



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0112

Introduced 2/1/2005, by Sen. Todd Sieben

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
35 ILCS 105/3-10	from Ch. 120, par. 439.3-10
35 ILCS 110/3-5	from Ch. 120, par. 439.33-5
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-5	from Ch. 120, par. 439.103-5
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-5	from Ch. 120, par. 441-5
35 ILCS 120/2-10	from Ch. 120, par. 441-10

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Beginning July 1, 2005, exempts prescription medicines for human use from taxation under the Acts. Exempts these tax exemptions from sunset requirements. Effective immediately.

LRB094 07031 BDD 37171 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 Sections
5 3-5 and 3-10 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) On and after July 1, 2005, prescription medicines for
14 human use. This paragraph is exempt from the provisions of
15 Section 3-90.

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

20 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

21 Sec. 3-10. Rate of tax. Unless otherwise provided in this
22 Section, the tax imposed by this Act is at the rate of 6.25% of
23 either the selling price or the fair market value, if any, of
24 the tangible personal property. In all cases where property
25 functionally used or consumed is the same as the property that
26 was purchased at retail, then the tax is imposed on the selling
27 price of the property. In all cases where property functionally
28 used or consumed is a by-product or waste product that has been
29 refined, manufactured, or produced from property purchased at
30 retail, then the tax is imposed on the lower of the fair market
31 value, if any, of the specific property so used in this State
32 or on the selling price of the property purchased at retail.
33 For purposes of this Section "fair market value" means the
34 price at which property would change hands between a willing
35 buyer and a willing seller, neither being under any compulsion

1 to buy or sell and both having reasonable knowledge of the
2 relevant facts. The fair market value shall be established by
3 Illinois sales by the taxpayer of the same property as that
4 functionally used or consumed, or if there are no such sales by
5 the taxpayer, then comparable sales or purchases of property of
6 like kind and character in Illinois.

7 Beginning on July 1, 2000 and through December 31, 2000,
8 with respect to motor fuel, as defined in Section 1.1 of the
9 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
10 the Use Tax Act, the tax is imposed at the rate of 1.25%.

11 With respect to gasohol, the tax imposed by this Act
12 applies to (i) 70% of the proceeds of sales made on or after
13 January 1, 1990, and before July 1, 2003, (ii) 80% of the
14 proceeds of sales made on or after July 1, 2003 and on or
15 before December 31, 2013, and (iii) 100% of the proceeds of
16 sales made thereafter. If, at any time, however, the tax under
17 this Act on sales of gasohol is imposed at the rate of 1.25%,
18 then the tax imposed by this Act applies to 100% of the
19 proceeds of sales of gasohol made during that time.

20 With respect to majority blended ethanol fuel, the tax
21 imposed by this Act does not apply to the proceeds of sales
22 made on or after July 1, 2003 and on or before December 31,
23 2013 but applies to 100% of the proceeds of sales made
24 thereafter.

25 With respect to biodiesel blends with no less than 1% and
26 no more than 10% biodiesel, the tax imposed by this Act applies
27 to (i) 80% of the proceeds of sales made on or after July 1,
28 2003 and on or before December 31, 2013 and (ii) 100% of the
29 proceeds of sales made thereafter. If, at any time, however,
30 the tax under this Act on sales of biodiesel blends with no
31 less than 1% and no more than 10% biodiesel is imposed at the
32 rate of 1.25%, then the tax imposed by this Act applies to 100%
33 of the proceeds of sales of biodiesel blends with no less than
34 1% and no more than 10% biodiesel made during that time.

35 With respect to 100% biodiesel and biodiesel blends with
36 more than 10% but no more than 99% biodiesel, the tax imposed

1 by this Act does not apply to the proceeds of sales made on or
2 after July 1, 2003 and on or before December 31, 2013 but
3 applies to 100% of the proceeds of sales made thereafter.

