:

1 "Broadband service" means a service provided by wireline
2 or wireless means capable of delivering high-speed internet
3 access at speeds of at least 25 megabits per second of download
4 speed and 3 megabits per second of upload speed.

5 "Transfer" means any transfer of the title to property or
6 of the ownership of property whether or not the transferor
7 retains title as security for the payment of amounts due him
8 from the transferee.

9 "Cost Price" means the consideration paid by the
10 serviceman for a purchase valued in money, whether paid in
11 money or otherwise, including cash, credits and services, and
12 shall be determined without any deduction on account of the
13 supplier's cost of the property sold or on account of any other
14 expense incurred by the supplier. When a serviceman contracts
15 out part or all of the services required in his sale of
16 service, it shall be presumed that the cost price to the
17 serviceman of the property transferred to him by his or her
18 subcontractor is equal to 50% of the subcontractor's charges
19 to the serviceman in the absence of proof of the consideration
20 paid by the subcontractor for the purchase of such property.

21 "Department" means the Department of Revenue.

22 "Person" means any natural individual, firm, partnership,
23 association, joint stock company, joint venture, public or
24 private corporation, limited liability company, and any
25 receiver, executor, trustee, guardian or other representative
26 appointed by order of any court.

1 "Sale of Service" means any transaction except:

2 (a) A retail sale of tangible personal property taxable
3 under the Retailers' Occupation Tax Act or under the Use Tax
4 Act.

5 (b) A sale of tangible personal property for the purpose
6 of resale made in compliance with Section 2c of the Retailers'
7 Occupation Tax Act.

8 (c) Except as hereinafter provided, a sale or transfer of
9 tangible personal property as an incident to the rendering of
10 service for or by any governmental body or for or by any
11 corporation, society, association, foundation or institution
12 organized and operated exclusively for charitable, religious
13 or educational purposes or any not-for-profit corporation,
14 society, association, foundation, institution or organization
15 which has no compensated officers or employees and which is
16 organized and operated primarily for the recreation of persons
17 55 years of age or older. A limited liability company may
18 qualify for the exemption under this paragraph only if the
19 limited liability company is organized and operated
20 exclusively for educational purposes.

21 (d) (Blank).

22 (d-1) A sale or transfer of tangible personal property as
23 an incident to the rendering of service for owners, lessors or
24 shippers of tangible personal property which is utilized by
25 interstate carriers for hire for use as rolling stock moving
26 in interstate commerce, and equipment operated by a

1 telecommunications provider, licensed as a common carrier by
2 the Federal Communications Commission, which is permanently
3 installed in or affixed to aircraft moving in interstate
4 commerce.

5 (d-1.1) On and after July 1, 2003 and through June 30,
6 2004, a sale or transfer of a motor vehicle of the second
7 division with a gross vehicle weight in excess of 8,000 pounds
8 as an incident to the rendering of service if that motor
9 vehicle is subject to the commercial distribution fee imposed
10 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
11 on July 1, 2004 and through June 30, 2005, the use in this
12 State of motor vehicles of the second division: (i) with a
13 gross vehicle weight rating in excess of 8,000 pounds; (ii)
14 that are subject to the commercial distribution fee imposed
15 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
16 that are primarily used for commercial purposes. Through June
17 30, 2005, this exemption applies to repair and replacement
18 parts added after the initial purchase of such a motor vehicle
19 if that motor vehicle is used in a manner that would qualify
20 for the rolling stock exemption otherwise provided for in this
21 Act. For purposes of this paragraph, "used for commercial
22 purposes" means the transportation of persons or property in
23 furtherance of any commercial or industrial enterprise whether
24 for-hire or not.

25 (d-2) The repairing, reconditioning or remodeling, for a
26 common carrier by rail, of tangible personal property which

1 belongs to such carrier for hire, and as to which such carrier
2 receives the physical possession of the repaired,
3 reconditioned or remodeled item of tangible personal property
4 in Illinois, and which such carrier transports, or shares with
5 another common carrier in the transportation of such property,
6 out of Illinois on a standard uniform bill of lading showing
7 the person who repaired, reconditioned or remodeled the
8 property as the shipper or consignor of such property to a
9 destination outside Illinois, for use outside Illinois.

10 (d-3) A sale or transfer of tangible personal property
11 which is produced by the seller thereof on special order in
12 such a way as to have made the applicable tax the Service
13 Occupation Tax or the Service Use Tax, rather than the
14 Retailers' Occupation Tax or the Use Tax, for an interstate
15 carrier by rail which receives the physical possession of such
16 property in Illinois, and which transports such property, or
17 shares with another common carrier in the transportation of
18 such property, out of Illinois on a standard uniform bill of
19 lading showing the seller of the property as the shipper or
20 consignor of such property to a destination outside Illinois,
21 for use outside Illinois.

22 (d-4) Until January 1, 1997, a sale, by a registered
23 serviceman paying tax under this Act to the Department, of
24 special order printed materials delivered outside Illinois and
25 which are not returned to this State, if delivery is made by
26 the seller or agent of the seller, including an agent who

1 causes the product to be delivered outside Illinois by a
2 common carrier or the U.S. postal service.

3 (e) A sale or transfer of machinery and equipment used
4 primarily in the process of the manufacturing or assembling,
5 either in an existing, an expanded or a new manufacturing
6 facility, of tangible personal property for wholesale or
7 retail sale or lease, whether such sale or lease is made
8 directly by the manufacturer or by some other person, whether
9 the materials used in the process are owned by the
10 manufacturer or some other person, or whether such sale or
11 lease is made apart from or as an incident to the seller's
12 engaging in a service occupation and the applicable tax is a
13 Service Occupation Tax or Service Use Tax, rather than
14 Retailers' Occupation Tax or Use Tax. The exemption provided
15 by this paragraph (e) includes production related tangible
16 personal property, as defined in Section 3-50 of the Use Tax
17 Act, purchased on or after July 1, 2019. The exemption
18 provided by this paragraph (e) does not include machinery and
19 equipment used in (i) the generation of electricity for
20 wholesale or retail sale; (ii) the generation or treatment of
21 natural or artificial gas for wholesale or retail sale that is
22 delivered to customers through pipes, pipelines, or mains; or
23 (iii) the treatment of water for wholesale or retail sale that
24 is delivered to customers through pipes, pipelines, or mains.
25 The provisions of Public Act 98-583 are declaratory of
26 existing law as to the meaning and scope of this exemption. The

1 exemption under this subsection (e) is exempt from the
2 provisions of Section 3-75.

