



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/09/04, by William B. Black - Art Tenhouse -
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SYNOPSIS AS INTRODUCED:

35 ILCS 5/215	
35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
35 ILCS 110/2	from Ch. 120, par. 439.32
35 ILCS 115/2	from Ch. 120, par. 439.102
35 ILCS 120/2-5	from Ch. 120, par. 441-5
625 ILCS 5/3-815.1	

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Sunsets the exemptions concerning motor vehicles of the second division with a gross weight in excess of 8,000 pounds on June 30, 2004. Amends the Illinois Income Tax Act. Provides that the transportation employee credit no longer applies for taxable years beginning on or after January 1, 2005. Amends the Illinois Vehicle Code. Provides that, after June 30, 2004, vehicles of the second division weighing more than 8,000 pounds do not have to pay a commercial distribution fee in addition to a weight tax. Effective immediately.

LRB093 18376 SJM 44083 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning vehicles.

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

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 1,
9 2004 and on or before December 31, 2004, a qualified employer
10 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 fee
17 under Section 3-815.1 of the Illinois Vehicle Code during
18 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).

23 (c) For purposes of this Section, "employee" includes an
24 individual who is treated as an employee of the taxpayer under
25 Section 401(c) of the Internal Revenue Code and whose actual
26 assigned duties are such that, if the individual were a
27 common-law employee performing such duties in 2 or more states,
28 the individual's compensation would be subject to tax only by
29 the individual's state of residence pursuant to 49 U.S.C.
30 14503(a)(1).

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

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

2 (2) The employee's compensation, pursuant to 49 U.S.C.
3 14503(a) (1), is subject to tax only by the employee's state
4 of residence, or would be subject to tax only by the
5 employee's state of residence if the employee's actual
6 duties were performed in 2 or more states;

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

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

15 (e) For partners, shareholders of subchapter S
16 corporations, and owners of limited liability companies, if the
17 limited liability company is treated as a partnership for
18 purposes of federal and State income taxation, there shall be
19 allowed a credit under this Section to be determined in
20 accordance with the determination of income and distributive
21 share of income under Sections 702 and 704 and subchapter S of
22 the Internal Revenue Code.

23 (f) Any credit allowed under this Section which is unused
24 in the year the credit is earned may be carried forward to each
25 of the 5 taxable years following the year for which the credit
26 is first computed until it is used. This credit shall be
27 applied first to the earliest year for which there is a
28 liability. If there is a credit under this Section from more
29 than one tax year that is available to offset a liability, the
30 earliest credit arising under this Section shall be applied
31 first.

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

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

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

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

4 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

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

32 (4) Personal property purchased by a governmental body, by
33 a corporation, society, association, foundation, or
34 institution organized and operated exclusively for charitable,

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

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

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

24 (7) Farm chemicals.

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

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

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

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

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

26 Farm machinery and equipment shall include precision
27 farming equipment that is installed or purchased to be
28 installed on farm machinery and equipment including, but not
29 limited to, tractors, harvesters, sprayers, planters, seeders,
30 or spreaders. Precision farming equipment includes, but is not
31 limited to, soil testing sensors, computers, monitors,
32 software, global positioning and mapping systems, and other
33 such equipment.

34 Farm machinery and equipment also includes computers,
35 sensors, software, and related equipment used primarily in the
36 computer-assisted operation of production agriculture

1 facilities, equipment, and activities such as, but not limited
2 to, the collection, monitoring, and correlation of animal and
3 crop data for the purpose of formulating animal diets and
4 agricultural chemicals. This item (11) is exempt from the
5 provisions of Section 3-90.

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

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

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

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

35 (16) Until July 1, 2003, coal exploration, mining,
36 offhighway hauling, processing, maintenance, and reclamation

1 equipment, including replacement parts and equipment, and
2 including equipment purchased for lease, but excluding motor
3 vehicles required to be registered under the Illinois Vehicle
4 Code.

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

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

22 (19) Personal property delivered to a purchaser or
23 purchaser's donee inside Illinois when the purchase order for
24 that personal property was received by a florist located
25 outside Illinois who has a florist located inside Illinois
26 deliver the personal property.

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

29 (21) 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.

