



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4560

Introduced 1/11/2006, by Rep. Jack D. Franks

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. Creates a tax exemption under the Acts for fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, if, during the current State fiscal year, the carrier has paid an aggregate amount of at least \$15,000,000 under the taxes imposed on the purchase or use of fuel and petroleum products under the Acts. Effective immediately.

LRB094 17767 BDD 53906 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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 (12-5) Beginning July 1, 2006 and through June 30, 2010,
18 fuel and petroleum products sold to or used by an air common
19 carrier, certified by the carrier to be used for consumption,
20 shipment, or storage in the conduct of its business as an air
21 common carrier, if, during that current State fiscal year, the
22 carrier has paid an aggregate amount of at least \$15,000,000
23 under the taxes imposed on the purchase or use of fuel and
24 petroleum products under this Act, the Service Use Tax Act, the
25 Service Occupation Tax Act, and the Retailers' Occupation Tax
26 Act.

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

35 (14) 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 (15) 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 (16) 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 (17) Until July 1, 2003, distillation machinery and
20 equipment, sold as a unit or kit, assembled or installed by the
21 retailer, certified by the user to be used only for the
22 production of ethyl alcohol that will be used for consumption
23 as motor fuel or as a component of motor fuel for the personal
24 use of the user, and not subject to sale or resale.

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

36 (19) Personal property delivered to a purchaser or

1 purchaser's donee inside Illinois when the purchase order for
2 that personal property was received by a florist located
3 outside Illinois who has a florist located inside Illinois
4 deliver the personal property.

5 (20) Semen used for artificial insemination of livestock
6 for direct agricultural production.

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

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

36 (23) Personal property purchased by a lessor who leases the

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

20 (24) 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 donated for
23 disaster relief to be used in a State or federally declared
24 disaster area in Illinois or bordering Illinois by a
25 manufacturer or retailer that is registered in this State to a
26 corporation, society, association, foundation, or institution
27 that has been issued a sales tax exemption identification
28 number by the Department that assists victims of the disaster
29 who reside within the declared disaster area.

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

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

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

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

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

1 does not apply to fundraising events (i) for the benefit of
2 private home instruction or (ii) for which the fundraising
3 entity purchases the personal property sold at the events from
4 another individual or entity that sold the property for the
5 purpose of resale by the fundraising entity and that profits
6 from the sale to the fundraising entity. This paragraph is
7 exempt from the provisions of Section 3-90.

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

18 (30) 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 nonprescription 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 (31) Beginning on the effective date of this amendatory Act
29 of the 92nd General Assembly, computers and communications
30 equipment utilized for any hospital purpose and equipment used
31 in the diagnosis, analysis, or treatment of hospital patients
32 purchased by a lessor who leases the equipment, under a lease
33 of one year or longer executed or in effect at the time the
34 lessor would otherwise be subject to the tax imposed by this
35 Act, to a hospital that has been issued an active tax exemption
36 identification number by the Department under Section 1g of the

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

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

1 refunded to the lessee for any reason, the lessor is liable to
2 pay that amount to the Department. This paragraph is exempt
3 from the provisions of Section 3-90.

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

23 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
24 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
25 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
26 93-1033, eff. 9-3-04; revised 10-21-04.)

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

29 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

32 (1) Personal property purchased from a corporation,
33 society, association, foundation, institution, or
34 organization, other than a limited liability company, that is

1 organized and operated as a not-for-profit service enterprise
2 for the benefit of persons 65 years of age or older if the
3 personal property was not purchased by the enterprise for the
4 purpose of resale by the enterprise.

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

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

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

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

36 (6) Personal property purchased from a teacher-sponsored

1 student organization affiliated with an elementary or
2 secondary school located in Illinois.

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

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

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

1 provisions of Section 3-75.

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

9 (8-5) Beginning July 1, 2006 and through June 30, 2010,
10 fuel and petroleum products sold to or used by an air common
11 carrier, certified by the carrier to be used for consumption,
12 shipment, or storage in the conduct of its business as an air
13 common carrier, if, during that current State fiscal year, the
14 carrier has paid an aggregate amount of at least \$15,000,000
15 under the taxes imposed on the purchase or use of fuel and
16 petroleum products under this Act, the Use Tax Act, the Service
17 Occupation Tax Act, and the Retailers' Occupation Tax Act.

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

27 (10) Until July 1, 2003, oil field exploration, drilling,
28 and production equipment, including (i) rigs and parts of rigs,
29 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
30 tubular goods, including casing and drill strings, (iii) pumps
31 and 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.