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

10 (g) At the election of any serviceman not required to be
11 otherwise registered as a retailer under Section 2a of the
12 Retailers' Occupation Tax Act, made for each fiscal year sales
13 of service in which the aggregate annual cost price of
14 tangible personal property transferred as an incident to the
15 sales of service is less than 35% (75% in the case of
16 servicemen transferring prescription drugs or servicemen
17 engaged in graphic arts production) of the aggregate annual
18 total gross receipts from all sales of service. The purchase
19 of such tangible personal property by the serviceman shall be
20 subject to tax under the Retailers' Occupation Tax Act and the
21 Use Tax Act. However, if a primary serviceman who has made the
22 election described in this paragraph subcontracts service work
23 to a secondary serviceman who has also made the election
24 described in this paragraph, the primary serviceman does not
25 incur a Use Tax liability if the secondary serviceman (i) has
26 paid or will pay Use Tax on his or her cost price of any

1 tangible personal property transferred to the primary
2 serviceman and (ii) certifies that fact in writing to the
3 primary serviceman.

4 Tangible personal property transferred incident to the
5 completion of a maintenance agreement is exempt from the tax
6 imposed pursuant to this Act.

7 Exemption (e) also includes machinery and equipment used
8 in the general maintenance or repair of such exempt machinery
9 and equipment or for in-house manufacture of exempt machinery
10 and equipment. On and after July 1, 2017, exemption (e) also
11 includes graphic arts machinery and equipment, as defined in
12 paragraph (5) of Section 3-5. The machinery and equipment
13 exemption does not include machinery and equipment used in (i)
14 the generation of electricity for wholesale or retail sale;
15 (ii) the generation or treatment of natural or artificial gas
16 for wholesale or retail sale that is delivered to customers
17 through pipes, pipelines, or mains; or (iii) the treatment of
18 water for wholesale or retail sale that is delivered to
19 customers through pipes, pipelines, or mains. The provisions
20 of Public Act 98-583 are declaratory of existing law as to the
21 meaning and scope of this exemption. For the purposes of
22 exemption (e), each of these terms shall have the following
23 meanings: (1) "manufacturing process" shall mean the
24 production of any article of tangible personal property,
25 whether such article is a finished product or an article for
26 use in the process of manufacturing or assembling a different

1 article of tangible personal property, by procedures commonly
2 regarded as manufacturing, processing, fabricating, or
3 refining which changes some existing material or materials
4 into a material with a different form, use or name. In relation
5 to a recognized integrated business composed of a series of
6 operations which collectively constitute manufacturing, or
7 individually constitute manufacturing operations, the
8 manufacturing process shall be deemed to commence with the
9 first operation or stage of production in the series, and
10 shall not be deemed to end until the completion of the final
11 product in the last operation or stage of production in the
12 series; and further for purposes of exemption (e),
13 photoprocessing is deemed to be a manufacturing process of
14 tangible personal property for wholesale or retail sale; (2)
15 "assembling process" shall mean the production of any article
16 of tangible personal property, whether such article is a
17 finished product or an article for use in the process of
18 manufacturing or assembling a different article of tangible
19 personal property, by the combination of existing materials in
20 a manner commonly regarded as assembling which results in a
21 material of a different form, use or name; (3) "machinery"
22 shall mean major mechanical machines or major components of
23 such machines contributing to a manufacturing or assembling
24 process; and (4) "equipment" shall include any independent
25 device or tool separate from any machinery but essential to an
26 integrated manufacturing or assembly process; including

1 computers used primarily in a manufacturer's computer assisted
2 design, computer assisted manufacturing (CAD/CAM) system; or
3 any subunit or assembly comprising a component of any
4 machinery or auxiliary, adjunct or attachment parts of
5 machinery, such as tools, dies, jigs, fixtures, patterns and
6 molds; or any parts which require periodic replacement in the
7 course of normal operation; but shall not include hand tools.
8 Equipment includes chemicals or chemicals acting as catalysts
9 but only if the chemicals or chemicals acting as catalysts
10 effect a direct and immediate change upon a product being
11 manufactured or assembled for wholesale or retail sale or
12 lease. The purchaser of such machinery and equipment who has
13 an active resale registration number shall furnish such number
14 to the seller at the time of purchase. The purchaser of such
15 machinery and equipment and tools without an active resale
16 registration number shall furnish to the seller a certificate
17 of exemption stating facts establishing the exemption, which
18 certificate shall be available to the Department for
19 inspection or audit.

20 Except as provided in Section 2d of this Act, the rolling
21 stock exemption applies to rolling stock used by an interstate
22 carrier for hire, even just between points in Illinois, if
23 such rolling stock transports, for hire, persons whose
24 journeys or property whose shipments originate or terminate
25 outside Illinois.

26 Any informal rulings, opinions or letters issued by the

1 Department in response to an inquiry or request for any
2 opinion from any person regarding the coverage and
3 applicability of exemption (e) to specific devices shall be
4 published, maintained as a public record, and made available
5 for public inspection and copying. If the informal ruling,
6 opinion or letter contains trade secrets or other confidential
7 information, where possible the Department shall delete such
8 information prior to publication. Whenever such informal
9 rulings, opinions, or letters contain any policy of general
10 applicability, the Department shall formulate and adopt such
11 policy as a rule in accordance with the provisions of the
12 Illinois Administrative Procedure Act.

13 On and after July 1, 1987, no entity otherwise eligible
14 under exemption (c) of this Section shall make tax-free
15 purchases unless it has an active exemption identification
16 number issued by the Department.