35 (22) Computers and communications equipment utilized for
36 any hospital purpose and equipment used in the diagnosis,

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

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

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

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

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

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

34 (27) A motor vehicle, as that term is defined in Section
35 1-146 of the Illinois Vehicle Code, that is donated to a
36 corporation, limited liability company, society, association,

1 foundation, or institution that is determined by the Department
2 to be organized and operated exclusively for educational
3 purposes. For purposes of this exemption, "a corporation,
4 limited liability company, society, association, foundation,
5 or institution organized and operated exclusively for
6 educational purposes" means all tax-supported public schools,
7 private schools that offer systematic instruction in useful
8 branches of learning by methods common to public schools and
9 that compare favorably in their scope and intensity with the
10 course of study presented in tax-supported schools, and
11 vocational or technical schools or institutes organized and
12 operated exclusively to provide a course of study of not less
13 than 6 weeks duration and designed to prepare individuals to
14 follow a trade or to pursue a manual, technical, mechanical,
15 industrial, business, or commercial 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 school,
19 a group of those schools, or one or more school districts if
20 the events are sponsored by an entity recognized by the school
21 district that consists primarily of volunteers and includes
22 parents and teachers of the school children. This paragraph
23 does not apply to fundraising events (i) for the benefit of
24 private home instruction or (ii) for which the fundraising
25 entity purchases the personal property sold at the events from
26 another individual or entity that sold the property for the
27 purpose of resale by the fundraising entity and that profits
28 from the sale to the fundraising entity. This paragraph is
29 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 other
33 items, and replacement parts for these machines. Beginning
34 January 1, 2002 and through June 30, 2003, machines and parts
35 for machines used in commercial, coin-operated amusement and
36 vending business if a use or occupation tax is paid on the

1 gross receipts derived from the use of the commercial,
2 coin-operated amusement and vending machines. This paragraph
3 is exempt from the provisions of Section 3-90.

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

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

1 Department. This paragraph is exempt from the provisions of
2 Section 3-90.

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

26 (33) On and after July 1, 2003 and through June 30, 2004,
27 the use in this State of motor vehicles of the second division
28 with a gross vehicle weight in excess of 8,000 pounds and that
29 are subject to the commercial distribution fee imposed under
30 Section 3-815.1 of the Illinois Vehicle Code. This exemption
31 applies to repair and replacement parts added after the initial
32 purchase of such a motor vehicle if that motor vehicle is used
33 in a manner that would qualify for the rolling stock exemption
34 otherwise provided for in this Act.

35 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
36 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;

1 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

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

4 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

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

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

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

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

1 the subcontractor for the purchase of such property.

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

12 "Department" means the Department of Revenue.

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

18 "Sale of service" means any transaction except:

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

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

25 (3) except as hereinafter provided, a sale or transfer
26 of tangible personal property as an incident to the
27 rendering of service for or by any governmental body, or
28 for or by any corporation, society, association,
29 foundation or institution organized and operated
30 exclusively for charitable, religious or educational
31 purposes or any not-for-profit corporation, society,
32 association, foundation, institution or organization which
33 has no compensated officers or employees and which is
34 organized and operated primarily for the recreation of
35 persons 55 years of age or older. A limited liability
36 company may qualify for the exemption under this paragraph

1 only if the limited liability company is organized and
2 operated exclusively for educational purposes.

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

15 (4a) a sale or transfer of tangible personal property
16 as an incident to the rendering of service for owners,
17 lessors, or shippers of tangible personal property which is
18 utilized by interstate carriers for hire for use as rolling
19 stock moving in interstate commerce so long as so used by
20 interstate carriers for hire, and equipment operated by a
21 telecommunications provider, licensed as a common carrier
22 by the Federal Communications Commission, which is
23 permanently installed in or affixed to aircraft moving in
24 interstate commerce.

25 (4a-5) on and after July 1, 2003 and through June 30,
26 2004, a sale or transfer of a motor vehicle of the second
27 division with a gross vehicle weight in excess of 8,000
28 pounds as an incident to the rendering of service if that
29 motor vehicle is subject to the commercial distribution fee
30 imposed under Section 3-815.1 of the Illinois Vehicle Code.
31 This exemption applies to repair and replacement parts
32 added after the initial purchase of such a motor vehicle if
33 that motor vehicle is used in a manner that would qualify
34 for the rolling stock exemption otherwise provided for in
35 this Act.

36 (5) a sale or transfer of machinery and equipment used

1 primarily in the process of the manufacturing or
2 assembling, either in an existing, an expanded or a new
3 manufacturing facility, of tangible personal property for
4 wholesale or retail sale or lease, whether such sale or
5 lease is made directly by the manufacturer or by some other
6 person, whether the materials used in the process are owned
7 by the manufacturer or some other person, or whether such
8 sale or lease is made apart from or as an incident to the
9 seller's engaging in a service occupation and the
10 applicable tax is a Service Use Tax or Service Occupation
11 Tax, rather than Use Tax or Retailers' Occupation Tax.

