



Rep. Careen Gordon

Filed: 5/31/2004

09300SB1936ham001

LRB093 08847 MKM 52000 a

1 AMENDMENT TO SENATE BILL 1936

2 AMENDMENT NO. _____. Amend Senate Bill 1936 by replacing
3 everything after the enacting clause with the following:

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

6 (35 ILCS 5/215)

7 Sec. 215. Transportation Employee Credit.

8 (a) For the each taxable year beginning on ~~or after~~ January
9 1, 2004 and ending on 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

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

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

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

10 (2) The employee's compensation, pursuant to 49 U.S.C.
11 14503(a)(1), is subject to tax only by the employee's state
12 of residence, or would be subject to tax only by the
13 employee's state of residence if the employee's actual
14 duties were performed in 2 or more states;

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

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

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

31 (f) Any credit allowed under this Section which is unused
32 in the year the credit is earned may be carried forward to each
33 of the 5 taxable years following the year for which the credit
34 is first computed until it is used. This credit shall be

1 applied first to the earliest year for which there is a
2 liability. If there is a credit under this Section from more
3 than one tax year that is available to offset a liability, the
4 earliest credit arising under this Section shall be applied
5 first.

6 (g) This Section is exempt from the provisions of Section
7 250 of this Act.

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

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

12 Section 10. The Use Tax Act is amended by changing Sections
13 3-5 and 3-61 as follows:

14 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

27 (3) Personal property purchased by a not-for-profit arts or
28 cultural organization that establishes, by proof required by
29 the Department by rule, that it has received an exemption under
30 Section 501(c)(3) of the Internal Revenue Code and that is
31 organized and operated primarily for the presentation or
32 support of arts or cultural programming, activities, or

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

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

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

27 (6) Until July 1, 2003, graphic arts machinery and
28 equipment, including repair and replacement parts, both new and
29 used, and including that manufactured on special order,
30 certified by the purchaser to be used primarily for graphic
31 arts production, and including machinery and equipment
32 purchased for lease. Equipment includes chemicals or chemicals
33 acting as catalysts but only if the chemicals or chemicals
34 acting as catalysts effect a direct and immediate change upon a

1 graphic arts product.

2 (7) Farm chemicals.

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

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

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

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

1 this item (11). Agricultural chemical tender tanks and dry
2 boxes shall include units sold separately from a motor vehicle
3 required to be licensed and units sold mounted on a motor
4 vehicle required to be licensed if the selling price of the
5 tender is separately stated.

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

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

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

29 (13) Proceeds of mandatory service charges separately
30 stated on customers' bills for the purchase and consumption of
31 food and beverages purchased at retail from a retailer, to the
32 extent that the proceeds of the service charge are in fact
33 turned over as tips or as a substitute for tips to the
34 employees who participate directly in preparing, serving,

1 hosting or cleaning up the food or beverage function with
2 respect to which the service charge is imposed.

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

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

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

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

29 (18) Manufacturing and assembling machinery and equipment
30 used primarily in the process of manufacturing or assembling
31 tangible personal property for wholesale or retail sale or
32 lease, whether that sale or lease is made directly by the
33 manufacturer or by some other person, whether the materials
34 used in the process are owned by the manufacturer or some other

1 person, or whether that sale or lease is made apart from or as
2 an incident to the seller's engaging in the service occupation
3 of producing machines, tools, dies, jigs, patterns, gauges, or
4 other similar items of no commercial value on special order for
5 a particular purchaser.

6 (19) Personal property delivered to a purchaser or
7 purchaser's donee inside Illinois when the purchase order for
8 that personal property was received by a florist located
9 outside Illinois who has a florist located inside Illinois
10 deliver the personal property.

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

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

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

1 Act or the Service Use Tax Act, as the case may be, if the tax
2 has not been paid by the lessor. If a lessor improperly
3 collects any such amount from the lessee, the lessee shall have
4 a legal right to claim a refund of that amount from the lessor.
5 If, however, that amount is not refunded to the lessee for any
6 reason, the lessor is liable to pay that amount to the
7 Department.