4 With respect to food for human consumption that is to be
5 consumed off the premises where it is sold (other than
6 alcoholic beverages, soft drinks, and food that has been
7 prepared for immediate consumption) and ~~prescription~~ and
8 nonprescription medicines, drugs, medical appliances,
9 modifications to a motor vehicle for the purpose of rendering
10 it usable by a disabled person, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use, the tax is imposed at the rate of 1%. Through June 30,
13 2005, the tax shall be imposed at the rate of 1% on
14 prescription medicines for human use. For the purposes of this
15 Section, the term "soft drinks" means any complete, finished,
16 ready-to-use, non-alcoholic drink, whether carbonated or not,
17 including but not limited to soda water, cola, fruit juice,
18 vegetable juice, carbonated water, and all other preparations
19 commonly known as soft drinks of whatever kind or description
20 that are contained in any closed or sealed bottle, can, carton,
21 or container, regardless of size. "Soft drinks" does not
22 include coffee, tea, non-carbonated water, infant formula,
23 milk or milk products as defined in the Grade A Pasteurized
24 Milk and Milk Products Act, or drinks containing 50% or more
25 natural fruit or vegetable juice.

26 Notwithstanding any other provisions of this Act, "food for
27 human consumption that is to be consumed off the premises where
28 it is sold" includes all food sold through a vending machine,
29 except soft drinks and food products that are dispensed hot
30 from a vending machine, regardless of the location of the
31 vending machine.

32 If the property that is purchased at retail from a retailer
33 is acquired outside Illinois and used outside Illinois before
34 being brought to Illinois for use here and is taxable under
35 this Act, the "selling price" on which the tax is computed
36 shall be reduced by an amount that represents a reasonable

1 allowance for depreciation for the period of prior out-of-state
2 use.

3 (Source: P.A. 93-17, eff. 6-11-03.)

4 Section 10. The Service Use Tax Act is amended by changing
5 Sections 3-5 and 3-10 as follows:

6 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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 non-profit Illinois
17 county fair association for use in conducting, operating, or
18 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
33 number issued by the Department.

34 (4) Legal tender, currency, medallions, or gold or silver

1 coinage issued by the State of Illinois, the government of the
2 United States of America, or the government of any foreign
3 country, and bullion.

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

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

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

35 Farm machinery and equipment shall include precision
36 farming equipment that is installed or purchased to be

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

7 Farm machinery and equipment also includes computers,
8 sensors, software, and related equipment used primarily in the
9 computer-assisted operation of production agriculture
10 facilities, equipment, and activities such as, but not limited
11 to, the collection, monitoring, and correlation of animal and
12 crop data for the purpose of formulating animal diets and
13 agricultural chemicals. This item (7) is exempt from the
14 provisions of Section 3-75.

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

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

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

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

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

10 (12) 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 (13) Semen used for artificial insemination of livestock
17 for direct agricultural production.

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

24 (15) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients purchased by a
27 lessor who leases the equipment, under a lease of one year or
28 longer executed or in effect at the time the lessor would
29 otherwise be subject to the tax imposed by this Act, to a
30 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 non-exempt 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 non-qualifying 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.

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

30 (17) 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 donated for
33 disaster relief to be used in a State or federally declared
34 disaster area in Illinois or bordering Illinois by a
35 manufacturer or retailer that is registered in this State to a
36 corporation, society, association, foundation, or institution

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

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

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

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

1 than 6 weeks duration and designed to prepare individuals to
2 follow a trade or to pursue a manual, technical, mechanical,
3 industrial, business, or commercial occupation.

4 (21) Beginning January 1, 2000, personal property,
5 including food, purchased through fundraising events for the
6 benefit of a public or private elementary or secondary school,
7 a group of those schools, or one or more school districts if
8 the events are sponsored by an entity recognized by the school
9 district that consists primarily of volunteers and includes
10 parents and teachers of the school children. This paragraph
11 does not apply to fundraising events (i) for the benefit of
12 private home instruction or (ii) for which the fundraising
13 entity purchases the personal property sold at the events from
14 another individual or entity that sold the property for the
15 purpose of resale by the fundraising entity and that profits
16 from the sale to the fundraising entity. This paragraph is
17 exempt from the provisions of Section 3-75.

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

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

1 the Nursing Home Care Act.

