



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0278

Introduced 1/18/2005, by Rep. Bill Mitchell

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
35 ILCS 110/3-5	from Ch. 120, par. 439.33-5
35 ILCS 115/3-5	from Ch. 120, par. 439.103-5
35 ILCS 120/2-5	from Ch. 120, par. 441-5

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Reinstates the exemption from the tax imposed by these Acts for certain oil field exploration, drilling, and production equipment. Reinstates the exemption from the tax imposed by these Acts for coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment. Effective immediately.

LRB094 04092 BDD 34112 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to taxation.

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

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

6 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

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

1 number issued by the Department.

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

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

19 (6) Until July 1, 2003 and beginning again on September 1,
20 2004, graphic arts machinery and equipment, including repair
21 and replacement parts, both new and used, and including that
22 manufactured on special order, certified by the purchaser to be
23 used primarily for graphic arts production, and including
24 machinery and equipment purchased for lease. Equipment
25 includes chemicals or chemicals acting as catalysts but only if
26 the chemicals or chemicals acting as catalysts effect a direct
27 and immediate change upon a graphic arts product.

28 (7) Farm chemicals.

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

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

36 (10) A motor vehicle of the first division, a motor vehicle

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

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

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

1 such equipment.

2 Farm machinery and equipment also includes computers,
3 sensors, software, and related equipment used primarily in the
4 computer-assisted operation of production agriculture
5 facilities, equipment, and activities such as, but not limited
6 to, the collection, monitoring, and correlation of animal and
7 crop data for the purpose of formulating animal diets and
8 agricultural chemicals. This item (11) is exempt from the
9 provisions of Section 3-90.

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

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

25 (14) Until July 1, 2003 and beginning again on the
26 effective date of this amendatory Act of the 94th General
27 Assembly, oil field exploration, drilling, and production
28 equipment, including (i) rigs and parts of rigs, rotary rigs,
29 cable tool rigs, and workover rigs, (ii) pipe and tubular
30 goods, including casing and drill strings, (iii) pumps and
31 pump-jack units, (iv) storage tanks and flow lines, (v) any
32 individual replacement part for oil field exploration,
33 drilling, and production equipment, and (vi) machinery and
34 equipment purchased for lease; but excluding motor vehicles
35 required to be registered under the Illinois Vehicle Code. This
36 paragraph is exempt from the provisions of Section 3-90.

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

6 (16) Until July 1, 2003 and beginning again on the
7 effective date of this amendatory Act of the 94th General
8 Assembly, coal exploration, mining, offhighway hauling,
9 processing, maintenance, and reclamation equipment, including
10 replacement parts and equipment, and including equipment
11 purchased for lease, but excluding motor vehicles required to
12 be registered under the Illinois Vehicle Code. This paragraph
13 is exempt from the provisions of Section 3-90.

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

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

31 (19) Personal property delivered to a purchaser or
32 purchaser's donee inside Illinois when the purchase order for
33 that personal property was received by a florist located
34 outside Illinois who has a florist located inside Illinois
35 deliver the personal property.

36 (20) Semen used for artificial insemination of livestock

1 for direct agricultural production.

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

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

31 (23) Personal property purchased by a lessor who leases the
32 property, under a lease of one year or longer executed or in
33 effect at the time the lessor would otherwise be subject to the
34 tax imposed by this Act, to a governmental body that has been
35 issued an active sales tax exemption identification number by
36 the Department under Section 1g of the Retailers' Occupation

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

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

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

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

7 (27) A motor vehicle, as that term is defined in Section
8 1-146 of the Illinois Vehicle Code, that is donated to a
9 corporation, limited liability company, society, association,
10 foundation, or institution that is determined by the Department
11 to be organized and operated exclusively for educational
12 purposes. For purposes of this exemption, "a corporation,
13 limited liability company, society, association, foundation,
14 or institution organized and operated exclusively for
15 educational purposes" means all tax-supported public schools,
16 private schools that offer systematic instruction in useful
17 branches of learning by methods common to public schools and
18 that compare favorably in their scope and intensity with the
19 course of study presented in tax-supported schools, and
20 vocational or technical schools or institutes organized and
21 operated exclusively to provide a course of study of not less
22 than 6 weeks duration and designed to prepare individuals to
23 follow a trade or to pursue a manual, technical, mechanical,
24 industrial, business, or commercial occupation.

