



Sen. George P. Shadid

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LRB093 05817 MKM 52110 a

1 AMENDMENT TO HOUSE BILL 714

2 AMENDMENT NO. _____. Amend House Bill 714, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "(35 ILCS 5/215 rep.)

6 Section 5. The Illinois Income Tax Act is amended by
7 repealing Section 215.

8 Section 10. The Use Tax Act is amended by changing Sections
9 3-5 and 3-61 as follows:

10 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

23 (3) Personal property purchased by a not-for-profit arts or

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

15 (4) Personal property purchased by a governmental body, by
16 a corporation, society, association, foundation, or
17 institution organized and operated exclusively for charitable,
18 religious, or educational purposes, or by a not-for-profit
19 corporation, society, association, foundation, institution, or
20 organization that has no compensated officers or employees and
21 that is organized and operated primarily for the recreation of
22 persons 55 years of age or older. A limited liability company
23 may qualify for the exemption under this paragraph only if the
24 limited liability company is organized and operated
25 exclusively for educational purposes. On and after July 1,
26 1987, however, no entity otherwise eligible for this exemption
27 shall make tax-free purchases unless it has an active exemption
28 identification number issued by the Department.

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

32 (6) Until July 1, 2003, graphic arts machinery and
33 equipment, including repair and replacement parts, both new and
34 used, and including that manufactured on special order,

1 certified by the purchaser to be used primarily for graphic
2 arts production, and including machinery and equipment
3 purchased for lease. Equipment includes chemicals or chemicals
4 acting as catalysts but only if the chemicals or chemicals
5 acting as catalysts effect a direct and immediate change upon a
6 graphic arts product.

7 (7) Farm chemicals.

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

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

15 (10) A motor vehicle of the first division, a motor vehicle
16 of the second division that is a self-contained motor vehicle
17 designed or permanently converted to provide living quarters
18 for recreational, camping, or travel use, with direct walk
19 through to the living quarters from the driver's seat, or a
20 motor vehicle of the second division that is of the van
21 configuration designed for the transportation of not less than
22 7 nor more than 16 passengers, as defined in Section 1-146 of
23 the Illinois Vehicle Code, 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,
27 including that manufactured on special order, certified by the
28 purchaser to be used primarily for production agriculture or
29 State or federal agricultural programs, including individual
30 replacement parts for the machinery and equipment, including
31 machinery and equipment purchased for lease, and including
32 implements of husbandry defined in Section 1-130 of the
33 Illinois Vehicle Code, farm machinery and agricultural
34 chemical and fertilizer spreaders, and nurse wagons required to

1 be registered under Section 3-809 of the Illinois Vehicle Code,
2 but excluding other motor vehicles required to be registered
3 under the Illinois Vehicle Code. Horticultural polyhouses or
4 hoop houses used for propagating, growing, or overwintering
5 plants shall be considered farm machinery and equipment under
6 this item (11). Agricultural chemical tender tanks and dry
7 boxes shall include units sold separately from a motor vehicle
8 required to be licensed and units sold mounted on a motor
9 vehicle required to be licensed if the selling price of the
10 tender is separately stated.

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

19 Farm machinery and equipment also includes computers,
20 sensors, software, and related equipment used primarily in the
21 computer-assisted operation of production agriculture
22 facilities, equipment, and activities such as, but not limited
23 to, the collection, monitoring, and correlation of animal and
24 crop data for the purpose of formulating animal diets and
25 agricultural chemicals. This item (11) is exempt from the
26 provisions of Section 3-90.

27 (12) Fuel and petroleum products sold to or used by an air
28 common carrier, certified by the carrier to be used for
29 consumption, shipment, or storage in the conduct of its
30 business as an air common carrier, for a flight destined for or
31 returning from a location or locations outside the United
32 States without regard to previous or subsequent domestic
33 stopovers.

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

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

22 (16) Until July 1, 2003, coal exploration, mining,
23 offhighway hauling, processing, maintenance, and reclamation
24 equipment, including replacement parts and equipment, and
25 including equipment purchased for lease, but excluding motor
26 vehicles required to be registered under the Illinois Vehicle
27 Code.

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

34 (18) Manufacturing and assembling machinery and equipment

1 used primarily in the process of manufacturing or assembling
2 tangible personal property for wholesale or retail sale or
3 lease, whether that sale or lease is made directly by the
4 manufacturer or by some other person, whether the materials
5 used in the process are owned by the manufacturer or some other
6 person, or whether that sale or lease is made apart from or as
7 an incident to the seller's engaging in the service occupation
8 of producing machines, tools, dies, jigs, patterns, gauges, or
9 other similar items of no commercial value on special order for
10 a particular purchaser.

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

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

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

24 (22) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients purchased by a
27 lessor who leases the equipment, under a lease of one year or
28 longer executed or in effect at the time the lessor would
29 otherwise be subject to the tax imposed by this Act, to a
30 hospital that has been issued an active tax exemption
31 identification number by the Department under Section 1g of the
32 Retailers' Occupation Tax Act. If the equipment is leased in a
33 manner that does not qualify for this exemption or is used in
34 any other non-exempt manner, the lessor shall be liable for the

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

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

33 (24) Beginning with taxable years ending on or after
34 December 31, 1995 and ending with taxable years ending on or

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

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

21 (26) Beginning July 1, 1999, game or game birds purchased
22 at a "game breeding and hunting preserve area" or an "exotic
23 game hunting area" as those terms are used in the Wildlife Code
24 or at a hunting enclosure approved through rules adopted by the
25 Department of Natural Resources. This paragraph is exempt from
26 the provisions of Section 3-90.

27 (27) A motor vehicle, as that term is defined in Section
28 1-146 of the Illinois Vehicle Code, that is donated to a
29 corporation, limited liability company, society, association,
30 foundation, or institution that is determined by the Department
31 to be organized and operated exclusively for educational
32 purposes. For purposes of this exemption, "a corporation,
33 limited liability company, society, association, foundation,
34 or institution organized and operated exclusively for

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

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

25 (29) Beginning January 1, 2000 and through December 31,
26 2001, new or used automatic vending machines that prepare and
27 serve hot food and beverages, including coffee, soup, and other
28 items, and replacement parts for these machines. Beginning
29 January 1, 2002 and through June 30, 2003, machines and parts
30 for machines used in commercial, coin-operated amusement and
31 vending business if a use or occupation tax is paid on the
32 gross receipts derived from the use of the commercial,
33 coin-operated amusement and vending machines. This paragraph
34 is exempt from the provisions of Section 3-90.

1 (30) Food for human consumption that is to be consumed off
2 the premises where it is sold (other than alcoholic beverages,
3 soft drinks, and food that has been prepared for immediate
4 consumption) and prescription and nonprescription medicines,
5 drugs, medical appliances, and insulin, urine testing
6 materials, syringes, and needles used by diabetics, for human
7 use, when purchased for use by a person receiving medical
8 assistance under Article 5 of the Illinois Public Aid Code who
9 resides in a licensed long-term care facility, as defined in
10 the Nursing Home Care Act.

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

1 Section 3-90.

2 (32) Beginning on the effective date of this amendatory Act
3 of the 92nd General Assembly, personal property purchased by a
4 lessor who leases the property, under a lease of one year or
5 longer executed or in effect at the time the lessor would
6 otherwise be subject to the tax imposed by this Act, to a
7 governmental body that has been issued an active sales tax
8 exemption identification number by the Department under
9 Section 1g of the Retailers' Occupation Tax Act. If the
10 property is leased in a manner that does not qualify for this
11 exemption or used in any other nonexempt manner, the lessor
12 shall be liable for the tax imposed under this Act or the
13 Service Use Tax Act, as the case may be, based on the fair
14 market value of the property at the time the nonqualifying use
15 occurs. No lessor shall collect or attempt to collect an amount
16 (however designated) that purports to reimburse that lessor for
17 the tax imposed by this Act or the Service Use Tax Act, as the
18 case may be, if the tax has not been paid by the lessor. If a
19 lessor improperly collects any such amount from the lessee, the
20 lessee shall have a legal right to claim a refund of that
21 amount from the lessor. If, however, that amount is not
22 refunded to the lessee for any reason, the lessor is liable to
23 pay that amount to the Department. This paragraph is exempt
24 from the provisions of 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
27 with a gross vehicle weight in excess of 8,000 pounds and that
28 are subject to the commercial distribution fee imposed under
29 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
30 1, 2004 and through June 30, 2005, the use in this State of
31 motor vehicles of the second division: (i) with a gross vehicle
32 weight rating in excess of 8,000 pounds; (ii) that are subject
33 to the commercial distribution fee imposed under Section
34 3-815.1 of the Illinois Vehicle Code; and (iii) that are