2 (24) Beginning on the effective date of this amendatory Act
3 of the 92nd General Assembly, computers and communications
4 equipment utilized for any hospital purpose and equipment used
5 in the diagnosis, analysis, or treatment of hospital patients
6 purchased by a lessor who leases the equipment, under a lease
7 of one year or longer executed or in effect at the time the
8 lessor would otherwise be subject to the tax imposed by this
9 Act, to a 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 nonexempt manner, the lessor shall be liable for the
14 tax imposed under this Act or the Use Tax Act, as the case may
15 be, based on the fair market value of the property at the time
16 the nonqualifying use occurs. No lessor shall collect or
17 attempt to collect an amount (however designated) that purports
18 to reimburse that lessor for the tax imposed by this Act or the
19 Use Tax Act, as the case may be, if the tax has not been paid by
20 the lessor. If a lessor improperly collects any such amount
21 from the lessee, the lessee shall have a legal right to claim a
22 refund of that amount from the lessor. If, however, that amount
23 is not refunded to the lessee for any reason, the lessor is
24 liable to pay that amount to the Department. This paragraph is
25 exempt from the provisions of Section 3-75.

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

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

12 (26) On and after July 1, 2005, prescription medicines for
13 human use. This paragraph is exempt from the provisions of
14 Section 3-75.

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

19 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

20 Sec. 3-10. Rate of tax. Unless otherwise provided in this
21 Section, the tax imposed by this Act is at the rate of 6.25% of
22 the selling price of tangible personal property transferred as
23 an incident to the sale of service, but, for the purpose of
24 computing this tax, in no event shall the selling price be less
25 than the cost price of the property to the serviceman.

26 Beginning on July 1, 2000 and through December 31, 2000,
27 with respect to motor fuel, as defined in Section 1.1 of the
28 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
29 the Use Tax Act, the tax is imposed at the rate of 1.25%.

30 With respect to gasohol, as defined in the Use Tax Act, the
31 tax imposed by this Act applies to (i) 70% of the selling price
32 of property transferred as an incident to the sale of service
33 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
34 of the selling price of property transferred as an incident to
35 the sale of service on or after July 1, 2003 and on or before

1 December 31, 2013, and (iii) 100% of the selling price
2 thereafter. If, at any time, however, the tax under this Act on
3 sales of gasohol, as defined in the Use Tax Act, is imposed at
4 the rate of 1.25%, then the tax imposed by this Act applies to
5 100% of the proceeds of sales of gasohol made during that time.

6 With respect to majority blended ethanol fuel, as defined
7 in the Use Tax Act, the tax imposed by this Act does not apply
8 to the selling price of property transferred as an incident to
9 the sale of service on or after July 1, 2003 and on or before
10 December 31, 2013 but applies to 100% of the selling price
11 thereafter.

12 With respect to biodiesel blends, as defined in the Use Tax
13 Act, with no less than 1% and no more than 10% biodiesel, the
14 tax imposed by this Act applies to (i) 80% of the selling price
15 of property transferred as an incident to the sale of service
16 on or after July 1, 2003 and on or before December 31, 2013 and
17 (ii) 100% of the proceeds of the selling price thereafter. If,
18 at any time, however, the tax under this Act on sales of
19 biodiesel blends, as defined in the Use Tax Act, with no less
20 than 1% and no more than 10% biodiesel is imposed at the rate
21 of 1.25%, then the tax imposed by this Act applies to 100% of
22 the proceeds of sales of biodiesel blends with no less than 1%
23 and no more than 10% biodiesel made during that time.

24 With respect to 100% biodiesel, as defined in the Use Tax
25 Act, and biodiesel blends, as defined in the Use Tax Act, with
26 more than 10% but no more than 99% biodiesel, the tax imposed
27 by this Act does not apply to the proceeds of the selling price
28 of property transferred as an incident to the sale of service
29 on or after July 1, 2003 and on or before December 31, 2013 but
30 applies to 100% of the selling price thereafter.