12 (5a) the repairing, reconditioning or remodeling, for
13 a common carrier by rail, of tangible personal property
14 which belongs to such carrier for hire, and as to which
15 such carrier receives the physical possession of the
16 repaired, reconditioned or remodeled item of tangible
17 personal property in Illinois, and which such carrier
18 transports, or shares with another common carrier in the
19 transportation of such property, out of Illinois on a
20 standard uniform bill of lading showing the person who
21 repaired, reconditioned or remodeled the property to a
22 destination outside Illinois, for use outside Illinois.

23 (5b) a sale or transfer of tangible personal property
24 which is produced by the seller thereof on special order in
25 such a way as to have made the applicable tax the Service
26 Occupation Tax or the Service Use Tax, rather than the
27 Retailers' Occupation Tax or the Use Tax, for an interstate
28 carrier by rail which receives the physical possession of
29 such property in Illinois, and which transports such
30 property, or shares with another common carrier in the
31 transportation of such property, out of Illinois on a
32 standard uniform bill of lading showing the seller of the
33 property as the shipper or consignor of such property to a
34 destination outside Illinois, for use outside Illinois.

35 (6) until July 1, 2003, a sale or transfer of
36 distillation machinery and equipment, sold as a unit or kit

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

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

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

31 Exemption (5) also includes machinery and equipment used in
32 the general maintenance or repair of such exempt machinery and
33 equipment or for in-house manufacture of exempt machinery and
34 equipment. For the purposes of exemption (5), each of these
35 terms shall have the following meanings: (1) "manufacturing
36 process" shall mean the production of any article of tangible

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

1 chemicals or chemicals acting as catalysts effect a direct and
2 immediate change upon a product being manufactured or assembled
3 for wholesale or retail sale or lease. The purchaser of such
4 machinery and equipment who has an active resale registration
5 number shall furnish such number to the seller at the time of
6 purchase. The user of such machinery and equipment and tools
7 without an active resale registration number shall prepare a
8 certificate of exemption for each transaction stating facts
9 establishing the exemption for that transaction, which
10 certificate shall be available to the Department for inspection
11 or audit. The Department shall prescribe the form of the
12 certificate.

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

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

30 The purchase, employment and transfer of such tangible
31 personal property as newsprint and ink for the primary purpose
32 of conveying news (with or without other information) is not a
33 purchase, use or sale of service or of tangible personal
34 property within the meaning of this Act.

35 "Serviceman" means any person who is engaged in the
36 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 an
5 incident to a sale of service.

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

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

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

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

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

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

1 6. having a franchisee or licensee operating under its
2 trade name if the franchisee or licensee is required to
3 collect the tax under this Section;

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

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

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

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

17 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

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

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

34 "Department" means the Department of Revenue.

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

6 "Sale of Service" means any transaction except:

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

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

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

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

36 (d-1) A sale or transfer of tangible personal property as

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

9 (d-1.1) On and after July 1, 2003 and through June 30,
10 2004, a sale or transfer of a motor vehicle of the second
11 division with a gross vehicle weight in excess of 8,000 pounds
12 as an incident to the rendering of service if that motor
13 vehicle is subject to the commercial distribution fee imposed
14 under Section 3-815.1 of the Illinois Vehicle Code. This
15 exemption applies to repair and replacement parts added after
16 the initial purchase of such a motor vehicle if that motor
17 vehicle is used in a manner that would qualify for the rolling
18 stock exemption otherwise provided for in this Act.

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

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

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

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

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

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

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

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

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

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

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

34 Except as provided in Section 2d of this Act, the rolling
35 stock exemption applies to rolling stock used by an interstate
36 carrier for hire, even just between points in Illinois, if such

1 rolling stock transports, for hire, persons whose journeys or
2 property whose shipments originate or terminate outside
3 Illinois.

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

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

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

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

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

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

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

32 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

33 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
34 sale of the following tangible personal property are exempt

1 from the tax imposed by this Act:

2 (1) Farm chemicals.

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

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

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

1 provisions of Section 2-70.