17 "Serviceman" means any person who is engaged in the
18 occupation of making sales of service.

19 "Sale at Retail" means "sale at retail" as defined in the
20 Retailers' Occupation Tax Act.

21 "Supplier" means any person who makes sales of tangible
22 personal property to servicemen for the purpose of resale as
23 an incident to a sale of service.

24 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
25 100-863, eff. 8-14-18; 101-9, eff. 6-5-19; 101-604, eff.
26 12-13-19.)

1 (35 ILCS 115/3-5)

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

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

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

14 (3) Personal property purchased by any not-for-profit arts
15 or cultural organization that establishes, by proof required
16 by the Department by rule, that it has received an exemption
17 under Section 501(c)(3) of the Internal Revenue Code and that
18 is organized and operated primarily for the presentation or
19 support of arts or cultural programming, activities, or
20 services. These organizations include, but are not limited to,
21 music and dramatic arts organizations such as symphony
22 orchestras and theatrical groups, arts and cultural service
23 organizations, local arts councils, visual arts organizations,
24 and media arts organizations. On and after July 1, 2001 (the
25 effective date of Public Act 92-35), however, an entity

1 otherwise eligible for this exemption shall not make tax-free
2 purchases unless it has an active identification number issued
3 by the Department.

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

8 (5) Until July 1, 2003 and beginning again on September 1,
9 2004 through August 30, 2014, graphic arts machinery and
10 equipment, including repair and replacement parts, both new
11 and used, and including that manufactured on special order or
12 purchased for lease, certified by the purchaser to be used
13 primarily for graphic arts production. Equipment includes
14 chemicals or chemicals acting as catalysts but only if the
15 chemicals or chemicals acting as catalysts effect a direct and
16 immediate change upon a graphic arts product. Beginning on
17 July 1, 2017, graphic arts machinery and equipment is included
18 in the manufacturing and assembling machinery and equipment
19 exemption under Section 2 of this Act.

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

23 (7) Farm machinery and equipment, both new and used,
24 including that manufactured on special order, certified by the
25 purchaser to be used primarily for production agriculture or
26 State or federal agricultural programs, including individual

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

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

24 Farm machinery and equipment also includes computers,
25 sensors, software, and related equipment used primarily in the
26 computer-assisted operation of production agriculture

1 facilities, equipment, and activities such as, but not limited
2 to, the collection, monitoring, and correlation of animal and
3 crop data for the purpose of formulating animal diets and
4 agricultural chemicals. This item (7) is exempt from the
5 provisions of Section 3-55.

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

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

23 (9) Proceeds of mandatory service charges separately
24 stated on customers' bills for the purchase and consumption of
25 food and beverages, to the extent that the proceeds of the
26 service charge are in fact turned over as tips or as a

1 substitute for tips to the employees who participate directly
2 in preparing, serving, hosting or cleaning up the food or
3 beverage function with respect to which the service charge is
4 imposed.

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

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

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

1 for credit or refund is allowed on or after August 16, 2013
2 (the effective date of Public Act 98-456) for such taxes paid
3 during the period beginning July 1, 2003 and ending on August
4 16, 2013 (the effective date of Public Act 98-456).

5 (13) Beginning January 1, 1992 and through June 30, 2016,
6 food for human consumption that is to be consumed off the
7 premises where it is sold (other than alcoholic beverages,
8 soft drinks and food that has been prepared for immediate
9 consumption) and prescription and non-prescription medicines,
10 drugs, medical appliances, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use, when purchased for use by a person receiving medical
13 assistance under Article V of the Illinois Public Aid Code who
14 resides in a licensed long-term care facility, as defined in
15 the Nursing Home Care Act, or in a licensed facility as defined
16 in the ID/DD Community Care Act, the MC/DD Act, or the
17 Specialized Mental Health Rehabilitation Act of 2013.

18 (14) Semen used for artificial insemination of livestock
19 for direct agricultural production.

20 (15) Horses, or interests in horses, registered with and
21 meeting the requirements of any of the Arabian Horse Club
22 Registry of America, Appaloosa Horse Club, American Quarter
23 Horse Association, United States Trotting Association, or
24 Jockey Club, as appropriate, used for purposes of breeding or
25 racing for prizes. This item (15) is exempt from the
26 provisions of Section 3-55, and the exemption provided for

1 under this item (15) applies for all periods beginning May 30,
2 1995, but no claim for credit or refund is allowed on or after
3 January 1, 2008 (the effective date of Public Act 95-88) for
4 such taxes paid during the period beginning May 30, 2000 and
5 ending on January 1, 2008 (the effective date of Public Act
6 95-88).

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

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

21 (18) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is donated
24 for disaster relief to be used in a State or federally declared
25 disaster area in Illinois or bordering Illinois by a
26 manufacturer or retailer that is registered in this State to a

1 corporation, society, association, foundation, or institution
2 that has been issued a sales tax exemption identification
3 number by the Department that assists victims of the disaster
4 who reside within the declared disaster area.

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

18 (20) Beginning July 1, 1999, game or game birds sold at a
19 "game breeding and hunting preserve area" as that term is used
20 in the Wildlife Code. This paragraph is exempt from the
21 provisions of Section 3-55.

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

1 educational purposes. For purposes of this exemption, "a
2 corporation, limited liability company, society, association,
3 foundation, or institution organized and operated exclusively
4 for educational purposes" means all tax-supported public
5 schools, private schools that offer systematic instruction in
6 useful branches of learning by methods common to public
7 schools and that compare favorably in their scope and
8 intensity with the course of study presented in tax-supported
9 schools, and vocational or technical schools or institutes
10 organized and operated exclusively to provide a course of
11 study of 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 (22) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits

1 from the sale to the fundraising entity. This paragraph is
2 exempt from the provisions of Section 3-55.

