

1 AMENDMENT TO HOUSE BILL 852

2 AMENDMENT NO. _____. Amend House Bill 852 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Section 215 as follows:

6 (35 ILCS 5/215)

7 Sec. 215. Transportation Employee Credit.

8 (a) For each taxable year beginning on or after January
9 1, 2004 and on or before December 31, 2006, a qualified
10 employer shall be allowed a credit against the tax imposed by
11 subsections (a) and (b) of Section 201 of this Act in the
12 amount of \$50 for each eligible employee employed by the
13 taxpayer as of the last day of the taxable year.

14 (b) For purposes of this Section, "qualified employer"
15 means:

16 (1) any employer who pays a commercial distribution
17 fee under Section 3-815.1 of the Illinois Vehicle Code
18 during the taxable year; or

19 (2) any employer who, as of the end of the taxable
20 year, has one or more employees whose compensation is
21 subject to tax only by the employee's state of residence
22 pursuant to 49 U.S.C 14503(a)(1).

1 (c) For purposes of this Section, "employee" includes an
2 individual who is treated as an employee of the taxpayer
3 under Section 401(c) of the Internal Revenue Code and whose
4 actual assigned duties are such that, if the individual were
5 a common-law employee performing such duties in 2 or more
6 states, the individual's compensation would be subject to tax
7 only by the individual's state of residence pursuant to 49
8 U.S.C. 14503(a)(1).

9 (d) An employee is an "eligible employee" only if all of
10 the following criteria are met:

11 (1) The employee is an operator of a motor vehicle;

12 (2) The employee's compensation, pursuant to 49
13 U.S.C. 14503(a)(1), is subject to tax only by the
14 employee's state of residence, or would be subject to tax
15 only by the employee's state of residence if the
16 employee's actual duties were performed in 2 or more
17 states;

18 (3) As of the end of the taxable year for which the
19 credit is claimed, the employee is a resident of this
20 State for purposes of this Act and 49 U.S.C. 14503(a)(1);
21 and

22 (4) The employee is a full-time employee working 30
23 or more hours per week for 180 consecutive days; provided
24 that such 180-day period may be completed after the end
25 of the taxable year for which the credit under this
26 Section is claimed.

27 (e) For partners, shareholders of subchapter S
28 corporations, and owners of limited liability companies, if
29 the limited liability company is treated as a partnership for
30 purposes of federal and State income taxation, there shall be
31 allowed a credit under this Section to be determined in
32 accordance with the determination of income and distributive
33 share of income under Sections 702 and 704 and subchapter S
34 of the Internal Revenue Code.

1 (f) Any credit allowed under this Section which is
 2 unused in the year the credit is earned may be carried
 3 forward to each of the 5 taxable years following the year for
 4 which the credit is first computed until it is used. This
 5 credit shall be applied first to the earliest year for which
 6 there is a liability. If there is a credit under this Section
 7 from more than one tax year that is available to offset a
 8 liability, the earliest credit arising under this Section
 9 shall be applied first.

10 (g) ~~(Blank) This Section is exempt from the provisions~~
 11 ~~of Section 250 of this Act.~~

12 (h) The Department of Revenue shall promulgate such
 13 rules and regulations as may be deemed necessary to carry out
 14 the purposes of this Section.

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

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

18 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

31 (3) Personal property purchased by a not-for-profit arts
 32 or cultural organization that establishes, by proof required

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

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

7 (7) Farm chemicals.

8 (8) Legal tender, currency, medallions, or gold or
9 silver coinage issued by the State of Illinois, the
10 government of the United States of America, or the government
11 of any foreign 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
16 vehicle of the second division that is a self-contained motor
17 vehicle designed or permanently converted to provide living
18 quarters for recreational, camping, or travel use, with
19 direct walk through to the living quarters from the driver's
20 seat, or a motor vehicle of the second division that is of
21 the van configuration designed for the transportation of not
22 less than 7 nor more than 16 passengers, as defined in
23 Section 1-146 of the Illinois Vehicle Code, that is used for
24 automobile renting, as defined in the Automobile Renting
25 Occupation and Use Tax Act.