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

28 (24) Beginning with taxable years ending on or after
29 December 31, 1995 and ending with taxable years ending on or
30 before December 31, 2004, personal property that is donated for
31 disaster relief to be used in a State or federally declared
32 disaster area in Illinois or bordering Illinois by a
33 manufacturer or retailer that is registered in this State to a
34 corporation, society, association, foundation, or institution

1 that has been issued a sales tax exemption identification
2 number by the Department that assists victims of the disaster
3 who reside within the declared disaster area.

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

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

22 (27) A motor vehicle, as that term is defined in Section
23 1-146 of the Illinois Vehicle Code, that is donated to a
24 corporation, limited liability company, society, association,
25 foundation, or institution that is determined by the Department
26 to be organized and operated exclusively for educational
27 purposes. For purposes of this exemption, "a corporation,
28 limited liability company, society, association, foundation,
29 or institution organized and operated exclusively for
30 educational purposes" means all tax-supported public schools,
31 private schools that offer systematic instruction in useful
32 branches of learning by methods common to public schools and
33 that compare favorably in their scope and intensity with the
34 course of study presented in tax-supported schools, and

1 vocational or technical schools or institutes organized and
2 operated exclusively to provide a course of study of not less
3 than 6 weeks duration and designed to prepare individuals to
4 follow a trade or to pursue a manual, technical, mechanical,
5 industrial, business, or commercial occupation.

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

20 (29) Beginning January 1, 2000 and through December 31,
21 2001, new or used automatic vending machines that prepare and
22 serve hot food and beverages, including coffee, soup, and other
23 items, and replacement parts for these machines. Beginning
24 January 1, 2002 and through June 30, 2003, machines and parts
25 for machines used in commercial, coin-operated amusement and
26 vending business if a use or occupation tax is paid on the
27 gross receipts derived from the use of the commercial,
28 coin-operated amusement and vending machines. This paragraph
29 is exempt from the provisions of Section 3-90.

30 (30) Food for human consumption that is to be consumed off
31 the premises where it is sold (other than alcoholic beverages,
32 soft drinks, and food that has been prepared for immediate
33 consumption) and prescription and nonprescription medicines,
34 drugs, medical appliances, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human
2 use, when purchased for use by a person receiving medical
3 assistance under Article 5 of the Illinois Public Aid Code who
4 resides in a licensed long-term care facility, as defined in
5 the Nursing Home Care Act.

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

31 (32) Beginning on the effective date of this amendatory Act
32 of the 92nd General Assembly, personal property purchased by a
33 lessor who leases the property, under a lease of one year or
34 longer executed or in effect at the time the lessor would

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

20 (33) On and after July 1, 2003 and through June 30, 2004,
21 the use in this State of motor vehicles of the second division
22 with a gross vehicle weight in excess of 8,000 pounds and that
23 are subject to the commercial distribution fee imposed under
24 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
25 1, 2004 and through June 30, 2005, the use in this State of
26 motor vehicles of the second division: (i) with a gross vehicle
27 weight rating in excess of 8,000 pounds; (ii) that are subject
28 to the commercial distribution fee imposed under Section
29 3-815.1 of the Illinois Vehicle Code; and (iii) that are
30 primarily used for commercial purposes. Through June 30, 2005,
31 this ~~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 for
34 the rolling stock exemption otherwise provided for in this Act.

1 For purposes of this paragraph, the term "used for commercial
2 purposes" means the transportation of persons or property in
3 furtherance of any commercial or industrial enterprise,
4 whether for-hire or not.

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

8 (35 ILCS 105/3-61)

9 Sec. 3-61. Motor vehicles;trailers; use as rolling stock
10 definition.

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

24 (b) On and after July 1, 2003 and through June 30, 2004,
25 "use as rolling stock moving in interstate commerce" in
26 paragraphs (b) and (c) of Section 3-55 occurs for motor
27 vehicles, as defined in Section 1-146 of the Illinois Vehicle
28 Code, when during a 12-month period the rolling stock has
29 carried persons or property for hire in interstate commerce for
30 51% of its total trips and transports persons whose journeys or
31 property whose shipments originate or terminate outside
32 Illinois. Trips that are only between points in Illinois shall
33 not be counted as interstate trips when calculating whether the

1 tangible personal property qualifies for the exemption but such
2 trips shall be included in total trips taken.

