

1                                    AMENDMENT TO HOUSE BILL 3851

2                    AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3851, on page 1,  
3 immediately below line 3, by inserting 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, 2004, 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 Section 3-5 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, the use in this State of  
32 motor vehicles of the second division with a gross vehicle  
33 weight in excess of 8,000 pounds and-that-are-subject-to--the  
34 ~~commercial--distribution-fee-imposed-under-Section-3-815.1-of~~

1 ~~the-Illinois-Vehiele-Cede~~. This exemption applies to repair  
2 and replacement parts added after the initial purchase of  
3 such a motor vehicle if that motor vehicle is used in a  
4 manner that would qualify for the rolling stock exemption  
5 otherwise provided for in this Act.

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

10 Section 15. The Service Use Tax Act is amended by  
11 changing Section 2 as follows:

12 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

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

27 "Purchased from a serviceman" means the acquisition of  
28 the ownership of, or title to, tangible personal property  
29 through a sale of service.

30 "Purchaser" means any person who, through a sale of  
31 service, acquires the ownership of, or title to, any tangible  
32 personal property.

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

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

25 "Department" means the Department of Revenue.

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

31 "Sale of service" means any transaction except:

32 (1) a retail sale of tangible personal property  
33 taxable under the Retailers' Occupation Tax Act or under  
34 the Use Tax Act.

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

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

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

31 (4a) a sale or transfer of tangible personal  
32 property as an incident to the rendering of service for  
33 owners, lessors, or shippers of tangible personal  
34 property which is utilized by interstate carriers for



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

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

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

31 (5a) the repairing, reconditioning or remodeling,  
32 for a common carrier by rail, of tangible personal  
33 property which belongs to such carrier for hire, and as  
34 to which such carrier receives the physical possession of

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

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

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

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

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

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

19 Exemption (5) also includes machinery and equipment used  
20 in the general maintenance or repair of such exempt machinery  
21 and equipment or for in-house manufacture of exempt machinery  
22 and equipment. For the purposes of exemption (5), each of  
23 these terms shall have the following meanings: (1)  
24 "manufacturing process" shall mean the production of any  
25 article of tangible personal property, whether such article  
26 is a finished product or an article for use in the process of  
27 manufacturing or assembling a different article of tangible  
28 personal property, by procedures commonly regarded as  
29 manufacturing, processing, fabricating, or refining which  
30 changes some existing material or materials into a material  
31 with a different form, use or name. In relation to a  
32 recognized integrated business composed of a series of  
33 operations which collectively constitute manufacturing, or  
34 individually constitute manufacturing operations, the

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

1 resale registration number shall prepare a certificate of  
2 exemption for each transaction stating facts establishing the  
3 exemption for that transaction, which certificate shall be  
4 available to the Department for inspection or audit. The  
5 Department shall prescribe the form of the certificate.

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

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

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

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

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

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

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

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

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

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

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

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

33 6. having a franchisee or licensee operating under  
34 its trade name if the franchisee or licensee is required

1 to collect the tax under this Section;

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

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

11 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03;  
12 93-24, eff. 6-20-03; revised 8-21-03.)

13 Section 20. The Service Occupation Tax Act is amended by  
14 changing Section 2 as follows:

15 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

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

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

1 "Department" means the Department of Revenue.

2 "Person" means any natural individual, firm, partnership,  
3 association, joint stock company, joint venture, public or  
4 private corporation, limited liability company, and any  
5 receiver, executor, trustee, guardian or other representative  
6 appointed by order of any court.

7 "Sale of Service" means any transaction except:

8 (a) A retail sale of tangible personal property taxable  
9 under the Retailers' Occupation Tax Act or under the Use Tax  
10 Act.

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

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

27 (d) A sale or transfer of tangible personal property as  
28 an incident to the rendering of service for interstate  
29 carriers for hire for use as rolling stock moving in  
30 interstate commerce or lessors under leases of one year or  
31 longer, executed or in effect at the time of purchase, to  
32 interstate carriers for hire for use as rolling stock moving  
33 in interstate commerce, and equipment operated by a  
34 telecommunications provider, licensed as a common carrier by



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

4 (d-1) A sale or transfer of tangible personal property  
5 as an incident to the rendering of service for owners,  
6 lessors or shippers of tangible personal property which is  
7 utilized by interstate carriers for hire for use as rolling  
8 stock moving in interstate commerce, and equipment operated  
9 by a telecommunications provider, licensed as a common  
10 carrier by the Federal Communications Commission, which is  
11 permanently installed in or affixed to aircraft moving in  
12 interstate commerce.

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

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

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

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

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

32           (f) Until July 1, 2003, the sale or transfer of  
33 distillation machinery and equipment, sold as a unit or kit  
34 and assembled or installed by the retailer, which machinery

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

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

26 Tangible personal property transferred incident to the  
27 completion of a maintenance agreement is exempt from the tax  
28 imposed pursuant to this Act.

