

SB0171



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB0171

Introduced 1/31/2023, by Sen. Ram Villivalam

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5
35 ILCS 110/3-5
35 ILCS 115/3-5
35 ILCS 120/2-5

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that diapers, baby wipes, and infant formula are exempt from the taxes imposed under the Acts.

LRB103 26019 HLH 52373 b

A BILL FOR

1 AN ACT concerning revenue.

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

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

6 (35 ILCS 105/3-5)

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

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

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

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

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

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

25 (5) Until July 1, 2003, a passenger car that is a
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

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

15 (7) Farm chemicals.

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

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

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

26 (11) Farm machinery and equipment, both new and used,

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

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

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

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

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

26 (13) Proceeds of mandatory service charges separately

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

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

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

23 (16) Until July 1, 2028, coal and aggregate exploration,
24 mining, off-highway hauling, processing, maintenance, and
25 reclamation equipment, including replacement parts and
26 equipment, and including equipment purchased for lease, but

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

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

14 (18) Manufacturing and assembling machinery and equipment
15 used primarily in the process of manufacturing or assembling
16 tangible personal property for wholesale or retail sale or
17 lease, whether that sale or lease is made directly by the
18 manufacturer or by some other person, whether the materials
19 used in the process are owned by the manufacturer or some other
20 person, or whether that sale or lease is made apart from or as
21 an incident to the seller's engaging in the service occupation
22 of producing machines, tools, dies, jigs, patterns, gauges, or
23 other similar items of no commercial value on special order
24 for a particular purchaser. The exemption provided by this
25 paragraph (18) includes production related tangible personal
26 property, as defined in Section 3-50, purchased on or after

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

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

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

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

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

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

1 for any reason, the lessor is liable to pay that amount to the
2 Department.

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

24 (24) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is donated

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

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

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

25 (27) A motor vehicle, as that term is defined in Section
26 1-146 of the Illinois Vehicle Code, that is donated to a

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

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

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

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

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

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

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

1 Section 3-90.

2 (32) Beginning on August 2, 2001 (the effective date of
3 Public Act 92-227), personal property purchased by a lessor
4 who leases the property, under a lease of one year or longer
5 executed or in effect at the time the lessor would otherwise be
6 subject to the tax imposed by this Act, to a governmental body
7 that has been issued an active sales tax exemption
8 identification number by the Department under Section 1g of
9 the Retailers' Occupation Tax Act. If the property is leased
10 in a manner that does not qualify for this exemption or used in
11 any other nonexempt manner, the lessor shall be liable for the
12 tax imposed under this Act or the Service Use Tax Act, as the
13 case may be, based on the fair market value of the property at
14 the time the nonqualifying use occurs. No lessor shall collect
15 or attempt to collect an amount (however designated) that
16 purports to reimburse that lessor for the tax imposed by this
17 Act or the Service Use Tax Act, as the case may be, if the tax
18 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 (33) On and after July 1, 2003 and through June 30, 2004,
26 the use in this State of motor vehicles of the second division

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

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

25 (35) Beginning January 1, 2010 and continuing through
26 December 31, 2024, materials, parts, equipment, components,

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

1 exemption under this paragraph (35) applies continuously from
2 January 1, 2010 through December 31, 2024; however, no claim
3 for credit or refund is allowed for taxes paid as a result of
4 the disallowance of this exemption on or after January 1, 2015
5 and prior to February 5, 2020 (the effective date of Public Act
6 101-629) ~~this amendatory Act of the 101st General Assembly.~~

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

22 (37) Beginning January 1, 2017 and through December 31,
23 2026, menstrual pads, tampons, and menstrual cups.

24 (38) Merchandise that is subject to the Rental Purchase
25 Agreement Occupation and Use Tax. The purchaser must certify
26 that the item is purchased to be rented subject to a rental

1 purchase agreement, as defined in the Rental Purchase
2 Agreement Act, and provide proof of registration under the
3 Rental Purchase Agreement Occupation and Use Tax Act. This
4 paragraph is exempt from the provisions of Section 3-90.

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

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

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

1 Civil Administrative Code of Illinois.

2 For the purposes of this item (40):

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

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

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

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

10 (41) Beginning July 1, 2022, breast pumps, breast pump
11 collection and storage supplies, and breast pump kits. This
12 item (41) is exempt from the provisions of Section 3-90. As
13 used in this item (41):

14 "Breast pump" means an electrically controlled or
15 manually controlled pump device designed or marketed to be
16 used to express milk from a human breast during lactation,
17 including the pump device and any battery, AC adapter, or
18 other power supply unit that is used to power the pump
19 device and is packaged and sold with the pump device at the
20 time of sale.

21 "Breast pump collection and storage supplies" means
22 items of tangible personal property designed or marketed
23 to be used in conjunction with a breast pump to collect
24 milk expressed from a human breast and to store collected
25 milk until it is ready for consumption.