26 (11) Farm machinery and equipment, both new and used,
27 including that manufactured on special order, certified by
28 the purchaser to be used primarily for production agriculture
29 or State or federal agricultural programs, including
30 individual replacement parts for the machinery and equipment,
31 including machinery and equipment purchased for lease, and
32 including implements of husbandry defined in Section 1-130 of
33 the Illinois Vehicle Code, farm machinery and agricultural
34 chemical and fertilizer spreaders, and nurse wagons required

1 to be registered under Section 3-809 of the Illinois Vehicle
2 Code, but excluding other motor vehicles required to be
3 registered under the Illinois Vehicle Code. Horticultural
4 polyhouses or hoop houses used for propagating, growing, or
5 overwintering plants shall be considered farm machinery and
6 equipment under this item (11). Agricultural chemical tender
7 tanks and dry boxes shall include units sold separately from
8 a motor vehicle required to be licensed and units sold
9 mounted on a motor vehicle required to be licensed if the
10 selling price of the 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,
15 seeders, or spreaders. Precision farming equipment includes,
16 but is not limited to, soil testing sensors, computers,
17 monitors, software, global positioning and mapping systems,
18 and other such equipment.

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

27 (12) Fuel and petroleum products sold to or used by an
28 air 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
31 or 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
2 of food and beverages purchased at retail from a retailer, to
3 the extent that the proceeds of the service charge are in
4 fact 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,
9 drilling, and production equipment, including (i) rigs and
10 parts of rigs, rotary rigs, cable tool rigs, and workover
11 rigs, (ii) pipe and tubular goods, including casing and drill
12 strings, (iii) pumps and pump-jack units, (iv) storage tanks
13 and flow lines, (v) any individual replacement part for oil
14 field exploration, drilling, and production equipment, and
15 (vi) machinery and equipment purchased for lease; but
16 excluding motor vehicles required to be registered under the
17 Illinois Vehicle Code.

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

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

30 (17) Until July 1, 2003, distillation machinery and
31 equipment, sold as a unit or kit, assembled or installed by
32 the retailer, certified by the user to be used only for the
33 production of ethyl alcohol that will be used for consumption
34 as motor fuel or as a component of motor fuel for the

1 personal use of the user, and not subject to sale or resale.

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

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

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

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

26 (22) Computers and communications equipment utilized for
27 any hospital purpose and equipment used in the diagnosis,
28 analysis, or treatment of hospital patients purchased by a
29 lessor who leases the equipment, under a lease of one year or
30 longer executed or in effect at the time the lessor would
31 otherwise be subject to the tax imposed by this Act, to a
32 hospital that has been issued an active tax exemption
33 identification number by the Department under Section 1g of
34 the Retailers' Occupation Tax Act. If the equipment is

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

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

1 to pay that amount to the Department.

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

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

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

31 (27) 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

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

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

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

1 and parts for machines used in commercial, coin-operated
2 amusement and vending business if a use or occupation tax is
3 paid on the gross receipts derived from the use of the
4 commercial, coin-operated amusement and vending machines.
5 This paragraph is exempt from the provisions of Section 3-90.

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

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

1 tax has not been paid by the lessor. If a lessor improperly
2 collects any such amount from the lessee, the lessee shall
3 have a legal right to claim a refund of that amount from the
4 lessor. If, however, that amount is not refunded to the
5 lessee for any reason, the lessor is liable to pay that
6 amount to the Department. This paragraph is exempt from the
7 provisions of Section 3-90.

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

31 (33) On and after July 1, 2003 and through June 30,
32 2006, the use in this State of motor vehicles of the second
33 division with a gross vehicle weight in excess of 8,000
34 pounds and that are subject to the commercial distribution

1 fee imposed under Section 3-815.1 of the Illinois Vehicle
2 Code. 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
6 Act.