29 Exemption (e) also includes machinery and equipment used  
30 in the general maintenance or repair of such exempt machinery  
31 and equipment or for in-house manufacture of exempt machinery  
32 and equipment. For the purposes of exemption (e), each of  
33 these terms shall have the following meanings: (1)  
34 "manufacturing process" shall mean the production of any

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

1 molds; or any parts which require periodic replacement in the  
2 course of normal operation; but shall not include hand tools.  
3 Equipment includes chemicals or chemicals acting as catalysts  
4 but only if the chemicals or chemicals acting as catalysts  
5 effect a direct and immediate change upon a product being  
6 manufactured or assembled for wholesale or retail sale or  
7 lease. The purchaser of such machinery and equipment who has  
8 an active resale registration number shall furnish such  
9 number to the seller at the time of purchase. The purchaser  
10 of such machinery and equipment and tools without an active  
11 resale registration number shall furnish to the seller a  
12 certificate of exemption for each transaction stating facts  
13 establishing the exemption for that transaction, which  
14 certificate shall be available to the Department for  
15 inspection or audit.

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

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

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

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

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

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

12 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03;  
13 93-24, eff. 6-20-03; revised 8-21-03.)

14 Section 25. The Retailers' Occupation Tax Act is amended  
15 by changing Section 2-5 as follows:

16 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

20 (1) Farm chemicals.

21 (2) Farm machinery and equipment, both new and used,  
22 including that manufactured on special order, certified by  
23 the purchaser to be used primarily for production agriculture  
24 or State or federal agricultural programs, including  
25 individual replacement parts for the machinery and equipment,  
26 including machinery and equipment purchased for lease, and  
27 including implements of husbandry defined in Section 1-130 of  
28 the Illinois Vehicle Code, farm machinery and agricultural  
29 chemical and fertilizer spreaders, and nurse wagons required  
30 to be registered under Section 3-809 of the Illinois Vehicle  
31 Code, but excluding other motor vehicles required to be  
32 registered under the Illinois Vehicle Code. Horticultural

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

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

16 Farm machinery and equipment also includes computers,  
17 sensors, software, and related equipment used primarily in  
18 the computer-assisted operation of production agriculture  
19 facilities, equipment, and activities such as, but not  
20 limited to, the collection, monitoring, and correlation of  
21 animal and crop data for the purpose of formulating animal  
22 diets and agricultural chemicals. This item (7) is exempt  
23 from the provisions of Section 2-70.

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

30 (4) Until July 1, 2003, graphic arts machinery and  
31 equipment, including repair and replacement parts, both new  
32 and used, and including that manufactured on special order or  
33 purchased for lease, certified by the purchaser to be used  
34 primarily for graphic arts production. Equipment includes

1 chemicals or chemicals acting as catalysts but only if the  
2 chemicals or chemicals acting as catalysts effect a direct  
3 and immediate change upon a graphic arts product.

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

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

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

21 (8) Personal property sold to an Illinois county fair  
22 association for use in conducting, operating, or promoting  
23 the county fair.

24 (9) Personal property sold to a not-for-profit arts or  
25 cultural organization that establishes, by proof required by  
26 the Department by rule, that it has received an exemption  
27 under Section 501(c)(3) of the Internal Revenue Code and that  
28 is organized and operated primarily for the presentation or  
29 support of arts or cultural programming, activities, or  
30 services. These organizations include, but are not limited  
31 to, music and dramatic arts organizations such as symphony  
32 orchestras and theatrical groups, arts and cultural service  
33 organizations, local arts councils, visual arts  
34 organizations, and media arts organizations. On and after the



1 effective date of this amendatory Act of the 92nd General  
2 Assembly, however, an entity otherwise eligible for this  
3 exemption shall not make tax-free purchases unless it has an  
4 active identification number issued by the Department.

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

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

26 (12) Tangible personal property sold to interstate  
27 carriers for hire for use as rolling stock moving in  
28 interstate commerce or to lessors under leases of one year or  
29 longer executed or in effect at the time of purchase by  
30 interstate carriers for hire for use as rolling stock moving  
31 in interstate commerce and equipment operated by a  
32 telecommunications provider, licensed as a common carrier by  
33 the Federal Communications Commission, which is permanently  
34 installed in or affixed to aircraft moving in interstate

1 commerce.

2 (12-5) On and after July 1, 2003, motor vehicles of the  
3 second division with a gross vehicle weight in excess of  
4 8,000 pounds ~~that are subject to the commercial distribution~~  
5 ~~fee imposed under Section 3-815.1 of the Illinois Vehicle~~  
6 ~~Code.~~ This exemption applies to repair and replacement parts  
7 added after the initial purchase of such a motor vehicle if  
8 that motor vehicle is used in a manner that would qualify for  
9 the rolling stock exemption otherwise provided for in this  
10 Act.

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

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

31 (15) Proceeds of mandatory service charges separately  
32 stated on customers' bills for purchase and consumption of  
33 food and beverages, to the extent that the proceeds of the  
34 service charge are in fact turned over as tips or as a

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

5 (16) Petroleum products sold to a purchaser if the  
6 seller is prohibited by federal law from charging tax to the  
7 purchaser.