31 At the election of any registered serviceman made for each
32 fiscal year, sales of service in which the aggregate annual
33 cost price of tangible personal property transferred as an
34 incident to the sales of service is less than 35%, or 75% in
35 the case of servicemen transferring prescription drugs or
36 servicemen engaged in graphic arts production, of the aggregate

1 annual total gross receipts from all sales of service, the tax
2 imposed by this Act shall be based on the serviceman's cost
3 price of the tangible personal property transferred as an
4 incident to the sale of those services.

5 The tax shall be imposed at the rate of 1% on food prepared
6 for immediate consumption and transferred incident to a sale of
7 service subject to this Act or the Service Occupation Tax Act
8 by an entity licensed under the Hospital Licensing Act, the
9 Nursing Home Care Act, or the Child Care Act of 1969. The tax
10 shall also be imposed at the rate of 1% on food for human
11 consumption that is to be consumed off the premises where it is
12 sold (other than alcoholic beverages, soft drinks, and food
13 that has been prepared for immediate consumption and is not
14 otherwise included in this paragraph) and ~~prescription and~~
15 nonprescription medicines, drugs, medical appliances,
16 modifications to a motor vehicle for the purpose of rendering
17 it usable by a disabled person, and insulin, urine testing
18 materials, syringes, and needles used by diabetics, for human
19 use. Through June 30, 2005, the tax shall be imposed at the
20 rate of 1% on prescription medicines for human use. For the
21 purposes of this Section, the term "soft drinks" means any
22 complete, finished, ready-to-use, non-alcoholic drink, whether
23 carbonated or not, including but not limited to soda water,
24 cola, fruit juice, vegetable juice, carbonated water, and all
25 other preparations commonly known as soft drinks of whatever
26 kind or description that are contained in any closed or sealed
27 bottle, can, carton, or container, regardless of size. "Soft
28 drinks" does not include coffee, tea, non-carbonated water,
29 infant formula, milk or milk products as defined in the Grade A
30 Pasteurized Milk and Milk Products Act, or drinks containing
31 50% or more natural fruit or vegetable juice.

32 Notwithstanding any other provisions of this Act, "food for
33 human consumption that is to be consumed off the premises where
34 it is sold" includes all food sold through a vending machine,
35 except soft drinks and food products that are dispensed hot
36 from a vending machine, regardless of the location of the

1 vending machine.

2 If the property that is acquired from a serviceman is
3 acquired outside Illinois and used outside Illinois before
4 being brought to Illinois for use here and is taxable under
5 this Act, the "selling price" on which the tax is computed
6 shall be reduced by an amount that represents a reasonable
7 allowance for depreciation for the period of prior out-of-state
8 use.

9 (Source: P.A. 93-17, eff. 6-11-03.)

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

12 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

15 (1) 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 (2) Personal property purchased by a not-for-profit
23 Illinois county fair association for use in conducting,
24 operating, or promoting the county fair.

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

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

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

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

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

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

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

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

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

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

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

36 (10) 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 (11) 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 (12) 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 (13) Food for human consumption that is to be consumed off
21 the premises where it is sold (other than alcoholic beverages,
22 soft drinks and food that has been prepared for immediate
23 consumption) and prescription and non-prescription medicines,
24 drugs, medical appliances, and insulin, urine testing
25 materials, syringes, and needles used by diabetics, for human
26 use, when purchased for use by a person receiving medical
27 assistance under Article 5 of the Illinois Public Aid Code who
28 resides in a licensed long-term care facility, as defined in
29 the Nursing Home Care Act.

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

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

1 racing for prizes.

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

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

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

26 (19) 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 used in the
29 performance of infrastructure repairs in this State, including
30 but not limited to municipal roads and streets, access roads,
31 bridges, sidewalks, waste disposal systems, water and sewer
32 line extensions, water distribution and purification
33 facilities, storm water drainage and retention facilities, and
34 sewage treatment facilities, resulting from a State or
35 federally declared disaster in Illinois or bordering Illinois
36 when such repairs are initiated on facilities located in the

1 declared disaster area within 6 months after the disaster.

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

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

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

1 purpose of resale by the fundraising entity and that profits
2 from the sale to the fundraising entity. This paragraph is
3 exempt from the provisions of Section 3-55.