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

11 (35 ILCS 105/3-61)

12 Sec. 3-61. Motor vehicles; use as rolling stock
13 definition. Through June 30, 2003 and beginning again on
14 July 1, 2006, "use as rolling stock moving in interstate
15 commerce" in subsections (b) and (c) of Section 3-55 means
16 for motor vehicles, as defined in Section 1-146 of the
17 Illinois Vehicle Code, and trailers, as defined in Section
18 1-209 of the Illinois Vehicle Code, when on 15 or more
19 occasions in a 12-month period the motor vehicle and trailer
20 has carried persons or property for hire in interstate
21 commerce, even just between points in Illinois, if the motor
22 vehicle and trailer transports persons whose journeys or
23 property whose shipments originate or terminate outside
24 Illinois. This definition applies to all property purchased
25 for the purpose of being attached to those motor vehicles or
26 trailers as a part thereof. On and after July 1, 2003 and
27 through June 30, 2006, "use as rolling stock moving in
28 interstate commerce" in paragraphs (b) and (c) of Section
29 3-55 occurs for motor vehicles, as defined in Section 1-146
30 of the Illinois Vehicle Code, when during a 12-month period
31 the rolling stock has carried persons or property for hire in
32 interstate commerce for 51% of its total trips and transports
33 persons whose journeys or property whose shipments originate

1 or terminate outside Illinois. Trips that are only between
2 points in Illinois shall not be counted as interstate trips
3 when calculating whether the tangible personal property
4 qualifies for the exemption but such trips shall be included
5 in total trips taken.

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

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

9 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

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

24 "Purchased from a serviceman" means the acquisition of
25 the ownership of, or title to, tangible personal property
26 through a sale of service.

27 "Purchaser" means any person who, through a sale of
28 service, acquires the ownership of, or title to, any tangible
29 personal property.

30 "Cost price" means the consideration paid by the
31 serviceman for a purchase valued in money, whether paid in
32 money or otherwise, including cash, credits and services, and

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

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

22 "Department" means the Department of Revenue.

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

28 "Sale of service" means any transaction except:

29 (1) a retail sale of tangible personal property
30 taxable under the Retailers' Occupation Tax Act or under
31 the Use Tax Act.

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

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

16 (4) a sale or transfer of tangible personal
17 property as an incident to the rendering of service for
18 interstate carriers for hire for use as rolling stock
19 moving in interstate commerce or by lessors under a lease
20 of one year or longer, executed or in effect at the time
21 of purchase of personal property, to interstate carriers
22 for hire for use as rolling stock moving in interstate
23 commerce so long as so used by such interstate carriers
24 for hire, and equipment operated by a telecommunications
25 provider, licensed as a common carrier by the Federal
26 Communications Commission, which is permanently installed
27 in or affixed to aircraft moving in interstate commerce.

28 (4a) a sale or transfer of tangible personal
29 property as an incident to the rendering of service for
30 owners, lessors, or shippers of tangible personal
31 property which is utilized by interstate carriers for
32 hire for use as rolling stock moving in interstate
33 commerce so long as so used by interstate carriers for
34 hire, and equipment operated by a telecommunications

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

4 (4a-5) on and after July 1, 2003 and through June
5 30, 2006, a sale or transfer of a motor vehicle of the
6 second division with a gross vehicle weight in excess of
7 8,000 pounds as an incident to the rendering of service
8 if that motor vehicle is subject to the commercial
9 distribution fee imposed under Section 3-815.1 of the
10 Illinois Vehicle Code. This exemption applies to
11 repair and replacement parts added after the initial
12 purchase of such a motor vehicle if that motor vehicle is
13 used in a manner that would qualify for the rolling
14 stock exemption otherwise provided for in this Act.

15 (5) a sale or transfer of machinery and equipment
16 used 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
21 other person, whether the materials used in the process
22 are owned by the manufacturer or some other person, or
23 whether such sale or lease is made apart from or as an
24 incident to the seller's engaging in a service occupation
25 and the applicable tax is a Service Use Tax or Service
26 Occupation Tax, rather than Use Tax or Retailers'
27 Occupation Tax.

