



Sen. M. Maggie Crotty

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09400SB0711sam001

LRB094 08559 BDD 57759 a

1 AMENDMENT TO SENATE BILL 711

2 AMENDMENT NO. _____. Amend Senate Bill 711 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. 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

1 personal property.

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

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

24 "Department" means the Department of Revenue.

25 "Person" means any natural individual, firm, partnership,
26 association, joint stock company, joint venture, public or
27 private corporation, limited liability company, and any
28 receiver, executor, trustee, guardian or other representative
29 appointed by order of any court.

30 "Sale of service" means any transaction except:

31 (1) a retail sale of tangible personal property taxable
32 under the Retailers' Occupation Tax Act or under the Use
33 Tax Act.

34 (2) a sale of tangible personal property for the

1 purpose of resale made in compliance with Section 2c of the
2 Retailers' Occupation Tax Act.

3 (3) except as hereinafter provided, a sale or transfer
4 of tangible personal property as an incident to the
5 rendering of service for or by any governmental body, or
6 for or by any corporation, society, association,
7 foundation or institution organized and operated
8 exclusively for charitable, religious or educational
9 purposes or any not-for-profit corporation, society,
10 association, foundation, institution or organization which
11 has no compensated officers or employees and which is
12 organized and operated primarily for the recreation of
13 persons 55 years of age or older. A limited liability
14 company may qualify for the exemption under this paragraph
15 only if the limited liability company is organized and
16 operated exclusively for educational purposes.

17 (4) a sale or transfer of tangible personal property as
18 an incident to the rendering of service for interstate
19 carriers for hire for use as rolling stock moving in
20 interstate commerce or by lessors under a lease of one year
21 or longer, executed or in effect at the time of purchase of
22 personal property, to interstate carriers for hire for use
23 as rolling stock moving in interstate commerce so long as
24 so used by such interstate carriers for hire, and equipment
25 operated by a telecommunications provider, licensed as a
26 common carrier by the Federal Communications Commission,
27 which is permanently installed in or affixed to aircraft
28 moving in interstate commerce.

29 (4a) a sale or transfer of tangible personal property
30 as an incident to the rendering of service for owners,
31 lessors, or shippers of tangible personal property which is
32 utilized by interstate carriers for hire for use as rolling
33 stock moving in interstate commerce so long as so used by
34 interstate carriers for hire, and equipment operated by a

1 telecommunications provider, licensed as a common carrier
2 by the Federal Communications Commission, which is
3 permanently installed in or affixed to aircraft moving in
4 interstate commerce.

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

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

1 seller's engaging in a service occupation and the
2 applicable tax is a Service Use Tax or Service Occupation
3 Tax, rather than Use Tax or Retailers' Occupation Tax.

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

15 (5b) a sale or transfer of tangible personal property
16 which is produced by the seller thereof on special order in
17 such a way as to have made the applicable tax the Service
18 Occupation Tax or the Service Use Tax, rather than the
19 Retailers' Occupation Tax or the Use Tax, for an interstate
20 carrier by rail which receives the physical possession of
21 such property in Illinois, and which transports such
22 property, or shares with another common carrier in the
23 transportation of such property, out of Illinois on a
24 standard uniform bill of lading showing the seller of the
25 property as the shipper or consignor of such property to a
26 destination outside Illinois, for use outside Illinois.

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

1 (7) at the election of any serviceman not required to
2 be otherwise registered as a retailer under Section 2a of
3 the Retailers' Occupation Tax Act, made for each fiscal
4 year sales of service in which the aggregate annual cost
5 price of tangible personal property transferred as an
6 incident to the sales of service is less than 35%, or 75%
7 in the case of servicemen transferring prescription drugs
8 or servicemen engaged in graphic arts production, of the
9 aggregate annual total gross receipts from all sales of
10 service. The purchase of such tangible personal property by
11 the serviceman shall be subject to tax under the Retailers'
12 Occupation Tax Act and the Use Tax Act. However, if a
13 primary serviceman who has made the election described in
14 this paragraph subcontracts service work to a secondary
15 serviceman who has also made the election described in this
16 paragraph, the primary serviceman does not incur a Use Tax
17 liability if the secondary serviceman (i) has paid or will
18 pay Use Tax on his or her cost price of any tangible
19 personal property transferred to the primary serviceman
20 and (ii) certifies that fact in writing to the primary
21 serviceman.