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

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

32 (d) Beginning July 1, 2004, "use as rolling stock moving in
33 interstate commerce" in paragraphs (b) and (c) of Section 3-55
34 occurs for trailers, as defined in Section 1-209 of the

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

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

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

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

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

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

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

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

32 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

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

14 "Purchased from a serviceman" means the acquisition of the
15 ownership of, or title to, tangible personal property through a
16 sale of service.

17 "Purchaser" means any person who, through a sale of
18 service, acquires the ownership of, or title to, any tangible
19 personal property.

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

32 "Selling price" means the consideration for a sale valued
33 in money whether received in money or otherwise, including
34 cash, credits and service, and shall be determined without any

1 deduction on account of the serviceman's cost of the property
2 sold, the cost of materials used, labor or service cost or any
3 other expense whatsoever, but does not include interest or
4 finance charges which appear as separate items on the bill of
5 sale or sales contract nor charges that are added to prices by
6 sellers on account of the seller's duty to collect, from the
7 purchaser, the tax that is imposed by this Act.

8 "Department" means the Department of Revenue.

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

14 "Sale of service" means any transaction except:

15 (1) a retail sale of tangible personal property taxable
16 under the Retailers' Occupation Tax Act or under the Use
17 Tax Act.

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

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

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

13 (4a) a sale or transfer of tangible personal property
14 as an incident to the rendering of service for owners,
15 lessors, or shippers of tangible personal property which is
16 utilized by interstate carriers for hire for use as rolling
17 stock moving in interstate commerce so long as so used by
18 interstate carriers for hire, and equipment operated by a
19 telecommunications provider, licensed as a common carrier
20 by the Federal Communications Commission, which is
21 permanently installed in or affixed to aircraft moving in
22 interstate commerce.

23 (4a-5) on and after July 1, 2003 and through June 30,
24 2004, a sale or transfer of a motor vehicle of the second
25 division with a gross vehicle weight in excess of 8,000
26 pounds as an incident to the rendering of service if that
27 motor vehicle is subject to the commercial distribution fee
28 imposed under Section 3-815.1 of the Illinois Vehicle Code.
29 Beginning on July 1, 2004 and through June 30, 2005, the
30 use in this State of motor vehicles of the second division:
31 (i) with a gross vehicle weight rating in excess of 8,000
32 pounds; (ii) that are subject to the commercial
33 distribution fee imposed under Section 3-815.1 of the
34 Illinois Vehicle Code; and (iii) that are primarily used

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

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

22 (5a) the repairing, reconditioning or remodeling, for
23 a common carrier by rail, of tangible personal property
24 which belongs to such carrier for hire, and as to which
25 such carrier receives the physical possession of the
26 repaired, reconditioned or remodeled item of tangible
27 personal property in Illinois, and which such carrier
28 transports, or shares with another common carrier in the
29 transportation of such property, out of Illinois on a
30 standard uniform bill of lading showing the person who
31 repaired, reconditioned or remodeled the property to a
32 destination outside Illinois, for use outside Illinois.

33 (5b) a sale or transfer of tangible personal property
34 which is produced by the seller thereof on special order in

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

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

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

1 liability if the secondary serviceman (i) has paid or will
2 pay Use Tax on his or her cost price of any tangible
3 personal property transferred to the primary serviceman
4 and (ii) certifies that fact in writing to the primary
5 serviceman.

6 Tangible personal property transferred incident to the
7 completion of a maintenance agreement is exempt from the tax
8 imposed pursuant to this Act.

9 Exemption (5) also includes machinery and equipment used in
10 the general maintenance or repair of such exempt machinery and
11 equipment or for in-house manufacture of exempt machinery and
12 equipment. For the purposes of exemption (5), each of these
13 terms shall have the following meanings: (1) "manufacturing
14 process" shall mean the production of any article of tangible
15 personal property, whether such article is a finished product
16 or an article for use in the process of manufacturing or
17 assembling a different article of tangible personal property,
18 by procedures commonly regarded as manufacturing, processing,
19 fabricating, or refining which changes some existing material
20 or materials into a material with a different form, use or
21 name. In relation to a recognized integrated business composed
22 of a series of operations which collectively constitute
23 manufacturing, or individually constitute manufacturing
24 operations, the manufacturing process shall be deemed to
25 commence with the first operation or stage of production in the
26 series, and shall not be deemed to end until the completion of
27 the final product in the last operation or stage of production
28 in the series; and further, for purposes of exemption (5),
29 photoprocessing is deemed to be a manufacturing process of
30 tangible personal property for wholesale or retail sale; (2)
31 "assembling process" shall mean the production of any article
32 of tangible personal property, whether such article is a
33 finished product or an article for use in the process of
34 manufacturing or assembling a different article of tangible