26 "Breast pump collection and storage supplies"

1 includes, but is not limited to: breast shields and breast
2 shield connectors; breast pump tubes and tubing adapters;
3 breast pump valves and membranes; backflow protectors and
4 backflow protector adaptors; bottles and bottle caps
5 specific to the operation of the breast pump; and breast
6 milk storage bags.

7 "Breast pump collection and storage supplies" does not
8 include: (1) bottles and bottle caps not specific to the
9 operation of the breast pump; (2) breast pump travel bags
10 and other similar carrying accessories, including ice
11 packs, labels, and other similar products; (3) breast pump
12 cleaning supplies; (4) nursing bras, bra pads, breast
13 shells, and other similar products; and (5) creams,
14 ointments, and other similar products that relieve
15 breastfeeding-related symptoms or conditions of the
16 breasts or nipples, unless sold as part of a breast pump
17 kit that is pre-packaged by the breast pump manufacturer
18 or distributor.

19 "Breast pump kit" means a kit that: (1) contains no
20 more than a breast pump, breast pump collection and
21 storage supplies, a rechargeable battery for operating the
22 breast pump, a breastmilk cooler, bottle stands, ice
23 packs, and a breast pump carrying case; and (2) is
24 pre-packaged as a breast pump kit by the breast pump
25 manufacturer or distributor.

26 (42) ~~(41)~~ Tangible personal property sold by or on behalf

1 of the State Treasurer pursuant to the Revised Uniform
2 Unclaimed Property Act. This item (42) ~~(41)~~ is exempt from the
3 provisions of Section 3-90.

4 (43) Diapers, baby wipes, and infant formula. This item
5 (43) is exempt from the provisions of Section 3-90.

6 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;
7 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff.
8 6-17-21; 102-700, Article 70, Section 70-5, eff. 4-19-22;
9 102-700, Article 75, Section 75-5, eff. 4-19-22; 102-1026,
10 eff. 5-27-22; revised 8-1-22.)

11 Section 10. The Service Use Tax Act is amended by changing
12 Section 3-5 as follows:

13 (35 ILCS 110/3-5)

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

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

23 (2) Personal property purchased by a non-profit Illinois
24 county fair association for use in conducting, operating, or

1 promoting the county fair.

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

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

21 (5) Until July 1, 2003 and beginning again on September 1,
22 2004 through August 30, 2014, graphic arts machinery and
23 equipment, including repair and replacement parts, both new
24 and used, and including that manufactured on special order or
25 purchased for lease, certified by the purchaser to be used
26 primarily for graphic arts production. Equipment includes

1 chemicals or chemicals acting as catalysts but only if the
2 chemicals or chemicals acting as catalysts effect a direct and
3 immediate change upon a graphic arts product. Beginning on
4 July 1, 2017, graphic arts machinery and equipment is included
5 in the manufacturing and assembling machinery and equipment
6 exemption under Section 2 of this Act.

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

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

1 on a motor vehicle required to be licensed if the selling price
2 of the tender is separately stated.

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

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

19 (8) Until June 30, 2013, fuel and petroleum products sold
20 to or used by an air common 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 flight
23 destined for or returning from a location or locations outside
24 the United States without regard to previous or subsequent
25 domestic stopovers.

26 Beginning July 1, 2013, fuel and petroleum products sold

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

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

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

1 motor vehicles required to be registered under the Illinois
2 Vehicle Code.

3 (11) Proceeds from the sale of photoprocessing machinery
4 and equipment, including repair and replacement parts, both
5 new and used, including that manufactured on special order,
6 certified by the purchaser to be used primarily for
7 photoprocessing, and including photoprocessing machinery and
8 equipment purchased for lease.

9 (12) Until July 1, 2028, coal and aggregate exploration,
10 mining, off-highway hauling, processing, maintenance, and
11 reclamation equipment, including replacement parts and
12 equipment, and including equipment purchased for lease, but
13 excluding motor vehicles required to be registered under the
14 Illinois Vehicle Code. The changes made to this Section by
15 Public Act 97-767 apply on and after July 1, 2003, but no claim
16 for credit or refund is allowed on or after August 16, 2013
17 (the effective date of Public Act 98-456) for such taxes paid
18 during the period beginning July 1, 2003 and ending on August
19 16, 2013 (the effective date of Public Act 98-456).

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

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

1 racing for prizes. This item (14) is exempt from the
2 provisions of Section 3-75, and the exemption provided for
3 under this item (14) applies for all periods beginning May 30,
4 1995, but no claim for credit or refund is allowed on or after
5 January 1, 2008 (the effective date of Public Act 95-88) for
6 such taxes paid during the period beginning May 30, 2000 and
7 ending on January 1, 2008 (the effective date of Public Act
8 95-88).

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

1 such amount from the lessee, the lessee shall have a legal
2 right to claim a refund of that amount from the lessor. If,
3 however, that amount is not refunded to the lessee for any
4 reason, the lessor is liable to pay that amount to the
5 Department.