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

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

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

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

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

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

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

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

1 product in the last operation or stage of production in the
2 series; and further, for purposes of exemption (5),
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
10 in a manner commonly regarded as assembling which results in
11 a 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
16 an integrated manufacturing or assembly process; including
17 computers used primarily in a manufacturer's computer
18 assisted design, computer assisted manufacturing (CAD/CAM)
19 system; or any subunit or assembly comprising a component of
20 any machinery or auxiliary, adjunct or attachment parts of
21 machinery, such as tools, dies, jigs, fixtures, patterns and
22 molds; or any parts which require periodic replacement in the
23 course of normal operation; but shall not include hand tools.
24 Equipment includes chemicals or chemicals acting as catalysts
25 but only if the chemicals or chemicals acting as catalysts
26 effect a direct and immediate change upon a product being
27 manufactured or assembled for wholesale or retail sale or
28 lease. The purchaser of such machinery and equipment who has
29 an active resale registration number shall furnish such
30 number to the seller at the time of purchase. The user of
31 such machinery and equipment and tools without an active
32 resale registration number shall prepare a certificate of
33 exemption for each transaction stating facts establishing the
34 exemption for that transaction, which certificate shall be

1 available to the Department for inspection or audit. The
2 Department shall prescribe the form of the certificate.

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

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

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

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
31 an incident to a sale of service.

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

34 1. having or maintaining within this State,

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

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

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

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

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

30 6. having a franchisee or licensee operating under
31 its trade name if the franchisee or licensee is required
32 to collect the tax under this Section;

33 7. pursuant to a contract with a cable television
34 operator located in this State, soliciting orders for

1 tangible personal property by means of advertising which
2 is transmitted or distributed over a cable television
3 system in this State; or

4 8. engaging in activities in Illinois, which
5 activities in the state in which the supply business
6 engaging in such activities is located would constitute
7 maintaining a place of business in that state.

8 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03;
9 93-24, eff. 6-20-03; revised 8-21-03.)

10 (35 ILCS 110/3-51)

11 Sec. 3-51. Motor vehicles; use as rolling stock
12 definition. Through June 30, 2003 and beginning again on
13 July 1, 2006, "use as rolling stock moving in interstate
14 commerce" in subsection (b) of Section 3-45 means for motor
15 vehicles, as defined in Section 1-46 of the Illinois Vehicle
16 Code, and trailers, as defined in Section 1-209 of the
17 Illinois Vehicle Code, when on 15 or more occasions in a
18 12-month period the motor vehicle and trailer has carried
19 persons or property for hire in interstate commerce, even
20 just between points in Illinois, if the motor vehicle and
21 trailer transports persons whose journeys or property whose
22 shipments originate or terminate outside Illinois. This
23 definition applies to all property purchased for the purpose
24 of being attached to those motor vehicles or trailers as a
25 part thereof. On and after July 1, 2003 and through June 30,
26 2006, "use as rolling stock moving in interstate commerce" in
27 paragraphs (4) and (4a) of the definition of "sale of
28 service" in Section 2 and subsection (b) of Section 3-45
29 occurs for motor vehicles, as defined in Section 1-146 of the
30 Illinois Vehicle Code, when during a 12-month period the
31 rolling stock has carried persons or property for hire in
32 interstate commerce for 51% of its total trips and transports
33 persons whose journeys or property whose shipments originate

1 or terminate outside Illinois. Trips that are only between
2 points in Illinois shall not be counted as interstate trips
3 when calculating whether the tangible personal property
4 qualifies for the exemption but such trips shall be included
5 in total trips taken.

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

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

9 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

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

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

27 "Department" means the Department of Revenue.

28 "Person" means any natural individual, firm, partnership,
29 association, joint stock company, joint venture, public or
30 private corporation, limited liability company, and any
31 receiver, executor, trustee, guardian or other representative
32 appointed by order of any court.

1 "Sale of Service" means any transaction except:

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

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

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

21 (d) A sale or transfer of tangible personal property as
22 an incident to the rendering of service for interstate
23 carriers for hire for use as rolling stock moving in
24 interstate commerce or lessors under leases of one year or
25 longer, executed or in effect at the time of purchase, to
26 interstate carriers for hire for use as rolling stock moving
27 in interstate commerce, and equipment operated by a
28 telecommunications provider, licensed as a common carrier by
29 the Federal Communications Commission, which is permanently
30 installed in or affixed to aircraft moving in interstate
31 commerce.