36 (11) Proceeds from the sale of photoprocessing machinery

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

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

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

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

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

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

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

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

36 (18) Beginning with taxable years ending on or after

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

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

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

36 (21) Beginning January 1, 2000, personal property,

1 including food, purchased through fundraising events for the
2 benefit of a public or private elementary or secondary school,
3 a group of those schools, or one or more school districts if
4 the events are sponsored by an entity recognized by the school
5 district that consists primarily of volunteers and includes
6 parents and teachers of the school children. This paragraph
7 does not apply to fundraising events (i) for the benefit of
8 private home instruction or (ii) for which the fundraising
9 entity purchases the personal property sold at the events from
10 another individual or entity that sold the property for the
11 purpose of resale by the fundraising entity and that profits
12 from the sale to the fundraising entity. This paragraph is
13 exempt from the provisions of Section 3-75.

14 (22) Beginning January 1, 2000 and through December 31,
15 2001, new or used automatic vending machines that prepare and
16 serve hot food and beverages, including coffee, soup, and other
17 items, and replacement parts for these machines. Beginning
18 January 1, 2002 and through June 30, 2003, machines and parts
19 for machines used in commercial, coin-operated amusement and
20 vending business if a use or occupation tax is paid on the
21 gross receipts derived from the use of the commercial,
22 coin-operated amusement and vending machines. This paragraph
23 is exempt from the provisions of Section 3-75.

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

34 (24) Beginning on the effective date of this amendatory Act
35 of the 92nd General Assembly, computers and communications
36 equipment utilized for any hospital purpose and equipment used

1 in the diagnosis, analysis, or treatment of hospital patients
2 purchased by a lessor who leases the equipment, under a lease
3 of one year or longer executed or in effect at the time the
4 lessor would otherwise be subject to the tax imposed by this
5 Act, to a hospital that has been issued an active tax exemption
6 identification number by the Department under Section 1g of the
7 Retailers' Occupation Tax Act. If the equipment is leased in a
8 manner that does not qualify for this exemption or is used in
9 any other nonexempt manner, the lessor shall be liable for the
10 tax imposed under this Act or the Use Tax Act, as the case may
11 be, based on the fair market value of the property at the time
12 the nonqualifying use occurs. No lessor shall collect or
13 attempt to collect an amount (however designated) that purports
14 to reimburse that lessor for the tax imposed by this Act or the
15 Use Tax Act, as the case may be, if the tax has not been paid by
16 the lessor. If a lessor improperly collects any such amount
17 from the lessee, the lessee shall have a legal right to claim a
18 refund of that amount from the lessor. If, however, that amount
19 is not refunded to the lessee for any reason, the lessor is
20 liable to pay that amount to the Department. This paragraph is
21 exempt from the provisions of Section 3-75.

22 (25) Beginning on the effective date of this amendatory Act
23 of the 92nd General Assembly, personal property purchased by a
24 lessor who leases the property, under a lease of one year or
25 longer executed or in effect at the time the lessor would
26 otherwise be subject to the tax imposed by this Act, 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. If the property is leased in a
30 manner that does not qualify for this exemption or is used in
31 any other nonexempt manner, the lessor shall be liable for the
32 tax imposed under this Act or the Use Tax Act, as the case may
33 be, based on the fair market value of the property at the time
34 the nonqualifying use occurs. No lessor shall collect or
35 attempt to collect an amount (however designated) that purports
36 to reimburse that lessor for the tax imposed by this Act or the

1 Use Tax Act, as the case may be, if the tax has not been paid by
2 the lessor. If a lessor improperly collects any such amount
3 from the lessee, the lessee shall have a legal right to claim a
4 refund of that amount from the lessor. If, however, that amount
5 is not refunded to the lessee for any reason, the lessor is
6 liable to pay that amount to the Department. This paragraph is
7 exempt from the provisions of Section 3-75.

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

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

14 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

27 (3) Personal property purchased by any not-for-profit arts
28 or 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

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

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

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

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

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

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

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

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

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

30 (8-5) Beginning July 1, 2006 and through June 30, 2010,
31 fuel and petroleum products sold to or used by an air common
32 carrier, certified by the carrier to be used for consumption,
33 shipment, or storage in the conduct of its business as an air
34 common carrier, if, during that current State fiscal year, the
35 carrier has paid an aggregate amount of at least \$15,000,000
36 under the taxes imposed on the purchase or use of fuel and

1 petroleum products under this Act, the Use Tax Act, the Service
2 Use Tax Act, and the Retailers' Occupation Tax Act.

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

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

20 (11) Photoprocessing machinery and equipment, including
21 repair and replacement parts, both new and used, including that
22 manufactured on special order, certified by the purchaser to be
23 used primarily for photoprocessing, and including
24 photoprocessing machinery and equipment purchased for lease.

25 (12) Until July 1, 2003, coal exploration, mining,
26 offhighway hauling, processing, maintenance, and reclamation
27 equipment, including replacement parts and equipment, and
28 including equipment purchased for lease, but excluding motor
29 vehicles required to be registered under the Illinois Vehicle
30 Code.