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

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

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

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

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

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

20 (21) Beginning January 1, 2000, personal property,
21 including food, purchased through fundraising events for the
22 benefit of a public or private elementary or secondary school,
23 a group of those schools, or one or more school districts if
24 the events are sponsored by an entity recognized by the school
25 district that consists primarily of volunteers and includes
26 parents and teachers of the school children. This paragraph

1 does not apply to fundraising events (i) for the benefit of
2 private home instruction or (ii) for which the fundraising
3 entity purchases the personal property sold at the events from
4 another individual or entity that sold the property for the
5 purpose of resale by the fundraising entity and that profits
6 from the sale to the fundraising entity. This paragraph is
7 exempt from the provisions of Section 3-75.

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

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

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

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

1 reason, the lessor is liable to pay that amount to the
2 Department. This paragraph is exempt from the provisions of
3 Section 3-75.

4 (25) Beginning on August 2, 2001 (the effective date of
5 Public Act 92-227), personal property purchased by a lessor
6 who leases the property, under a lease of one year or longer
7 executed or in effect at the time the lessor would otherwise be
8 subject to the tax imposed by this Act, to a governmental body
9 that has been issued an active tax exemption identification
10 number by the Department under Section 1g of the Retailers'
11 Occupation Tax Act. If the property is leased in a manner that
12 does not qualify for this exemption or is used in any other
13 nonexempt manner, the lessor shall be liable for the tax
14 imposed under this Act or the Use Tax Act, as the case may be,
15 based on the fair market value of the property at the time the
16 nonqualifying use occurs. No lessor shall collect or attempt
17 to collect an amount (however designated) that purports to
18 reimburse that lessor for the tax imposed by this Act or the
19 Use Tax Act, as the case may be, if the tax has not been paid
20 by the lessor. If a lessor improperly collects any such amount
21 from the lessee, the lessee shall have a legal right to claim a
22 refund of that amount from the lessor. If, however, that
23 amount is not refunded to the lessee for any reason, the lessor
24 is liable to pay that amount to the Department. This paragraph
25 is exempt from the provisions of Section 3-75.

26 (26) Beginning January 1, 2008, tangible personal property

1 used in the construction or maintenance of a community water
2 supply, as defined under Section 3.145 of the Environmental
3 Protection Act, that is operated by a not-for-profit
4 corporation that holds a valid water supply permit issued
5 under Title IV of the Environmental Protection Act. This
6 paragraph is exempt from the provisions of Section 3-75.

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

1 Federal Aviation Administration, (ii) have a Class IV Rating,
2 and (iii) conduct operations in accordance with Part 145 of
3 the Federal Aviation Regulations. The exemption does not
4 include aircraft operated by a commercial air carrier
5 providing scheduled passenger air service pursuant to
6 authority issued under Part 121 or Part 129 of the Federal
7 Aviation Regulations. The changes made to this paragraph (27)
8 by Public Act 98-534 are declarative of existing law. It is the
9 intent of the General Assembly that the exemption under this
10 paragraph (27) applies continuously from January 1, 2010
11 through December 31, 2024; however, no claim for credit or
12 refund is allowed for taxes paid as a result of the
13 disallowance of this exemption on or after January 1, 2015 and
14 prior to February 5, 2020 (the effective date of Public Act
15 101-629) ~~this amendatory Act of the 101st General Assembly.~~

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

1 hall. This exemption includes existing public-facilities
2 corporations as provided in Section 11-65-25 of the Illinois
3 Municipal Code. This paragraph is exempt from the provisions
4 of Section 3-75.

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

7 (30) Tangible personal property transferred to a purchaser
8 who is exempt from the tax imposed by this Act by operation of
9 federal law. This paragraph is exempt from the provisions of
10 Section 3-75.

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

26 The Department of Commerce and Economic Opportunity shall

1 grant a certificate of exemption under this item (31) 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 (31):

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 (31) is exempt from the provisions of Section
12 3-75.

13 (32) Beginning July 1, 2022, breast pumps, breast pump
14 collection and storage supplies, and breast pump kits. This
15 item (32) is exempt from the provisions of Section 3-75. As
16 used in this item (32):

17 "Breast pump" means an electrically controlled or
18 manually controlled pump device designed or marketed to be
19 used to express milk from a human breast during lactation,
20 including the pump device and any battery, AC adapter, or
21 other power supply unit that is used to power the pump
22 device and is packaged and sold with the pump device at the
23 time of sale.

24 "Breast pump collection and storage supplies" means
25 items of tangible personal property designed or marketed
26 to be used in conjunction with a breast pump to collect

1 milk expressed from a human breast and to store collected
2 milk until it is ready for consumption.