32 (d-1) A sale or transfer of tangible personal property
33 as an incident to the rendering of service for owners,
34 lessors or shippers of tangible personal property which is

1 utilized by interstate carriers for hire for use as rolling
2 stock moving in interstate commerce, and equipment operated
3 by a telecommunications provider, licensed as a common
4 carrier by the Federal Communications Commission, which is
5 permanently installed in or affixed to aircraft moving in
6 interstate commerce.

7 (d-1.1) On and after July 1, 2003 and through June 30,
8 2006, a sale or transfer of a motor vehicle of the second
9 division with a gross vehicle weight in excess of 8,000
10 pounds as an incident to the rendering of service if that
11 motor vehicle is subject to the commercial distribution fee
12 imposed under Section 3-815.1 of the Illinois Vehicle Code.
13 This exemption applies to repair and replacement parts added
14 after the initial purchase of such a motor vehicle if that
15 motor vehicle is used in a manner that would qualify for the
16 rolling stock exemption otherwise provided for in this Act.

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

29 (d-3) A sale or transfer of tangible personal property
30 which is produced by the seller thereof on special order in
31 such a way as to have made the applicable tax the Service
32 Occupation Tax or the Service Use Tax, rather than the
33 Retailers' Occupation Tax or the Use Tax, for an interstate
34 carrier by rail which receives the physical possession of

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

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

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

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

34 (g) At the election of any serviceman not required to be

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

20 Tangible personal property transferred incident to the
21 completion of a maintenance agreement is exempt from the tax
22 imposed pursuant to this Act.

23 Exemption (e) also includes machinery and equipment used
24 in the general maintenance or repair of such exempt machinery
25 and equipment or for in-house manufacture of exempt machinery
26 and equipment. For the purposes of exemption (e), each of
27 these terms shall have the following meanings: (1)
28 "manufacturing process" shall mean the production of any
29 article of tangible personal property, whether such article
30 is a finished product or an article for use in the process of
31 manufacturing or assembling a different article of tangible
32 personal property, by procedures commonly regarded as
33 manufacturing, processing, fabricating, or refining which
34 changes some existing material or materials into a material

1 with a different form, use or name. In relation to a
2 recognized integrated business composed of a series of
3 operations which collectively constitute manufacturing, or
4 individually constitute manufacturing operations, the
5 manufacturing process shall be deemed to commence with the
6 first operation or stage of production in the series, and
7 shall not be deemed to end until the completion of the final
8 product in the last operation or stage of production in the
9 series; and further for purposes of exemption (e),
10 photoprocessing is deemed to be a manufacturing process of
11 tangible personal property for wholesale or retail sale; (2)
12 "assembling process" shall mean the production of any article
13 of tangible personal property, whether such article is a
14 finished product or an article for use in the process of
15 manufacturing or assembling a different article of tangible
16 personal property, by the combination of existing materials
17 in a manner commonly regarded as assembling which results in
18 a material of a different form, use or name; (3) "machinery"
19 shall mean major mechanical machines or major components of
20 such machines contributing to a manufacturing or assembling
21 process; and (4) "equipment" shall include any independent
22 device or tool separate from any machinery but essential to
23 an integrated manufacturing or assembly process; including
24 computers used primarily in a manufacturer's computer
25 assisted design, computer assisted manufacturing (CAD/CAM)
26 system; or any subunit or assembly comprising a component of
27 any machinery or auxiliary, adjunct or attachment parts of
28 machinery, such as tools, dies, jigs, fixtures, patterns and
29 molds; or any parts which require periodic replacement in the
30 course of normal operation; but shall not include hand tools.
31 Equipment includes chemicals or chemicals acting as catalysts
32 but only if the chemicals or chemicals acting as catalysts
33 effect a direct and immediate change upon a product being
34 manufactured or assembled for wholesale or retail sale or

1 lease. The purchaser of such machinery and equipment who has
2 an active resale registration number shall furnish such
3 number to the seller at the time of purchase. The purchaser
4 of such machinery and equipment and tools without an active
5 resale registration number shall furnish to the seller a
6 certificate of exemption for each transaction stating facts
7 establishing the exemption for that transaction, which
8 certificate shall be available to the Department for
9 inspection or audit.