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

10 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
11 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
12 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

13 (35 ILCS 105/3-61)

14 Sec. 3-61. Motor vehicles;trailers; use as rolling stock
15 definition.

16 (a) Through June 30, 2003, "use as rolling stock moving in
17 interstate commerce" in subsections (b) and (c) of Section 3-55
18 means for motor vehicles, as defined in Section 1-146 of the
19 Illinois Vehicle Code, and trailers, as defined in Section
20 1-209 of the Illinois Vehicle Code, when on 15 or more
21 occasions in a 12-month period the motor vehicle and trailer
22 has carried persons or property for hire in interstate
23 commerce, even just between points in Illinois, if the motor
24 vehicle and trailer transports persons whose journeys or
25 property whose shipments originate or terminate outside
26 Illinois. This definition applies to all property purchased for
27 the purpose of being attached to those motor vehicles or
28 trailers as a part thereof.

29 (b) On and after July 1, 2003 and through June 30, 2004,
30 "use as rolling stock moving in interstate commerce" in
31 paragraphs (b) and (c) of Section 3-55 occurs for motor
32 vehicles, as defined in Section 1-146 of the Illinois Vehicle
33 Code, when during a 12-month period the rolling stock has

1 carried persons or property for hire in interstate commerce for
2 51% of its total trips and transports persons whose journeys or
3 property whose shipments originate or terminate outside
4 Illinois. Trips that are only between points in Illinois shall
5 not be counted as interstate trips when calculating whether the
6 tangible personal property qualifies for the exemption but such
7 trips shall be included in total trips taken.

8 (c) Beginning July 1, 2004, "use as rolling stock moving in
9 interstate commerce" in paragraphs (b) and (c) of Section 3-55
10 occurs for motor vehicles, as defined in Section 1-146 of the
11 Illinois Vehicle Code, when during a 12-month period the
12 rolling stock has carried persons or property for hire in
13 interstate commerce for greater than 50% of its total trips for
14 that period or for greater than 50% of its total miles for that
15 period. The person claiming the exemption shall make an
16 election at the time of purchase to use either the trips or
17 mileage method. Persons who purchased motor vehicles prior to
18 July 1, 2004 shall make an election to use either the trips or
19 mileage method and document that election in their books and
20 records. If no election is made under this subsection to use
21 the trips or mileage method, the person shall be deemed to have
22 chosen the mileage method. Any election to use either the trips
23 or mileage method will remain in effect for that motor vehicle
24 for any period for which the Department may issue a notice of
25 tax liability under this Act.

26 For purposes of determining qualifying trips or miles,
27 motor vehicles that carry persons or property for hire, even
28 just between points in Illinois, will be considered used for
29 hire in interstate commerce if the motor vehicle transports
30 persons whose journeys or property whose shipments originate or
31 terminate outside Illinois. The exemption for motor vehicles
32 used as rolling stock moving in interstate commerce may be
33 claimed only for motor vehicles whose gross vehicle weight
34 rating exceeds 16,000 pounds. This definition applies to all

1 property purchased for the purpose of being attached to those
2 motor vehicles as a part thereof.

3 (d) Beginning July 1, 2004, "use as rolling stock moving in
4 interstate commerce" in paragraphs (b) and (c) of Section 3-55
5 occurs for trailers, as defined in Section 1-209 of the
6 Illinois Vehicle Code, semitrailers as defined in Section 1-187
7 of the Illinois Vehicle Code, and pole trailers as defined in
8 Section 1-161 of the Illinois Vehicle Code, when during a
9 12-month period the rolling stock has carried persons or
10 property for hire in interstate commerce for greater than 50%
11 of its total trips for that period or for greater than 50% of
12 its total miles for that period. The person claiming the
13 exemption for a trailer or trailers that will not be dedicated
14 to a motor vehicle or group of motor vehicles shall make an
15 election at the time of purchase to use either the trips or
16 mileage method. Persons who purchased trailers prior to July 1,
17 2004 that are not dedicated to a motor vehicle or group of
18 motor vehicles shall make an election to use either the trips
19 or mileage method and document that election in their books and
20 records. If no election is made under this subsection to use
21 the trips or mileage method, the person shall be deemed to have
22 chosen the mileage method. Any election to use either the trips
23 or mileage method will remain in effect for that trailer for
24 any period for which the Department may issue a notice of tax
25 liability under this Act.

26 For purposes of determining qualifying trips or miles,
27 trailers, semitrailers, or pole trailers that carry property
28 for hire, even just between points in Illinois, will be
29 considered used for hire in interstate commerce if the
30 trailers, semitrailers, or pole trailers transport property
31 whose shipments originate or terminate outside Illinois. This
32 definition applies to all property purchased for the purpose of
33 being attached to those trailers, semitrailers, or pole
34 trailers as a part thereof. In lieu of a person providing

1 documentation regarding the qualifying use of each individual
2 trailer, semitrailer, or pole trailer, that person may document
3 such qualifying use by providing documentation of the
4 following:

5 (1) If a trailer, semitrailer, or pole trailer is
6 dedicated to a motor vehicle that qualifies as rolling
7 stock moving in interstate commerce under subsection (c) of
8 this Section, then that trailer, semitrailer, or pole
9 trailer qualifies as rolling stock moving in interstate
10 commerce under this subsection.

11 (2) If a trailer, semitrailer, or pole trailer is
12 dedicated to a group of motor vehicles that all qualify as
13 rolling stock moving in interstate commerce under
14 subsection (c) of this Section, then that trailer,
15 semitrailer, or pole trailer qualifies as rolling stock
16 moving in interstate commerce under this subsection.

17 (3) If one or more trailers, semitrailers, or pole
18 trailers are dedicated to a group of motor vehicles and not
19 all of those motor vehicles in that group qualify as
20 rolling stock moving in interstate commerce under
21 subsection (c) of this Section, then the percentage of
22 those trailers, semitrailers, or pole trailers that
23 qualifies as rolling stock moving in interstate commerce
24 under this subsection is equal to the percentage of those
25 motor vehicles in that group that qualify as rolling stock
26 moving in interstate commerce under subsection (c) of this
27 Section to which those trailer, semitrailers, or pole
28 trailers are dedicated. However, to determine the
29 qualification for the exemption provided under this item
30 (3), the mathematical application of the qualifying
31 percentage to one or more trailers, semitrailers, or pole
32 trailers under this subpart shall not be allowed as to any
33 fraction of a trailer, semitrailer, or pole trailer.

34 (Source: P.A. 93-23, eff. 6-20-03.)

1 Section 15. The Service Use Tax Act is amended by changing
2 Sections 2 and 3-51 as follows:

3 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

4 Sec. 2. "Use" means the exercise by any person of any right
5 or power over tangible personal property incident to the
6 ownership of that property, but does not include the sale or
7 use for demonstration by him of that property in any form as
8 tangible personal property in the regular course of business.
9 "Use" does not mean the interim use of tangible personal
10 property nor the physical incorporation of tangible personal
11 property, as an ingredient or constituent, into other tangible
12 personal property, (a) which is sold in the regular course of
13 business or (b) which the person incorporating such ingredient
14 or constituent therein has undertaken at the time of such
15 purchase to cause to be transported in interstate commerce to
16 destinations outside the State of Illinois.

17 "Purchased from a serviceman" means the acquisition of the
18 ownership of, or title to, tangible personal property through a
19 sale of service.

20 "Purchaser" means any person who, through a sale of
21 service, acquires the ownership of, or title to, any tangible
22 personal property.

23 "Cost price" means the consideration paid by the serviceman
24 for a purchase valued in money, whether paid in money or
25 otherwise, including cash, credits and services, and shall be
26 determined without any deduction on account of the supplier's
27 cost of the property sold or on account of any other expense
28 incurred by the supplier. When a serviceman contracts out part
29 or all of the services required in his sale of service, it
30 shall be presumed that the cost price to the serviceman of the
31 property transferred to him or her by his or her subcontractor
32 is equal to 50% of the subcontractor's charges to the

1 serviceman in the absence of proof of the consideration paid by
2 the subcontractor for the purchase of such property.