3 "Breast pump collection and storage supplies"
4 includes, but is not limited to: breast shields and breast
5 shield connectors; breast pump tubes and tubing adapters;
6 breast pump valves and membranes; backflow protectors and
7 backflow protector adaptors; bottles and bottle caps
8 specific to the operation of the breast pump; and breast
9 milk storage bags.

10 "Breast pump collection and storage supplies" does not
11 include: (1) bottles and bottle caps not specific to the
12 operation of the breast pump; (2) breast pump travel bags
13 and other similar carrying accessories, including ice
14 packs, labels, and other similar products; (3) breast pump
15 cleaning supplies; (4) nursing bras, bra pads, breast
16 shells, and other similar products; and (5) creams,
17 ointments, and other similar products that relieve
18 breastfeeding-related symptoms or conditions of the
19 breasts or nipples, unless sold as part of a breast pump
20 kit that is pre-packaged by the breast pump manufacturer
21 or distributor.

22 "Breast pump kit" means a kit that: (1) contains no
23 more than a breast pump, breast pump collection and
24 storage supplies, a rechargeable battery for operating the
25 breast pump, a breastmilk cooler, bottle stands, ice
26 packs, and a breast pump carrying case; and (2) is

1 pre-packaged as a breast pump kit by the breast pump
2 manufacturer or distributor.

3 (33) ~~(32)~~ Tangible personal property sold by or on behalf
4 of the State Treasurer pursuant to the Revised Uniform
5 Unclaimed Property Act. This item (33) ~~(32)~~ is exempt from the
6 provisions of Section 3-75.

7 (34) Diapers, baby wipes, and infant formula. This item
8 (34) is exempt from the provisions of Section 3-75.

9 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
10 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-700, Article
11 70, Section 70-10, eff. 4-19-22; 102-700, Article 75, Section
12 75-10, eff. 4-19-22; 102-1026, eff. 5-27-22; revised 8-3-22.)

13 Section 15. The Service Occupation Tax Act is amended by
14 changing Section 3-5 as follows:

15 (35 ILCS 115/3-5)

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

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

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

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

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

23 (5) Until July 1, 2003 and beginning again on September 1,
24 2004 through August 30, 2014, graphic arts machinery and
25 equipment, including repair and replacement parts, both new
26 and used, and including that manufactured on special order or

1 purchased for lease, certified by the purchaser to be used
2 primarily for graphic arts production. Equipment includes
3 chemicals or chemicals acting as catalysts but only if the
4 chemicals or chemicals acting as catalysts effect a direct and
5 immediate change upon a graphic arts product. Beginning on
6 July 1, 2017, graphic arts machinery and equipment is included
7 in the manufacturing and assembling machinery and equipment
8 exemption under Section 2 of this Act.

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

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

1 tanks and dry boxes shall include units sold separately from a
2 motor vehicle required to be licensed and units sold mounted
3 on a motor vehicle required to be licensed if the selling price
4 of the tender is separately stated.

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

13 Farm machinery and equipment also includes computers,
14 sensors, software, and related equipment used primarily in the
15 computer-assisted operation of production agriculture
16 facilities, equipment, and activities such as, but not limited
17 to, the collection, monitoring, and correlation of animal and
18 crop data for the purpose of formulating animal diets and
19 agricultural chemicals. This item (7) is exempt from the
20 provisions of Section 3-55.

21 (8) Until June 30, 2013, fuel and petroleum products sold
22 to or used by an air common carrier, certified by the carrier
23 to be used for consumption, shipment, or storage in the
24 conduct of its business as an air common carrier, for a flight
25 destined for or returning from a location or locations outside
26 the United States without regard to previous or subsequent

1 domestic stopovers.

2 Beginning July 1, 2013, fuel and petroleum products sold
3 to or used by an air carrier, certified by the carrier to be
4 used for consumption, shipment, or storage in the conduct of
5 its business as an air common carrier, for a flight that (i) is
6 engaged in foreign trade or is engaged in trade between the
7 United States and any of its possessions and (ii) transports
8 at least one individual or package for hire from the city of
9 origination to the city of final destination on the same
10 aircraft, without regard to a change in the flight number of
11 that aircraft.

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

20 (10) Until July 1, 2003, oil field exploration, drilling,
21 and production equipment, including (i) rigs and parts of
22 rigs, rotary rigs, cable tool rigs, and workover rigs, (ii)
23 pipe and tubular goods, including casing and drill strings,
24 (iii) pumps and pump-jack units, (iv) storage tanks and flow
25 lines, (v) any individual replacement part for oil field
26 exploration, drilling, and production equipment, and (vi)

1 machinery and equipment purchased for lease; but excluding
2 motor vehicles required to be registered under the Illinois
3 Vehicle Code.

