



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4326

Introduced 12/29/2005, by Rep. Jim Watson

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. Beginning on January 1, 2007, exempts from the taxes imposed by these Acts tangible personal property purchased by a not-for-profit corporation organized under the General Not For Profit Corporation Act of 1986 for the purpose of ownership and operation of water supply facilities for drinking and general domestic use on a mutual or cooperative basis. Provides that the exemptions are not subject to the sunset provisions of the Acts. Effective immediately.

LRB094 15933 BDD 51159 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT in relation to taxes.

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

34 (15) Photoprocessing machinery and equipment, including
35 repair and replacement parts, both new and used, including that
36 manufactured on special order, certified by the purchaser to be

1 used primarily for photoprocessing, and including
2 photoprocessing machinery and equipment purchased for lease.

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

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

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

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

31 (20) Semen used for artificial insemination of livestock
32 for direct agricultural production.

33 (21) Horses, or interests in horses, registered with and
34 meeting the requirements of any of the Arabian Horse Club
35 Registry of America, Appaloosa Horse Club, American Quarter
36 Horse Association, United States Trotting Association, or

1 Jockey Club, as appropriate, used for purposes of breeding or
2 racing for prizes.

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

26 (23) Personal property purchased by a lessor who leases the
27 property, under a lease of one year or longer executed or in
28 effect at the time the lessor would otherwise be subject to the
29 tax imposed by this Act, to a governmental body that has been
30 issued an active sales tax exemption identification number by
31 the Department under Section 1g of the Retailers' Occupation
32 Tax Act. If the property is leased in a manner that does not
33 qualify for this exemption or used in any other non-exempt
34 manner, the lessor shall be liable for the tax imposed under
35 this Act or the Service Use Tax Act, as the case may be, based
36 on the fair market value of the property at the time the

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

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

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

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

1 the provisions of Section 3-90.

2 (27) A motor vehicle, as that term is defined in Section
3 1-146 of the Illinois Vehicle Code, that is donated to a
4 corporation, limited liability company, society, association,
5 foundation, or institution that is determined by the Department
6 to be organized and operated exclusively for educational
7 purposes. For purposes of this exemption, "a corporation,
8 limited liability company, society, association, foundation,
9 or institution organized and operated exclusively for
10 educational purposes" means all tax-supported public schools,
11 private schools that offer systematic instruction in useful
12 branches of learning by methods common to public schools and
13 that compare favorably in their scope and intensity with the
14 course of study presented in tax-supported schools, and
15 vocational or technical schools or institutes organized and
16 operated exclusively to provide a course of study of not less
17 than 6 weeks duration and designed to prepare individuals to
18 follow a trade or to pursue a manual, technical, mechanical,
19 industrial, business, or commercial occupation.

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

34 (29) Beginning January 1, 2000 and through December 31,
35 2001, new or used automatic vending machines that prepare and
36 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning
2 January 1, 2002 and through June 30, 2003, machines and parts
3 for machines used in commercial, coin-operated amusement and
4 vending business if a use or occupation tax is paid on the
5 gross receipts derived from the use of the commercial,
6 coin-operated amusement and vending machines. This paragraph
7 is exempt from the provisions of Section 3-90.

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

18 (31) Beginning on the effective date of this amendatory Act
19 of the 92nd General Assembly, computers and communications
20 equipment utilized for any hospital purpose and equipment used
21 in the diagnosis, analysis, or treatment of hospital patients
22 purchased by a lessor who leases the equipment, under a lease
23 of one year or longer executed or in effect at the time the
24 lessor would otherwise be subject to the tax imposed by this
25 Act, to a 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 nonexempt 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 nonqualifying 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
35 Act or the Service Use Tax Act, as the case may be, if the tax
36 has not been paid by the lessor. If a lessor improperly

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

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

30 (33) On and after July 1, 2003 and through June 30, 2004,
31 the use in this State of motor vehicles of the second division
32 with a gross vehicle weight in excess of 8,000 pounds and that
33 are subject to the commercial distribution fee imposed under
34 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
35 1, 2004 and through June 30, 2005, the use in this State of
36 motor vehicles of the second division: (i) with a gross vehicle

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

13 (34) Beginning on January 1, 2007, tangible personal
14 property purchased by a not-for-profit corporation organized
15 under the General Not For Profit Corporation Act of 1986 for
16 the purpose of ownership and operation of water supply
17 facilities for drinking and general domestic use on a mutual or
18 cooperative basis as provided in subdivision (a)(23) of Section
19 103.05 of the General Not For Profit Corporation Act of 1986.
20 This paragraph is exempt from the provisions of Section 3-90.