25 (28) Beginning January 1, 2000, personal property,
26 including food, purchased through fundraising events for the
27 benefit of a public or private elementary or secondary school,
28 a group of those schools, or one or more school districts if
29 the events are sponsored by an entity recognized by the school
30 district that consists primarily of volunteers and includes
31 parents and teachers of the school children. This paragraph
32 does not apply to fundraising events (i) for the benefit of
33 private home instruction or (ii) for which the fundraising
34 entity purchases the personal property sold at the events from
35 another individual or entity that sold the property for the
36 purpose of resale by the fundraising entity and that profits

1 from the sale to the fundraising entity. This paragraph is
2 exempt from the provisions of Section 3-90.

3 (29) Beginning January 1, 2000 and through December 31,
4 2001, new or used automatic vending machines that prepare and
5 serve hot food and beverages, including coffee, soup, and other
6 items, and replacement parts for these machines. Beginning
7 January 1, 2002 and through June 30, 2003, machines and parts
8 for machines used in commercial, coin-operated amusement and
9 vending business if a use or occupation tax is paid on the
10 gross receipts derived from the use of the commercial,
11 coin-operated amusement and vending machines. This paragraph
12 is exempt from the provisions of Section 3-90.

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

23 (31) Beginning on the effective date of this amendatory Act
24 of the 92nd General Assembly, computers and communications
25 equipment utilized for any hospital purpose and equipment used
26 in the diagnosis, analysis, or treatment of hospital patients
27 purchased by a lessor who leases the equipment, under a lease
28 of one year or longer executed or in effect at the time the
29 lessor would otherwise be subject to the tax imposed by this
30 Act, to a hospital that has been issued an active tax exemption
31 identification number by the Department under Section 1g of the
32 Retailers' Occupation Tax Act. If the equipment is leased in a
33 manner that does not qualify for this exemption or is used in
34 any other nonexempt manner, the lessor shall be liable for the
35 tax imposed under this Act or the Service Use Tax Act, as the
36 case may be, based on the fair market value of the property at

1 the time the nonqualifying use occurs. No lessor shall collect
2 or attempt to collect an amount (however designated) that
3 purports to reimburse that lessor for the tax imposed by this
4 Act or the Service Use Tax Act, as the case may be, if the tax
5 has not been paid by the lessor. If a lessor improperly
6 collects any such amount from the lessee, the lessee shall have
7 a legal right to claim a refund of that amount from the lessor.
8 If, however, that amount is not refunded to the lessee for any
9 reason, the lessor is liable to pay that amount to the
10 Department. This paragraph is exempt from the provisions of
11 Section 3-90.

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

35 (33) On and after July 1, 2003 and through June 30, 2004,
36 the use in this State of motor vehicles of the second division

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

18 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
19 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
20 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
21 93-1033, eff. 9-3-04; revised 10-21-04.)

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

24 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

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

34 (2) Personal property purchased by a non-profit Illinois

1 county fair association for use in conducting, operating, or
2 promoting the county fair.

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

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

22 (5) Until July 1, 2003 and beginning again on September 1,
23 2004, graphic arts machinery and equipment, including repair
24 and replacement parts, both new and used, and including that
25 manufactured on special order or purchased for lease, certified
26 by the purchaser to be used primarily for graphic arts
27 production. Equipment includes chemicals or chemicals acting
28 as catalysts but only if the chemicals or chemicals acting as
29 catalysts effect a direct and immediate change upon a graphic
30 arts product.

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

34 (7) Farm machinery and equipment, both new and used,
35 including that manufactured on special order, certified by the
36 purchaser to be used primarily for production agriculture or

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

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

25 Farm machinery and equipment also includes computers,
26 sensors, software, and related equipment used primarily in the
27 computer-assisted operation of production agriculture
28 facilities, equipment, and activities such as, but not limited
29 to, the collection, monitoring, and correlation of animal and
30 crop data for the purpose of formulating animal diets and
31 agricultural chemicals. This item (7) is exempt from the
32 provisions of Section 3-75.