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

9 (12) Until July 1, 2028, coal and aggregate exploration,
10 mining, off-highway hauling, processing, maintenance, and
11 reclamation equipment, including replacement parts and
12 equipment, and including equipment purchased for lease, but
13 excluding motor vehicles required to be registered under the
14 Illinois Vehicle Code. The changes made to this Section by
15 Public Act 97-767 apply on and after July 1, 2003, but no claim
16 for credit or refund is allowed on or after August 16, 2013
17 (the effective date of Public Act 98-456) for such taxes paid
18 during the period beginning July 1, 2003 and ending on August
19 16, 2013 (the effective date of Public Act 98-456).

20 (13) Beginning January 1, 1992 and through June 30, 2016,
21 food for human consumption that is to be consumed off the
22 premises where it is sold (other than alcoholic beverages,
23 soft drinks and food that has been prepared for immediate
24 consumption) and prescription and non-prescription medicines,
25 drugs, medical appliances, and insulin, urine testing
26 materials, syringes, and needles used by diabetics, for human

1 use, when purchased for use by a person receiving medical
2 assistance under Article V of the Illinois Public Aid Code who
3 resides in a licensed long-term care facility, as defined in
4 the Nursing Home Care Act, or in a licensed facility as defined
5 in the ID/DD Community Care Act, the MC/DD Act, or the
6 Specialized Mental Health Rehabilitation Act of 2013.

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

9 (15) Horses, or interests in horses, registered with and
10 meeting the requirements of any of the Arabian Horse Club
11 Registry of America, Appaloosa Horse Club, American Quarter
12 Horse Association, United States Trotting Association, or
13 Jockey Club, as appropriate, used for purposes of breeding or
14 racing for prizes. This item (15) is exempt from the
15 provisions of Section 3-55, and the exemption provided for
16 under this item (15) applies for all periods beginning May 30,
17 1995, but no claim for credit or refund is allowed on or after
18 January 1, 2008 (the effective date of Public Act 95-88) for
19 such taxes paid during the period beginning May 30, 2000 and
20 ending on January 1, 2008 (the effective date of Public Act
21 95-88).

22 (16) Computers and communications equipment utilized for
23 any hospital purpose and equipment used in the diagnosis,
24 analysis, or treatment of hospital patients sold to a lessor
25 who leases the equipment, under a lease of one year or longer
26 executed or in effect at the time of the purchase, to a

1 hospital that has been issued an active tax exemption
2 identification number by the Department under Section 1g of
3 the Retailers' Occupation Tax Act.

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

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

20 (19) Beginning with taxable years ending on or after
21 December 31, 1995 and ending with taxable years ending on or
22 before December 31, 2004, personal property that is used in
23 the performance of infrastructure repairs in this State,
24 including but not limited to municipal roads and streets,
25 access roads, bridges, sidewalks, waste disposal systems,
26 water and sewer line extensions, water distribution and

1 purification facilities, storm water drainage and retention
2 facilities, and sewage treatment facilities, resulting from a
3 State or federally declared disaster in Illinois or bordering
4 Illinois when such repairs are initiated on facilities located
5 in the declared disaster area within 6 months after the
6 disaster.

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

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

1 individuals to follow a trade or to pursue a manual,
2 technical, mechanical, industrial, business, or commercial
3 occupation.

4 (22) Beginning January 1, 2000, personal property,
5 including food, purchased through fundraising events for the
6 benefit of a public or private elementary or secondary school,
7 a group of those schools, or one or more school districts if
8 the events are sponsored by an entity recognized by the school
9 district that consists primarily of volunteers and includes
10 parents and teachers of the school children. This paragraph
11 does not apply to fundraising events (i) for the benefit of
12 private home instruction or (ii) for which the fundraising
13 entity purchases the personal property sold at the events from
14 another individual or entity that sold the property for the
15 purpose of resale by the fundraising entity and that profits
16 from the sale to the fundraising entity. This paragraph is
17 exempt from the provisions of Section 3-55.

18 (23) Beginning January 1, 2000 and through December 31,
19 2001, new or used automatic vending machines that prepare and
20 serve hot food and beverages, including coffee, soup, and
21 other items, and replacement parts for these machines.
22 Beginning January 1, 2002 and through June 30, 2003, machines
23 and parts for machines used in commercial, coin-operated
24 amusement and vending business if a use or occupation tax is
25 paid on the gross receipts derived from the use of the
26 commercial, coin-operated amusement and vending machines. This

1 paragraph is exempt from the provisions of Section 3-55.

2 (24) Beginning on August 2, 2001 (the effective date of
3 Public Act 92-227), computers and communications equipment
4 utilized for any hospital purpose and equipment used in the
5 diagnosis, analysis, or treatment of hospital patients sold to
6 a lessor who leases the equipment, under a lease of one year or
7 longer executed or in effect at the time of the purchase, 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. This paragraph is exempt
11 from the provisions of Section 3-55.