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

29 Any informal rulings, opinions or letters issued by the
30 Department in response to an inquiry or request for any opinion
31 from any person regarding the coverage and applicability of
32 exemption (5) to specific devices shall be published,
33 maintained as a public record, and made available for public
34 inspection and copying. If the informal ruling, opinion or

1 letter contains trade secrets or other confidential
2 information, where possible the Department shall delete such
3 information prior to publication. Whenever such informal
4 rulings, opinions, or letters contain any policy of general
5 applicability, the Department shall formulate and adopt such
6 policy as a rule in accordance with the provisions of the
7 Illinois Administrative Procedure Act.

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

12 The purchase, employment and transfer of such tangible
13 personal property as newsprint and ink for the primary purpose
14 of conveying news (with or without other information) is not a
15 purchase, use or sale of service or of tangible personal
16 property within the meaning of this Act.

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

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

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

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

26 1. having or maintaining within this State, directly or
27 by a subsidiary, an office, distribution house, sales
28 house, warehouse or other place of business, or any agent
29 or other representative operating within this State under
30 the authority of the serviceman or its subsidiary,
31 irrespective of whether such place of business or agent or
32 other representative is located here permanently or
33 temporarily, or whether such serviceman or subsidiary is
34 licensed to do business in this State;

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

6 3. pursuant to a contract with a broadcaster or
7 publisher located in this State, soliciting orders for
8 tangible personal property by means of advertising which is
9 disseminated primarily to consumers located in this State
10 and only secondarily to bordering jurisdictions;

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

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

21 6. having a franchisee or licensee operating under its
22 trade name if the franchisee or licensee is required to
23 collect the tax under this Section;

24 7. pursuant to a contract with a cable television
25 operator located in this State, soliciting orders for
26 tangible personal property by means of advertising which is
27 transmitted or distributed over a cable television system
28 in this State; or

29 8. engaging in activities in Illinois, which
30 activities in the state in which the supply business
31 engaging in such activities is located would constitute
32 maintaining a place of business in that state.

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

1 (35 ILCS 110/3-51)

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

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

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

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

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

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

26 (d) Beginning July 1, 2004, "use as rolling stock moving in
27 interstate commerce" in paragraphs (b) and (c) of Section 3-55
28 occurs for trailers, as defined in Section 1-209 of the
29 Illinois Vehicle Code, semitrailers as defined in Section 1-187
30 of the Illinois Vehicle Code, and pole trailers as defined in
31 Section 1-161 of the Illinois Vehicle Code, when during a
32 12-month period the rolling stock has carried persons or
33 property for hire in interstate commerce for greater than 50%
34 of its total trips for that period or for greater than 50% of

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

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

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

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

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

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

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

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

26 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

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

31 "Cost Price" means the consideration paid by the serviceman
32 for a purchase valued in money, whether paid in money or

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

11 "Department" means the Department of Revenue.

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

17 "Sale of Service" means any transaction except:

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

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

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

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

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

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

22 (d-1.1) On and after July 1, 2003 and through June 30,
23 2004, a sale or transfer of a motor vehicle of the second
24 division with a gross vehicle weight in excess of 8,000 pounds
25 as an incident to the rendering of service if that motor
26 vehicle is subject to the commercial distribution fee imposed
27 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
28 on July 1, 2004 and through June 30, 2005, the use in this
29 State of motor vehicles of the second division: (i) with a
30 gross vehicle weight rating in excess of 8,000 pounds; (ii)
31 that are subject to the commercial distribution fee imposed
32 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
33 that are primarily used for commercial purposes. Through June
34 30, 2005, this ~~This~~ exemption applies to repair and replacement

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

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

19 (d-3) A sale or transfer of tangible personal property
20 which is produced by the seller thereof on special order in
21 such a way as to have made the applicable tax the Service
22 Occupation Tax or the Service Use Tax, rather than the
23 Retailers' Occupation Tax or the Use Tax, for an interstate
24 carrier by rail which receives the physical possession of such
25 property in Illinois, and which transports such property, or
26 shares with another common carrier in the transportation of
27 such property, out of Illinois on a standard uniform bill of
28 lading showing the seller of the property as the shipper or
29 consignor of such property to a destination outside Illinois,
30 for use outside Illinois.