31 (13) Food for human consumption that is to be consumed off
32 the premises where it is sold (other than alcoholic beverages,
33 soft drinks and food that has been prepared for immediate
34 consumption) and prescription and non-prescription medicines,
35 drugs, medical appliances, and insulin, urine testing
36 materials, syringes, and needles used by diabetics, for human

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

5 (14) Semen used for artificial insemination of livestock
6 for direct agricultural production.

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

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

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

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 donated for
30 disaster relief to be used in a State or federally declared
31 disaster area in Illinois or bordering Illinois by a
32 manufacturer or retailer that is registered in this State to a
33 corporation, society, association, foundation, or institution
34 that has been issued a sales tax exemption identification
35 number by the Department that assists victims of the disaster
36 who reside within the declared disaster area.

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

13 (20) Beginning July 1, 1999, game or game birds sold at a
14 "game breeding and hunting preserve area" or an "exotic game
15 hunting area" as those terms are used in the Wildlife Code or
16 at a hunting enclosure approved through rules adopted by the
17 Department of Natural Resources. This paragraph is exempt from
18 the provisions of Section 3-55.

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

1 (22) Beginning January 1, 2000, personal property,
2 including food, purchased through fundraising events for the
3 benefit of a public or private elementary or secondary school,
4 a group of those schools, or one or more school districts if
5 the events are sponsored by an entity recognized by the school
6 district that consists primarily of volunteers and includes
7 parents and teachers of the school children. This paragraph
8 does not apply to fundraising events (i) for the benefit of
9 private home instruction or (ii) for which the fundraising
10 entity purchases the personal property sold at the events from
11 another individual or entity that sold the property for the
12 purpose of resale by the fundraising entity and that profits
13 from the sale to the fundraising entity. This paragraph is
14 exempt from the provisions of Section 3-55.

15 (23) Beginning January 1, 2000 and through December 31,
16 2001, new or used automatic vending machines that prepare and
17 serve hot food and beverages, including coffee, soup, and other
18 items, and replacement parts for these machines. Beginning
19 January 1, 2002 and through June 30, 2003, machines and parts
20 for machines used in commercial, coin-operated amusement and
21 vending business if a use or occupation tax is paid on the
22 gross receipts derived from the use of the commercial,
23 coin-operated amusement and vending machines. This paragraph
24 is exempt from the provisions of Section 3-55.

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 sold to a lessor who leases the equipment, under a lease of one
30 year or longer executed or in effect at the time of the
31 purchase, to a hospital that has been issued an active tax
32 exemption identification number by the Department under
33 Section 1g of the Retailers' Occupation Tax Act. This paragraph
34 is exempt from the provisions of Section 3-55.

35 (25) Beginning on the effective date of this amendatory Act
36 of the 92nd General Assembly, personal property sold to a

1 lessor who leases the property, under a lease of one year or
2 longer executed or in effect at the time of the purchase, to a
3 governmental body that has been issued an active tax exemption
4 identification number by the Department under Section 1g of the
5 Retailers' Occupation Tax Act. This paragraph is exempt from
6 the provisions of Section 3-55.

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

29 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
30 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
31 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.
32 6-20-03; 93-840, eff. 7-30-04.)

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

1 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

5 (1) Farm chemicals.

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

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

33 Farm machinery and equipment also includes computers,
34 sensors, software, and related equipment used primarily in the
35 computer-assisted operation of production agriculture
36 facilities, equipment, and activities such as, but not limited

1 to, the collection, monitoring, and correlation of animal and
2 crop data for the purpose of formulating animal diets and
3 agricultural chemicals. This item (7) is exempt from the
4 provisions of Section 2-70.

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

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

20 (5) A motor vehicle of the first division, a motor vehicle
21 of the second division that is a self-contained motor vehicle
22 designed or permanently converted to provide living quarters
23 for recreational, camping, or travel use, with direct walk
24 through access to the living quarters from the driver's seat,
25 or a motor vehicle of the second division that is of the van
26 configuration designed for the transportation of not less than
27 7 nor more than 16 passengers, as defined in Section 1-146 of
28 the Illinois Vehicle Code, that is used for automobile renting,
29 as defined in the Automobile Renting Occupation and Use Tax
30 Act.

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

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

1 (8) Personal property sold to an Illinois county fair
2 association for use in conducting, operating, or promoting the
3 county fair.

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

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

26 (11) Personal property sold to a governmental body, to a
27 corporation, society, association, foundation, or institution
28 organized and operated exclusively for charitable, religious,
29 or educational purposes, or to a not-for-profit corporation,
30 society, association, foundation, institution, or organization
31 that has no compensated officers or employees and that is
32 organized and operated primarily for the recreation of persons
33 55 years of age or older. A limited liability company may
34 qualify for the exemption under this paragraph only if the
35 limited liability company is organized and operated
36 exclusively for educational purposes. On and after July 1,

1 1987, however, no entity otherwise eligible for this exemption
2 shall make tax-free purchases unless it has an active
3 identification number issued by the Department.