3 "Selling price" means the consideration for a sale valued
4 in money whether received in money or otherwise, including
5 cash, credits and service, and shall be determined without any
6 deduction on account of the serviceman's cost of the property
7 sold, the cost of materials used, labor or service cost or any
8 other expense whatsoever, but does not include interest or
9 finance charges which appear as separate items on the bill of
10 sale or sales contract nor charges that are added to prices by
11 sellers on account of the seller's duty to collect, from the
12 purchaser, the tax that is imposed by this Act.

13 "Department" means the Department of Revenue.

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

19 "Sale of service" means any transaction except:

20 (1) a retail sale of tangible personal property taxable
21 under the Retailers' Occupation Tax Act or under the Use
22 Tax Act.

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

26 (3) except as hereinafter provided, a sale or transfer
27 of tangible personal property as an incident to the
28 rendering of service for or by any governmental body, or
29 for or by any corporation, society, association,
30 foundation or institution organized and operated
31 exclusively for charitable, religious or educational
32 purposes or any not-for-profit corporation, society,
33 association, foundation, institution or organization which
34 has no compensated officers or employees and which is

1 organized and operated primarily for the recreation of
2 persons 55 years of age or older. A limited liability
3 company may qualify for the exemption under this paragraph
4 only if the limited liability company is organized and
5 operated exclusively for educational purposes.

6 (4) a sale or transfer of tangible personal property as
7 an incident to the rendering of service for interstate
8 carriers for hire for use as rolling stock moving in
9 interstate commerce or by lessors under a lease of one year
10 or longer, executed or in effect at the time of purchase of
11 personal property, to interstate carriers for hire for use
12 as rolling stock moving in interstate commerce so long as
13 so used by such interstate carriers for hire, and equipment
14 operated by a telecommunications provider, licensed as a
15 common carrier by the Federal Communications Commission,
16 which is permanently installed in or affixed to aircraft
17 moving in interstate commerce.

18 (4a) a sale or transfer of tangible personal property
19 as an incident to the rendering of service for owners,
20 lessors, or shippers of tangible personal property which is
21 utilized by interstate carriers for hire for use as rolling
22 stock moving in interstate commerce so long as so used by
23 interstate carriers for hire, and equipment operated by a
24 telecommunications provider, licensed as a common carrier
25 by the Federal Communications Commission, which is
26 permanently installed in or affixed to aircraft moving in
27 interstate commerce.

28 (4a-5) on and after July 1, 2003 and through June 30,
29 2004, a sale or transfer of a motor vehicle of the second
30 division with a gross vehicle weight in excess of 8,000
31 pounds as an incident to the rendering of service if that
32 motor vehicle is subject to the commercial distribution fee
33 imposed under Section 3-815.1 of the Illinois Vehicle Code.
34 Beginning on July 1, 2004 and through June 30, 2005, the

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

15 (5) a sale or transfer of machinery and equipment used
16 primarily in the process of the manufacturing or
17 assembling, either in an existing, an expanded or a new
18 manufacturing facility, of tangible personal property for
19 wholesale or retail sale or lease, whether such sale or
20 lease is made directly by the manufacturer or by some other
21 person, whether the materials used in the process are owned
22 by the manufacturer or some other person, or whether such
23 sale or lease is made apart from or as an incident to the
24 seller's engaging in a service occupation and the
25 applicable tax is a Service Use Tax or Service Occupation
26 Tax, rather than Use Tax or Retailers' Occupation Tax.

27 (5a) the repairing, reconditioning or remodeling, for
28 a common carrier by rail, of tangible personal property
29 which belongs to such carrier for hire, and as to which
30 such carrier receives the physical possession of the
31 repaired, reconditioned or remodeled item of tangible
32 personal property in Illinois, and which such carrier
33 transports, or shares with another common carrier in the
34 transportation of such property, out of Illinois on a

1 standard uniform bill of lading showing the person who
2 repaired, reconditioned or remodeled the property to a
3 destination outside Illinois, for use outside Illinois.

4 (5b) a sale or transfer of tangible personal property
5 which is produced by the seller thereof on special order in
6 such a way as to have made the applicable tax the Service
7 Occupation Tax or the Service Use Tax, rather than the
8 Retailers' Occupation Tax or the Use Tax, for an interstate
9 carrier by rail which receives the physical possession of
10 such property in Illinois, and which transports such
11 property, or shares with another common carrier in the
12 transportation of such property, out of Illinois on a
13 standard uniform bill of lading showing the seller of the
14 property as the shipper or consignor of such property to a
15 destination outside Illinois, for use outside Illinois.

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

24 (7) at the election of any serviceman not required to
25 be otherwise registered as a retailer under Section 2a of
26 the Retailers' Occupation Tax Act, made for each fiscal
27 year sales of service in which the aggregate annual cost
28 price of tangible personal property transferred as an
29 incident to the sales of service is less than 35%, or 75%
30 in the case of servicemen transferring prescription drugs
31 or servicemen engaged in graphic arts production, of the
32 aggregate annual total gross receipts from all sales of
33 service. The purchase of such tangible personal property by
34 the serviceman shall be subject to tax under the Retailers'

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

11 Tangible personal property transferred incident to the
12 completion of a maintenance agreement is exempt from the tax
13 imposed pursuant to this Act.

14 Exemption (5) also includes machinery and equipment used in
15 the general maintenance or repair of such exempt machinery and
16 equipment or for in-house manufacture of exempt machinery and
17 equipment. For the purposes of exemption (5), each of these
18 terms shall have the following meanings: (1) "manufacturing
19 process" shall mean the production of any article of tangible
20 personal property, whether such article is a finished product
21 or an article for use in the process of manufacturing or
22 assembling a different article of tangible personal property,
23 by procedures commonly regarded as manufacturing, processing,
24 fabricating, or refining which changes some existing material
25 or materials into a material with a different form, use or
26 name. In relation to a recognized integrated business composed
27 of a series of operations which collectively constitute
28 manufacturing, or individually constitute manufacturing
29 operations, the manufacturing process shall be deemed to
30 commence with the first operation or stage of production in the
31 series, and shall not be deemed to end until the completion of
32 the final product in the last operation or stage of production
33 in the series; and further, for purposes of exemption (5),
34 photoprocessing is deemed to be a manufacturing process of

1 tangible personal property for wholesale or retail sale; (2)
2 "assembling process" shall mean the production of any article
3 of tangible personal property, whether such article is a
4 finished product or an article for use in the process of
5 manufacturing or assembling a different article of tangible
6 personal property, by the combination of existing materials in
7 a manner commonly regarded as assembling which results in a
8 material of a different form, use or name; (3) "machinery"
9 shall mean major mechanical machines or major components of
10 such machines contributing to a manufacturing or assembling
11 process; and (4) "equipment" shall include any independent
12 device or tool separate from any machinery but essential to an
13 integrated manufacturing or assembly process; including
14 computers used primarily in a manufacturer's computer assisted
15 design, computer assisted manufacturing (CAD/CAM) system; or
16 any subunit or assembly comprising a component of any machinery
17 or auxiliary, adjunct or attachment parts of machinery, such as
18 tools, dies, jigs, fixtures, patterns and molds; or any parts
19 which require periodic replacement in the course of normal
20 operation; but shall not include hand tools. Equipment includes
21 chemicals or chemicals acting as catalysts but only if the
22 chemicals or chemicals acting as catalysts effect a direct and
23 immediate change upon a product being manufactured or assembled
24 for wholesale or retail sale or lease. The purchaser of such
25 machinery and equipment who has an active resale registration
26 number shall furnish such number to the seller at the time of
27 purchase. The user of such machinery and equipment and tools
28 without an active resale registration number shall prepare a
29 certificate of exemption for each transaction stating facts
30 establishing the exemption for that transaction, which
31 certificate shall be available to the Department for inspection
32 or audit. The Department shall prescribe the form of the
33 certificate.