33 (8) Fuel and petroleum products sold to or used by an air
34 common carrier, certified by the carrier to be used for
35 consumption, shipment, or storage in the conduct of its
36 business as an air common carrier, for a flight destined for or

1 returning from a location or locations outside the United
2 States without regard to previous or subsequent domestic
3 stopovers.

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

13 (10) Until July 1, 2003 and beginning again on the
14 effective date of this amendatory Act of the 94th General
15 Assembly, oil field exploration, drilling, and production
16 equipment, including (i) rigs and parts of rigs, rotary rigs,
17 cable tool rigs, and workover rigs, (ii) pipe and tubular
18 goods, including casing and drill strings, (iii) pumps and
19 pump-jack units, (iv) storage tanks and flow lines, (v) any
20 individual replacement part for oil field exploration,
21 drilling, and production equipment, and (vi) machinery and
22 equipment purchased for lease; but excluding motor vehicles
23 required to be registered under the Illinois Vehicle Code. This
24 paragraph is exempt from the provisions of Section 3-75.

25 (11) Proceeds from the sale of photoprocessing machinery
26 and equipment, including repair and replacement parts, both new
27 and used, including that manufactured on special order,
28 certified by the purchaser to be used primarily for
29 photoprocessing, and including photoprocessing machinery and
30 equipment purchased for lease.

31 (12) Until July 1, 2003 and beginning again on the
32 effective date of this amendatory Act of the 94th General
33 Assembly, coal exploration, mining, offhighway hauling,
34 processing, maintenance, and reclamation equipment, including
35 replacement parts and equipment, and including equipment
36 purchased for lease, but excluding motor vehicles required to

1 be registered under the Illinois Vehicle Code. This paragraph
2 is exempt from the provisions of Section 3-75.

3 (13) Semen used for artificial insemination of livestock
4 for direct agricultural production.

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

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

33 (16) Personal property purchased by a lessor who leases the
34 property, under a lease of one year or longer executed or in
35 effect at the time the lessor would otherwise be subject to the
36 tax imposed by this Act, to a governmental body that has been

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

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

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

1 when such repairs are initiated on facilities located in the
2 declared disaster area within 6 months after the disaster.

3 (19) Beginning July 1, 1999, game or game birds purchased
4 at a "game breeding and hunting preserve area" or an "exotic
5 game hunting area" as those terms are used in the Wildlife Code
6 or at a hunting enclosure approved through rules adopted by the
7 Department of Natural Resources. This paragraph is exempt from
8 the provisions of Section 3-75.

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

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

1 another individual or entity that sold the property for the
2 purpose of resale by the fundraising entity and that profits
3 from the sale to the fundraising entity. This paragraph is
4 exempt from the provisions of Section 3-75.

5 (22) Beginning January 1, 2000 and through December 31,
6 2001, new or used automatic vending machines that prepare and
7 serve hot food and beverages, including coffee, soup, and other
8 items, and replacement parts for these machines. Beginning
9 January 1, 2002 and through June 30, 2003, machines and parts
10 for machines used in commercial, coin-operated amusement and
11 vending business if a use or occupation tax is paid on the
12 gross receipts derived from the use of the commercial,
13 coin-operated amusement and vending machines. This paragraph
14 is exempt from the provisions of Section 3-75.