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

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

27 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

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

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

3 (2) Personal property purchased by a non-profit Illinois
4 county fair association for use in conducting, operating, or
5 promoting the county fair.

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

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

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

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

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

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

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

36 (8) Fuel and petroleum products sold to or used by an air

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

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

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

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, coal exploration, mining,
32 offhighway hauling, processing, maintenance, and reclamation
33 equipment, including replacement parts and equipment, and
34 including equipment purchased for lease, but excluding motor
35 vehicles required to be registered under the Illinois Vehicle
36 Code.

1 (13) Semen used for artificial insemination of livestock
2 for direct agricultural production.

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

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

31 (16) 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 tax exemption identification number by the
36 Department under Section 1g of the Retailers' Occupation Tax

1 Act. If the property is leased in a manner that does not
2 qualify for this exemption or is used in any other non-exempt
3 manner, the lessor shall be liable for the tax imposed under
4 this Act or the Use Tax Act, as the case may be, based on the
5 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 Use Tax Act, as the case may be, if the tax has not been paid by
10 the lessor. If a lessor improperly collects any such amount
11 from the lessee, the lessee shall have a legal right to claim a
12 refund of that amount from the lessor. If, however, that amount
13 is not refunded to the lessee for any reason, the lessor is
14 liable to pay that amount to the Department.

15 (17) 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 (18) 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 (19) 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 3-75.

7 (20) 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 (21) 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 3-75.

3 (22) 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 3-75.

13 (23) 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 (24) 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 Use Tax Act, as the case may
36 be, based on the fair market value of the property at the time

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

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

33 (26) Beginning on January 1, 2007, tangible personal
34 property purchased by a not-for-profit corporation organized
35 under the General Not For Profit Corporation Act of 1986 for
36 the purpose of ownership and operation of water supply

1 facilities for drinking and general domestic use on a mutual or
2 cooperative basis as provided in subdivision (a) (23) of Section
3 103.05 of the General Not For Profit Corporation Act of 1986.
4 This paragraph is exempt from the provisions of Section 3-75.

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

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

11 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

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

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

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

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

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) 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
35 this item (7). Agricultural chemical tender tanks and dry boxes
36 shall include units sold separately from a motor vehicle

1 required to be licensed and units sold mounted on a motor
2 vehicle required to be licensed if the selling price of the
3 tender is separately stated.

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

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

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

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

35 (10) Until July 1, 2003, oil field exploration, drilling,
36 and production equipment, including (i) rigs and parts of rigs,

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

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

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

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

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

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

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

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

15 (18) 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 (19) 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 (20) Beginning July 1, 1999, game or game birds sold at a
2 "game breeding and hunting preserve area" or an "exotic game
3 hunting area" as those terms are used in the Wildlife Code or
4 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 3-55.

7 (21) 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 (22) 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 3-55.

3 (23) 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 3-55.

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

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

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

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

17 (27) Beginning on January 1, 2007, tangible personal
18 property purchased by a not-for-profit corporation organized
19 under the General Not For Profit Corporation Act of 1986 for
20 the purpose of ownership and operation of water supply
21 facilities for drinking and general domestic use on a mutual or
22 cooperative basis as provided in subdivision (a) (23) of Section
23 103.05 of the General Not For Profit Corporation Act of 1986.
24 This paragraph is exempt from the provisions of Section 3-55.

25 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
26 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
27 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.
28 6-20-03; 93-840, eff. 7-30-04.)

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

31 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

1 (1) Farm chemicals.

