

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 3. The Service Use Tax Act is amended by changing
5 Section 2 as follows:

6 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

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

20 "Purchased from a serviceman" means the acquisition of the
21 ownership of, or title to, tangible personal property through a
22 sale of service.

23 "Purchaser" means any person who, through a sale of
24 service, acquires the ownership of, or title to, any tangible
25 personal property.

26 "Cost price" means the consideration paid by the serviceman
27 for a purchase valued in money, whether paid in money or
28 otherwise, including cash, credits and services, and shall be
29 determined without any deduction on account of the supplier's
30 cost of the property sold or on account of any other expense
31 incurred by the supplier. When a serviceman contracts out part
32 or all of the services required in his sale of service, it

1 shall be presumed that the cost price to the serviceman of the
2 property transferred to him or her by his or her subcontractor
3 is equal to 50% of the subcontractor's charges to the
4 serviceman in the absence of proof of the consideration paid by
5 the subcontractor for the purchase of such property.

6 "Selling price" means the consideration for a sale valued
7 in money whether received in money or otherwise, including
8 cash, credits and service, and shall be determined without any
9 deduction on account of the serviceman's cost of the property
10 sold, the cost of materials used, labor or service cost or any
11 other expense whatsoever, but does not include interest or
12 finance charges which appear as separate items on the bill of
13 sale or sales contract nor charges that are added to prices by
14 sellers on account of the seller's duty to collect, from the
15 purchaser, the tax that is imposed by this Act.

16 "Department" means the Department of Revenue.

17 "Person" means any natural individual, firm, partnership,
18 association, joint stock company, joint venture, public or
19 private corporation, limited liability company, and any
20 receiver, executor, trustee, guardian or other representative
21 appointed by order of any court.

22 "Sale of service" means any transaction except:

23 (1) a retail sale of tangible personal property taxable
24 under the Retailers' Occupation Tax Act or under the Use
25 Tax Act.

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

29 (3) except as hereinafter provided, a sale or transfer
30 of tangible personal property as an incident to the
31 rendering of service for or by any governmental body, or
32 for or by any corporation, society, association,
33 foundation or institution organized and operated
34 exclusively for charitable, religious or educational
35 purposes or any not-for-profit corporation, society,
36 association, foundation, institution or organization which

1 has no compensated officers or employees and which is
2 organized and operated primarily for the recreation of
3 persons 55 years of age or older. A limited liability
4 company may qualify for the exemption under this paragraph
5 only if the limited liability company is organized and
6 operated exclusively for educational purposes.

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

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

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

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

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

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

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

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

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

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

6 (8) for purposes of this definition, veterinary
7 practices are engaged in a service occupation and are
8 subject to this Act when they transfer tangible personal
9 property in conjunction with providing professional
10 veterinary services. Veterinary practices are acting as
11 servicemen and not retailers when they transfer tangible
12 personal property incident to these services. This
13 includes:

14 (1) medicines, drugs, and other products having
15 medicinal purposes that are directly applied or
16 administered during a veterinary exam or procedure;

17 (2) medicines, drugs, and other products having
18 medicinal purposes that are recommended or prescribed
19 as a result of a veterinary exam; and

20 (3) medicines, drugs, and other products having
21 medicinal purposes that are sold as a part of a
22 continuing plan for the health and well-being of an
23 animal under the care of the veterinarian.

24 The criteria for determining as to whether a continuing
25 plan for health and well-being has been established between
26 a veterinary practice and a customer is whether a valid
27 Veterinarian-Client-Patient Relationship (VCPR) has been
28 established in accordance with the Veterinary Medicine and
29 Surgery Practice Act of 2004.

30 Veterinary practices must maintain appropriate
31 information within their records to indicate that a
32 particular sale or transfer of tangible personal property
33 made in conjunction with providing veterinary services was
34 a part of a valid VCPR between the veterinarian and the
35 customer. A notation must be maintained that a particular
36 product was prescribed or recommended as a result of an

1 exam or after consultation with the client.

2 Tangible personal property transferred incident to the
3 completion of a maintenance agreement is exempt from the tax
4 imposed pursuant to this Act.