31 (d-4) Until January 1, 1997, a sale, by a registered
32 serviceman paying tax under this Act to the Department, of
33 special order printed materials delivered outside Illinois and
34 which are not returned to this State, if delivery is made by

1 the seller or agent of the seller, including an agent who
2 causes the product to be delivered outside Illinois by a common
3 carrier or the U.S. postal service.

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

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

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

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

7 Tangible personal property transferred incident to the
8 completion of a maintenance agreement is exempt from the tax
9 imposed pursuant to this Act.

10 Exemption (e) also includes machinery and equipment used in
11 the general maintenance or repair of such exempt machinery and
12 equipment or for in-house manufacture of exempt machinery and
13 equipment. For the purposes of exemption (e), each of these
14 terms shall have the following meanings: (1) "manufacturing
15 process" shall mean the production of any article of tangible
16 personal property, whether such article is a finished product
17 or an article for use in the process of manufacturing or
18 assembling a different article of tangible personal property,
19 by procedures commonly regarded as manufacturing, processing,
20 fabricating, or refining which changes some existing material
21 or materials into a material with a different form, use or
22 name. In relation to a recognized integrated business composed
23 of a series of operations which collectively constitute
24 manufacturing, or individually constitute manufacturing
25 operations, the manufacturing process shall be deemed to
26 commence with the first operation or stage of production in the
27 series, and shall not be deemed to end until the completion of
28 the final product in the last operation or stage of production
29 in the series; and further for purposes of exemption (e),
30 photoprocessing is deemed to be a manufacturing process of
31 tangible personal property for wholesale or retail sale; (2)
32 "assembling process" shall mean the production of any article
33 of tangible personal property, whether such article is a
34 finished product or an article for use in the process of

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

29 Except as provided in Section 2d of this Act, the rolling
30 stock exemption applies to rolling stock used by an interstate
31 carrier for hire, even just between points in Illinois, if such
32 rolling stock transports, for hire, persons whose journeys or
33 property whose shipments originate or terminate outside
34 Illinois.

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

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

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

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

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

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

27 (35 ILCS 115/2d)

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

30 (a) Through June 30, 2003, "use as rolling stock moving in
31 interstate commerce" in subsections (d) and (d-1) of the
32 definition of "sale of service" in Section 2 means for motor
33 vehicles, as defined in Section 1-146 of the Illinois Vehicle

1 Code, and trailers, as defined in Section 1-209 of the Illinois
2 Vehicle Code, when on 15 or more occasions in a 12-month period
3 the motor vehicle and trailer has carried persons or property
4 for hire in interstate commerce, even just between points in
5 Illinois, if the motor vehicle and trailer transports persons
6 whose journeys or property whose shipments originate or
7 terminate outside Illinois. This definition applies to all
8 property purchased for the purpose of being attached to those
9 motor vehicles or trailers as a part thereof.

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

23 (c) Beginning July 1, 2004, "use as rolling stock moving in
24 interstate commerce" in paragraphs (b) and (c) of Section 3-55
25 occurs for motor vehicles, as defined in Section 1-146 of the
26 Illinois Vehicle Code, when during a 12-month period the
27 rolling stock has carried persons or property for hire in
28 interstate commerce for greater than 50% of its total trips for
29 that period or for greater than 50% of its total miles for that
30 period. The person claiming the exemption shall make an
31 election at the time of purchase to use either the trips or
32 mileage method. Persons who purchased motor vehicles prior to
33 July 1, 2004 shall make an election to use either the trips or
34 mileage method and document that election in their books and

1 records. If no election is made under this subsection to use
2 the trips or mileage method, the person shall be deemed to have
3 chosen the mileage method. Any election to use either the trips
4 or mileage method will remain in effect for that motor vehicle
5 for any period for which the Department may issue a notice of
6 tax liability under this Act.