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

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

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

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

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

18 (27) On and after July 1, 2005, prescription medicines for
19 human use. This paragraph is exempt from the provisions of
20 Section 3-55.

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

25 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

26 Sec. 3-10. Rate of tax. Unless otherwise provided in this
27 Section, the tax imposed by this Act is at the rate of 6.25% of
28 the "selling price", as defined in Section 2 of the Service Use
29 Tax Act, of the tangible personal property. For the purpose of
30 computing this tax, in no event shall the "selling price" be
31 less than the cost price to the serviceman of the tangible
32 personal property transferred. The selling price of each item
33 of tangible personal property transferred as an incident of a
34 sale of service may be shown as a distinct and separate item on
35 the serviceman's billing to the service customer. If the

1 selling price is not so shown, the selling price of the
2 tangible personal property is deemed to be 50% of the
3 serviceman's entire billing to the service customer. When,
4 however, a serviceman contracts to design, develop, and produce
5 special order machinery or equipment, the tax imposed by this
6 Act shall be based on the serviceman's cost price of the
7 tangible personal property transferred incident to the
8 completion of the contract.

9 Beginning on July 1, 2000 and through December 31, 2000,
10 with respect to motor fuel, as defined in Section 1.1 of the
11 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
12 the Use Tax Act, the tax is imposed at the rate of 1.25%.

13 With respect to gasohol, as defined in the Use Tax Act, the
14 tax imposed by this Act shall apply to (i) 70% of the cost
15 price of property transferred as an incident to the sale of
16 service on or after January 1, 1990, and before July 1, 2003,
17 (ii) 80% of the selling price of property transferred as an
18 incident to the sale of service on or after July 1, 2003 and on
19 or before December 31, 2013, and (iii) 100% of the cost price
20 thereafter. If, at any time, however, the tax under this Act on
21 sales of gasohol, as defined in the Use Tax Act, is imposed at
22 the rate of 1.25%, then the tax imposed by this Act applies to
23 100% of the proceeds of sales of gasohol made during that time.

24 With respect to majority blended ethanol fuel, as defined
25 in the Use Tax Act, the tax imposed by this Act does not apply
26 to the selling price of property transferred as an incident to
27 the sale of service on or after July 1, 2003 and on or before
28 December 31, 2013 but applies to 100% of the selling price
29 thereafter.

30 With respect to biodiesel blends, as defined in the Use Tax
31 Act, with no less than 1% and no more than 10% biodiesel, the
32 tax imposed by this Act applies to (i) 80% of the selling price
33 of property transferred as an incident to the sale of service
34 on or after July 1, 2003 and on or before December 31, 2013 and
35 (ii) 100% of the proceeds of the selling price thereafter. If,
36 at any time, however, the tax under this Act on sales of

1 biodiesel blends, as defined in the Use Tax Act, with no less
2 than 1% and no more than 10% biodiesel is imposed at the rate
3 of 1.25%, then the tax imposed by this Act applies to 100% of
4 the proceeds of sales of biodiesel blends with no less than 1%
5 and no more than 10% biodiesel made during that time.

6 With respect to 100% biodiesel, as defined in the Use Tax
7 Act, and biodiesel blends, as defined in the Use Tax Act, with
8 more than 10% but no more than 99% biodiesel material, the tax
9 imposed by this Act does not apply to the proceeds of the
10 selling price of property transferred as an incident to the
11 sale of service on or after July 1, 2003 and on or before
12 December 31, 2013 but applies to 100% of the selling price
13 thereafter.

14 At the election of any registered serviceman made for each
15 fiscal year, sales of service in which the aggregate annual
16 cost price of tangible personal property transferred as an
17 incident to the sales of service is less than 35%, or 75% in
18 the case of servicemen transferring prescription drugs or
19 servicemen engaged in graphic arts production, of the aggregate
20 annual total gross receipts from all sales of service, the tax
21 imposed by this Act shall be based on the serviceman's cost
22 price of the tangible personal property transferred incident to
23 the sale of those services.