5 Exemption (5) also includes machinery and equipment used in
6 the general maintenance or repair of such exempt machinery and
7 equipment or for in-house manufacture of exempt machinery and
8 equipment. For the purposes of exemption (5), each of these
9 terms shall have the following meanings: (1) "manufacturing
10 process" shall mean the production of any article of tangible
11 personal property, whether such article is a finished product
12 or an article for use in the process of manufacturing or
13 assembling a different article of tangible personal property,
14 by procedures commonly regarded as manufacturing, processing,
15 fabricating, or refining which changes some existing material
16 or materials into a material with a different form, use or
17 name. In relation to a recognized integrated business composed
18 of a series of operations which collectively constitute
19 manufacturing, or individually constitute manufacturing
20 operations, the manufacturing process shall be deemed to
21 commence with the first operation or stage of production in the
22 series, and shall not be deemed to end until the completion of
23 the final product in the last operation or stage of production
24 in the series; and further, for purposes of exemption (5),
25 photoprocessing is deemed to be a manufacturing process of
26 tangible personal property for wholesale or retail sale; (2)
27 "assembling process" shall mean the production of any article
28 of tangible personal property, whether such article is a
29 finished product or an article for use in the process of
30 manufacturing or assembling a different article of tangible
31 personal property, by the combination of existing materials in
32 a manner commonly regarded as assembling which results in a
33 material of a different form, use or name; (3) "machinery"
34 shall mean major mechanical machines or major components of
35 such machines contributing to a manufacturing or assembling
36 process; and (4) "equipment" shall include any independent

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

23 Any informal rulings, opinions or letters issued by the
24 Department in response to an inquiry or request for any opinion
25 from any person regarding the coverage and applicability of
26 exemption (5) to specific devices shall be published,
27 maintained as a public record, and made available for public
28 inspection and copying. If the informal ruling, opinion or
29 letter contains trade secrets or other confidential
30 information, where possible the Department shall delete such
31 information prior to publication. Whenever such informal
32 rulings, opinions, or letters contain any policy of general
33 applicability, the Department shall formulate and adopt such
34 policy as a rule in accordance with the provisions of the
35 Illinois Administrative Procedure Act.

36 On and after July 1, 1987, no entity otherwise eligible

1 under exemption (3) of this Section shall make tax free
2 purchases unless it has an active exemption identification
3 number issued by the Department.

4 The purchase, employment and transfer of such tangible
5 personal property as newsprint and ink for the primary purpose
6 of conveying news (with or without other information) is not a
7 purchase, use or sale of service or of tangible personal
8 property within the meaning of this Act.

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

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

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

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

18 1. having or maintaining within this State, directly or
19 by a subsidiary, an office, distribution house, sales
20 house, warehouse or other place of business, or any agent
21 or other representative operating within this State under
22 the authority of the serviceman or its subsidiary,
23 irrespective of whether such place of business or agent or
24 other representative is located here permanently or
25 temporarily, or whether such serviceman or subsidiary is
26 licensed to do business in this State;

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

32 3. pursuant to a contract with a broadcaster or
33 publisher located in this State, soliciting orders for
34 tangible personal property by means of advertising which is
35 disseminated primarily to consumers located in this State
36 and only secondarily to bordering jurisdictions;

1 4. soliciting orders for tangible personal property by
2 mail if the solicitations are substantial and recurring and
3 if the retailer benefits from any banking, financing, debt
4 collection, telecommunication, or marketing activities
5 occurring in this State or benefits from the location in
6 this State of authorized installation, servicing, or
7 repair facilities;

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

11 6. having a franchisee or licensee operating under its
12 trade name if the franchisee or licensee is required to
13 collect the tax under this Section;

14 7. pursuant to a contract with a cable television
15 operator located in this State, soliciting orders for
16 tangible personal property by means of advertising which is
17 transmitted or distributed over a cable television system
18 in this State; or

19 8. engaging in activities in Illinois, which
20 activities in the state in which the supply business
21 engaging in such activities is located would constitute
22 maintaining a place of business in that state.

23 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
24 eff. 6-20-03; 93-1033, eff. 9-3-04.)

25 Section 5. The Service Occupation Tax Act is amended by
26 changing Section 2 as follows:

27 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

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

32 "Cost Price" means the consideration paid by the serviceman
33 for a purchase valued in money, whether paid in money or
34 otherwise, including cash, credits and services, and shall be

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

10 "Department" means the Department of Revenue.