12 (25) Beginning on August 2, 2001 (the effective date of
13 Public Act 92-227), personal property sold to a lessor who
14 leases the property, under a lease of one year or longer
15 executed or in effect at the time of the purchase, to a
16 governmental body that has been issued an active tax exemption
17 identification number by the Department under Section 1g of
18 the Retailers' Occupation Tax Act. This paragraph is exempt
19 from the provisions of Section 3-55.

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

1 State or (ii) for the purpose of being processed, fabricated,
2 or manufactured into, attached to, or incorporated into other
3 tangible personal property to be transported outside this
4 State and thereafter used or consumed solely outside this
5 State. The Director of Revenue shall, pursuant to rules
6 adopted in accordance with the Illinois Administrative
7 Procedure Act, issue a permit to any taxpayer in good standing
8 with the Department who is eligible for the exemption under
9 this paragraph (26). The permit issued under this paragraph
10 (26) shall authorize the holder, to the extent and in the
11 manner specified in the rules adopted under this Act, to
12 purchase tangible personal property from a retailer exempt
13 from the taxes imposed by this Act. Taxpayers shall maintain
14 all necessary books and records to substantiate the use and
15 consumption of all such tangible personal property outside of
16 the State of Illinois.

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

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

1 constructing or furnishing a municipal convention hall, but
2 only if the legal title to the municipal convention hall is
3 transferred to the municipality without any further
4 consideration by or on behalf of the municipality at the time
5 of the completion of the municipal convention hall or upon the
6 retirement or redemption of any bonds or other debt
7 instruments issued by the public-facilities corporation in
8 connection with the development of the municipal convention
9 hall. This exemption includes existing public-facilities
10 corporations as provided in Section 11-65-25 of the Illinois
11 Municipal Code. This paragraph is exempt from the provisions
12 of Section 3-55.

13 (29) Beginning January 1, 2010 and continuing through
14 December 31, 2024, materials, parts, equipment, components,
15 and furnishings incorporated into or upon an aircraft as part
16 of the modification, refurbishment, completion, replacement,
17 repair, or maintenance of the aircraft. This exemption
18 includes consumable supplies used in the modification,
19 refurbishment, completion, replacement, repair, and
20 maintenance of aircraft, but excludes any materials, parts,
21 equipment, components, and consumable supplies used in the
22 modification, replacement, repair, and maintenance of aircraft
23 engines or power plants, whether such engines or power plants
24 are installed or uninstalled upon any such aircraft.
25 "Consumable supplies" include, but are not limited to,
26 adhesive, tape, sandpaper, general purpose lubricants,

1 cleaning solution, latex gloves, and protective films. This
2 exemption applies only to the transfer of qualifying tangible
3 personal property incident to the modification, refurbishment,
4 completion, replacement, repair, or maintenance of an aircraft
5 by persons who (i) hold an Air Agency Certificate and are
6 empowered to operate an approved repair station by the Federal
7 Aviation Administration, (ii) have a Class IV Rating, and
8 (iii) conduct operations in accordance with Part 145 of the
9 Federal Aviation Regulations. The exemption does not include
10 aircraft operated by a commercial air carrier providing
11 scheduled passenger air service pursuant to authority issued
12 under Part 121 or Part 129 of the Federal Aviation
13 Regulations. The changes made to this paragraph (29) by Public
14 Act 98-534 are declarative of existing law. It is the intent of
15 the General Assembly that the exemption under this paragraph
16 (29) applies continuously from January 1, 2010 through
17 December 31, 2024; however, no claim for credit or refund is
18 allowed for taxes paid as a result of the disallowance of this
19 exemption on or after January 1, 2015 and prior to February 5,
20 2020 (the effective date of Public Act 101-629) ~~this~~
21 ~~amendatory Act of the 101st General Assembly.~~

22 (30) Beginning January 1, 2017 and through December 31,
23 2026, menstrual pads, tampons, and menstrual cups.

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

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

16 The Department of Commerce and Economic Opportunity shall
17 grant a certificate of exemption under this item (32) to
18 qualified data centers as defined by Section 605-1025 of the
19 Department of Commerce and Economic Opportunity Law of the
20 Civil Administrative Code of Illinois.

21 For the purposes of this item (32):

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

26 "Qualified tangible personal property" means:

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

1 This item (32) is exempt from the provisions of Section
2 3-55.

3 (33) Beginning July 1, 2022, breast pumps, breast pump
4 collection and storage supplies, and breast pump kits. This
5 item (33) is exempt from the provisions of Section 3-55. As
6 used in this item (33):

7 "Breast pump" means an electrically controlled or
8 manually controlled pump device designed or marketed to be
9 used to express milk from a human breast during lactation,
10 including the pump device and any battery, AC adapter, or
11 other power supply unit that is used to power the pump
12 device and is packaged and sold with the pump device at the
13 time of sale.

14 "Breast pump collection and storage supplies" means
15 items of tangible personal property designed or marketed
16 to be used in conjunction with a breast pump to collect
17 milk expressed from a human breast and to store collected
18 milk until it is ready for consumption.