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

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

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

1 or affixed to aircraft moving in interstate commerce.

2 (14) Machinery and equipment that will be used by the
3 purchaser, or a lessee of the purchaser, primarily in the
4 process of manufacturing or assembling tangible personal
5 property for wholesale or retail sale or lease, whether the
6 sale or lease is made directly by the manufacturer or by some
7 other person, whether the materials used in the process are
8 owned by the manufacturer or some other person, or whether the
9 sale or lease is made apart from or as an incident to the
10 seller's engaging in the service occupation of producing
11 machines, tools, dies, jigs, patterns, gauges, or other similar
12 items of no commercial value on special order for a particular
13 purchaser.

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

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

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

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

36 (19) Until July 1 2003, oil field exploration, drilling,

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

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

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

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

26 (22-5) Beginning July 1, 2006 and through June 30, 2010,
27 fuel and petroleum products sold to or used by an air common
28 carrier, certified by the carrier to be used for consumption,
29 shipment, or storage in the conduct of its business as an air
30 common carrier, if, during that current State fiscal year, the
31 carrier has paid an aggregate amount of at least \$15,000,000
32 under the taxes imposed on the purchase or use of fuel and
33 petroleum products under this Act, the Use Tax Act, the Service
34 Use Tax Act, and the Service Occupation Tax Act.

35 (23) A transaction in which the purchase order is received
36 by a florist who is located outside Illinois, but who has a

1 florist located in Illinois deliver the property to the
2 purchaser or the purchaser's donee in Illinois.

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

9 (25) Except as provided in item (25-5) of this Section, a
10 motor vehicle sold in this State to a nonresident even though
11 the motor vehicle is delivered to the nonresident in this
12 State, if the motor vehicle is not to be titled in this State,
13 and if a drive-away permit is issued to the motor vehicle as
14 provided in Section 3-603 of the Illinois Vehicle Code or if
15 the nonresident purchaser has vehicle registration plates to
16 transfer to the motor vehicle upon returning to his or her home
17 state. The issuance of the drive-away permit or having the
18 out-of-state registration plates to be transferred is prima
19 facie evidence that the motor vehicle will not be titled in
20 this State.

21 (25-5) The exemption under item (25) does not apply if the
22 state in which the motor vehicle will be titled does not allow
23 a reciprocal exemption for a motor vehicle sold and delivered
24 in that state to an Illinois resident but titled in Illinois.
25 The tax collected under this Act on the sale of a motor vehicle
26 in this State to a resident of another state that does not
27 allow a reciprocal exemption shall be imposed at a rate equal
28 to the state's rate of tax on taxable property in the state in
29 which the purchaser is a resident, except that the tax shall
30 not exceed the tax that would otherwise be imposed under this
31 Act. At the time of the sale, the purchaser shall execute a
32 statement, signed under penalty of perjury, of his or her
33 intent to title the vehicle in the state in which the purchaser
34 is a resident within 30 days after the sale and of the fact of
35 the payment to the State of Illinois of tax in an amount
36 equivalent to the state's rate of tax on taxable property in

1 his or her state of residence and shall submit the statement to
2 the appropriate tax collection agency in his or her state of
3 residence. In addition, the retailer must retain a signed copy
4 of the statement in his or her records. Nothing in this item
5 shall be construed to require the removal of the vehicle from
6 this state following the filing of an intent to title the
7 vehicle in the purchaser's state of residence if the purchaser
8 titles the vehicle in his or her state of residence within 30
9 days after the date of sale. The tax collected under this Act
10 in accordance with this item (25-5) shall be proportionately
11 distributed as if the tax were collected at the 6.25% general
12 rate imposed under this Act.

13 (26) Semen used for artificial insemination of livestock
14 for direct agricultural production.

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

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

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

34 (30) 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 donated for

1 disaster relief to be used in a State or federally declared
2 disaster area in Illinois or bordering Illinois by a
3 manufacturer or retailer that is registered in this State to a
4 corporation, society, association, foundation, or institution
5 that has been issued a sales tax exemption identification
6 number by the Department that assists victims of the disaster
7 who reside within the declared disaster area.

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

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

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

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

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

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

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

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

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

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

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

1 under this paragraph (38) shall authorize the holder, to the
2 extent and in the manner specified in the rules adopted under
3 this Act, to purchase tangible personal property from a
4 retailer exempt from the taxes imposed by this Act. Taxpayers
5 shall maintain all necessary books and records to substantiate
6 the use and consumption of all such tangible personal property
7 outside of the State of Illinois.

8 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
9 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
10 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
11 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
12 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.