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

16 "Sale of Service" means any transaction except:

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

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

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

36 (d) A sale or transfer of tangible personal property as an

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

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

19 (d-1.1) On and after July 1, 2003 and through June 30,
20 2004, a sale or transfer of a motor vehicle of the second
21 division with a gross vehicle weight in excess of 8,000 pounds
22 as an incident to the rendering of service if that motor
23 vehicle is subject to the commercial distribution fee imposed
24 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
25 on July 1, 2004 and through June 30, 2005, the use in this
26 State of motor vehicles of the second division: (i) with a
27 gross vehicle weight rating in excess of 8,000 pounds; (ii)
28 that are subject to the commercial distribution fee imposed
29 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
30 that are primarily used for commercial purposes. Through June
31 30, 2005, this exemption applies to repair and replacement
32 parts added after the initial purchase of such a motor vehicle
33 if that motor vehicle is used in a manner that would qualify
34 for the rolling stock exemption otherwise provided for in this
35 Act. For purposes of this paragraph, "used for commercial
36 purposes" means the transportation of persons or property in

1 furtherance of any commercial or industrial enterprise whether
2 for-hire or not.

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

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

26 (d-4) Until January 1, 1997, a sale, by a registered
27 serviceman paying tax under this Act to the Department, of
28 special order printed materials delivered outside Illinois and
29 which are not returned to this State, if delivery is made by
30 the seller or agent of the seller, including an agent who
31 causes the product to be delivered outside Illinois by a common
32 carrier or the U.S. postal service.

33 (d-5) For purposes of this definition, veterinary
34 practices are engaged in a service occupation and are subject
35 to this Act when they transfer tangible personal property in
36 conjunction with providing professional veterinary services.

1 Veterinary practices are acting as servicemen and not retailers
2 when they transfer tangible personal property incident to these
3 services. This includes:

4 (1) medicines, drugs, and other products having
5 medicinal purposes that are directly applied or
6 administered during a veterinary exam or procedure;

7 (2) medicines, drugs, and other products having
8 medicinal purposes that are recommended or prescribed as a
9 result of a veterinary exam; and

10 (3) medicines, drugs, and other products having
11 medicinal purposes that are sold as a part of a continuing
12 plan for the health and well-being of an animal under the
13 care of the veterinarian.

14 The criteria for determining as to whether a continuing
15 plan for health and well-being has been established between a
16 veterinary practice and a customer is whether a valid
17 Veterinarian-Client-Patient Relationship (VCPR) has been
18 established in accordance with the Veterinary Medicine and
19 Surgery Practice Act of 2004.

20 Veterinary practices must maintain appropriate information
21 within their records to indicate that a particular sale or
22 transfer of tangible personal property made in conjunction with
23 providing veterinary services was a part of a valid VCPR
24 between the veterinarian and the customer. A notation must be
25 maintained that a particular product was prescribed or
26 recommended as a result of an exam or after consultation with
27 the client.

28 (e) A sale or transfer of machinery and equipment used
29 primarily in the process of the manufacturing or assembling,
30 either in an existing, an expanded or a new manufacturing
31 facility, of tangible personal property for wholesale or retail
32 sale or lease, whether such sale or lease is made directly by
33 the manufacturer or by some other person, whether the materials
34 used in the process are owned by the manufacturer or some other
35 person, or whether such sale or lease is made apart from or as
36 an incident to the seller's engaging in a service occupation

1 and the applicable tax is a Service Occupation Tax or Service
2 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

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

10 (g) At the election of any serviceman not required to be
11 otherwise registered as a retailer under Section 2a of the
12 Retailers' Occupation Tax Act, made for each fiscal year sales
13 of service in which the aggregate annual cost price of tangible
14 personal property transferred as an incident to the sales of
15 service is less than 35% (75% in the case of servicemen
16 transferring prescription drugs or servicemen engaged in
17 graphic arts production) of the aggregate annual total gross
18 receipts from all sales of service. For purposes of this
19 Section, a serviceman is not required to register as a retailer
20 under Section 2a of the Retailers' Occupation Tax Act if: (i)
21 all of his or her sales activities constitute accommodation
22 retail sales made to service customers; and (ii) these
23 accommodation retail sales do not exceed 3% of the serviceman's
24 annual revenues from sales of service. The purchase of such
25 tangible personal property by the serviceman shall be subject
26 to tax under the Retailers' Occupation Tax Act and the Use Tax
27 Act. However, if a primary serviceman who has made the election
28 described in this paragraph subcontracts service work to a
29 secondary serviceman who has also made the election described
30 in this paragraph, the primary serviceman does not incur a Use
31 Tax liability if the secondary serviceman (i) has paid or will
32 pay Use Tax on his or her cost price of any tangible personal
33 property transferred to the primary serviceman and (ii)
34 certifies that fact in writing to the primary serviceman.