24 The tax shall be imposed at the rate of 1% on food prepared
25 for immediate consumption and transferred incident to a sale of
26 service subject to this Act or the Service Occupation Tax Act
27 by an entity licensed under the Hospital Licensing Act, the
28 Nursing Home Care Act, or the Child Care Act of 1969. The tax
29 shall also be imposed at the rate of 1% on food for human
30 consumption that is to be consumed off the premises where it is
31 sold (other than alcoholic beverages, soft drinks, and food
32 that has been prepared for immediate consumption and is not
33 otherwise included in this paragraph) and ~~prescription and~~
34 nonprescription medicines, drugs, medical appliances,
35 modifications to a motor vehicle for the purpose of rendering
36 it usable by a disabled person, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human
2 use. Through June 30, 2005, the tax shall be imposed at the
3 rate of 1% on prescription medicines for human use. For the
4 purposes of this Section, the term "soft drinks" means any
5 complete, finished, ready-to-use, non-alcoholic drink, whether
6 carbonated or not, including but not limited to soda water,
7 cola, fruit juice, vegetable juice, carbonated water, and all
8 other preparations commonly known as soft drinks of whatever
9 kind or description that are contained in any closed or sealed
10 can, carton, or container, regardless of size. "Soft drinks"
11 does not include coffee, tea, non-carbonated water, infant
12 formula, milk or milk products as defined in the Grade A
13 Pasteurized Milk and Milk Products Act, or drinks containing
14 50% or more natural fruit or vegetable juice.

15 Notwithstanding any other provisions of this Act, "food for
16 human consumption that is to be consumed off the premises where
17 it is sold" includes all food sold through a vending machine,
18 except soft drinks and food products that are dispensed hot
19 from a vending machine, regardless of the location of the
20 vending machine.

21 (Source: P.A. 93-17, eff. 6-11-03.)

22 Section 20. The Retailers' Occupation Tax Act is amended by
23 changing Sections 2-5 and 2-10 as follows:

24 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

28 (1) Farm chemicals.

29 (2) Farm machinery and equipment, both new and used,
30 including that manufactured on special order, certified by the
31 purchaser to be used primarily for production agriculture or
32 State or federal agricultural programs, including individual
33 replacement parts for the machinery and equipment, including
34 machinery and equipment purchased for lease, and including

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

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

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

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

36 (4) Until July 1, 2003 and beginning again September 1,

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

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

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

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

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

29 (9) Personal property sold to a not-for-profit arts or
30 cultural organization that establishes, by proof required by
31 the Department by rule, that it has received an exemption under
32 Section 501(c)(3) of the Internal Revenue Code and that is
33 organized and operated primarily for the presentation or
34 support of arts or cultural programming, activities, or
35 services. These organizations include, but are not limited to,
36 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 (10) Personal property sold by a corporation, society,
9 association, foundation, institution, or organization, other
10 than a limited liability company, that is organized and
11 operated as a not-for-profit service enterprise for the benefit
12 of persons 65 years of age or older if the personal property
13 was not purchased by the enterprise for the purpose of resale
14 by the enterprise.

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

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

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

27 (14) Machinery and equipment that will be used by the
28 purchaser, or a lessee of the purchaser, primarily in the
29 process of manufacturing or assembling tangible personal
30 property for wholesale or retail sale or lease, whether the
31 sale or lease is made directly by the manufacturer or by some
32 other person, whether the materials used in the process are
33 owned by the manufacturer or some other person, or whether the
34 sale or lease is made apart from or as an incident to the
35 seller's engaging in the service occupation of producing
36 machines, tools, dies, jigs, patterns, gauges, or other similar

1 items of no commercial value on special order for a particular
2 purchaser.

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

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

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

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

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

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

25 (25) Except as provided in item (25-5) of this Section, a
26 motor vehicle sold in this State to a nonresident even though
27 the motor vehicle is delivered to the nonresident in this
28 State, if the motor vehicle is not to be titled in this State,
29 and if a drive-away permit is issued to the motor vehicle as
30 provided in Section 3-603 of the Illinois Vehicle Code or if
31 the nonresident purchaser has vehicle registration plates to
32 transfer to the motor vehicle upon returning to his or her home
33 state. The issuance of the drive-away permit or having the
34 out-of-state registration plates to be transferred is prima
35 facie evidence that the motor vehicle will not be titled in
36 this State.

