



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3532

Introduced 2/17/2023, by Rep. Tony M. McCombie

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-55
35 ILCS 110/3-45

from Ch. 120, par. 439.3-55
from Ch. 120, par. 439.33-45

Amends the Use Tax Act and the Service Use Tax Act. Provides that, for the purpose of the multistate exemption, use in this State does not include the return of the property of a lessor or purchaser to this State for storage, repair, or refurbishment so long as the property is not used by a lessee or purchaser in this State.

LRB103 05919 HLH 50940 b

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section
5 3-55 as follows:

6 (35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

7 Sec. 3-55. Multistate exemption. To prevent actual or
8 likely multistate taxation, the tax imposed by this Act does
9 not apply to the use of tangible personal property in this
10 State under the following circumstances:

11 (a) The use, in this State, of tangible personal property
12 acquired outside this State by a nonresident individual and
13 brought into this State by the individual for his or her own
14 use while temporarily within this State or while passing
15 through this State.

16 (b) (Blank).

17 (c) The use, in this State, by owners, lessors, or
18 shippers of tangible personal property that is utilized by
19 interstate carriers for hire for use as rolling stock moving
20 in interstate commerce as long as so used by the interstate
21 carriers for hire, and equipment operated by a
22 telecommunications provider, licensed as a common carrier by
23 the Federal Communications Commission, which is permanently

1 installed in or affixed to aircraft moving in interstate
2 commerce.

3 (d) The use, in this State, of tangible personal property
4 that is acquired outside this State and caused to be brought
5 into this State by a person who has already paid a tax in
6 another State in respect to the sale, purchase, or use of that
7 property, to the extent of the amount of the tax properly due
8 and paid in the other State.

9 (e) The temporary storage, in this State, of tangible
10 personal property that is acquired outside this State and
11 that, after being brought into this State and stored here
12 temporarily, is used solely outside this State or is
13 physically attached to or incorporated into other tangible
14 personal property that is used solely outside this State, or
15 is altered by converting, fabricating, manufacturing,
16 printing, processing, or shaping, and, as altered, is used
17 solely outside this State. For purposes of this subsection,
18 use in this State does not include the return of the property
19 of a lessor or purchaser to this State for storage, repair, or
20 refurbishment so long as the property is not used by a lessee
21 or purchaser in this State. Refurbishment includes the
22 replacement of component parts as well as upgrades.

23 (f) The temporary storage in this State of building
24 materials and fixtures that are acquired either in this State
25 or outside this State by an Illinois registered combination
26 retailer and construction contractor, and that the purchaser

1 thereafter uses outside this State by incorporating that
2 property into real estate located outside this State.

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

11 (h) Except as provided in subsection (h-1), the use, in
12 this State, of a motor vehicle that was sold in this State to a
13 nonresident, even though the motor vehicle is delivered to the
14 nonresident in this State, if the motor vehicle is not to be
15 titled in this State, and if a drive-away permit is issued to
16 the motor vehicle as provided in Section 3-603 of the Illinois
17 Vehicle Code or if the nonresident purchaser has vehicle
18 registration plates to transfer to the motor vehicle upon
19 returning to his or her home state. The issuance of the
20 drive-away permit or having the out-of-state registration
21 plates to be transferred shall be prima facie evidence that
22 the motor vehicle will not be titled in this State.

23 (h-1) The exemption under subsection (h) does not apply if
24 the state in which the motor vehicle will be titled does not
25 allow a reciprocal exemption for the use in that state of a
26 motor vehicle sold and delivered in that state to an Illinois

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

26 (h-2) The following exemptions apply with respect to

1 certain aircraft:

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

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

13 (B) the aircraft is not based or registered in
14 this State after the purchase of the aircraft; and

15 (C) the purchaser provides the Department with a
16 signed and dated certification, on a form prescribed
17 by the Department, certifying that the requirements of
18 this item (1) are met. The certificate must also
19 include the name and address of the purchaser, the
20 address of the location where the aircraft is to be
21 titled or registered, the address of the primary
22 physical location of the aircraft, and other
23 information that the Department may reasonably
24 require.

25 (2) Beginning on July 1, 2007, no tax is imposed under
26 this Act on the use of an aircraft, as defined in Section 3

1 of the Illinois Aeronautics Act, that is temporarily
2 located in this State for the purpose of a prepurchase
3 evaluation if all of the following conditions are met:

4 (A) the aircraft is not based or registered in
5 this State after the prepurchase evaluation; and

6 (B) the purchaser provides the Department with a
7 signed and dated certification, on a form prescribed
8 by the Department, certifying that the requirements of
9 this item (2) are met. The certificate must also
10 include the name and address of the purchaser, the
11 address of the location where the aircraft is to be
12 titled or registered, the address of the primary
13 physical location of the aircraft, and other
14 information that the Department may reasonably
15 require.