10 Except as provided in Section 2d of this Act, the rolling
11 stock exemption applies to rolling stock used by an
12 interstate carrier for hire, even just between points in
13 Illinois, if such rolling stock transports, for hire, persons
14 whose journeys or property whose shipments originate or
15 terminate outside Illinois.

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

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

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

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

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

6 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03;
7 93-24, eff. 6-20-03; revised 8-21-03.)

8 (35 ILCS 115/2d)

9 Sec. 2d. Motor vehicles; use as rolling stock definition.
10 Through June 30, 2003 and beginning again on July 1, 2006,
11 "use as rolling stock moving in interstate commerce" in
12 subsections (d) and (d-1) of the definition of "sale of
13 service" in Section 2 means for motor vehicles, as defined in
14 Section 1-146 of the Illinois Vehicle Code, and trailers, as
15 defined in Section 1-209 of the Illinois Vehicle Code, when
16 on 15 or more occasions in a 12-month period the motor
17 vehicle and trailer has carried persons or property for hire
18 in interstate commerce, even just between points in Illinois,
19 if the motor vehicle and trailer transports persons whose
20 journeys or property whose shipments originate or terminate
21 outside Illinois. This definition applies to all property
22 purchased for the purpose of being attached to those motor
23 vehicles or trailers as a part thereof. On and after July 1,
24 2003 and through June 30, 2006, "use as rolling stock moving
25 in interstate commerce" in paragraphs (d) and (d-1) of the
26 definition of "sale of service" in Section 2 occurs for motor
27 vehicles, as defined in Section 1-146 of the Illinois Vehicle
28 Code, when during a 12-month period the rolling stock has
29 carried persons or property for hire in interstate commerce
30 for 51% of its total trips and transports persons whose
31 journeys or property whose shipments originate or terminate
32 outside Illinois. Trips that are only between points in
33 Illinois will not be counted as interstate trips when

1 calculating whether the tangible personal property qualifies
2 for the exemption but such trips will be included in total
3 trips taken.

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

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

7 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

11 (1) Farm chemicals.

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

31 Farm machinery and equipment shall include precision
32 farming equipment that is installed or purchased to be

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

7 Farm machinery and equipment also includes computers,
8 sensors, software, and related equipment used primarily in
9 the computer-assisted operation of production agriculture
10 facilities, equipment, and activities such as, but not
11 limited to, the collection, monitoring, and correlation of
12 animal and crop data for the purpose of formulating animal
13 diets and agricultural chemicals. This item (7) is exempt
14 from the provisions of Section 2-70.

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

21 (4) Until July 1, 2003, graphic arts machinery and
22 equipment, including repair and replacement parts, both new
23 and used, and including that manufactured on special order or
24 purchased for lease, certified by the purchaser to be used
25 primarily for graphic arts production. Equipment includes
26 chemicals or chemicals acting as catalysts but only if the
27 chemicals or chemicals acting as catalysts effect a direct
28 and immediate change upon a graphic arts product.

29 (5) A motor vehicle of the first division, a motor
30 vehicle of the second division that is a self-contained motor
31 vehicle designed or permanently converted to provide living
32 quarters for recreational, camping, or travel use, with
33 direct walk through access to the living quarters from the
34 driver's seat, or a motor vehicle of the second division that

1 is of the van configuration designed for the transportation
2 of not less than 7 nor more than 16 passengers, as defined in
3 Section 1-146 of the Illinois Vehicle Code, that is used for
4 automobile renting, as defined in the Automobile Renting
5 Occupation and Use Tax Act.

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

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

12 (8) Personal property sold to an Illinois county fair
13 association for use in conducting, operating, or promoting
14 the county fair.