34 Any informal rulings, opinions or letters issued by the

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

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

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

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

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

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

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

- 31 1. having or maintaining within this State, directly or
32 by a subsidiary, an office, distribution house, sales
33 house, warehouse or other place of business, or any agent
34 or other representative operating within this State under

1 the authority of the serviceman or its subsidiary,
2 irrespective of whether such place of business or agent or
3 other representative is located here permanently or
4 temporarily, or whether such serviceman or subsidiary is
5 licensed to do business in this State;

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

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

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

23 5. being owned or controlled by the same interests
24 which own or control any retailer engaging in business in
25 the same or similar line of business in this State;

26 6. having a franchisee or licensee operating under its
27 trade name if the franchisee or licensee is required to
28 collect the tax under this Section;

29 7. pursuant to a contract with a cable television
30 operator located in this State, soliciting orders for
31 tangible personal property by means of advertising which is
32 transmitted or distributed over a cable television system
33 in this State; or

34 8. engaging in activities in Illinois, which

1 activities in the state in which the supply business
2 engaging in such activities is located would constitute
3 maintaining a place of business in that state.

4 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
5 eff. 6-20-03; revised 8-21-03.)

6 (35 ILCS 110/3-51)

7 Sec. 3-51. Motor vehicles; trailers; use as rolling stock
8 definition.

9 (a) Through June 30, 2003, "use as rolling stock moving in
10 interstate commerce" in subsection (b) of Section 3-45 means
11 for motor vehicles, as defined in Section 1-46 of the Illinois
12 Vehicle Code, and trailers, as defined in Section 1-209 of the
13 Illinois Vehicle Code, when on 15 or more occasions in a
14 12-month period the motor vehicle and trailer has carried
15 persons or property for hire in interstate commerce, even just
16 between points in Illinois, if the motor vehicle and trailer
17 transports persons whose journeys or property whose shipments
18 originate or terminate outside Illinois. This definition
19 applies to all property purchased for the purpose of being
20 attached to those motor vehicles or trailers as a part thereof.

21 (b) On and after July 1, 2003 and through June 30, 2004,
22 "use as rolling stock moving in interstate commerce" in
23 paragraphs (4) and (4a) of the definition of "sale of service"
24 in Section 2 and subsection (b) of Section 3-45 occurs for
25 motor vehicles, as defined in Section 1-146 of the Illinois
26 Vehicle Code, when during a 12-month period the rolling stock
27 has carried persons or property for hire in interstate commerce
28 for 51% of its total trips and transports persons whose
29 journeys or property whose shipments originate or terminate
30 outside Illinois. Trips that are only between points in
31 Illinois shall not be counted as interstate trips when
32 calculating whether the tangible personal property qualifies
33 for the exemption but such trips shall be included in total

1 trips taken.

2 (c) Beginning July 1, 2004, "use as rolling stock moving in
3 interstate commerce" in paragraphs (4) and (4a) of the
4 definition of "sale of service" in Section 2 and subsection (b)
5 of Section 3-45 occurs for motor vehicles, as defined in
6 Section 1-146 of the Illinois Vehicle Code, when during a
7 12-month period the rolling stock has carried persons or
8 property for hire in interstate commerce for greater than 50%
9 of its total trips for that period or for greater than 50% of
10 its total miles for that period. The person claiming the
11 exemption shall make an election at the time of purchase to use
12 either the trips or mileage method. Persons who purchased motor
13 vehicles prior to July 1, 2004 shall make an election to use
14 either the trips or mileage method and document that election
15 in their books and records. If no election is made under this
16 subsection to use the trips or mileage method, the person shall
17 be deemed to have chosen the mileage method. Any election to
18 use either the trips or mileage method will remain in effect
19 for that motor vehicle for any period for which the Department
20 may issue a notice of tax liability under this Act.

21 For purposes of determining qualifying trips or miles,
22 motor vehicles that carry persons or property for hire, even
23 just between points in Illinois, will be considered used for
24 hire in interstate commerce if the motor vehicle transports
25 persons whose journeys or property whose shipments originate or
26 terminate outside Illinois. The exemption for motor vehicles
27 used as rolling stock moving in interstate commerce may be
28 claimed only for motor vehicles whose gross vehicle weight
29 rating exceeds 16,000 pounds. This definition applies to all
30 property purchased for the purpose of being attached to those
31 motor vehicles as a part thereof.

32 (d) Beginning July 1, 2004, "use as rolling stock moving in
33 interstate commerce" in paragraphs (4) and (4a) of the
34 definition of "sale of service" in Section 2 and subsection (b)

1 of Section 3-45 occurs for trailers, as defined in Section
2 1-209 of the Illinois Vehicle Code, semitrailers as defined in
3 Section 1-187 of the Illinois Vehicle Code, and pole trailers
4 as defined in Section 1-161 of the Illinois Vehicle Code, when
5 during a 12-month period the rolling stock has carried persons
6 or property for hire in interstate commerce for greater than
7 50% of its total trips for that period or for greater than 50%
8 of its total miles for that period. The person claiming the
9 exemption for a trailer or trailers that will not be dedicated
10 to a motor vehicle or group of motor vehicles shall make an
11 election at the time of purchase to use either the trips or
12 mileage method. Persons who purchased trailers prior to July 1,
13 2004 that are not dedicated to a motor vehicle or group of
14 motor vehicles shall make an election to use either the trips
15 or mileage method and document that election in their books and
16 records. If no election is made under this subsection to use
17 the trips or mileage method, the person shall be deemed to have
18 chosen the mileage method. Any election to use either the trips
19 or mileage method will remain in effect for that trailer for
20 any period for which the Department may issue a notice of tax
21 liability under this Act.

22 For purposes of determining qualifying trips or miles,
23 trailers, semitrailers, or pole trailers that carry property
24 for hire, even just between points in Illinois, will be
25 considered used for hire in interstate commerce if the
26 trailers, semitrailers, or pole trailers transport property
27 whose shipments originate or terminate outside Illinois. This
28 definition applies to all property purchased for the purpose of
29 being attached to those trailers, semitrailers, or pole
30 trailers as a part thereof. In lieu of a person providing
31 documentation regarding the qualifying use of each individual
32 trailer, semitrailer, or pole trailer, that person may document
33 such qualifying use by providing documentation of the
34 following:

1 (1) If a trailer, semitrailer, or pole trailer is
2 dedicated to a motor vehicle that qualifies as rolling
3 stock moving in interstate commerce under subsection (c) of
4 this Section, then that trailer, semitrailer, or pole
5 trailer qualifies as rolling stock moving in interstate
6 commerce under this subsection.

7 (2) If a trailer, semitrailer, or pole trailer is
8 dedicated to a group of motor vehicles that all qualify as
9 rolling stock moving in interstate commerce under
10 subsection (c) of this Section, then that trailer,
11 semitrailer, or pole trailer qualifies as rolling stock
12 moving in interstate commerce under this subsection.

13 (3) If one or more trailers, semitrailers, or pole
14 trailers are dedicated to a group of motor vehicles and not
15 all of those motor vehicles in that group qualify as
16 rolling stock moving in interstate commerce under
17 subsection (c) of this Section, then the percentage of
18 those trailers, semitrailers, or pole trailers that
19 qualifies as rolling stock moving in interstate commerce
20 under this subsection is equal to the percentage of those
21 motor vehicles in that group that qualify as rolling stock
22 moving in interstate commerce under subsection (c) of this
23 Section to which those trailer, semitrailers, or pole
24 trailers are dedicated. However, to determine the
25 qualification for the exemption provided under this item
26 (3), the mathematical application of the qualifying
27 percentage to one or more trailers, semitrailers, or pole
28 trailers under this subpart shall not be allowed as to any
29 fraction of a trailer, semitrailer, or pole trailer.

30 (Source: P.A. 93-23, eff. 6-20-03.)

31 Section 20. The Service Occupation Tax Act is amended by
32 changing Sections 2 and 2d as follows:

1 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

2 Sec. 2. "Transfer" means any transfer of the title to
3 property or of the ownership of property whether or not the
4 transferor retains title as security for the payment of amounts
5 due him from the transferee.

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

18 "Department" means the Department of Revenue.

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

24 "Sale of Service" means any transaction except:

25 (a) A retail sale of tangible personal property taxable
26 under the Retailers' Occupation Tax Act or under the Use Tax
27 Act.

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

31 (c) Except as hereinafter provided, a sale or transfer of
32 tangible personal property as an incident to the rendering of
33 service for or by any governmental body or for or by any
34 corporation, society, association, foundation or institution

1 organized and operated exclusively for charitable, religious
2 or educational purposes or any not-for-profit corporation,
3 society, association, foundation, institution or organization
4 which has no compensated officers or employees and which is
5 organized and operated primarily for the recreation of persons
6 55 years of age or older. A limited liability company may
7 qualify for the exemption under this paragraph only if the
8 limited liability company is organized and operated
9 exclusively for educational purposes.