19 "Breast pump collection and storage supplies"
20 includes, but is not limited to: breast shields and breast
21 shield connectors; breast pump tubes and tubing adapters;
22 breast pump valves and membranes; backflow protectors and
23 backflow protector adaptors; bottles and bottle caps
24 specific to the operation of the breast pump; and breast
25 milk storage bags.

26 "Breast pump collection and storage supplies" does not

1 include: (1) bottles and bottle caps not specific to the
2 operation of the breast pump; (2) breast pump travel bags
3 and other similar carrying accessories, including ice
4 packs, labels, and other similar products; (3) breast pump
5 cleaning supplies; (4) nursing bras, bra pads, breast
6 shells, and other similar products; and (5) creams,
7 ointments, and other similar products that relieve
8 breastfeeding-related symptoms or conditions of the
9 breasts or nipples, unless sold as part of a breast pump
10 kit that is pre-packaged by the breast pump manufacturer
11 or distributor.

12 "Breast pump kit" means a kit that: (1) contains no
13 more than a breast pump, breast pump collection and
14 storage supplies, a rechargeable battery for operating the
15 breast pump, a breastmilk cooler, bottle stands, ice
16 packs, and a breast pump carrying case; and (2) is
17 pre-packaged as a breast pump kit by the breast pump
18 manufacturer or distributor.

19 (34) ~~(33)~~ Tangible personal property sold by or on behalf
20 of the State Treasurer pursuant to the Revised Uniform
21 Unclaimed Property Act. This item (34) ~~(33)~~ is exempt from the
22 provisions of Section 3-55.

23 (35) Diapers, baby wipes, and infant formula. This item
24 (35) is exempt from the provisions of Section 3-55.

25 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
26 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-700, Article

1 70, Section 70-15, eff. 4-19-22; 102-700, Article 75, Section
2 75-15, eff. 4-19-22; 102-1026, eff. 5-27-22; revised 8-9-22.)

3 Section 20. The Retailers' Occupation Tax Act is amended
4 by changing Section 2-5 as follows:

5 (35 ILCS 120/2-5)

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

9 (1) Farm chemicals.

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

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

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

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

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

1 consumption as motor fuel or as a component of motor fuel
2 for the personal use of the user, and not subject to sale
3 or resale.

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

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

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

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

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

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

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

26 (11) Personal property sold to a governmental body, to

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

15 (12) (Blank).

16 (12-5) On and after July 1, 2003 and through June 30,
17 2004, motor vehicles of the second division with a gross
18 vehicle weight in excess of 8,000 pounds that are subject
19 to the commercial distribution fee imposed under Section
20 3-815.1 of the Illinois Vehicle Code. Beginning on July 1,
21 2004 and through June 30, 2005, the use in this State of
22 motor vehicles of the second division: (i) with a gross
23 vehicle weight rating in excess of 8,000 pounds; (ii) that
24 are subject to the commercial distribution fee imposed
25 under Section 3-815.1 of the Illinois Vehicle Code; and
26 (iii) that are primarily used for commercial purposes.

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

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

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

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

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

26 (16) Tangible personal property sold to a purchaser if

1 the purchaser is exempt from use tax by operation of
2 federal law. This paragraph is exempt from the provisions
3 of Section 2-70.

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

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

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

26 (20) Photoprocessing machinery and equipment,

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

6 (21) Until July 1, 2028, coal and aggregate
7 exploration, mining, off-highway hauling, processing,
8 maintenance, and reclamation equipment, including
9 replacement parts and equipment, and including equipment
10 purchased for lease, but excluding motor vehicles required
11 to be registered under the Illinois Vehicle Code. The
12 changes made to this Section by Public Act 97-767 apply on
13 and after July 1, 2003, but no claim for credit or refund
14 is allowed on or after August 16, 2013 (the effective date
15 of Public Act 98-456) for such taxes paid during the
16 period beginning July 1, 2003 and ending on August 16,
17 2013 (the effective date of Public Act 98-456).

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

25 Beginning July 1, 2013, fuel and petroleum products
26 sold to or used by an air carrier, certified by the carrier

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

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

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

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

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

6 (25-5) The exemption under item (25) does not apply if
7 the state in which the motor vehicle will be titled does
8 not allow a reciprocal exemption for a motor vehicle sold
9 and delivered in that state to an Illinois resident but
10 titled in Illinois. The tax collected under this Act on
11 the sale of a motor vehicle in this State to a resident of
12 another state that does not allow a reciprocal exemption
13 shall be imposed at a rate equal to the state's rate of tax
14 on taxable property in the state in which the purchaser is
15 a resident, except that the tax shall not exceed the tax
16 that would otherwise be imposed under this Act. At the
17 time of the sale, the purchaser shall execute a statement,
18 signed under penalty of perjury, of his or her intent to
19 title the vehicle in the state in which the purchaser is a
20 resident within 30 days after the sale and of the fact of
21 the payment to the State of Illinois of tax in an amount
22 equivalent to the state's rate of tax on taxable property
23 in his or her state of residence and shall submit the
24 statement to the appropriate tax collection agency in his
25 or her state of residence. In addition, the retailer must
26 retain a signed copy of the statement in his or her