3 (23) Beginning January 1, 2000 and through December 31,
4 2001, new or used automatic vending machines that prepare and
5 serve hot food and beverages, including coffee, soup, and
6 other items, and replacement parts for these machines.
7 Beginning January 1, 2002 and through June 30, 2003, machines
8 and parts for machines used in commercial, coin-operated
9 amusement and vending business if a use or occupation tax is
10 paid on the gross receipts derived from the use of the
11 commercial, coin-operated amusement and vending machines. This
12 paragraph is exempt from the provisions of Section 3-55.

13 (24) Beginning on August 2, 2001 (the effective date of
14 Public Act 92-227), computers and communications equipment
15 utilized for any hospital purpose and equipment used in the
16 diagnosis, analysis, or treatment of hospital patients sold to
17 a lessor who leases the equipment, under a lease of one year or
18 longer executed or in effect at the time of the purchase, to a
19 hospital that has been issued an active tax exemption
20 identification number by the Department under Section 1g of
21 the Retailers' Occupation Tax Act. This paragraph is exempt
22 from the provisions of Section 3-55.

23 (25) Beginning on August 2, 2001 (the effective date of
24 Public Act 92-227), personal property sold to a lessor who
25 leases the property, under a lease of one year or longer
26 executed or in effect at the time of the purchase, to a

1 governmental body that has been issued an active tax exemption
2 identification number by the Department under Section 1g of
3 the Retailers' Occupation Tax Act. This paragraph is exempt
4 from the provisions of Section 3-55.

5 (26) Beginning on January 1, 2002 and through June 30,
6 2016, tangible personal property purchased from an Illinois
7 retailer by a taxpayer engaged in centralized purchasing
8 activities in Illinois who will, upon receipt of the property
9 in Illinois, temporarily store the property in Illinois (i)
10 for the purpose of subsequently transporting it outside this
11 State for use or consumption thereafter solely outside this
12 State or (ii) for the purpose of being processed, fabricated,
13 or manufactured into, attached to, or incorporated into other
14 tangible personal property to be transported outside this
15 State and thereafter used or consumed solely outside this
16 State. The Director of Revenue shall, pursuant to rules
17 adopted in accordance with the Illinois Administrative
18 Procedure Act, issue a permit to any taxpayer in good standing
19 with the Department who is eligible for the exemption under
20 this paragraph (26). The permit issued under this paragraph
21 (26) shall authorize the holder, to the extent and in the
22 manner specified in the rules adopted under this Act, to
23 purchase tangible personal property from a retailer exempt
24 from the taxes imposed by this Act. Taxpayers shall maintain
25 all necessary books and records to substantiate the use and
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

2 (27) Beginning January 1, 2008, tangible personal property
3 used in the construction or maintenance of a community water
4 supply, as defined under Section 3.145 of the Environmental
5 Protection Act, that is operated by a not-for-profit
6 corporation that holds a valid water supply permit issued
7 under Title IV of the Environmental Protection Act. This
8 paragraph is exempt from the provisions of Section 3-55.

9 (28) Tangible personal property sold to a
10 public-facilities corporation, as described in Section
11 11-65-10 of the Illinois Municipal Code, for purposes of
12 constructing or furnishing a municipal convention hall, but
13 only if the legal title to the municipal convention hall is
14 transferred to the municipality without any further
15 consideration by or on behalf of the municipality at the time
16 of the completion of the municipal convention hall or upon the
17 retirement or redemption of any bonds or other debt
18 instruments issued by the public-facilities corporation in
19 connection with the development of the municipal convention
20 hall. This exemption includes existing public-facilities
21 corporations as provided in Section 11-65-25 of the Illinois
22 Municipal Code. This paragraph is exempt from the provisions
23 of Section 3-55.

24 (29) Beginning January 1, 2010 and continuing through
25 December 31, 2024, materials, parts, equipment, components,
26 and furnishings incorporated into or upon an aircraft as part

1 of the modification, refurbishment, completion, replacement,
2 repair, or maintenance of the aircraft. This exemption
3 includes consumable supplies used in the modification,
4 refurbishment, completion, replacement, repair, and
5 maintenance of aircraft, but excludes any materials, parts,
6 equipment, components, and consumable supplies used in the
7 modification, replacement, repair, and maintenance of aircraft
8 engines or power plants, whether such engines or power plants
9 are installed or uninstalled upon any such aircraft.
10 "Consumable supplies" include, but are not limited to,
11 adhesive, tape, sandpaper, general purpose lubricants,
12 cleaning solution, latex gloves, and protective films. This
13 exemption applies only to the transfer of qualifying tangible
14 personal property incident to the modification, refurbishment,
15 completion, replacement, repair, or maintenance of an aircraft
16 by persons who (i) hold an Air Agency Certificate and are
17 empowered to operate an approved repair station by the Federal
18 Aviation Administration, (ii) have a Class IV Rating, and
19 (iii) conduct operations in accordance with Part 145 of the
20 Federal Aviation Regulations. The exemption does not include
21 aircraft operated by a commercial air carrier providing
22 scheduled passenger air service pursuant to authority issued
23 under Part 121 or Part 129 of the Federal Aviation
24 Regulations. The changes made to this paragraph (29) by Public
25 Act 98-534 are declarative of existing law. It is the intent of
26 the General Assembly that the exemption under this paragraph

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

7 (30) Beginning January 1, 2017 and through December 31,
8 2026, menstrual pads, tampons, and menstrual cups.

9 (31) Tangible personal property transferred to a purchaser
10 who is exempt from tax by operation of federal law. This
11 paragraph is exempt from the provisions of Section 3-55.

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

26 The Department of Commerce and Economic Opportunity shall

1 grant a certificate of exemption under this item (32) to
2 qualified data centers as defined by Section 605-1025 of the
3 Department of Commerce and Economic Opportunity Law of the
4 Civil Administrative Code of Illinois.