22 (8) for purposes of this definition, veterinary
23 practices are engaged in a service occupation and are
24 subject to this Act when they transfer tangible personal
25 property in conjunction with providing professional
26 veterinary services. Veterinary practices are acting as
27 servicemen and not retailers when they transfer tangible
28 personal property incident to these services. This
29 includes:

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

33 (2) medicines, drugs, and other products having
34 medicinal purposes that are recommended or prescribed

1 as a result of a veterinary exam; and

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

6 The criteria for determining as to whether a continuing
7 plan for health and well being has been established between
8 a veterinary practice and a customer is whether a valid
9 Veterinarian-Client-Patient Relationship (VCPR) has been
10 established in accordance with the Veterinary Medicine and
11 Surgery Practice Act of 2004.

12 Veterinary practices must maintain appropriate
13 information within their records to indicate that a
14 particular sale or transfer of tangible personal property
15 made in conjunction with providing veterinary services was
16 a part of a valid VCPR between the veterinarian and the
17 customer. A notation must be maintained that a particular
18 product was prescribed or recommended as a result of an
19 exam or after consultation with the client.

20 Tangible personal property transferred incident to the
21 completion of a maintenance agreement is exempt from the tax
22 imposed pursuant to this Act.

23 Exemption (5) also includes machinery and equipment used in
24 the general maintenance or repair of such exempt machinery and
25 equipment or for in-house manufacture of exempt machinery and
26 equipment. For the purposes of exemption (5), each of these
27 terms shall have the following meanings: (1) "manufacturing
28 process" shall mean the production of any article of tangible
29 personal property, whether such article is a finished product
30 or an article for use in the process of manufacturing or
31 assembling a different article of tangible personal property,
32 by procedures commonly regarded as manufacturing, processing,
33 fabricating, or refining which changes some existing material
34 or materials into a material with a different form, use or

1 name. In relation to a recognized integrated business composed
2 of a series of operations which collectively constitute
3 manufacturing, or individually constitute manufacturing
4 operations, the manufacturing process shall be deemed to
5 commence with the first operation or stage of production in the
6 series, and shall not be deemed to end until the completion of
7 the final product in the last operation or stage of production
8 in the series; and further, for purposes of exemption (5),
9 photoprocessing is deemed to be a manufacturing process of
10 tangible personal property for wholesale or retail sale; (2)
11 "assembling process" shall mean the production of any article
12 of tangible personal property, whether such article is a
13 finished product or an article for use in the process of
14 manufacturing or assembling a different article of tangible
15 personal property, by the combination of existing materials in
16 a manner commonly regarded as assembling which results in a
17 material of a different form, use or name; (3) "machinery"
18 shall mean major mechanical machines or major components of
19 such machines contributing to a manufacturing or assembling
20 process; and (4) "equipment" shall include any independent
21 device or tool separate from any machinery but essential to an
22 integrated manufacturing or assembly process; including
23 computers used primarily in a manufacturer's computer assisted
24 design, computer assisted manufacturing (CAD/CAM) system; or
25 any subunit or assembly comprising a component of any machinery
26 or auxiliary, adjunct or attachment parts of machinery, such as
27 tools, dies, jigs, fixtures, patterns and molds; or any parts
28 which require periodic replacement in the course of normal
29 operation; but shall not include hand tools. Equipment includes
30 chemicals or chemicals acting as catalysts but only if the
31 chemicals or chemicals acting as catalysts effect a direct and
32 immediate change upon a product being manufactured or assembled
33 for wholesale or retail sale or lease. The purchaser of such
34 machinery and equipment who has an active resale registration

1 number shall furnish such number to the seller at the time of
2 purchase. The user of such machinery and equipment and tools
3 without an active resale registration number shall prepare a
4 certificate of exemption for each transaction stating facts
5 establishing the exemption for that transaction, which
6 certificate shall be available to the Department for inspection
7 or audit. The Department shall prescribe the form of the
8 certificate.