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

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

29 Farm machinery and equipment also includes computers,
30 sensors, software, and related equipment used primarily in the
31 computer-assisted operation of production agriculture
32 facilities, equipment, and activities such as, but not limited
33 to, the collection, monitoring, and correlation of animal and
34 crop data for the purpose of formulating animal diets and
35 agricultural chemicals. This item (7) is exempt from the
36 provisions of Section 2-70.

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

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

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

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

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

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

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

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

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

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

36 (12) Tangible personal property sold to interstate

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

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

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

34 (14) Machinery and equipment that will be used by the
35 purchaser, or a lessee of the purchaser, primarily in the
36 process of manufacturing or assembling tangible personal

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

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

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

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

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

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

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

5 (20) 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 (21) Until July 1, 2003, coal exploration, mining,
11 offhighway hauling, processing, maintenance, and reclamation
12 equipment, including replacement parts and equipment, and
13 including equipment purchased for lease, but excluding motor
14 vehicles required to be registered under the Illinois Vehicle
15 Code.

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

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

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

32 (25) Except as provided in item (25-5) of this Section, a
33 motor vehicle sold in this State to a nonresident even though
34 the motor vehicle is delivered to the nonresident in this
35 State, if the motor vehicle is not to be titled in this State,
36 and if a drive-away permit is issued to the motor vehicle as

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

8 (25-5) The exemption under item (25) does not apply if the
9 state in which the motor vehicle will be titled does not allow
10 a reciprocal exemption for a motor vehicle sold and delivered
11 in that state to an Illinois resident but titled in Illinois.
12 The tax collected under this Act on the sale of a motor vehicle
13 in this State to a resident of another state that does not
14 allow a reciprocal exemption shall be imposed at a rate equal
15 to the state's rate of tax on taxable property in the state in
16 which the purchaser is a resident, except that the tax shall
17 not exceed the tax that would otherwise be imposed under this
18 Act. At the time of the sale, the purchaser shall execute a
19 statement, signed under penalty of perjury, of his or her
20 intent to title the vehicle in the state in which the purchaser
21 is a resident within 30 days after the sale and of the fact of
22 the payment to the State of Illinois of tax in an amount
23 equivalent to the state's rate of tax on taxable property in
24 his or her state of residence and shall submit the statement to
25 the appropriate tax collection agency in his or her state of
26 residence. In addition, the retailer must retain a signed copy
27 of the statement in his or her records. Nothing in this item
28 shall be construed to require the removal of the vehicle from
29 this state following the filing of an intent to title the
30 vehicle in the purchaser's state of residence if the purchaser
31 titles the vehicle in his or her state of residence within 30
32 days after the date of sale. The tax collected under this Act
33 in accordance with this item (25-5) shall be proportionately
34 distributed as if the tax were collected at the 6.25% general
35 rate imposed under this Act.

36 (26) Semen used for artificial insemination of livestock

1 for direct agricultural production.

2 (27) 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 (28) Computers and communications equipment utilized for
9 any hospital purpose and equipment used in the diagnosis,
10 analysis, or treatment of hospital patients sold to a lessor
11 who leases the equipment, under a lease of one year or longer
12 executed or in effect at the time of the purchase, to a
13 hospital that has been issued an active tax exemption
14 identification number by the Department under Section 1g of
15 this Act.

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

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

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

1 line extensions, water distribution and purification
2 facilities, storm water drainage and retention facilities, and
3 sewage treatment facilities, resulting from a State or
4 federally declared disaster in Illinois or bordering Illinois
5 when such repairs are initiated on facilities located in the
6 declared disaster area within 6 months after the disaster.

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

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

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

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

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

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

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

1 provisions of Section 2-70.

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

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

31 (39) Beginning on January 1, 2007, tangible personal
32 property purchased by a not-for-profit corporation organized
33 under the General Not For Profit Corporation Act of 1986 for
34 the purpose of ownership and operation of water supply
35 facilities for drinking and general domestic use on a mutual or
36 cooperative basis as provided in subdivision (a) (23) of Section

1 103.05 of the General Not For Profit Corporation Act of 1986.

2 This paragraph is exempt from the provisions of Section 2-70.

3 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
4 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
5 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
6 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
7 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)