5 For the purposes of this item (32):

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

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

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

11 This item (32) is exempt from the provisions of Section
12 3-55.

13 (33) Beginning on the earlier of: (i) January 1, 2025; or
14 (ii) January 1 of the calendar year immediately following the
15 calendar year in which the State reports to the United States
16 Department of the Treasury that all federal funds received
17 under the American Rescue Plan Act of 2021 have been fully
18 expended, and continuing through December 31 of the fifth
19 calendar year to occur after the earlier of: (i) January 1,
20 2025; or (ii) January 1 of the calendar year immediately
21 following the calendar year in which the State reports to the
22 United States Department of the Treasury that all federal
23 funds received under the American Rescue Plan Act of 2021 have
24 been fully expended, equipment and material deployed after
25 January 1, 2023 in a county in the State with a population of
26 fewer than 40,000 people or a township in the State with a

1 population density of less than 50 households per square mile
2 in a county with a population of less than 300,000 people
3 during that year that is incorporated into or used in the
4 business of providing broadband services, including all
5 equipment and material, machinery, software, or other tangible
6 personal property that is used in whole or in part in
7 producing, broadcasting, distributing, sending, receiving,
8 storing, transmitting, retransmitting, amplifying, switching,
9 or routing broadband services, including the monitoring,
10 testing, maintaining, enabling, or facilitating of such
11 equipment, machinery, software, or other infrastructure. Such
12 property includes, but is not limited to, wires, cables
13 including fiber optic cables, antennas, poles, switches,
14 routers, amplifiers, rectifiers, repeaters, receivers,
15 multiplexers, duplexers, transmitters, power equipment, backup
16 power equipment, diagnostic equipment, storage devices,
17 modems, and other general central office equipment, such as
18 channel cards, frames, and cabinets. The exemption under this
19 item (33) may be taken for property placed in service on or
20 after January 1, 2023; however, the credit may not be taken
21 until a taxable year beginning on or after the earlier of: (i)
22 January 1, 2025; or (ii) January 1 of the calendar year
23 immediately following the calendar year in which the State
24 reports to the United States Department of the Treasury that
25 all federal funds received under the American Rescue Plan Act
26 of 2021 have been fully expended.

1 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
2 101-629, eff. 2-5-20; 102-16, eff. 6-17-21.)

3 Section 25. The Retailers' Occupation Tax Act is amended
4 by changing Sections 1 and 2-5 as follows:

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

6 Sec. 1. Definitions. As used in this Act:

7 "Broadband service" means a service provided by wireline
8 or wireless means capable of delivering high-speed internet
9 access at speeds of at least 25 megabits per second of download
10 speed and 3 megabits per second of upload speed.

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

1 security for payment of the selling price shall be deemed to be
2 sales.

3 "Sale at retail" shall be construed to include any
4 transfer of the ownership of or title to tangible personal
5 property to a purchaser, for use or consumption by any other
6 person to whom such purchaser may transfer the tangible
7 personal property without a valuable consideration, and to
8 include any transfer, whether made for or without a valuable
9 consideration, for resale in any form as tangible personal
10 property unless made in compliance with Section 2c of this
11 Act.

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

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

1 purchaser's donee in such other state.

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

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

19 A person whose activities are organized and conducted
20 primarily as a not-for-profit service enterprise, and who
21 engages in selling tangible personal property at retail
22 (whether to the public or merely to members and their guests)
23 is engaged in the business of selling tangible personal
24 property at retail with respect to such transactions,
25 excepting only a person organized and operated exclusively for
26 charitable, religious or educational purposes either (1), to

1 the extent of sales by such person to its members, students,
2 patients or inmates of tangible personal property to be used
3 primarily for the purposes of such person, or (2), to the
4 extent of sales by such person of tangible personal property
5 which is not sold or offered for sale by persons organized for
6 profit. The selling of school books and school supplies by
7 schools at retail to students is not "primarily for the
8 purposes of" the school which does such selling. The
9 provisions of this paragraph shall not apply to nor subject to
10 taxation occasional dinners, socials or similar activities of
11 a person organized and operated exclusively for charitable,
12 religious or educational purposes, whether or not such
13 activities are open to the public.

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

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

25 "Reseller of motor fuel" means any person engaged in the
26 business of selling or delivering or transferring title of

1 motor fuel to another person other than for use or
2 consumption. No person shall act as a reseller of motor fuel
3 within this State without first being registered as a reseller
4 pursuant to Section 2c or a retailer pursuant to Section 2a.

5 "Selling price" or the "amount of sale" means the
6 consideration for a sale valued in money whether received in
7 money or otherwise, including cash, credits, property, other
8 than as hereinafter provided, and services, but, prior to
9 January 1, 2020 and beginning again on January 1, 2022, not
10 including the value of or credit given for traded-in tangible
11 personal property where the item that is traded-in is of like
12 kind and character as that which is being sold; beginning
13 January 1, 2020 and until January 1, 2022, "selling price"
14 includes the portion of the value of or credit given for
15 traded-in motor vehicles of the First Division as defined in
16 Section 1-146 of the Illinois Vehicle Code of like kind and
17 character as that which is being sold that exceeds \$10,000.
18 "Selling price" shall be determined without any deduction on
19 account of the cost of the property sold, the cost of materials
20 used, labor or service cost or any other expense whatsoever,
21 but does not include charges that are added to prices by
22 sellers on account of the seller's tax liability under this
23 Act, or on account of the seller's duty to collect, from the
24 purchaser, the tax that is imposed by the Use Tax Act, or,
25 except as otherwise provided with respect to any cigarette tax
26 imposed by a home rule unit, on account of the seller's tax

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

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

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

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

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

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

22 "Gross receipts" from the sales of tangible personal
23 property at retail means the total selling price or the amount
24 of such sales, as hereinbefore defined. In the case of charge
25 and time sales, the amount thereof shall be included only as
26 and when payments are received by the seller. Receipts or

1 other consideration derived by a seller from the sale,
2 transfer or assignment of accounts receivable to a wholly
3 owned subsidiary will not be deemed payments prior to the time
4 the purchaser makes payment on such accounts.

5 "Department" means the Department of Revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 "Marketplace facilitator" does not include any person
25 licensed under the Auction License Act. This exemption does
26 not apply to any person who is an Internet auction listing

1 service, as defined by the Auction License Act.