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

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

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

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

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

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

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

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

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

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

36 (12) Tangible personal property sold to interstate

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

9 (12-5) On and after July 1, 2003 and through June 30, 2004,
10 motor vehicles of the second division with a gross vehicle
11 weight in excess of 8,000 pounds that are subject to the
12 commercial distribution fee imposed under Section 3-815.1 of
13 the Illinois Vehicle Code. This exemption applies to repair and
14 replacement parts added after the initial purchase of such a
15 motor 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 (13) Proceeds from sales to owners, lessors, or shippers of
19 tangible personal property that is utilized by interstate
20 carriers for hire for use as rolling stock moving in interstate
21 commerce and equipment operated by a telecommunications
22 provider, licensed as a common carrier by the Federal
23 Communications Commission, which is permanently installed in
24 or affixed to aircraft moving in interstate commerce.

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

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

8 (16) Petroleum products sold to a purchaser if the seller
9 is prohibited by federal law from charging tax to the
10 purchaser.

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

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

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

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

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

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

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

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

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

34 (26) Semen used for artificial insemination of livestock
35 for direct agricultural production.

36 (27) Horses, or interests in horses, registered with and

1 meeting the requirements of any of the Arabian Horse Club
2 Registry of America, Appaloosa Horse Club, American Quarter
3 Horse Association, United States Trotting Association, or
4 Jockey Club, as appropriate, used for purposes of breeding or
5 racing for prizes.

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

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

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

29 (31) Beginning with taxable years ending on or after
30 December 31, 1995 and ending with taxable years ending on or
31 before December 31, 2004, personal property that is used in the
32 performance of infrastructure repairs in this State, including
33 but not limited to municipal roads and streets, access roads,
34 bridges, sidewalks, waste disposal systems, water and sewer
35 line extensions, water distribution and purification
36 facilities, storm water drainage and retention facilities, and

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

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

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

29 (34) Beginning January 1, 2000, personal property,
30 including food, purchased through fundraising events for the
31 benefit of a public or private elementary or secondary school,
32 a group of those schools, or one or more school districts if
33 the events are sponsored by an entity recognized by the school
34 district that consists primarily of volunteers and includes
35 parents and teachers of the school children. This paragraph
36 does not apply to fundraising events (i) for the benefit of

1 private home instruction or (ii) for which the fundraising
2 entity purchases the personal property sold at the events from
3 another individual or entity that sold the property for the
4 purpose of resale by the fundraising entity and that profits
5 from the sale to the fundraising entity. This paragraph is
6 exempt from the provisions of Section 2-70.

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

17 (35-5) Food for human consumption that is to be consumed
18 off the premises where it is sold (other than alcoholic
19 beverages, soft drinks, and food that has been prepared for
20 immediate consumption) and prescription and nonprescription
21 medicines, drugs, medical appliances, and insulin, urine
22 testing materials, syringes, and needles used by diabetics, for
23 human use, when purchased for use by a person receiving medical
24 assistance under Article 5 of the Illinois Public Aid Code who
25 resides in a licensed long-term care facility, as defined in
26 the Nursing Home Care Act.

27 (36) Beginning August 2, 2001, computers and
28 communications equipment utilized for any hospital purpose and
29 equipment used in the diagnosis, analysis, or treatment of
30 hospital patients sold to a lessor who leases the equipment,
31 under a lease of one year or longer executed or in effect at
32 the time of the purchase, to a hospital that has been issued an
33 active tax exemption identification number by the Department
34 under Section 1g of this Act. This paragraph is exempt from the
35 provisions of Section 2-70.

36 (37) Beginning August 2, 2001, personal property sold to a

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

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

29 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
30 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
31 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
32 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised
33 9-11-03.)

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

1 (625 ILCS 5/3-815.1)

2 Sec. 3-815.1. Commercial distribution fee. Beginning July
3 1, 2003 and through June 30, 2004, in addition to any tax or
4 fee imposed under this Code:

5 (a) Vehicles of the second division with a gross
6 vehicle weight that exceeds 8,000 pounds and that incur any
7 tax or fee under subsection (a) of Section 3-815 of this
8 Code or subsection (a) of Section 3-818 of this Code, as
9 applicable, ~~and~~ shall pay to the Secretary of State a
10 commercial distribution fee, for each registration year,
11 for the use of the public highways, State infrastructure,
12 and State services, in an amount equal to 36% of the taxes
13 and fees incurred under subsection (a) of Section 3-815 of
14 this Code, or subsection (a) of Section 3-818 of this Code,
15 as applicable, rounded up to the nearest whole dollar.

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

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

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

34 Section 99. Effective date. This Act takes effect upon

1 becoming law.