10 (d) A sale or transfer of tangible personal property as an
11 incident to the rendering of service for interstate carriers
12 for hire for use as rolling stock moving in interstate commerce
13 or lessors under leases of one year or longer, executed or in
14 effect at the time of purchase, to interstate carriers for hire
15 for use as rolling stock moving in interstate commerce, and
16 equipment operated by a telecommunications provider, licensed
17 as a common carrier by the Federal Communications Commission,
18 which is permanently installed in or affixed to aircraft moving
19 in interstate commerce.

20 (d-1) A sale or transfer of tangible personal property as
21 an incident to the rendering of service for owners, lessors or
22 shippers of tangible personal property which is utilized by
23 interstate carriers for hire for use as rolling stock moving in
24 interstate commerce, and equipment operated by a
25 telecommunications provider, licensed as a common carrier by
26 the Federal Communications Commission, which is permanently
27 installed in or affixed to aircraft moving in interstate
28 commerce.

29 (d-1.1) On and after July 1, 2003 and through June 30,
30 2004, a sale or transfer of a motor vehicle of the second
31 division with a gross vehicle weight in excess of 8,000 pounds
32 as an incident to the rendering of service if that motor
33 vehicle is subject to the commercial distribution fee imposed
34 under Section 3-815.1 of the Illinois Vehicle Code. Beginning

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

15 (d-2) The repairing, reconditioning or remodeling, for a
16 common carrier by rail, of tangible personal property which
17 belongs to such carrier for hire, and as to which such carrier
18 receives the physical possession of the repaired,
19 reconditioned or remodeled item of tangible personal property
20 in Illinois, and which such carrier transports, or shares with
21 another common carrier in the transportation of such property,
22 out of Illinois on a standard uniform bill of lading showing
23 the person who repaired, reconditioned or remodeled the
24 property as the shipper or consignor of such property to a
25 destination outside Illinois, for use outside Illinois.

26 (d-3) A sale or transfer of tangible personal property
27 which is produced by the seller thereof on special order in
28 such a way as to have made the applicable tax the Service
29 Occupation Tax or the Service Use Tax, rather than the
30 Retailers' Occupation Tax or the Use Tax, for an interstate
31 carrier by rail which receives the physical possession of such
32 property in Illinois, and which transports such property, or
33 shares with another common carrier in the transportation of
34 such property, out of Illinois on a standard uniform bill of

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

4 (d-4) Until January 1, 1997, a sale, by a registered
5 serviceman paying tax under this Act to the Department, of
6 special order printed materials delivered outside Illinois and
7 which are not returned to this State, if delivery is made by
8 the seller or agent of the seller, including an agent who
9 causes the product to be delivered outside Illinois by a common
10 carrier or the U.S. postal service.

11 (e) A sale or transfer of machinery and equipment used
12 primarily in the process of the manufacturing or assembling,
13 either in an existing, an expanded or a new manufacturing
14 facility, of tangible personal property for wholesale or retail
15 sale or lease, whether such sale or lease is made directly by
16 the manufacturer or by some other person, whether the materials
17 used in the process are owned by the manufacturer or some other
18 person, or whether such sale or lease is made apart from or as
19 an incident to the seller's engaging in a service occupation
20 and the applicable tax is a Service Occupation Tax or Service
21 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

22 (f) Until July 1, 2003, the sale or transfer of
23 distillation machinery and equipment, sold as a unit or kit and
24 assembled or installed by the retailer, which machinery and
25 equipment is certified by the user to be used only for the
26 production of ethyl alcohol that will be used for consumption
27 as motor fuel or as a component of motor fuel for the personal
28 use of such user and not subject to sale or resale.

29 (g) At the election of any serviceman not required to be
30 otherwise registered as a retailer under Section 2a of the
31 Retailers' Occupation Tax Act, made for each fiscal year sales
32 of service in which the aggregate annual cost price of tangible
33 personal property transferred as an incident to the sales of
34 service is less than 35% (75% in the case of servicemen

1 transferring prescription drugs or servicemen engaged in
2 graphic arts production) of the aggregate annual total gross
3 receipts from all sales of service. The purchase of such
4 tangible personal property by the serviceman shall be subject
5 to tax under the Retailers' Occupation Tax Act and the Use Tax
6 Act. However, if a primary serviceman who has made the election
7 described in this paragraph subcontracts service work to a
8 secondary serviceman who has also made the election described
9 in this paragraph, the primary serviceman does not incur a Use
10 Tax liability if the secondary serviceman (i) has paid or will
11 pay Use Tax on his or her cost price of any tangible personal
12 property transferred to the primary serviceman and (ii)
13 certifies that fact in writing to the primary serviceman.

14 Tangible personal property transferred incident to the
15 completion of a maintenance agreement is exempt from the tax
16 imposed pursuant to this Act.

17 Exemption (e) also includes machinery and equipment used in
18 the general maintenance or repair of such exempt machinery and
19 equipment or for in-house manufacture of exempt machinery and
20 equipment. For the purposes of exemption (e), each of these
21 terms shall have the following meanings: (1) "manufacturing
22 process" shall mean the production of any article of tangible
23 personal property, whether such article is a finished product
24 or an article for use in the process of manufacturing or
25 assembling a different article of tangible personal property,
26 by procedures commonly regarded as manufacturing, processing,
27 fabricating, or refining which changes some existing material
28 or materials into a material with a different form, use or
29 name. In relation to a recognized integrated business composed
30 of a series of operations which collectively constitute
31 manufacturing, or individually constitute manufacturing
32 operations, the manufacturing process shall be deemed to
33 commence with the first operation or stage of production in the
34 series, and shall not be deemed to end until the completion of

1 the final product in the last operation or stage of production
2 in the series; and further for purposes of exemption (e),
3 photoprocessing is deemed to be a manufacturing process of
4 tangible personal property for wholesale or retail sale; (2)
5 "assembling process" shall mean the production of any article
6 of tangible personal property, whether such article is a
7 finished product or an article for use in the process of
8 manufacturing or assembling a different article of tangible
9 personal property, by the combination of existing materials in
10 a manner commonly regarded as assembling which results in a
11 material of a different form, use or name; (3) "machinery"
12 shall mean major mechanical machines or major components of
13 such machines contributing to a manufacturing or assembling
14 process; and (4) "equipment" shall include any independent
15 device or tool separate from any machinery but essential to an
16 integrated manufacturing or assembly process; including
17 computers used primarily in a manufacturer's computer assisted
18 design, computer assisted manufacturing (CAD/CAM) system; or
19 any subunit or assembly comprising a component of any machinery
20 or auxiliary, adjunct or attachment parts of machinery, such as
21 tools, dies, jigs, fixtures, patterns and molds; or any parts
22 which require periodic replacement in the course of normal
23 operation; but shall not include hand tools. Equipment includes
24 chemicals or chemicals acting as catalysts but only if the
25 chemicals or chemicals acting as catalysts effect a direct and
26 immediate change upon a product being manufactured or assembled
27 for wholesale or retail sale or lease. The purchaser of such
28 machinery and equipment who has an active resale registration
29 number shall furnish such number to the seller at the time of
30 purchase. The purchaser of such machinery and equipment and
31 tools without an active resale registration number shall
32 furnish to the seller a certificate of exemption for each
33 transaction stating facts establishing the exemption for that
34 transaction, which certificate shall be available to the

1 Department for inspection or audit.

2 Except as provided in Section 2d of this Act, the rolling
3 stock exemption applies to rolling stock used by an interstate
4 carrier for hire, even just between points in Illinois, if such
5 rolling stock transports, for hire, persons whose journeys or
6 property whose shipments originate or terminate outside
7 Illinois.

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

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

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

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

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

32 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
33 eff. 6-20-03; revised 8-21-03.)