15 (9) Personal property sold to a not-for-profit arts or
16 cultural organization that establishes, by proof required by
17 the Department by rule, that it has received an exemption
18 under Section 501(c)(3) of the Internal Revenue Code and that
19 is organized and operated primarily for the presentation or
20 support of arts or cultural programming, activities, or
21 services. These organizations include, but are not limited
22 to, music and dramatic arts organizations such as symphony
23 orchestras and theatrical groups, arts and cultural service
24 organizations, local arts councils, visual arts
25 organizations, and media arts organizations. On and after the
26 effective date of this amendatory Act of the 92nd General
27 Assembly, however, an entity otherwise eligible for this
28 exemption shall not make tax-free purchases unless it has an
29 active identification number issued by the Department.

30 (10) Personal property sold by a corporation, society,
31 association, foundation, institution, or organization, other
32 than a limited liability company, that is organized and
33 operated as a not-for-profit service enterprise for the
34 benefit of persons 65 years of age or older if the personal

1 property was not purchased by the enterprise for the purpose
2 of resale by the enterprise.

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

17 (12) Tangible personal property sold to interstate
18 carriers for hire for use as rolling stock moving in
19 interstate commerce or to lessors under leases of one year or
20 longer executed or in effect at the time of purchase by
21 interstate carriers for hire for use as rolling stock moving
22 in interstate commerce and equipment operated by a
23 telecommunications provider, licensed as a common carrier by
24 the Federal Communications Commission, which is permanently
25 installed in or affixed to aircraft moving in interstate
26 commerce.

27 (12-5) On and after July 1, 2003 and through June 30,
28 2006, motor vehicles of the second division with a gross
29 vehicle weight in excess of 8,000 pounds that are subject to
30 the commercial distribution fee imposed under Section 3-815.1
31 of the Illinois Vehicle Code. This exemption applies to
32 repair and replacement parts added after the initial purchase
33 of such a motor vehicle if that motor vehicle is used in a
34 manner that would qualify for the rolling stock exemption

1 otherwise provided for in this Act.

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

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

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

30 (16) Petroleum products sold to a purchaser if the
31 seller is prohibited by federal law from charging tax to the
32 purchaser.

33 (17) Tangible personal property sold to a common carrier
34 by rail or motor that receives the physical possession of the

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

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

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

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

27 (21) Until July 1, 2003, coal exploration, mining,
28 offhighway hauling, processing, maintenance, and reclamation
29 equipment, including replacement parts and equipment, and
30 including equipment purchased for lease, but excluding motor
31 vehicles required to be registered under the Illinois Vehicle
32 Code.

33 (22) Fuel and petroleum products sold to or used by an
34 air carrier, certified by the carrier to be used for

1 consumption, shipment, or storage in the conduct of its
2 business as an air common carrier, for a flight destined for
3 or returning from a location or locations outside the United
4 States without regard to previous or subsequent domestic
5 stopovers.

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

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

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

27 (26) Semen used for artificial insemination of livestock
28 for direct agricultural production.

29 (27) Horses, or interests in horses, registered with and
30 meeting the requirements of any of the Arabian Horse Club
31 Registry of America, Appaloosa Horse Club, American Quarter
32 Horse Association, United States Trotting Association, or
33 Jockey Club, as appropriate, used for purposes of breeding or
34 racing for prizes.

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

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

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

24 (31) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is used in
27 the performance of infrastructure repairs in this State,
28 including but not limited to municipal roads and streets,
29 access roads, bridges, sidewalks, waste disposal systems,
30 water and sewer line extensions, water distribution and
31 purification facilities, storm water drainage and retention
32 facilities, and sewage treatment facilities, resulting from a
33 State or federally declared disaster in Illinois or bordering
34 Illinois when such repairs are initiated on facilities

1 located in the declared disaster area within 6 months after
2 the disaster.

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

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

28 (34) Beginning January 1, 2000, personal property,
29 including food, purchased through fundraising events for the
30 benefit of a public or private elementary or secondary
31 school, a group of those schools, or one or more school
32 districts if the events are sponsored by an entity recognized
33 by the school district that consists primarily of volunteers
34 and includes parents and teachers of the school children.