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

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

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

30 (20) Photoprocessing machinery and equipment, including  
31 repair and replacement parts, both new and used, including  
32 that manufactured on special order, certified by the  
33 purchaser to be used primarily for photoprocessing, and  
34 including photoprocessing machinery and equipment purchased

1 for lease.

2 (21) Until July 1, 2003, coal exploration, mining,  
3 offhighway hauling, processing, maintenance, and reclamation  
4 equipment, including replacement parts and equipment, and  
5 including equipment purchased for lease, but excluding motor  
6 vehicles required to be registered under the Illinois Vehicle  
7 Code.

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

15 (23) A transaction in which the purchase order is  
16 received by a florist who is located outside Illinois, but  
17 who has a florist located in Illinois deliver the property to  
18 the purchaser or the purchaser's donee in Illinois.

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

25 (25) A motor vehicle sold in this State to a nonresident  
26 even though the motor vehicle is delivered to the nonresident  
27 in this State, if the motor vehicle is not to be titled in  
28 this State, and if a drive-away permit is issued to the motor  
29 vehicle as provided in Section 3-603 of the Illinois Vehicle  
30 Code or if the nonresident purchaser has vehicle registration  
31 plates to transfer to the motor vehicle upon returning to his  
32 or her home state. The issuance of the drive-away permit or  
33 having the out-of-state registration plates to be transferred  
34 is prima facie evidence that the motor vehicle will not be

1 titled in this State.

2 (26) Semen used for artificial insemination of livestock  
3 for direct agricultural production.

4 (27) Horses, or interests in horses, registered with and  
5 meeting the requirements of any of the Arabian Horse Club  
6 Registry of America, Appaloosa Horse Club, American Quarter  
7 Horse Association, United States Trotting Association, or  
8 Jockey Club, as appropriate, used for purposes of breeding or  
9 racing for prizes.

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

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

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

33 (31) 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 used in  
2 the performance of infrastructure repairs in this State,  
3 including but not limited to municipal roads and streets,  
4 access roads, bridges, sidewalks, waste disposal systems,  
5 water and sewer line extensions, water distribution and  
6 purification facilities, storm water drainage and retention  
7 facilities, and sewage treatment facilities, resulting from a  
8 State or federally declared disaster in Illinois or bordering  
9 Illinois when such repairs are initiated on facilities  
10 located in the declared disaster area within 6 months after  
11 the disaster.

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

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

1 technical, mechanical, industrial, business, or commercial  
2 occupation.

3 (34) Beginning January 1, 2000, personal property,  
4 including food, purchased through fundraising events for the  
5 benefit of a public or private elementary or secondary  
6 school, a group of those schools, or one or more school  
7 districts if the events are sponsored by an entity recognized  
8 by the school district that consists primarily of volunteers  
9 and includes parents and teachers of the school children.  
10 This paragraph does not apply to fundraising events (i) for  
11 the benefit of private home instruction or (ii) for which the  
12 fundraising entity purchases the personal property sold at  
13 the events from another individual or entity that sold the  
14 property for the purpose of resale by the fundraising entity  
15 and that profits from the sale to the fundraising entity.  
16 This paragraph is exempt from the provisions of Section 2-70.

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

27 (35-5) Food for human consumption that is to be consumed  
28 off the premises where it is sold (other than alcoholic  
29 beverages, soft drinks, and food that has been prepared for  
30 immediate consumption) and prescription and nonprescription  
31 medicines, drugs, medical appliances, and insulin, urine  
32 testing materials, syringes, and needles used by diabetics,  
33 for human use, when purchased for use by a person receiving  
34 medical assistance under Article 5 of the Illinois Public Aid

1 Code who resides in a licensed long-term care facility, as  
2 defined in the Nursing Home Care Act.

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

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

19 (38) Beginning on January 1, 2002, tangible personal  
20 property purchased from an Illinois retailer by a taxpayer  
21 engaged in centralized purchasing activities in Illinois who  
22 will, upon receipt of the property in Illinois, temporarily  
23 store the property in Illinois (i) for the purpose of  
24 subsequently transporting it outside this State for use or  
25 consumption thereafter solely outside this State or (ii) for  
26 the purpose of being processed, fabricated, or manufactured  
27 into, attached to, or incorporated into other tangible  
28 personal property to be transported outside this State and  
29 thereafter used or consumed solely outside this State. The  
30 Director of Revenue shall, pursuant to rules adopted in  
31 accordance with the Illinois Administrative Procedure Act,  
32 issue a permit to any taxpayer in good standing with the  
33 Department who is eligible for the exemption under this  
34 paragraph (38). The permit issued under this paragraph (38)



1 shall authorize the holder, to the extent and in the manner  
2 specified in the rules adopted under this Act, to purchase  
3 tangible personal property from a retailer exempt from the  
4 taxes imposed by this Act. Taxpayers shall maintain all  
5 necessary books and records to substantiate the use and  
6 consumption of all such tangible personal property outside of  
7 the State of Illinois.

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

13 on page 1, line 4, by replacing "5" with "30"; and

14 on page 2, lines 8 and 9, by replacing "upon becoming law"  
15 with "on July 1, 2004".