9 Any informal rulings, opinions or letters issued by the
10 Department in response to an inquiry or request for any opinion
11 from any person regarding the coverage and applicability of
12 exemption (5) to specific devices shall be published,
13 maintained as a public record, and made available for public
14 inspection and copying. If the informal ruling, opinion or
15 letter contains trade secrets or other confidential
16 information, where possible the Department shall delete such
17 information prior to publication. Whenever such informal
18 rulings, opinions, or letters contain any policy of general
19 applicability, the Department shall formulate and adopt such
20 policy as a rule in accordance with the provisions of the
21 Illinois Administrative Procedure Act.

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

26 The purchase, employment and transfer of such tangible
27 personal property as newsprint and ink for the primary purpose
28 of conveying news (with or without other information) is not a
29 purchase, use or sale of service or of tangible personal
30 property within the meaning of this Act.

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

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

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

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

6 1. having or maintaining within this State, directly or
7 by a subsidiary, an office, distribution house, sales
8 house, warehouse or other place of business, or any agent
9 or other representative operating within this State under
10 the authority of the serviceman or its subsidiary,
11 irrespective of whether such place of business or agent or
12 other representative is located here permanently or
13 temporarily, or whether such serviceman or subsidiary is
14 licensed to do business in this State;

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

20 3. pursuant to a contract with a broadcaster or
21 publisher located in this State, soliciting orders for
22 tangible personal property by means of advertising which is
23 disseminated primarily to consumers located in this State
24 and only secondarily to bordering jurisdictions;

25 4. soliciting orders for tangible personal property by
26 mail if the solicitations are substantial and recurring and
27 if the retailer benefits from any banking, financing, debt
28 collection, telecommunication, or marketing activities
29 occurring in this State or benefits from the location in
30 this State of authorized installation, servicing, or
31 repair facilities;

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

1 6. having a franchisee or licensee operating under its
2 trade name if the franchisee or licensee is required to
3 collect the tax under this Section;

4 7. pursuant to a contract with a cable television
5 operator located in this State, soliciting orders for
6 tangible personal property by means of advertising which is
7 transmitted or distributed over a cable television system
8 in this State; or

9 8. engaging in activities in Illinois, which
10 activities in the state in which the supply business
11 engaging in such activities is located would constitute
12 maintaining a place of business in that state.

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 10. The Service Occupation Tax Act is amended by
16 changing Section 2 as follows:

17 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

18 Sec. 2. "Transfer" means any transfer of the title to
19 property or of the ownership of property whether or not the
20 transferor retains title as security for the payment of amounts
21 due him from the transferee.

22 "Cost Price" means the consideration paid by the serviceman
23 for a purchase valued in money, whether paid in money or
24 otherwise, including cash, credits and services, and shall be
25 determined without any deduction on account of the supplier's
26 cost of the property sold or on account of any other expense
27 incurred by the supplier. When a serviceman contracts out part
28 or all of the services required in his sale of service, it
29 shall be presumed that the cost price to the serviceman of the
30 property transferred to him by his or her subcontractor is
31 equal to 50% of the subcontractor's charges to the serviceman
32 in the absence of proof of the consideration paid by the

1 subcontractor for the purchase of such property.

2 "Department" means the Department of Revenue.

3 "Person" means any natural individual, firm, partnership,
4 association, joint stock company, joint venture, public or
5 private corporation, limited liability company, and any
6 receiver, executor, trustee, guardian or other representative
7 appointed by order of any court.