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

18 (d) Beginning July 1, 2004, "use as rolling stock moving in
19 interstate commerce" in paragraphs (b) and (c) of Section 3-55
20 occurs for trailers, as defined in Section 1-209 of the
21 Illinois Vehicle Code, semitrailers as defined in Section 1-187
22 of the Illinois Vehicle Code, and pole trailers as defined in
23 Section 1-161 of the Illinois Vehicle Code, when during a
24 12-month period the rolling stock has carried persons or
25 property for hire in interstate commerce for greater than 50%
26 of its total trips for that period or for greater than 50% of
27 its total miles for that period. The person claiming the
28 exemption for a trailer or trailers that will not be dedicated
29 to a motor vehicle or group of motor vehicles shall make an
30 election at the time of purchase to use either the trips or
31 mileage method. Persons who purchased trailers prior to July 1,
32 2004 that are not dedicated to a motor vehicle or group of
33 motor vehicles shall make an election to use either the trips
34 or mileage method and document that election in their books and

1 records. If no election is made under this subsection to use
2 the trips or mileage method, the person shall be deemed to have
3 chosen the mileage method. Any election to use either the trips
4 or mileage method will remain in effect for that trailer for
5 any period for which the Department may issue a notice of tax
6 liability under this Act.

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

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

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

32 (3) If one or more trailers, semitrailers, or pole
33 trailers are dedicated to a group of motor vehicles and not
34 all of those motor vehicles in that group qualify as

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

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

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

18 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

22 (1) Farm chemicals.

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

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

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

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

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

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

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

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

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

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

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

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

1 organizations, local arts councils, visual arts organizations,
2 and media arts organizations. On and after the effective date
3 of this amendatory Act of the 92nd General Assembly, however,
4 an entity otherwise eligible for this exemption shall not make
5 tax-free purchases unless it has an active identification
6 number issued by the Department.

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

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

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

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

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

22 (13) Proceeds from sales to owners, lessors, or shippers of
23 tangible personal property that is utilized by interstate
24 carriers for hire for use as rolling stock moving in interstate
25 commerce and equipment operated by a telecommunications
26 provider, licensed as a common carrier by the Federal
27 Communications Commission, which is permanently installed in
28 or affixed to aircraft moving in interstate commerce.

29 (14) Machinery and equipment that will be used by the
30 purchaser, or a lessee of the purchaser, primarily in the
31 process of manufacturing or assembling tangible personal
32 property for wholesale or retail sale or lease, whether the
33 sale or lease is made directly by the manufacturer or by some
34 other person, whether the materials used in the process are

1 owned by the manufacturer or some other person, or whether the
2 sale or lease is made apart from or as an incident to the
3 seller's engaging in the service occupation of producing
4 machines, tools, dies, jigs, patterns, gauges, or other similar
5 items of no commercial value on special order for a particular
6 purchaser.

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

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

17 (17) Tangible personal property sold to a common carrier by
18 rail or motor that receives the physical possession of the
19 property in Illinois and that transports the property, or
20 shares with another common carrier in the transportation of the
21 property, out of Illinois on a standard uniform bill of lading
22 showing the seller of the property as the shipper or consignor
23 of the property to a destination outside Illinois, for use
24 outside Illinois.

25 (18) 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 (19) Until July 1 2003, oil field exploration, drilling,
30 and production equipment, including (i) rigs and parts of rigs,
31 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
32 tubular goods, including casing and drill strings, (iii) pumps
33 and pump-jack units, (iv) storage tanks and flow lines, (v) any
34 individual replacement part for oil field exploration,

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

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

9 (21) Until July 1, 2003, coal exploration, mining,
10 offhighway hauling, processing, maintenance, and reclamation
11 equipment, including replacement parts and equipment, and
12 including equipment purchased for lease, but excluding motor
13 vehicles required to be registered under the Illinois Vehicle
14 Code.

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

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

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

31 (25) A motor vehicle sold in this State to a nonresident
32 even though the motor vehicle is delivered to the nonresident
33 in this State, if the motor vehicle is not to be titled in this
34 State, and if a drive-away permit is issued to the motor

1 vehicle as provided in Section 3-603 of the Illinois Vehicle
2 Code or if the nonresident purchaser has vehicle registration
3 plates to transfer to the motor vehicle upon returning to his
4 or her home state. The issuance of the drive-away permit or
5 having the out-of-state registration plates to be transferred
6 is prima facie evidence that the motor vehicle will not be
7 titled in this State.