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

25 (24) Beginning on the effective date of this amendatory Act
26 of the 92nd General Assembly, computers and communications
27 equipment utilized for any hospital purpose and equipment used
28 in the diagnosis, analysis, or treatment of hospital patients
29 purchased by a lessor who leases the equipment, under a lease
30 of one year or longer executed or in effect at the time the
31 lessor would otherwise be subject to the tax imposed by this
32 Act, to a hospital that has been issued an active tax exemption
33 identification number by the Department under Section 1g of the
34 Retailers' Occupation Tax Act. If the equipment is leased in a
35 manner that does not qualify for this exemption or is used in
36 any other nonexempt manner, the lessor shall be liable for the

1 tax imposed under this Act or the Use Tax Act, as the case may
2 be, based on the fair market value of the property at the time
3 the nonqualifying use occurs. No lessor shall collect or
4 attempt to collect an amount (however designated) that purports
5 to reimburse that lessor for the tax imposed by this Act or the
6 Use Tax Act, as the case may be, if the tax has not been paid by
7 the lessor. If a lessor improperly collects any such amount
8 from the lessee, the lessee shall have a legal right to claim a
9 refund of that amount from the lessor. If, however, that amount
10 is not refunded to the lessee for any reason, the lessor is
11 liable to pay that amount to the Department. This paragraph is
12 exempt from the provisions of Section 3-75.

13 (25) Beginning on the effective date of this amendatory Act
14 of the 92nd General Assembly, personal property purchased by a
15 lessor who leases the property, under a lease of one year or
16 longer executed or in effect at the time the lessor would
17 otherwise be subject to the tax imposed by this Act, to a
18 governmental body that has been issued an active tax exemption
19 identification number by the Department under Section 1g of the
20 Retailers' Occupation Tax Act. If the property is leased in a
21 manner that does not qualify for this exemption or is used in
22 any other nonexempt manner, the lessor shall be liable for the
23 tax imposed under this Act or the Use Tax Act, as the case may
24 be, based on the fair market value of the property at the time
25 the nonqualifying use occurs. No lessor shall collect or
26 attempt to collect an amount (however designated) that purports
27 to reimburse that lessor for the tax imposed by this Act or the
28 Use Tax Act, as the case may be, if the tax has not been paid by
29 the lessor. If a lessor improperly collects any such amount
30 from the lessee, the lessee shall have a legal right to claim a
31 refund of that amount from the lessor. If, however, that amount
32 is not refunded to the lessee for any reason, the lessor is
33 liable to pay that amount to the Department. This paragraph is
34 exempt from the provisions of Section 3-75.

35 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
36 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;

1 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff.
2 7-30-04.)

3 Section 15. The Service Occupation Tax Act is amended by
4 changing Section 3-5 as follows:

5 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

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

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

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

3 (5) Until July 1, 2003 and beginning again on September 1,
4 2004, graphic arts machinery and equipment, including repair
5 and replacement parts, both new and used, and including that
6 manufactured on special order or purchased for lease, certified
7 by the purchaser to be used primarily for graphic arts
8 production. Equipment includes chemicals or chemicals acting
9 as catalysts but only if the chemicals or chemicals acting as
10 catalysts effect a direct and immediate change upon a graphic
11 arts product.

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

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

34 Farm machinery and equipment shall include precision
35 farming equipment that is installed or purchased to be
36 installed on farm machinery and equipment including, but not

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

6 Farm machinery and equipment also includes computers,
7 sensors, software, and related equipment used primarily in the
8 computer-assisted operation of production agriculture
9 facilities, equipment, and activities such as, but not limited
10 to, the collection, monitoring, and correlation of animal and
11 crop data for the purpose of formulating animal diets and
12 agricultural chemicals. This item (7) is exempt from the
13 provisions of Section 3-55.

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

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

29 (10) Until July 1, 2003 and beginning again on the
30 effective date of this amendatory Act of the 94th General
31 Assembly, oil field exploration, drilling, and production
32 equipment, including (i) rigs and parts of rigs, rotary rigs,
33 cable tool rigs, and workover rigs, (ii) pipe and tubular
34 goods, including casing and drill strings, (iii) pumps and
35 pump-jack units, (iv) storage tanks and flow lines, (v) any
36 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. This
4 paragraph is exempt from the provisions of Section 3-55.

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

10 (12) Until July 1, 2003 and beginning again on the
11 effective date of this amendatory Act of the 94th General
12 Assembly, coal exploration, mining, offhighway hauling,
13 processing, maintenance, and reclamation equipment, including
14 replacement parts and equipment, and including equipment
15 purchased for lease, but excluding motor vehicles required to
16 be registered under the Illinois Vehicle Code. This paragraph
17 is exempt from the provisions of Section 3-55.