8 "Sale of Service" means any transaction except:

9 (a) A retail sale of tangible personal property taxable
10 under the Retailers' Occupation Tax Act or under the Use Tax
11 Act.

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

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

28 (d) A sale or transfer of tangible personal property as an
29 incident to the rendering of service for interstate carriers
30 for hire for use as rolling stock moving in interstate commerce
31 or lessors under leases of one year or longer, executed or in
32 effect at the time of purchase, to interstate carriers for hire
33 for use as rolling stock moving in interstate commerce, and
34 equipment operated by a telecommunications provider, licensed

1 as a common carrier by the Federal Communications Commission,
2 which is permanently installed in or affixed to aircraft moving
3 in interstate commerce.

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

13 (d-1.1) On and after July 1, 2003 and through June 30,
14 2004, a sale or transfer of a motor vehicle of the second
15 division with a gross vehicle weight in excess of 8,000 pounds
16 as an incident to the rendering of service if that motor
17 vehicle is subject to the commercial distribution fee imposed
18 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
19 on July 1, 2004 and through June 30, 2005, the use in this
20 State of motor vehicles of the second division: (i) with a
21 gross vehicle weight rating in excess of 8,000 pounds; (ii)
22 that are subject to the commercial distribution fee imposed
23 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
24 that are primarily used for commercial purposes. Through June
25 30, 2005, this exemption applies to repair and replacement
26 parts added after the initial purchase of such a motor vehicle
27 if that motor vehicle is used in a manner that would qualify
28 for the rolling stock exemption otherwise provided for in this
29 Act. For purposes of this paragraph, "used for commercial
30 purposes" means the transportation of persons or property in
31 furtherance of any commercial or industrial enterprise whether
32 for-hire or not.

33 (d-2) The repairing, reconditioning or remodeling, for a
34 common carrier by rail, of tangible personal property which

1 belongs to such carrier for hire, and as to which such carrier
2 receives the physical possession of the repaired,
3 reconditioned or remodeled item of tangible personal property
4 in Illinois, and which such carrier transports, or shares with
5 another common carrier in the transportation of such property,
6 out of Illinois on a standard uniform bill of lading showing
7 the person who repaired, reconditioned or remodeled the
8 property as the shipper or consignor of such property to a
9 destination outside Illinois, for use outside Illinois.

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

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

29 (d-5) For purposes of this definition, veterinary
30 practices are engaged in a service occupation and are subject
31 to this Act when they transfer tangible personal property in
32 conjunction with providing professional veterinary services.
33 Veterinary practices are acting as servicemen and not retailers
34 when they transfer tangible personal property incident to these

1 services. This includes:

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

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

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

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

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

26 (e) A sale or transfer of machinery and equipment used
27 primarily in the process of the manufacturing or assembling,
28 either in an existing, an expanded or a new manufacturing
29 facility, of tangible personal property for wholesale or retail
30 sale or lease, whether such sale or lease is made directly by
31 the manufacturer or by some other person, whether the materials
32 used in the process are owned by the manufacturer or some other
33 person, or whether such sale or lease is made apart from or as
34 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. The purchase of such
19 tangible personal property by the serviceman shall be subject
20 to tax under the Retailers' Occupation Tax Act and the Use Tax
21 Act. However, if a primary serviceman who has made the election
22 described in this paragraph subcontracts service work to a
23 secondary serviceman who has also made the election described
24 in this paragraph, the primary serviceman does not incur a Use
25 Tax liability if the secondary serviceman (i) has paid or will
26 pay Use Tax on his or her cost price of any tangible personal
27 property transferred to the primary serviceman and (ii)
28 certifies that fact in writing to the primary serviceman.

29 Tangible personal property transferred incident to the
30 completion of a maintenance agreement is exempt from the tax
31 imposed pursuant to this Act.

32 Exemption (e) also includes machinery and equipment used in
33 the general maintenance or repair of such exempt machinery and
34 equipment or for in-house manufacture of exempt machinery and

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

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

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

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 (e) 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

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.)".