8 (26) Semen used for artificial insemination of livestock
9 for direct agricultural production.

10 (27) Horses, or interests in horses, registered with and
11 meeting the requirements of any of the Arabian Horse Club
12 Registry of America, Appaloosa Horse Club, American Quarter
13 Horse Association, United States Trotting Association, or
14 Jockey Club, as appropriate, used for purposes of breeding or
15 racing for prizes.

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

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

29 (30) 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 donated for
32 disaster relief to be used in a State or federally declared
33 disaster area in Illinois or bordering Illinois by a
34 manufacturer or retailer that is registered in this State to a

1 corporation, society, association, foundation, or institution
2 that has been issued a sales tax exemption identification
3 number by the Department that assists victims of the disaster
4 who reside within the declared disaster area.

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

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

23 (33) A motor vehicle, as that term is defined in Section
24 1-146 of the Illinois Vehicle Code, that is donated to a
25 corporation, limited liability company, society, association,
26 foundation, or institution that is determined by the Department
27 to be organized and operated exclusively for educational
28 purposes. For purposes of this exemption, "a corporation,
29 limited liability company, society, association, foundation,
30 or institution organized and operated exclusively for
31 educational purposes" means all tax-supported public schools,
32 private schools that offer systematic instruction in useful
33 branches of learning by methods common to public schools and
34 that compare favorably in their scope and intensity with the

1 course of study presented in tax-supported schools, and
2 vocational or technical schools or institutes organized and
3 operated exclusively to provide a course of study of not less
4 than 6 weeks duration and designed to prepare individuals to
5 follow a trade or to pursue a manual, technical, mechanical,
6 industrial, business, or commercial occupation.

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

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

31 (35-5) Food for human consumption that is to be consumed
32 off the premises where it is sold (other than alcoholic
33 beverages, soft drinks, and food that has been prepared for
34 immediate consumption) and prescription and nonprescription

1 medicines, drugs, medical appliances, and insulin, urine
2 testing materials, syringes, and needles used by diabetics, for
3 human use, when purchased for use by a person receiving medical
4 assistance under Article 5 of the Illinois Public Aid Code who
5 resides in a licensed long-term care facility, as defined in
6 the Nursing Home Care Act.

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

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

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

1 Illinois Administrative Procedure Act, issue a permit to any
2 taxpayer in good standing with the Department who is eligible
3 for the exemption under this paragraph (38). The permit issued
4 under this paragraph (38) shall authorize the holder, to the
5 extent and in the manner specified in the rules adopted under
6 this Act, to purchase tangible personal property from a
7 retailer exempt from the taxes imposed by this Act. Taxpayers
8 shall maintain all necessary books and records to substantiate
9 the use and consumption of all such tangible personal property
10 outside of the State of Illinois.

11 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
12 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
13 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
14 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised
15 9-11-03.)

16 (35 ILCS 120/2-51)

17 Sec. 2-51. Motor vehicles; trailers; use as rolling stock
18 definition.

19 (a) Through June 30, 2003, "use as rolling stock moving in
20 interstate commerce" in paragraphs (12) and (13) of Section 2-5
21 means for motor vehicles, as defined in Section 1-146 of the
22 Illinois Vehicle Code, and trailers, as defined in Section
23 1-209 of the Illinois Vehicle Code, when on 15 or more
24 occasions in a 12-month period the motor vehicle and trailer
25 has carried persons or property for hire in interstate
26 commerce, even just between points in Illinois, if the motor
27 vehicle and trailer transports persons whose journeys or
28 property whose shipments originate or terminate outside
29 Illinois. This definition applies to all property purchased for
30 the purpose of being attached to those motor vehicles or
31 trailers as a part thereof.