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

10 (25-7) Beginning on July 1, 2007, no tax is imposed
11 under this Act on the sale of an aircraft, as defined in
12 Section 3 of the Illinois Aeronautics Act, if all of the
13 following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (35-5) Beginning August 23, 2001 and through June 30,
22 2016, food for human consumption that is to be consumed
23 off the premises where it is sold (other than alcoholic
24 beverages, soft drinks, and food that has been prepared
25 for immediate consumption) and prescription and
26 nonprescription medicines, drugs, medical appliances, and

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

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

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

26 (38) Beginning on January 1, 2002 and through June 30,

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

24 (39) Beginning January 1, 2008, tangible personal
25 property used in the construction or maintenance of a
26 community water supply, as defined under Section 3.145 of

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

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

1 (ii) have a Class IV Rating, and (iii) conduct operations
2 in accordance with Part 145 of the Federal Aviation
3 Regulations. The exemption does not include aircraft
4 operated by a commercial air carrier providing scheduled
5 passenger air service pursuant to authority issued under
6 Part 121 or Part 129 of the Federal Aviation Regulations.
7 The changes made to this paragraph (40) by Public Act
8 98-534 are declarative of existing law. It is the intent
9 of the General Assembly that the exemption under this
10 paragraph (40) applies continuously from January 1, 2010
11 through December 31, 2024; however, no claim for credit or
12 refund is allowed for taxes paid as a result of the
13 disallowance of this exemption on or after January 1, 2015
14 and prior to February 5, 2020 (the effective date of
15 Public Act 101-629) ~~this amendatory Act of the 101st~~
16 ~~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 Public Act 101-31
25 ~~this amendatory Act of the 101st General Assembly~~ been in
26 effect, may apply for and obtain an exemption for

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

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

12 For the purposes of this item (44):

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

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

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

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

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

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

12 (46) Beginning July 1, 2022, breast pumps, breast pump
13 collection and storage supplies, and breast pump kits.
14 This item (46) is exempt from the provisions of Section
15 2-70. As used in this item (46):

16 "Breast pump" means an electrically controlled or
17 manually controlled pump device designed or marketed to be
18 used to express milk from a human breast during lactation,
19 including the pump device and any battery, AC adapter, or
20 other power supply unit that is used to power the pump
21 device and is packaged and sold with the pump device at the
22 time of sale.

23 "Breast pump collection and storage supplies" means
24 items of tangible personal property designed or marketed
25 to be used in conjunction with a breast pump to collect
26 milk expressed from a human breast and to store collected

1 milk until it is ready for consumption.

2 "Breast pump collection and storage supplies"
3 includes, but is not limited to: breast shields and breast
4 shield connectors; breast pump tubes and tubing adapters;
5 breast pump valves and membranes; backflow protectors and
6 backflow protector adaptors; bottles and bottle caps
7 specific to the operation of the breast pump; and breast
8 milk storage bags.

9 "Breast pump collection and storage supplies" does not
10 include: (1) bottles and bottle caps not specific to the
11 operation of the breast pump; (2) breast pump travel bags
12 and other similar carrying accessories, including ice
13 packs, labels, and other similar products; (3) breast pump
14 cleaning supplies; (4) nursing bras, bra pads, breast
15 shells, and other similar products; and (5) creams,
16 ointments, and other similar products that relieve
17 breastfeeding-related symptoms or conditions of the
18 breasts or nipples, unless sold as part of a breast pump
19 kit that is pre-packaged by the breast pump manufacturer
20 or distributor.

21 "Breast pump kit" means a kit that: (1) contains no
22 more than a breast pump, breast pump collection and
23 storage supplies, a rechargeable battery for operating the
24 breast pump, a breastmilk cooler, bottle stands, ice
25 packs, and a breast pump carrying case; and (2) is
26 pre-packaged as a breast pump kit by the breast pump

1 manufacturer or distributor.

2 (47) ~~(46)~~ Tangible personal property sold by or on
3 behalf of the State Treasurer pursuant to the Revised
4 Uniform Unclaimed Property Act. This item (47) ~~(46)~~ is
5 exempt from the provisions of Section 2-70.

6 (48) Diapers, baby wipes, and infant formula. This
7 item (48) is exempt from the provisions of Section 2-70.

8 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
9 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-634, eff.
10 8-27-21; 102-700, Article 70, Section 70-20, eff. 4-19-22;
11 102-700, Article 75, Section 75-20, eff. 4-19-22; 102-813,
12 eff. 5-13-22; 102-1026, eff. 5-27-22; revised 8-15-22.)