1 (35 ILCS 115/2d)

2 Sec. 2d. Motor vehicles; trailers; use as rolling stock
3 definition.

4 (a) Through June 30, 2003, "use as rolling stock moving in
5 interstate commerce" in subsections (d) and (d-1) of the
6 definition of "sale of service" in Section 2 means for motor
7 vehicles, as defined in Section 1-146 of the Illinois Vehicle
8 Code, and trailers, as defined in Section 1-209 of the Illinois
9 Vehicle Code, when on 15 or more occasions in a 12-month period
10 the motor vehicle and trailer has carried persons or property
11 for hire in interstate commerce, even just between points in
12 Illinois, if the motor vehicle and trailer transports persons
13 whose journeys or property whose shipments originate or
14 terminate outside Illinois. This definition applies to all
15 property purchased for the purpose of being attached to those
16 motor vehicles or trailers as a part thereof.

17 (b) On and after July 1, 2003 and through June 30, 2004,
18 "use as rolling stock moving in interstate commerce" in
19 paragraphs (d) and (d-1) of the definition of "sale of service"
20 in Section 2 occurs for motor vehicles, as defined in Section
21 1-146 of the Illinois Vehicle Code, when during a 12-month
22 period the rolling stock has carried persons or property for
23 hire in interstate commerce for 51% of its total trips and
24 transports persons whose journeys or property whose shipments
25 originate or terminate outside Illinois. Trips that are only
26 between points in Illinois will not be counted as interstate
27 trips when calculating whether the tangible personal property
28 qualifies for the exemption but such trips will be included in
29 total trips taken.

30 (c) Beginning July 1, 2004, "use as rolling stock moving in
31 interstate commerce" in paragraphs (d) and (d-1) of the
32 definition of "sale of service" in Section 2 occurs for motor
33 vehicles, as defined in Section 1-146 of the Illinois Vehicle
34 Code, when during a 12-month period the rolling stock has

1 carried persons or property for hire in interstate commerce for
2 greater than 50% of its total trips for that period or for
3 greater than 50% of its total miles for that period. The person
4 claiming the exemption shall make an election at the time of
5 purchase to use either the trips or mileage method. Persons who
6 purchased motor vehicles prior to July 1, 2004 shall make an
7 election to use either the trips or mileage method and document
8 that election in their books and records. If no election is
9 made under this subsection to use the trips or mileage method,
10 the person shall be deemed to have chosen the mileage method.
11 Any election to use either the trips or mileage method will
12 remain in effect for that motor vehicle for any period for
13 which the Department may issue a notice of tax liability under
14 this Act.

15 For purposes of determining qualifying trips or miles,
16 motor vehicles that carry persons or property for hire, even
17 just between points in Illinois, will be considered used for
18 hire in interstate commerce if the motor vehicle transports
19 persons whose journeys or property whose shipments originate or
20 terminate outside Illinois. The exemption for motor vehicles
21 used as rolling stock moving in interstate commerce may be
22 claimed only for motor vehicles whose gross vehicle weight
23 rating exceeds 16,000 pounds. This definition applies to all
24 property purchased for the purpose of being attached to those
25 motor vehicles as a part thereof.

26 (d) Beginning July 1, 2004, "use as rolling stock moving in
27 interstate commerce" in paragraphs (d) and (d-1) of the
28 definition of "sale of service" in Section 2 occurs for
29 trailers, as defined in Section 1-209 of the Illinois Vehicle
30 Code, semitrailers as defined in Section 1-187 of the Illinois
31 Vehicle Code, and pole trailers as defined in Section 1-161 of
32 the Illinois Vehicle Code, when during a 12-month period the
33 rolling stock has carried persons or property for hire in
34 interstate commerce for greater than 50% of its total trips for

1 that period or for greater than 50% of its total miles for that
2 period. The person claiming the exemption for a trailer or
3 trailers that will not be dedicated to a motor vehicle or group
4 of motor vehicles shall make an election at the time of
5 purchase to use either the trips or mileage method. Persons who
6 purchased trailers prior to July 1, 2004 that are not dedicated
7 to a motor vehicle or group of motor vehicles shall make an
8 election to use either the trips or mileage method and document
9 that election in their books and records. If no election is
10 made under this subsection to use the trips or mileage method,
11 the person shall be deemed to have chosen the mileage method.
12 Any election to use either the trips or mileage method will
13 remain in effect for that trailer for any period for which the
14 Department may issue a notice of tax liability under this Act.

15 For purposes of determining qualifying trips or miles,
16 trailers, semitrailers, or pole trailers that carry property
17 for hire, even just between points in Illinois, will be
18 considered used for hire in interstate commerce if the
19 trailers, semitrailers, or pole trailers transport property
20 whose shipments originate or terminate outside Illinois. This
21 definition applies to all property purchased for the purpose of
22 being attached to those trailers, semitrailers, or pole
23 trailers as a part thereof. In lieu of a person providing
24 documentation regarding the qualifying use of each individual
25 trailer, semitrailer, or pole trailer, that person may document
26 such qualifying use by providing documentation of the
27 following:

28 (1) If a trailer, semitrailer, or pole trailer is
29 dedicated to a motor vehicle that qualifies as rolling
30 stock moving in interstate commerce under subsection (c) of
31 this Section, then that trailer, semitrailer, or pole
32 trailer qualifies as rolling stock moving in interstate
33 commerce under this subsection.

34 (2) If a trailer, semitrailer, or pole trailer is

1 dedicated to a group of motor vehicles that all qualify as
2 rolling stock moving in interstate commerce under
3 subsection (c) of this Section, then that trailer,
4 semitrailer, or pole trailer qualifies as rolling stock
5 moving in interstate commerce under this subsection.

6 (3) If one or more trailers, semitrailers, or pole
7 trailers are dedicated to a group of motor vehicles and not
8 all of those motor vehicles in that group qualify as
9 rolling stock moving in interstate commerce under
10 subsection (c) of this Section, then the percentage of
11 those trailers, semitrailers, or pole trailers that
12 qualifies as rolling stock moving in interstate commerce
13 under this subsection is equal to the percentage of those
14 motor vehicles in that group that qualify as rolling stock
15 moving in interstate commerce under subsection (c) of this
16 Section to which those trailer, semitrailers, or pole
17 trailers are dedicated. However, to determine the
18 qualification for the exemption provided under this item
19 (3), the mathematical application of the qualifying
20 percentage to one or more trailers, semitrailers, or pole
21 trailers under this subpart shall not be allowed as to any
22 fraction of a trailer, semitrailer, or pole trailer.

23 (Source: P.A. 93-23, eff. 6-20-03.)

24 Section 25. The Retailers' Occupation Tax Act is amended by
25 changing Sections 2-5 and 2-51 as follows:

26 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

30 (1) Farm chemicals.

31 (2) Farm machinery and equipment, both new and used,
32 including that manufactured on special order, certified by the

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

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

26 Farm machinery and equipment also includes computers,
27 sensors, software, and related equipment used primarily in the
28 computer-assisted operation of production agriculture
29 facilities, equipment, and activities such as, but not limited
30 to, the collection, monitoring, and correlation of animal and
31 crop data for the purpose of formulating animal diets and
32 agricultural chemicals. This item (7) is exempt from the
33 provisions of Section 2-70.

34 (3) Until July 1, 2003, distillation machinery and

1 equipment, sold as a unit or kit, assembled or installed by the
2 retailer, certified by the user to be used only for the
3 production of ethyl alcohol that will be used for consumption
4 as motor fuel or as a component of motor fuel for the personal
5 use of the user, and not subject to sale or resale.

6 (4) Until July 1, 2003, graphic arts machinery and
7 equipment, including repair and replacement parts, both new and
8 used, and including that manufactured on special order or
9 purchased for lease, certified by the purchaser to be used
10 primarily for graphic arts production. Equipment includes
11 chemicals or chemicals acting as catalysts but only if the
12 chemicals or chemicals acting as catalysts effect a direct and
13 immediate change upon a graphic arts product.

14 (5) A motor vehicle of the first division, a motor vehicle
15 of the second division that is a self-contained motor vehicle
16 designed or permanently converted to provide living quarters
17 for recreational, camping, or travel use, with direct walk
18 through access to the living quarters from the driver's seat,
19 or a motor vehicle of the second division that is of the van
20 configuration designed for the transportation of not less than
21 7 nor more than 16 passengers, as defined in Section 1-146 of
22 the Illinois Vehicle Code, that is used for automobile renting,
23 as defined in the Automobile Renting Occupation and Use Tax
24 Act.

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

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

31 (8) Personal property sold to an Illinois county fair
32 association for use in conducting, operating, or promoting the
33 county fair.