32 (b) On and after July 1, 2003 and through June 30, 2004,
33 "use as rolling stock moving in interstate commerce" in

1 paragraphs (12) and (13) of Section 2-5 occurs for motor
2 vehicles, as defined in Section 1-146 of the Illinois Vehicle
3 Code, when during a 12-month period the rolling stock has
4 carried persons or property for hire in interstate commerce for
5 51% of its total trips and transports persons whose journeys or
6 property whose shipments originate or terminate outside
7 Illinois. Trips that are only between points in Illinois shall
8 not be counted as interstate trips when calculating whether the
9 tangible personal property qualifies for the exemption but such
10 trips shall be included in total trips taken.

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

29 For purposes of determining qualifying trips or miles,
30 motor vehicles that carry persons or property for hire, even
31 just between points in Illinois, will be considered used for
32 hire in interstate commerce if the motor vehicle transports
33 persons whose journeys or property whose shipments originate or
34 terminate outside Illinois. The exemption for motor vehicles

1 used as rolling stock moving in interstate commerce may be
2 claimed only for motor vehicles whose gross vehicle weight
3 rating exceeds 16,000 pounds. This definition applies to all
4 property purchased for the purpose of being attached to those
5 motor vehicles as a part thereof.

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

29 For purposes of determining qualifying trips or miles,
30 trailers, semitrailers, or pole trailers that carry property
31 for hire, even just between points in Illinois, will be
32 considered used for hire in interstate commerce if the
33 trailers, semitrailers, or pole trailers transport property
34 whose shipments originate or terminate outside Illinois. This

1 definition applies to all property purchased for the purpose of
2 being attached to those trailers, semitrailers, or pole
3 trailers as a part thereof. In lieu of a person providing
4 documentation regarding the qualifying use of each individual
5 trailer, semitrailer, or pole trailer, that person may document
6 such qualifying use by providing documentation of the
7 following:

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

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

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

1 trailers under this subpart shall not be allowed as to any
2 fraction of a trailer, semitrailer, or pole trailer.

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

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

6 (625 ILCS 5/3-815.1)

7 Sec. 3-815.1. Commercial distribution fee. Beginning July
8 1, 2003, in addition to any tax or fee imposed under this Code:

9 (a) Vehicles of the second division with a gross
10 vehicle weight that exceeds 8,000 pounds and that incur any
11 tax or fee under subsection (a) of Section 3-815 of this
12 Code or subsection (a) of Section 3-818 of this Code, as
13 applicable, ~~and~~ shall pay to the Secretary of State a
14 commercial distribution fee, for each registration year,
15 for the use of the public highways, State infrastructure,
16 and State services, in an amount equal to: (i) for a
17 registration year beginning on or after July 1, 2003 and
18 before July 1, 2005, 36% of the taxes and fees incurred
19 under subsection (a) of Section 3-815 of this Code, or
20 subsection (a) of Section 3-818 of this Code, as
21 applicable, rounded up to the nearest whole dollar; (ii)
22 for a registration year beginning on or after July 1, 2005
23 and before July 1, 2006, 21.5% of the taxes and fees
24 incurred under subsection (a) of Section 3-815 of this
25 Code, or subsection (a) of Section 3-818 of this Code, as
26 applicable, rounded up to the nearest whole dollar; and
27 (iii) for a registration year beginning on or after July 1,
28 2006, 14.35% of the taxes and fees incurred under
29 subsection (a) of Section 3-815 of this Code, or subsection
30 (a) of Section 3-818 of this Code, as applicable, rounded
31 up to the nearest whole dollar.

32 (b) Until June 30, 2004, vehicles ~~Vehicles~~ of the

1 second division with a gross vehicle weight of 8,000 pounds
2 or less and that incur any tax or fee under subsection (a)
3 of Section 3-815 of this Code or subsection (a) of Section
4 3-818 of this Code, as applicable, and have claimed the
5 rolling stock exemption under the Retailers' Occupation
6 Tax Act, Use Tax Act, Service Occupation Tax Act, or
7 Service Use Tax Act shall pay to the Illinois Department of
8 Revenue (or the Secretary of State under an
9 intergovernmental agreement) a commercial distribution
10 fee, for each registration year, for the use of the public
11 highways, State infrastructure, and State services, in an
12 amount equal to 36% of the taxes and fees incurred under
13 subsection (a) of Section 3-815 of this Code or subsection
14 (a) of Section 3-818 of this Code, as applicable, rounded
15 up to the nearest whole dollar.

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

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

19 Section 99. Effective date. This Act takes effect July 1,
20 2004."