1 (25-5) The exemption under item (25) does not apply if the
2 state in which the motor vehicle will be titled does not allow
3 a reciprocal exemption for a motor vehicle sold and delivered
4 in that state to an Illinois resident but titled in Illinois.
5 The tax collected under this Act on the sale of a motor vehicle
6 in this State to a resident of another state that does not
7 allow a reciprocal exemption shall be imposed at a rate equal
8 to the state's rate of tax on taxable property in the state in
9 which the purchaser is a resident, except that the tax shall
10 not exceed the tax that would otherwise be imposed under this
11 Act. At the time of the sale, the purchaser shall execute a
12 statement, signed under penalty of perjury, of his or her
13 intent to title the vehicle in the state in which the purchaser
14 is a resident within 30 days after the sale and of the fact of
15 the payment to the State of Illinois of tax in an amount
16 equivalent to the state's rate of tax on taxable property in
17 his or her state of residence and shall submit the statement to
18 the appropriate tax collection agency in his or her state of
19 residence. In addition, the retailer must retain a signed copy
20 of the statement in his or her records. Nothing in this item
21 shall be construed to require the removal of the vehicle from
22 this state following the filing of an intent to title the
23 vehicle in the purchaser's state of residence if the purchaser
24 titles the vehicle in his or her state of residence within 30
25 days after the date of sale. The tax collected under this Act
26 in accordance with this item (25-5) shall be proportionately
27 distributed as if the tax were collected at the 6.25% general
28 rate imposed under this Act.

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

31 (27) 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 (28) 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
8 this Act.

9 (29) 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 this Act.

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

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

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

1 "game breeding and hunting preserve area" or an "exotic game
2 hunting area" as those terms are used in the Wildlife Code or
3 at a hunting enclosure approved through rules adopted by the
4 Department of Natural Resources. This paragraph is exempt from
5 the provisions of Section 2-70.

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

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

1 exempt from the provisions of Section 2-70.

2 (35) Beginning January 1, 2000 and through December 31,
3 2001, new or used automatic vending machines that prepare and
4 serve hot food and beverages, including coffee, soup, and other
5 items, and replacement parts for these machines. Beginning
6 January 1, 2002 and through June 30, 2003, machines and parts
7 for machines used in commercial, coin-operated amusement and
8 vending business if a use or occupation tax is paid on the
9 gross receipts derived from the use of the commercial,
10 coin-operated amusement and vending machines. This paragraph
11 is exempt from the provisions of Section 2-70.

12 (35-5) Food for human consumption that is to be consumed
13 off the premises where it is sold (other than alcoholic
14 beverages, soft drinks, and food that has been prepared for
15 immediate consumption) and prescription and nonprescription
16 medicines, drugs, medical appliances, and insulin, urine
17 testing materials, syringes, and needles used by diabetics, for
18 human use, when purchased for use by a person receiving medical
19 assistance under Article 5 of the Illinois Public Aid Code who
20 resides in a licensed long-term care facility, as defined in
21 the Nursing Home Care Act.

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

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

1 Section 2-70.

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

24 (39) On and after July 1, 2005, prescription medicines for
25 human use. This paragraph is exempt from the provisions of
26 Section 2-70.

27 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
28 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
29 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
30 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
31 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)

32 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

33 Sec. 2-10. Rate of tax. Unless otherwise provided in this
34 Section, the tax imposed by this Act is at the rate of 6.25% of
35 gross receipts from sales of tangible personal property made in

1 the course of business.

2 Beginning on July 1, 2000 and through December 31, 2000,
3 with respect to motor fuel, as defined in Section 1.1 of the
4 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
5 the Use Tax Act, the tax is imposed at the rate of 1.25%.