16 (3) Beginning on July 1, 2007, no tax is imposed under
17 this Act on the use of an aircraft, as defined in Section 3
18 of the Illinois Aeronautics Act, that is temporarily
19 located in this State for the purpose of a post-sale
20 customization if all of the following conditions are met:

21 (A) the aircraft leaves this State within 15 days
22 after the authorized approval for return to service,
23 completion of the maintenance record entry, and
24 completion of the test flight and ground test for
25 inspection, as required by 14 C.F.R. 91.407;

26 (B) the aircraft is not based or registered in

1 this State either before or after the post-sale
2 customization; and

3 (C) the purchaser provides the Department with a
4 signed and dated certification, on a form prescribed
5 by the Department, certifying that the requirements of
6 this item (3) are met. The certificate must also
7 include the name and address of the purchaser, the
8 address of the location where the aircraft is to be
9 titled or registered, the address of the primary
10 physical location of the aircraft, and other
11 information that the Department may reasonably
12 require.

13 If tax becomes due under this subsection (h-2) because of
14 the purchaser's use of the aircraft in this State, the
15 purchaser shall file a return with the Department and pay the
16 tax on the fair market value of the aircraft. This return and
17 payment of the tax must be made no later than 30 days after the
18 aircraft is used in a taxable manner in this State. The tax is
19 based on the fair market value of the aircraft on the date that
20 it is first used in a taxable manner in this State.

21 For purposes of this subsection (h-2):

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

26 "Post-sale customization" means any improvement,

1 maintenance, or repair that is performed on an aircraft
2 following a transfer of ownership of the aircraft.

3 "Prepurchase evaluation" means an examination of an
4 aircraft to provide a potential purchaser with information
5 relevant to the potential purchase.

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

10 This subsection (h-2) is exempt from the provisions of
11 Section 3-90.

12 (i) Beginning July 1, 1999, the use, in this State, of fuel
13 acquired outside this State and brought into this State in the
14 fuel supply tanks of locomotives engaged in freight hauling
15 and passenger service for interstate commerce. This subsection
16 is exempt from the provisions of Section 3-90.

17 (j) Beginning on January 1, 2002 and through June 30,
18 2016, the use of tangible personal property purchased from an
19 Illinois retailer by a taxpayer engaged in centralized
20 purchasing activities in Illinois who will, upon receipt of
21 the property in Illinois, temporarily store the property in
22 Illinois (i) for the purpose of subsequently transporting it
23 outside this State for use or consumption thereafter solely
24 outside this State or (ii) for the purpose of being processed,
25 fabricated, or manufactured into, attached to, or incorporated
26 into other tangible personal property to be transported

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

14 (Source: P.A. 100-321, eff. 8-24-17.)

15 Section 10. The Service Use Tax Act is amended by changing
16 Section 3-45 as follows:

17 (35 ILCS 110/3-45) (from Ch. 120, par. 439.33-45)

18 Sec. 3-45. Multistate exemption. To prevent actual or
19 likely multistate taxation, the tax imposed by this Act does
20 not apply to the use of tangible personal property in this
21 State under the following circumstances:

22 (a) The use, in this State, of property acquired outside
23 this State by a nonresident individual and brought into this
24 State by the individual for his or her own use while

1 temporarily within this State or while passing through this
2 State.

3 (b) The use, in this State, of property that is acquired
4 outside this State and that is moved into this State for use as
5 rolling stock moving in interstate commerce.

6 (c) The use, in this State, of property that is acquired
7 outside this State and caused to be brought into this State by
8 a person who has already paid a tax in another state in respect
9 to the sale, purchase, or use of that property, to the extent
10 of the amount of the tax properly due and paid in the other
11 state.

12 (d) The temporary storage, in this State, of property that
13 is acquired outside this State and that after being brought
14 into this State and stored here temporarily, is used solely
15 outside this State or is physically attached to or
16 incorporated into other property that is used solely outside
17 this State, or is altered by converting, fabricating,
18 manufacturing, printing, processing, or shaping, and, as
19 altered, is used solely outside this State. For purposes of
20 this subsection, use in this State does not include the return
21 of the property of a lessor or purchaser to this State for
22 storage, repair, or refurbishment so long as the property is
23 not used by a lessee or purchaser in this State. Refurbishment
24 includes the replacement of component parts as well as
25 upgrades.

26 (e) Beginning July 1, 1999, the use, in this State, of fuel

1 acquired outside this State and brought into this State in the
2 fuel supply tanks of locomotives engaged in freight hauling
3 and passenger service for interstate commerce. This subsection
4 is exempt from the provisions of Section 3-75.

5 (f) Beginning on January 1, 2002 and through June 30,
6 2016, the use of tangible personal property purchased from an
7 Illinois retailer by a taxpayer engaged in centralized
8 purchasing activities in Illinois who will, upon receipt of
9 the property in Illinois, temporarily store the property in
10 Illinois (i) for the purpose of subsequently transporting it
11 outside this State for use or consumption thereafter solely
12 outside this State or (ii) for the purpose of being processed,
13 fabricated, or manufactured into, attached to, or incorporated
14 into other tangible personal property to be transported
15 outside this State and thereafter used or consumed solely
16 outside this State. The Director of Revenue shall, pursuant to
17 rules 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 subsection (f). The permit issued under this subsection
21 (f) shall authorize the holder, to the extent and in the manner
22 specified in the rules adopted under this Act, to purchase
23 tangible personal property from a retailer exempt from the
24 taxes imposed by this Act. Taxpayers shall maintain all
25 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 (Source: P.A. 97-73, eff. 6-30-11.)