34 (9) Personal property sold to a not-for-profit arts or

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

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

22 (11) Personal property sold to a governmental body, to a
23 corporation, society, association, foundation, or institution
24 organized and operated exclusively for charitable, religious,
25 or educational purposes, or to a not-for-profit corporation,
26 society, association, foundation, institution, or organization
27 that has no compensated officers or employees and that is
28 organized and operated primarily for the recreation of persons
29 55 years of age or older. A limited liability company may
30 qualify for the exemption under this paragraph only if the
31 limited liability company is organized and operated
32 exclusively for educational purposes. On and after July 1,
33 1987, however, no entity otherwise eligible for this exemption
34 shall make tax-free purchases unless it has an active

1 identification number issued by the Department.

2 (12) Tangible personal property sold to interstate
3 carriers for hire for use as rolling stock moving in interstate
4 commerce or to lessors under leases of one year or longer
5 executed or in effect at the time of purchase by interstate
6 carriers for hire for use as rolling stock moving in interstate
7 commerce and equipment operated by a telecommunications
8 provider, licensed as a common carrier by the Federal
9 Communications Commission, which is permanently installed in
10 or affixed to aircraft moving in interstate commerce.

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

30 (13) Proceeds from sales to owners, lessors, or shippers of
31 tangible personal property that is utilized by interstate
32 carriers for hire for use as rolling stock moving in interstate
33 commerce and equipment operated by a telecommunications
34 provider, licensed as a common carrier by the Federal

1 Communications Commission, which is permanently installed in
2 or affixed to aircraft moving in interstate commerce.

3 (14) Machinery and equipment that will be used by the
4 purchaser, or a lessee of the purchaser, primarily in the
5 process of manufacturing or assembling tangible personal
6 property for wholesale or retail sale or lease, whether the
7 sale or lease is made directly by the manufacturer or by some
8 other person, whether the materials used in the process are
9 owned by the manufacturer or some other person, or whether the
10 sale or lease is made apart from or as an incident to the
11 seller's engaging in the service occupation of producing
12 machines, tools, dies, jigs, patterns, gauges, or other similar
13 items of no commercial value on special order for a particular
14 purchaser.

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

22 (16) Petroleum products sold to a purchaser if the seller
23 is prohibited by federal law from charging tax to the
24 purchaser.

25 (17) Tangible personal property sold to a common carrier by
26 rail or motor that receives the physical possession of the
27 property in Illinois and that transports the property, or
28 shares with another common carrier in the transportation of the
29 property, out of Illinois on a standard uniform bill of lading
30 showing the seller of the property as the shipper or consignor
31 of the property to a destination outside Illinois, for use
32 outside Illinois.

33 (18) Legal tender, currency, medallions, or gold or silver
34 coinage issued by the State of Illinois, the government of the

1 United States of America, or the government of any foreign
2 country, and bullion.

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

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

17 (21) Until July 1, 2003, coal exploration, mining,
18 offhighway hauling, processing, maintenance, and reclamation
19 equipment, including replacement parts and equipment, and
20 including equipment purchased for lease, but excluding motor
21 vehicles required to be registered under the Illinois Vehicle
22 Code.

23 (22) Fuel and petroleum products sold to or used by an air
24 carrier, certified by the carrier to be used for consumption,
25 shipment, or storage in the conduct of its business as an air
26 common carrier, for a flight destined for or returning from a
27 location or locations outside the United States without regard
28 to previous or subsequent domestic stopovers.

29 (23) A transaction in which the purchase order is received
30 by a florist who is located outside Illinois, but who has a
31 florist located in Illinois deliver the property to the
32 purchaser or the purchaser's donee in Illinois.

33 (24) Fuel consumed or used in the operation of ships,
34 barges, or vessels that are used primarily in or for the

1 transportation of property or the conveyance of persons for
2 hire on rivers bordering on this State if the fuel is delivered
3 by the seller to the purchaser's barge, ship, or vessel while
4 it is afloat upon that bordering river.

5 (25) A motor vehicle sold in this State to a nonresident
6 even though the motor vehicle is delivered to the nonresident
7 in this State, if the motor vehicle is not to be titled in this
8 State, and if a drive-away permit is issued to the motor
9 vehicle as provided in Section 3-603 of the Illinois Vehicle
10 Code or if the nonresident purchaser has vehicle registration
11 plates to transfer to the motor vehicle upon returning to his
12 or her home state. The issuance of the drive-away permit or
13 having the out-of-state registration plates to be transferred
14 is prima facie evidence that the motor vehicle will not be
15 titled in this State.

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

18 (27) Horses, or interests in horses, registered with and
19 meeting the requirements of any of the Arabian Horse Club
20 Registry of America, Appaloosa Horse Club, American Quarter
21 Horse Association, United States Trotting Association, or
22 Jockey Club, as appropriate, used for purposes of breeding or
23 racing for prizes.

24 (28) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients sold to a lessor
27 who leases the equipment, under a lease of one year or longer
28 executed or in effect at the time of the purchase, to a
29 hospital that has been issued an active tax exemption
30 identification number by the Department under Section 1g of
31 this Act.

32 (29) Personal property sold to a lessor who leases the
33 property, under a lease of one year or longer executed or in
34 effect at the time of the purchase, to a governmental body that

1 has been issued an active tax exemption identification number
2 by the Department under Section 1g of this Act.

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

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

25 (32) Beginning July 1, 1999, game or game birds sold at a
26 "game breeding and hunting preserve area" or an "exotic game
27 hunting area" as those terms are used in the Wildlife Code or
28 at a hunting enclosure approved through rules adopted by the
29 Department of Natural Resources. This paragraph is exempt from
30 the provisions of Section 2-70.

31 (33) A motor vehicle, as that term is defined in Section
32 1-146 of the Illinois Vehicle Code, that is donated to a
33 corporation, limited liability company, society, association,
34 foundation, or institution that is determined by the Department

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

15 (34) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits
27 from the sale to the fundraising entity. This paragraph is
28 exempt from the provisions of Section 2-70.

29 (35) Beginning January 1, 2000 and through December 31,
30 2001, new or used automatic vending machines that prepare and
31 serve hot food and beverages, including coffee, soup, and other
32 items, and replacement parts for these machines. Beginning
33 January 1, 2002 and through June 30, 2003, machines and parts
34 for machines used in commercial, coin-operated amusement and

1 vending business if a use or occupation tax is paid on the
2 gross receipts derived from the use of the commercial,
3 coin-operated amusement and vending machines. This paragraph
4 is exempt from the provisions of Section 2-70.

5 (35-5) Food for human consumption that is to be consumed
6 off the premises where it is sold (other than alcoholic
7 beverages, soft drinks, and food that has been prepared for
8 immediate consumption) and prescription and nonprescription
9 medicines, drugs, medical appliances, and insulin, urine
10 testing materials, syringes, and needles used by diabetics, for
11 human use, when purchased for use by a person receiving medical
12 assistance under Article 5 of the Illinois Public Aid Code who
13 resides in a licensed long-term care facility, as defined in
14 the Nursing Home Care Act.

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

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

31 (38) Beginning on January 1, 2002, tangible personal
32 property purchased from an Illinois retailer by a taxpayer
33 engaged in centralized purchasing activities in Illinois who
34 will, upon receipt of the property in Illinois, temporarily

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

19 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
20 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
21 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
22 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised
23 9-11-03.)

24 (35 ILCS 120/2-51)

25 Sec. 2-51. Motor vehicles; trailers; use as rolling stock
26 definition.

27 (a) Through June 30, 2003, "use as rolling stock moving in
28 interstate commerce" in paragraphs (12) and (13) of Section 2-5
29 means for motor vehicles, as defined in Section 1-146 of the
30 Illinois Vehicle Code, and trailers, as defined in Section
31 1-209 of the Illinois Vehicle Code, when on 15 or more
32 occasions in a 12-month period the motor vehicle and trailer
33 has carried persons or property for hire in interstate

1 commerce, even just between points in Illinois, if the motor
2 vehicle and trailer transports persons whose journeys or
3 property whose shipments originate or terminate outside
4 Illinois. This definition applies to all property purchased for
5 the purpose of being attached to those motor vehicles or
6 trailers as a part thereof.