6 Within 14 days after the effective date of this amendatory
7 Act of the 91st General Assembly, each retailer of motor fuel
8 and gasohol shall cause the following notice to be posted in a
9 prominently visible place on each retail dispensing device that
10 is used to dispense motor fuel or gasohol in the State of
11 Illinois: "As of July 1, 2000, the State of Illinois has
12 eliminated the State's share of sales tax on motor fuel and
13 gasohol through December 31, 2000. The price on this pump
14 should reflect the elimination of the tax." The notice shall be
15 printed in bold print on a sign that is no smaller than 4
16 inches by 8 inches. The sign shall be clearly visible to
17 customers. Any retailer who fails to post or maintain a
18 required sign through December 31, 2000 is guilty of a petty
19 offense for which the fine shall be \$500 per day per each
20 retail premises where a violation occurs.

21 With respect to gasohol, as defined in the Use Tax Act, the
22 tax imposed by this Act applies to (i) 70% of the proceeds of
23 sales made on or after January 1, 1990, and before July 1,
24 2003, (ii) 80% of the proceeds of sales made on or after July
25 1, 2003 and on or before December 31, 2013, and (iii) 100% of
26 the proceeds of sales made thereafter. If, at any time,
27 however, the tax under this Act on sales of gasohol, as defined
28 in the Use Tax Act, is imposed at the rate of 1.25%, then the
29 tax imposed by this Act applies to 100% of the proceeds of
30 sales of gasohol made during that time.

31 With respect to majority blended ethanol fuel, as defined
32 in the Use Tax Act, the tax imposed by this Act does not apply
33 to the proceeds of sales made on or after July 1, 2003 and on or
34 before December 31, 2013 but applies to 100% of the proceeds of
35 sales made thereafter.

36 With respect to biodiesel blends, as defined in the Use Tax

1 Act, with no less than 1% and no more than 10% biodiesel, the
2 tax imposed by this Act applies to (i) 80% of the proceeds of
3 sales made on or after July 1, 2003 and on or before December
4 31, 2013 and (ii) 100% of the proceeds of sales made
5 thereafter. If, at any time, however, the tax under this Act on
6 sales of biodiesel blends, as defined in the Use Tax Act, with
7 no less than 1% and no more than 10% biodiesel is imposed at
8 the rate of 1.25%, then the tax imposed by this Act applies to
9 100% of the proceeds of sales of biodiesel blends with no less
10 than 1% and no more than 10% biodiesel made during that time.

11 With respect to 100% biodiesel, as defined in the Use Tax
12 Act, and biodiesel blends, as defined in the Use Tax Act, with
13 more than 10% but no more than 99% biodiesel, the tax imposed
14 by this Act does not apply to the proceeds of sales made on or
15 after July 1, 2003 and on or before December 31, 2013 but
16 applies to 100% of the proceeds of sales made thereafter.

17 With respect to food for human consumption that is to be
18 consumed off the premises where it is sold (other than
19 alcoholic beverages, soft drinks, and food that has been
20 prepared for immediate consumption) and ~~prescription and~~
21 nonprescription medicines, drugs, medical appliances,
22 modifications to a motor vehicle for the purpose of rendering
23 it usable by a disabled person, and insulin, urine testing
24 materials, syringes, and needles used by diabetics, for human
25 use, the tax is imposed at the rate of 1%. Through June 30,
26 2005, the tax shall be imposed at the rate of 1% on
27 prescription medicines for human use. For the purposes of this
28 Section, the term "soft drinks" means any complete, finished,
29 ready-to-use, non-alcoholic drink, whether carbonated or not,
30 including but not limited to soda water, cola, fruit juice,
31 vegetable juice, carbonated water, and all other preparations
32 commonly known as soft drinks of whatever kind or description
33 that are contained in any closed or sealed bottle, can, carton,
34 or container, regardless of size. "Soft drinks" does not
35 include coffee, tea, non-carbonated water, infant formula,
36 milk or milk products as defined in the Grade A Pasteurized

1 Milk and Milk Products Act, or drinks containing 50% or more
2 natural fruit or vegetable juice.

3 Notwithstanding any other provisions of this Act, "food for
4 human consumption that is to be consumed off the premises where
5 it is sold" includes all food sold through a vending machine,
6 except soft drinks and food products that are dispensed hot
7 from a vending machine, regardless of the location of the
8 vending machine.

9 (Source: P.A. 93-17, eff. 6-11-03.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.