2 "Marketplace seller" means a person that makes sales
3 through a marketplace operated by an unrelated third party
4 marketplace facilitator.

5 (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 1-1-20;
6 102-353, eff. 1-1-22; 102-634, eff. 8-27-21; revised 11-1-21.)

7 (35 ILCS 120/2-5)

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

11 (1) Farm chemicals.

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

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

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

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

24 (3) Until July 1, 2003, distillation machinery and
25 equipment, sold as a unit or kit, assembled or installed
26 by the retailer, certified by the user to be used only for

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

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

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

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

25 (7) Until July 1, 2003, proceeds of that portion of
26 the selling price of a passenger car the sale of which is

1 subject to the Replacement Vehicle Tax.

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

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

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

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

16 (12) (Blank).

17 (12-5) On and after July 1, 2003 and through June 30,
18 2004, motor vehicles of the second division with a gross
19 vehicle weight in excess of 8,000 pounds that are subject
20 to the commercial distribution fee imposed under Section
21 3-815.1 of the Illinois Vehicle Code. Beginning on July 1,
22 2004 and through June 30, 2005, the use in this State of
23 motor vehicles of the second division: (i) with a gross
24 vehicle weight rating in excess of 8,000 pounds; (ii) that
25 are subject to the commercial distribution fee imposed
26 under Section 3-815.1 of the Illinois Vehicle Code; and

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

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

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

1 as an incident to the seller's engaging in the service
2 occupation of producing machines, tools, dies, jigs,
3 patterns, gauges, or other similar items of no commercial
4 value on special order for a particular purchaser. The
5 exemption provided by this paragraph (14) does not include
6 machinery and equipment used in (i) the generation of
7 electricity for wholesale or retail sale; (ii) the
8 generation or treatment of natural or artificial gas for
9 wholesale or retail sale that is delivered to customers
10 through pipes, pipelines, or mains; or (iii) the treatment
11 of water for wholesale or retail sale that is delivered to
12 customers through pipes, pipelines, or mains. The
13 provisions of Public Act 98-583 are declaratory of
14 existing law as to the meaning and scope of this
15 exemption. Beginning on July 1, 2017, the exemption
16 provided by this paragraph (14) includes, but is not
17 limited to, graphic arts machinery and equipment, as
18 defined in paragraph (4) of this Section.

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

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

5 (17) Tangible personal property sold to a common
6 carrier by rail or motor that receives the physical
7 possession of the property in Illinois and that transports
8 the property, or shares with another common carrier in the
9 transportation of the property, out of Illinois on a
10 standard uniform bill of lading showing the seller of the
11 property as the shipper or consignor of the property to a
12 destination outside Illinois, for use outside Illinois.

13 (18) Legal tender, currency, medallions, or gold or
14 silver coinage issued by the State of Illinois, the
15 government of the United States of America, or the
16 government of any foreign country, and bullion.

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

1 (20) Photoprocessing machinery and equipment,
2 including repair and replacement parts, both new and used,
3 including that manufactured on special order, certified by
4 the purchaser to be used primarily for photoprocessing,
5 and including photoprocessing machinery and equipment
6 purchased for lease.

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

19 (22) Until June 30, 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 destined for or returning from a location or
24 locations outside the United States without regard to
25 previous or subsequent domestic stopovers.

26 Beginning July 1, 2013, fuel and petroleum products

1 sold to or used by an air carrier, certified by the carrier
2 to be used for consumption, shipment, or storage in the
3 conduct of its business as an air common carrier, for a
4 flight that (i) is engaged in foreign trade or is engaged
5 in trade between the United States and any of its
6 possessions and (ii) transports at least one individual or
7 package for hire from the city of origination to the city
8 of final destination on the same aircraft, without regard
9 to a change in the flight number of that aircraft.

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

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

20 (25) Except as provided in item (25-5) of this
21 Section, a motor vehicle sold in this State to a
22 nonresident even though the motor vehicle is delivered to
23 the nonresident in this State, if the motor vehicle is not
24 to be titled in this State, and if a drive-away permit is
25 issued to the motor vehicle as provided in Section 3-603
26 of the Illinois Vehicle Code or if the nonresident

1 purchaser has vehicle registration plates to transfer to
2 the motor vehicle upon returning to his or her home state.
3 The issuance of the drive-away permit or having the
4 out-of-state registration plates to be transferred is
5 prima facie evidence that the motor vehicle will not be
6 titled in this State.

7 (25-5) The exemption under item (25) does not apply if
8 the state in which the motor vehicle will be titled does
9 not allow a reciprocal exemption for a motor vehicle sold
10 and delivered in that state to an Illinois resident but
11 titled in Illinois. The tax collected under this Act on
12 the sale of a motor vehicle in this State to a resident of
13 another state that does not allow a reciprocal exemption
14 shall be imposed at a rate equal to the state's rate of tax
15 on taxable property in the state in which the purchaser is
16 a resident, except that the tax shall not exceed the tax
17 that would otherwise be imposed under this Act. At the
18 time of the sale, the purchaser shall execute a statement,
19 signed under penalty of perjury, of his or her intent to
20 title the vehicle in the state in which the purchaser is a
21 resident within 30 days after the sale and of the fact of
22 the payment to the State of Illinois of tax in an amount
23 equivalent to the state's rate of tax on taxable property
24 in his or her state of residence and shall submit the
25 statement to the appropriate tax collection agency in his
26 or her state of residence. In addition, the retailer must

1 retain a signed copy of the statement in his or her
2 records. Nothing in this item shall be construed to
3 require the removal of the vehicle from this state
4 following the filing of an intent to title the vehicle in
5 the purchaser's state of residence if the purchaser titles
6 the vehicle in his or her state of residence within 30 days
7 after the date of sale. The tax collected under this Act in
8 accordance with this item (25-5) shall be proportionately
9 distributed as if the tax were collected at the 6.25%
10 general rate imposed under this Act.