7 (b) On and after July 1, 2003 and through June 30, 2004,
8 "use as rolling stock moving in interstate commerce" in
9 paragraphs (12) and (13) of Section 2-5 occurs for motor
10 vehicles, as defined in Section 1-146 of the Illinois Vehicle
11 Code, when during a 12-month period the rolling stock has
12 carried persons or property for hire in interstate commerce for
13 51% of its total trips and transports persons whose journeys or
14 property whose shipments originate or terminate outside
15 Illinois. Trips that are only between points in Illinois shall
16 not be counted as interstate trips when calculating whether the
17 tangible personal property qualifies for the exemption but such
18 trips shall be included in total trips taken.

19 (c) Beginning July 1, 2004, "use as rolling stock moving in
20 interstate commerce" in paragraphs (12) and (13) of Section 2-5
21 occurs for motor vehicles, as defined in Section 1-146 of the
22 Illinois Vehicle Code, when during a 12-month period the
23 rolling stock has carried persons or property for hire in
24 interstate commerce for greater than 50% of its total trips for
25 that period or for greater than 50% of its total miles for that
26 period. The person claiming the exemption shall make an
27 election at the time of purchase to use either the trips or
28 mileage method. Persons who purchased motor vehicles prior to
29 July 1, 2004 shall make an election to use either the trips or
30 mileage method and document that election in their books and
31 records. If no election is made under this subsection to use
32 the trips or mileage method, the person shall be deemed to have
33 chosen the mileage method. Any election to use either the trips
34 or mileage method will remain in effect for that motor vehicle

1 for any period for which the Department may issue a notice of
2 tax liability under this Act.

3 For purposes of determining qualifying trips or miles,
4 motor vehicles that carry persons or property for hire, even
5 just between points in Illinois, will be considered used for
6 hire in interstate commerce if the motor vehicle transports
7 persons whose journeys or property whose shipments originate or
8 terminate outside Illinois. The exemption for motor vehicles
9 used as rolling stock moving in interstate commerce may be
10 claimed only for motor vehicles whose gross vehicle weight
11 rating exceeds 16,000 pounds. This definition applies to all
12 property purchased for the purpose of being attached to those
13 motor vehicles as a part thereof.

14 (d) Beginning July 1, 2004, "use as rolling stock moving in
15 interstate commerce" in paragraphs (12) and (13) of Section 2-5
16 occurs for trailers, as defined in Section 1-209 of the
17 Illinois Vehicle Code, semitrailers as defined in Section 1-187
18 of the Illinois Vehicle Code, and pole trailers as defined in
19 Section 1-161 of the Illinois Vehicle Code, when during a
20 12-month period the rolling stock has carried persons or
21 property for hire in interstate commerce for greater than 50%
22 of its total trips for that period or for greater than 50% of
23 its total miles for that period. The person claiming the
24 exemption for a trailer or trailers that will not be dedicated
25 to a motor vehicle or group of motor vehicles shall make an
26 election at the time of purchase to use either the trips or
27 mileage method. Persons who purchased trailers prior to July 1,
28 2004 that are not dedicated to a motor vehicle or group of
29 motor vehicles shall make an election to use either the trips
30 or mileage method and document that election in their books and
31 records. If no election is made under this subsection to use
32 the trips or mileage method, the person shall be deemed to have
33 chosen the mileage method. Any election to use either the trips
34 or mileage method will remain in effect for that trailer for

1 any period for which the Department may issue a notice of tax
2 liability under this Act.

3 For purposes of determining qualifying trips or miles,
4 trailers, semitrailers, or pole trailers that carry property
5 for hire, even just between points in Illinois, will be
6 considered used for hire in interstate commerce if the
7 trailers, semitrailers, or pole trailers transport property
8 whose shipments originate or terminate outside Illinois. This
9 definition applies to all property purchased for the purpose of
10 being attached to those trailers, semitrailers, or pole
11 trailers as a part thereof. In lieu of a person providing
12 documentation regarding the qualifying use of each individual
13 trailer, semitrailer, or pole trailer, that person may document
14 such qualifying use by providing documentation of the
15 following:

16 (1) If a trailer, semitrailer, or pole trailer is
17 dedicated to a motor vehicle that qualifies as rolling
18 stock moving in interstate commerce under subsection (c) of
19 this Section, then that trailer, semitrailer, or pole
20 trailer qualifies as rolling stock moving in interstate
21 commerce under this subsection.

22 (2) If a trailer, semitrailer, or pole trailer is
23 dedicated to a group of motor vehicles that all qualify as
24 rolling stock moving in interstate commerce under
25 subsection (c) of this Section, then that trailer,
26 semitrailer, or pole trailer qualifies as rolling stock
27 moving in interstate commerce under this subsection.

28 (3) If one or more trailers, semitrailers, or pole
29 trailers are dedicated to a group of motor vehicles and not
30 all of those motor vehicles in that group qualify as
31 rolling stock moving in interstate commerce under
32 subsection (c) of this Section, then the percentage of
33 those trailers, semitrailers, or pole trailers that
34 qualifies as rolling stock moving in interstate commerce

1 under this subsection is equal to the percentage of those
2 motor vehicles in that group that qualify as rolling stock
3 moving in interstate commerce under subsection (c) of this
4 Section to which those trailer, semitrailers, or pole
5 trailers are dedicated. However, to determine the
6 qualification for the exemption provided under this item
7 (3), the mathematical application of the qualifying
8 percentage to one or more trailers, semitrailers, or pole
9 trailers under this subpart shall not be allowed as to any
10 fraction of a trailer, semitrailer, or pole trailer.

11 (Source: P.A. 93-23, eff. 6-20-03.)

12 Section 30. The Illinois Vehicle Code is amended by
13 changing Section 3-815.1 as follows:

14 (625 ILCS 5/3-815.1)

15 Sec. 3-815.1. Commercial distribution fee. Beginning July
16 1, 2003, in addition to any tax or fee imposed under this Code:

17 (a) Vehicles of the second division with a gross
18 vehicle weight that exceeds 8,000 pounds and that incur any
19 tax or fee under subsection (a) of Section 3-815 of this
20 Code or subsection (a) of Section 3-818 of this Code, as
21 applicable, ~~and~~ shall pay to the Secretary of State a
22 commercial distribution fee, for each registration year,
23 for the use of the public highways, State infrastructure,
24 and State services, in an amount equal to: (i) for a
25 registration year beginning on or after July 1, 2003 and
26 before July 1, 2005, 36% of the taxes and fees incurred
27 under subsection (a) of Section 3-815 of this Code, or
28 subsection (a) of Section 3-818 of this Code, as
29 applicable, rounded up to the nearest whole dollar; (ii)
30 for a registration year beginning on or after July 1, 2005
31 and before July 1, 2006, 21.5% of the taxes and fees
32 incurred under subsection (a) of Section 3-815 of this

1 Code, or subsection (a) of Section 3-818 of this Code, as
2 applicable, rounded up to the nearest whole dollar; and
3 (iii) for a registration year beginning on or after July 1,
4 2006, 14.35% of the taxes and fees incurred under
5 subsection (a) of Section 3-815 of this Code, or subsection
6 (a) of Section 3-818 of this Code, as applicable, rounded
7 up to the nearest whole dollar.

8 (b) Until June 30, 2004, vehicles ~~Vehicles~~ of the
9 second division with a gross vehicle weight of 8,000 pounds
10 or less and that incur any tax or fee under subsection (a)
11 of Section 3-815 of this Code or subsection (a) of Section
12 3-818 of this Code, as applicable, and have claimed the
13 rolling stock exemption under the Retailers' Occupation
14 Tax Act, Use Tax Act, Service Occupation Tax Act, or
15 Service Use Tax Act shall pay to the Illinois Department of
16 Revenue (or the Secretary of State under an
17 intergovernmental agreement) a commercial distribution
18 fee, for each registration year, for the use of the public
19 highways, State infrastructure, and State services, in an
20 amount equal to 36% of the taxes and fees incurred under
21 subsection (a) of Section 3-815 of this Code or subsection
22 (a) of Section 3-818 of this Code, as applicable, rounded
23 up to the nearest whole dollar.

24 The fees paid under this Section shall be deposited by the
25 Secretary of State into the General Revenue Fund.

26 (Source: P.A. 93-23, eff. 6-20-03; revised 10-9-03.)

27 Section 99. Effective date. This Act takes effect on July
28 1, 2004."