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

28 (14) Semen used for artificial insemination of livestock
29 for direct agricultural production.

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

36 (16) Computers and communications equipment utilized for

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

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

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

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

36 (20) Beginning July 1, 1999, game or game birds sold at a

1 "game breeding and hunting preserve area" or an "exotic game
2 hunting area" as those terms are used in the Wildlife Code or
3 at a hunting enclosure approved through rules adopted by the
4 Department of Natural Resources. This paragraph is exempt from
5 the provisions of Section 3-55.

6 (21) A motor vehicle, as that term is defined in Section
7 1-146 of the Illinois Vehicle Code, that is donated to a
8 corporation, limited liability company, society, association,
9 foundation, or institution that is determined by the Department
10 to be organized and operated exclusively for educational
11 purposes. For purposes of this exemption, "a corporation,
12 limited liability company, society, association, foundation,
13 or institution organized and operated exclusively for
14 educational purposes" means all tax-supported public schools,
15 private schools that offer systematic instruction in useful
16 branches of learning by methods common to public schools and
17 that compare favorably in their scope and intensity with the
18 course of study presented in tax-supported schools, and
19 vocational or technical schools or institutes organized and
20 operated exclusively to provide a course of study of not less
21 than 6 weeks duration and designed to prepare individuals to
22 follow a trade or to pursue a manual, technical, mechanical,
23 industrial, business, or commercial occupation.

24 (22) Beginning January 1, 2000, personal property,
25 including food, purchased through fundraising events for the
26 benefit of a public or private elementary or secondary school,
27 a group of those schools, or one or more school districts if
28 the events are sponsored by an entity recognized by the school
29 district that consists primarily of volunteers and includes
30 parents and teachers of the school children. This paragraph
31 does not apply to fundraising events (i) for the benefit of
32 private home instruction or (ii) for which the fundraising
33 entity purchases the personal property sold at the events from
34 another individual or entity that sold the property for the
35 purpose of resale by the fundraising entity and that profits
36 from the sale to the fundraising entity. This paragraph is

1 exempt from the provisions of Section 3-55.

2 (23) Beginning January 1, 2000 and through December 31,
3 2001, new or used automatic vending machines that prepare and
4 serve hot food and beverages, including coffee, soup, and other
5 items, and replacement parts for these machines. Beginning
6 January 1, 2002 and through June 30, 2003, machines and parts
7 for machines used in commercial, coin-operated amusement and
8 vending business if a use or occupation tax is paid on the
9 gross receipts derived from the use of the commercial,
10 coin-operated amusement and vending machines. This paragraph
11 is exempt from the provisions of Section 3-55.

12 (24) Beginning on the effective date of this amendatory Act
13 of the 92nd General Assembly, computers and communications
14 equipment utilized for any hospital purpose and equipment used
15 in the diagnosis, analysis, or treatment of hospital patients
16 sold to a lessor who leases the equipment, under a lease of one
17 year or longer executed or in effect at the time of the
18 purchase, to a hospital that has been issued an active tax
19 exemption identification number by the Department under
20 Section 1g of the Retailers' Occupation Tax Act. This paragraph
21 is exempt from the provisions of Section 3-55.

22 (25) Beginning on the effective date of this amendatory Act
23 of the 92nd General Assembly, personal property sold to a
24 lessor who leases the property, under a lease of one year or
25 longer executed or in effect at the time of the purchase, to a
26 governmental body that has been issued an active tax exemption
27 identification number by the Department under Section 1g of the
28 Retailers' Occupation Tax Act. This paragraph is exempt from
29 the provisions of Section 3-55.