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

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

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

28 (36) Beginning August 2, 2001, computers and
29 communications equipment utilized for any hospital purpose
30 and equipment used in the diagnosis, analysis, or treatment
31 of hospital patients sold to a lessor who leases the
32 equipment, under a lease of one year or longer executed or in
33 effect at the time of the purchase, to a hospital that has
34 been issued an active tax exemption identification number by

1 the Department under Section 1g of this Act. This paragraph
2 is exempt from the provisions of Section 2-70.

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

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

33 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01;
34 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff.

1 8-23-01; 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680,
2 eff. 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03;
3 revised 9-11-03.)

4 (35 ILCS 120/2-51)

5 Sec. 2-51. Motor vehicles; use as rolling stock
6 definition. Through June 30, 2003 and beginning again on
7 July 1, 2006, "use as rolling stock moving in interstate
8 commerce" in paragraphs (12) and (13) of Section 2-5 means
9 for motor vehicles, as defined in Section 1-146 of the
10 Illinois Vehicle Code, and trailers, as defined in Section
11 1-209 of the Illinois Vehicle Code, when on 15 or more
12 occasions in a 12-month period the motor vehicle and trailer
13 has carried persons or property for hire in interstate
14 commerce, even just between points in Illinois, if the motor
15 vehicle and trailer transports persons whose journeys or
16 property whose shipments originate or terminate outside
17 Illinois. This definition applies to all property purchased
18 for the purpose of being attached to those motor vehicles or
19 trailers as a part thereof. On and after July 1, 2003 and
20 through June 30, 2006, "use as rolling stock moving in
21 interstate commerce" in paragraphs (12) and (13) of Section
22 2-5 occurs for motor vehicles, as defined in Section 1-146 of
23 the Illinois Vehicle Code, when during a 12-month period the
24 rolling stock has carried persons or property for hire in
25 interstate commerce for 51% of its total trips and transports
26 persons whose journeys or property whose shipments originate
27 or terminate outside Illinois. Trips that are only between
28 points in Illinois shall not be counted as interstate trips
29 when calculating whether the tangible personal property
30 qualifies for the exemption but such trips shall be included
31 in total trips taken.

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

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

3 (625 ILCS 5/3-815.1)

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

7 (a) Vehicles of the second division with a gross
8 vehicle weight that exceeds 8,000 pounds and that incur
9 any tax or fee under subsection (a) of Section 3-815 of
10 this Code or subsection (a) of Section 3-818 of this
11 Code, as applicable, and shall pay to the Secretary of
12 State a commercial distribution fee, for each
13 registration year, for the use of the public highways,
14 State infrastructure, and State services, in an amount
15 equal to:

16 36% for the registration year beginning on July
17 1, 2003;

18 24% for the registration year beginning on July
19 1, 2004;

20 12% for the registration year beginning on July
21 1, 2005; and

22 0% for the registration year beginning on July
23 1, 2006 and for each registration year thereafter

24 of the taxes and fees incurred under subsection (a) of
25 Section 3-815 of this Code, or subsection (a) of Section
26 3-818 of this Code, as applicable, rounded up to the
27 nearest whole dollar.

28 (b) Vehicles of the second division with a gross
29 vehicle weight of 8,000 pounds or less and that incur any
30 tax or fee under subsection (a) of Section 3-815 of this
31 Code or subsection (a) of Section 3-818 of this Code, as
32 applicable, and have claimed the rolling stock exemption
33 under the Retailers' Occupation Tax Act, Use Tax Act,

1 Service Occupation Tax Act, or Service Use Tax Act shall
2 pay to the Illinois Department of Revenue (or the
3 Secretary of State under an intergovernmental agreement)
4 a commercial distribution fee, for each registration
5 year, for the use of the public highways, State
6 infrastructure, and State services, in an amount equal
7 to:

8 36% for the registration year beginning on July
9 1, 2003;

10 24% for the registration year beginning on July
11 1, 2004;

12 12% for the registration year beginning on July
13 1, 2005; and

14 0% for the registration year beginning on July
15 1, 2006 and for each registration year thereafter

16 of the taxes and fees incurred under subsection (a) of
17 Section 3-815 of this Code or subsection (a) of Section
18 3-818 of this Code, as applicable, rounded up to the
19 nearest whole dollar.

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

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."