11 (25-7) Beginning on July 1, 2007, no tax is imposed
12 under this Act on the sale of an aircraft, as defined in
13 Section 3 of the Illinois Aeronautics Act, if all of the
14 following conditions are met:

15 (1) the aircraft leaves this State within 15 days
16 after the later of either the issuance of the final
17 billing for the sale of the aircraft, or the
18 authorized approval for return to service, completion
19 of the maintenance record entry, and completion of the
20 test flight and ground test for inspection, as
21 required by 14 C.F.R. 91.407;

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

24 (3) the seller retains in his or her books and
25 records and provides to the Department a signed and
26 dated certification from the purchaser, on a form

1 prescribed by the Department, certifying that the
2 requirements of this item (25-7) are met. The
3 certificate must also include the name and address of
4 the purchaser, the address of the location where the
5 aircraft is to be titled or registered, the address of
6 the primary physical location of the aircraft, and
7 other information that the Department may reasonably
8 require.

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

10 "Based in this State" means hangared, stored, or
11 otherwise used, excluding post-sale customizations as
12 defined in this Section, for 10 or more days in each
13 12-month period immediately following the date of the sale
14 of the aircraft.

15 "Registered in this State" means an aircraft
16 registered with the Department of Transportation,
17 Aeronautics Division, or titled or registered with the
18 Federal Aviation Administration to an address located in
19 this State.

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

22 (26) Semen used for artificial insemination of
23 livestock for direct agricultural production.

24 (27) Horses, or interests in horses, registered with
25 and meeting the requirements of any of the Arabian Horse
26 Club Registry of America, Appaloosa Horse Club, American

1 Quarter Horse Association, United States Trotting
2 Association, or Jockey Club, as appropriate, used for
3 purposes of breeding or racing for prizes. This item (27)
4 is exempt from the provisions of Section 2-70, and the
5 exemption provided for under this item (27) applies for
6 all periods beginning May 30, 1995, but no claim for
7 credit or refund is allowed on or after January 1, 2008
8 (the effective date of Public Act 95-88) for such taxes
9 paid during the period beginning May 30, 2000 and ending
10 on January 1, 2008 (the effective date of Public Act
11 95-88).

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

20 (29) Personal property sold to a lessor who leases the
21 property, under a lease of one year or longer executed or
22 in effect at the time of the purchase, to a governmental
23 body that has been issued an active tax exemption
24 identification number by the Department under Section 1g
25 of this Act.

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

1 December 31, 1995 and ending with taxable years ending on
2 or before December 31, 2004, personal property that is
3 donated for disaster relief to be used in a State or
4 federally declared disaster area in Illinois or bordering
5 Illinois by a manufacturer or retailer that is registered
6 in this State to a corporation, society, association,
7 foundation, or institution that has been issued a sales
8 tax exemption identification number by the Department that
9 assists victims of the disaster who reside within the
10 declared disaster area.

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

24 (32) Beginning July 1, 1999, game or game birds sold
25 at a "game breeding and hunting preserve area" as that
26 term is used in the Wildlife Code. This paragraph is

1 exempt from the provisions of Section 2-70.

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

22 (34) Beginning January 1, 2000, personal property,
23 including food, purchased through fundraising events for
24 the benefit of a public or private elementary or secondary
25 school, a group of those schools, or one or more school
26 districts if the events are sponsored by an entity

1 recognized by the school district that consists primarily
2 of volunteers and includes parents and teachers of the
3 school children. This paragraph does not apply to
4 fundraising events (i) for the benefit of private home
5 instruction or (ii) for which the fundraising entity
6 purchases the personal property sold at the events from
7 another individual or entity that sold the property for
8 the purpose of resale by the fundraising entity and that
9 profits from the sale to the fundraising entity. This
10 paragraph is exempt from the provisions of Section 2-70.

11 (35) Beginning January 1, 2000 and through December
12 31, 2001, new or used automatic vending machines that
13 prepare and serve hot food and beverages, including
14 coffee, soup, and other items, and replacement parts for
15 these machines. Beginning January 1, 2002 and through June
16 30, 2003, machines and parts for machines used in
17 commercial, coin-operated amusement and vending business
18 if a use or occupation tax is paid on the gross receipts
19 derived from the use of the commercial, coin-operated
20 amusement and vending machines. This paragraph is exempt
21 from the provisions of Section 2-70.

22 (35-5) Beginning August 23, 2001 and through June 30,
23 2016, food for human consumption that is to be consumed
24 off the premises where it is sold (other than alcoholic
25 beverages, soft drinks, and food that has been prepared
26 for immediate consumption) and prescription and

1 nonprescription medicines, drugs, medical appliances, and
2 insulin, urine testing materials, syringes, and needles
3 used by diabetics, for human use, when purchased for use
4 by a person receiving medical assistance under Article V
5 of the Illinois Public Aid Code who resides in a licensed
6 long-term care facility, as defined in the Nursing Home
7 Care Act, or a licensed facility as defined in the ID/DD
8 Community Care Act, the MC/DD Act, or the Specialized
9 Mental Health Rehabilitation Act of 2013.

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

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

1 (38) Beginning on January 1, 2002 and through June 30,
2 2016, tangible personal property purchased from an
3 Illinois retailer by a taxpayer engaged in centralized
4 purchasing activities in Illinois who will, upon receipt
5 of the property in Illinois, temporarily store the
6 property in Illinois (i) for the purpose of subsequently
7 transporting it outside this State for use or consumption
8 thereafter solely outside this State or (ii) for the
9 purpose of being processed, fabricated, or manufactured
10 into, attached to, or incorporated into other tangible
11 personal property to be transported outside this State and
12 thereafter used or consumed solely outside this State. The
13 Director of Revenue shall, pursuant to rules adopted in
14 accordance with the Illinois Administrative Procedure Act,
15 issue a permit to any taxpayer in good standing with the
16 Department who is eligible for the exemption under this
17 paragraph (38). The permit issued under this paragraph
18 (38) shall authorize the holder, to the extent and in the
19 manner specified in the rules adopted under this Act, to
20 purchase tangible personal property from a retailer exempt
21 from the taxes imposed by this Act. Taxpayers shall
22 maintain all necessary books and records to substantiate
23 the use and consumption of all such tangible personal
24 property outside of the State of Illinois.