30 (26) Beginning on January 1, 2002, tangible personal
31 property purchased from an Illinois retailer by a taxpayer
32 engaged in centralized purchasing activities in Illinois who
33 will, upon receipt of the property in Illinois, temporarily
34 store the property in Illinois (i) for the purpose of
35 subsequently transporting it outside this State for use or
36 consumption thereafter solely outside this State or (ii) for

1 the purpose of being processed, fabricated, or manufactured
2 into, attached to, or incorporated into other tangible personal
3 property to be transported outside this State and thereafter
4 used or consumed solely outside this State. The Director of
5 Revenue shall, pursuant to rules adopted in accordance with the
6 Illinois Administrative Procedure Act, issue a permit to any
7 taxpayer in good standing with the Department who is eligible
8 for the exemption under this paragraph (26). The permit issued
9 under this paragraph (26) shall authorize the holder, to the
10 extent and in the manner specified in the rules adopted under
11 this Act, to purchase tangible personal property from a
12 retailer exempt from the taxes imposed by this Act. Taxpayers
13 shall maintain all necessary books and records to substantiate
14 the use and consumption of all such tangible personal property
15 outside of the State of Illinois.

16 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
17 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
18 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.
19 6-20-03; 93-840, eff. 7-30-04.)

20 Section 20. The Retailers' Occupation Tax Act is amended by
21 changing Section 2-5 as follows:

22 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

26 (1) Farm chemicals.

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

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

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

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

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

34 (4) Until July 1, 2003 and beginning again September 1,
35 2004, graphic arts machinery and equipment, including repair
36 and replacement parts, both new and used, and including that

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

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

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

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

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

27 (9) Personal property sold to 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
33 services. These organizations include, but are not limited to,
34 music and dramatic arts organizations such as symphony
35 orchestras and theatrical groups, arts and cultural service
36 organizations, local arts councils, visual arts organizations,

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

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

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

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

36 (12-5) On and after July 1, 2003 and through June 30, 2004,

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

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

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

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

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

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

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

23 (19) Until July 1 2003 and beginning again on the effective
24 date of this amendatory Act of the 94th General Assembly, oil
25 field exploration, drilling, and production equipment,
26 including (i) rigs and parts of rigs, rotary rigs, cable tool
27 rigs, and workover rigs, (ii) pipe and tubular goods, including
28 casing and drill strings, (iii) pumps and pump-jack units, (iv)
29 storage tanks and flow lines, (v) any individual replacement
30 part for oil field exploration, drilling, and production
31 equipment, and (vi) machinery and equipment purchased for
32 lease; but excluding motor vehicles required to be registered
33 under the Illinois Vehicle Code. This paragraph is exempt from
34 the provisions of Section 2-70.

35 (20) Photoprocessing machinery and equipment, including
36 repair and replacement parts, both new and used, including that

1 manufactured on special order, certified by the purchaser to be
2 used primarily for photoprocessing, and including
3 photoprocessing machinery and equipment purchased for lease.

4 (21) Until July 1, 2003 and beginning again on the
5 effective date of this amendatory Act of the 94th General
6 Assembly, coal exploration, mining, offhighway hauling,
7 processing, maintenance, and reclamation equipment, including
8 replacement parts and equipment, and including equipment
9 purchased for lease, but excluding motor vehicles required to
10 be registered under the Illinois Vehicle Code. This paragraph
11 is exempt from the provisions of Section 2-70.

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

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

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

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

1 is prima facie evidence that the motor vehicle will not be
2 titled in this State.

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

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

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

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

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

34 (31) Beginning with taxable years ending on or after
35 December 31, 1995 and ending with taxable years ending on or
36 before December 31, 2004, personal property that is used in the

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

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

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

34 (34) Beginning January 1, 2000, personal property,
35 including food, purchased through fundraising events for the
36 benefit of a public or private elementary or secondary school,

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

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

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

32 (36) Beginning August 2, 2001, computers and
33 communications equipment utilized for any hospital purpose and
34 equipment used in the diagnosis, analysis, or treatment of
35 hospital patients sold to a lessor who leases the equipment,
36 under a lease of one year or longer executed or in effect at

1 the time of the purchase, to a hospital that has been issued an
2 active tax exemption identification number by the Department
3 under Section 1g of this Act. This paragraph is exempt from the
4 provisions of Section 2-70.

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

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

34 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
35 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
36 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.

1 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
2 7-30-04; 93-1033, eff. 9-3-04; revised 9-14-04.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.