35 Tangible personal property transferred incident to the
36 completion of a maintenance agreement is exempt from the tax

1 imposed pursuant to this Act.

2 Exemption (e) also includes machinery and equipment used in
3 the general maintenance or repair of such exempt machinery and
4 equipment or for in-house manufacture of exempt machinery and
5 equipment. For the purposes of exemption (e), each of these
6 terms shall have the following meanings: (1) "manufacturing
7 process" shall mean the production of any article of tangible
8 personal property, whether such article is a finished product
9 or an article for use in the process of manufacturing or
10 assembling a different article of tangible personal property,
11 by procedures commonly regarded as manufacturing, processing,
12 fabricating, or refining which changes some existing material
13 or materials into a material with a different form, use or
14 name. In relation to a recognized integrated business composed
15 of a series of operations which collectively constitute
16 manufacturing, or individually constitute manufacturing
17 operations, the manufacturing process shall be deemed to
18 commence with the first operation or stage of production in the
19 series, and shall not be deemed to end until the completion of
20 the final product in the last operation or stage of production
21 in the series; and further for purposes of exemption (e),
22 photoprocessing is deemed to be a manufacturing process of
23 tangible personal property for wholesale or retail sale; (2)
24 "assembling process" shall mean the production of any article
25 of tangible personal property, whether such article is a
26 finished product or an article for use in the process of
27 manufacturing or assembling a different article of tangible
28 personal property, by the combination of existing materials in
29 a manner commonly regarded as assembling which results in a
30 material of a different form, use or name; (3) "machinery"
31 shall mean major mechanical machines or major components of
32 such machines contributing to a manufacturing or assembling
33 process; and (4) "equipment" shall include any independent
34 device or tool separate from any machinery but essential to an
35 integrated manufacturing or assembly process; including
36 computers used primarily in a manufacturer's computer assisted

1 design, computer assisted manufacturing (CAD/CAM) system; or
2 any subunit or assembly comprising a component of any machinery
3 or auxiliary, adjunct or attachment parts of machinery, such as
4 tools, dies, jigs, fixtures, patterns and molds; or any parts
5 which require periodic replacement in the course of normal
6 operation; but shall not include hand tools. Equipment includes
7 chemicals or chemicals acting as catalysts but only if the
8 chemicals or chemicals acting as catalysts effect a direct and
9 immediate change upon a product being manufactured or assembled
10 for wholesale or retail sale or lease. The purchaser of such
11 machinery and equipment who has an active resale registration
12 number shall furnish such number to the seller at the time of
13 purchase. The purchaser of such machinery and equipment and
14 tools without an active resale registration number shall
15 furnish to the seller a certificate of exemption for each
16 transaction stating facts establishing the exemption for that
17 transaction, which certificate shall be available to the
18 Department for inspection or audit.

19 Except as provided in Section 2d of this Act, the rolling
20 stock exemption applies to rolling stock used by an interstate
21 carrier for hire, even just between points in Illinois, if such
22 rolling stock transports, for hire, persons whose journeys or
23 property whose shipments originate or terminate outside
24 Illinois.

25 Any informal rulings, opinions or letters issued by the
26 Department in response to an inquiry or request for any opinion
27 from any person regarding the coverage and applicability of
28 exemption (e) to specific devices shall be published,
29 maintained as a public record, and made available for public
30 inspection and copying. If the informal ruling, opinion or
31 letter contains trade secrets or other confidential
32 information, where possible the Department shall delete such
33 information prior to publication. Whenever such informal
34 rulings, opinions, or letters contain any policy of general
35 applicability, the Department shall formulate and adopt such
36 policy as a rule in accordance with the provisions of the

1 Illinois Administrative Procedure Act.

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

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

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

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

13 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
14 eff. 6-20-03; 93-1033, eff. 9-3-04.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.