25 (39) Beginning January 1, 2008, tangible personal
26 property used in the construction or maintenance of a

1 community water supply, as defined under Section 3.145 of
2 the Environmental Protection Act, that is operated by a
3 not-for-profit corporation that holds a valid water supply
4 permit issued under Title IV of the Environmental
5 Protection Act. This paragraph is exempt from the
6 provisions of Section 2-70.

7 (40) Beginning January 1, 2010 and continuing through
8 December 31, 2024, materials, parts, equipment,
9 components, and furnishings incorporated into or upon an
10 aircraft as part of the modification, refurbishment,
11 completion, replacement, repair, or maintenance of the
12 aircraft. This exemption includes consumable supplies used
13 in the modification, refurbishment, completion,
14 replacement, repair, and maintenance of aircraft, but
15 excludes any materials, parts, equipment, components, and
16 consumable supplies used in the modification, replacement,
17 repair, and maintenance of aircraft engines or power
18 plants, whether such engines or power plants are installed
19 or uninstalled upon any such aircraft. "Consumable
20 supplies" include, but are not limited to, adhesive, tape,
21 sandpaper, general purpose lubricants, cleaning solution,
22 latex gloves, and protective films. This exemption applies
23 only to the sale of qualifying tangible personal property
24 to persons who modify, refurbish, complete, replace, or
25 maintain an aircraft and who (i) hold an Air Agency
26 Certificate and are empowered to operate an approved

1 repair station by the Federal Aviation Administration,
2 (ii) have a Class IV Rating, and (iii) conduct operations
3 in accordance with Part 145 of the Federal Aviation
4 Regulations. The exemption does not include aircraft
5 operated by a commercial air carrier providing scheduled
6 passenger air service pursuant to authority issued under
7 Part 121 or Part 129 of the Federal Aviation Regulations.
8 The changes made to this paragraph (40) by Public Act
9 98-534 are declarative of existing law. It is the intent
10 of the General Assembly that the exemption under this
11 paragraph (40) applies continuously from January 1, 2010
12 through December 31, 2024; however, no claim for credit or
13 refund is allowed for taxes paid as a result of the
14 disallowance of this exemption on or after January 1, 2015
15 and prior to the effective date of this amendatory Act of
16 the 101st General Assembly.

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

1 corporation in connection with the development of the
2 municipal convention hall. This exemption includes
3 existing public-facilities corporations as provided in
4 Section 11-65-25 of the Illinois Municipal Code. This
5 paragraph is exempt from the provisions of Section 2-70.

6 (42) Beginning January 1, 2017 and through December
7 31, 2026, menstrual pads, tampons, and menstrual cups.

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

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

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

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

11 For the purposes of this item (44):

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

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

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

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

20 (45) Beginning January 1, 2020 and through December
21 31, 2020, sales of tangible personal property made by a
22 marketplace seller over a marketplace for which tax is due
23 under this Act but for which use tax has been collected and
24 remitted to the Department by a marketplace facilitator
25 under Section 2d of the Use Tax Act are exempt from tax
26 under this Act. A marketplace seller claiming this

1 exemption shall maintain books and records demonstrating
2 that the use tax on such sales has been collected and
3 remitted by a marketplace facilitator. Marketplace sellers
4 that have properly remitted tax under this Act on such
5 sales may file a claim for credit as provided in Section 6
6 of this Act. No claim is allowed, however, for such taxes
7 for which a credit or refund has been issued to the
8 marketplace facilitator under the Use Tax Act, or for
9 which the marketplace facilitator has filed a claim for
10 credit or refund under the Use Tax Act.

11 (46) Beginning on the earlier of: (i) January 1, 2025;
12 or (ii) January 1 of the calendar year immediately
13 following the calendar year in which the State reports to
14 the United States Department of the Treasury that all
15 federal funds received under the American Rescue Plan Act
16 of 2021 have been fully expended, and continuing through
17 December 31 of the fifth calendar year to occur after the
18 earlier of: (i) January 1, 2025; or (ii) January 1 of the
19 calendar year immediately following the calendar year in
20 which the State reports to the United States Department of
21 the Treasury that all federal funds received under the
22 American Rescue Plan Act of 2021 have been fully expended,
23 equipment and material deployed after January 1, 2023 in a
24 county in the State with a population of fewer than 40,000
25 people or a township in the State with a population
26 density of less than 50 households per square mile in a

1 county with a population of less than 300,000 people
2 during that year that is incorporated into or used in the
3 business of providing broadband services, including all
4 equipment and material, machinery, software, or other
5 tangible personal property that is used in whole or in
6 part in producing, broadcasting, distributing, sending,
7 receiving, storing, transmitting, retransmitting,
8 amplifying, switching, or routing broadband services,
9 including the monitoring, testing, maintaining, enabling,
10 or facilitating of such equipment, machinery, software, or
11 other infrastructure. Such property includes, but is not
12 limited to, wires, cables including fiber optic cables,
13 antennas, poles, switches, routers, amplifiers,
14 rectifiers, repeaters, receivers, multiplexers,
15 duplexers, transmitters, power equipment, backup power
16 equipment, diagnostic equipment, storage devices, modems,
17 and other general central office equipment, such as
18 channel cards, frames, and cabinets. The exemption under
19 this item (46) may be taken for property placed in service
20 on or after January 1, 2023; however, the credit may not be
21 taken until a taxable year beginning on or after the
22 earlier of: (i) January 1, 2025; or (ii) January 1 of the
23 calendar year immediately following the calendar year in
24 which the State reports to the United States Department of
25 the Treasury that all federal funds received under the
26 American Rescue Plan Act of 2021 have been fully expended.

1 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
2 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-634, eff.
3 8-27-21; revised 11-9-21.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law."