



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB3033

Introduced 1/20/2006, by Sen. J. Bradley Burzynski - Todd Sieben - David Luechtefeld - Frank C. Watson

SYNOPSIS AS INTRODUCED:

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

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Beginning on July 1, 2006, exempts from the tax imposed by these Acts construction materials used in the construction of new railroad facilities in Illinois. Exempts these provisions from the Acts' sunset provisions.

LRB094 14976 BDD 50068 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

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

1 number issued by the Department.

2 (4) Personal property purchased by a governmental body, by
3 a corporation, society, association, foundation, or
4 institution organized and operated exclusively for charitable,
5 religious, or educational purposes, or by a not-for-profit
6 corporation, society, association, foundation, institution, or
7 organization that has no compensated officers or employees and
8 that is organized and operated primarily for the recreation of
9 persons 55 years of age or older. A limited liability company
10 may qualify for the exemption under this paragraph only if the
11 limited liability company is organized and operated
12 exclusively for educational purposes. On and after July 1,
13 1987, however, no entity otherwise eligible for this exemption
14 shall make tax-free purchases unless it has an active exemption
15 identification number issued by the Department.

16 (5) Until July 1, 2003, a passenger car that is a
17 replacement vehicle to the extent that the purchase price of
18 the car is subject to the Replacement Vehicle Tax.

19 (6) Until July 1, 2003 and beginning again on September 1,
20 2004, graphic arts machinery and equipment, including repair
21 and replacement parts, both new and used, and including that
22 manufactured on special order, certified by the purchaser to be
23 used primarily for graphic arts production, and including
24 machinery and equipment purchased for lease. Equipment
25 includes chemicals or chemicals acting as catalysts but only if
26 the chemicals or chemicals acting as catalysts effect a direct
27 and immediate change upon a graphic arts product.

28 (7) Farm chemicals.

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

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

36 (10) A motor vehicle of the first division, a motor vehicle

1 of the second division that is a self-contained motor vehicle
2 designed or permanently converted to provide living quarters
3 for recreational, camping, or travel use, with direct walk
4 through to the living quarters from the driver's seat, or a
5 motor vehicle of the second division that is of the van
6 configuration designed for the transportation of not less than
7 7 nor more than 16 passengers, as defined in Section 1-146 of
8 the Illinois Vehicle Code, that is used for automobile renting,
9 as defined in the Automobile Renting Occupation and Use Tax
10 Act.

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

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

1 such equipment.

2 Farm machinery and equipment also includes computers,
3 sensors, software, and related equipment used primarily in the
4 computer-assisted operation of production agriculture
5 facilities, equipment, and activities such as, but not limited
6 to, the collection, monitoring, and correlation of animal and
7 crop data for the purpose of formulating animal diets and
8 agricultural chemicals. This item (11) is exempt from the
9 provisions of Section 3-90.

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

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

25 (14) Until July 1, 2003, oil field exploration, drilling,
26 and production equipment, including (i) rigs and parts of rigs,
27 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
28 tubular goods, including casing and drill strings, (iii) pumps
29 and pump-jack units, (iv) storage tanks and flow lines, (v) any
30 individual replacement part for oil field exploration,
31 drilling, and production equipment, and (vi) machinery and
32 equipment purchased for lease; but excluding motor vehicles
33 required to be registered under the Illinois Vehicle Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the provisions of Section 3-90.

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

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

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

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

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

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

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

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

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

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

13 (34) Beginning on July 1, 2006, construction materials used
14 in the construction of new railroad facilities in Illinois. For
15 the purpose of this item (34), "railroad facilities" includes
16 track and associated structures, including bridges, tunnels,
17 switches, spurs, terminals, and other similar structures. This
18 item (34) is exempt from the provisions of Section 3-90.

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

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

25 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

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

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

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

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

23 (5) Until July 1, 2003 and beginning again on September 1,
24 2004, graphic arts machinery and equipment, including repair
25 and replacement parts, both new and used, and including that
26 manufactured on special order or purchased for lease, certified
27 by the purchaser to be used primarily for graphic arts
28 production. Equipment includes chemicals or chemicals acting
29 as catalysts but only if the chemicals or chemicals acting as
30 catalysts effect a direct and immediate change upon a graphic
31 arts product.

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

35 (7) Farm machinery and equipment, both new and used,
36 including that manufactured on special order, certified by the

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

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

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

34 (8) Fuel and petroleum products sold to or used by an air
35 common carrier, certified by the carrier to be used for
36 consumption, shipment, or storage in the conduct of its

1 business as an air common carrier, for a flight destined for or
2 returning from a location or locations outside the United
3 States without regard to previous or subsequent domestic
4 stopovers.

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

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

23 (11) Proceeds from the sale of photoprocessing machinery
24 and equipment, including repair and replacement parts, both new
25 and used, including that manufactured on special order,
26 certified by the purchaser to be used primarily for
27 photoprocessing, and including photoprocessing machinery and
28 equipment purchased for lease.

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

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

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

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

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

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

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

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

35 (19) Beginning July 1, 1999, game or game birds purchased
36 at a "game breeding and hunting preserve area" or an "exotic

1 game hunting area" as those terms are used in the Wildlife Code
2 or at a hunting enclosure approved through rules adopted by the
3 Department of Natural Resources. This paragraph is exempt from
4 the provisions of Section 3-75.

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

23 (21) Beginning January 1, 2000, personal property,
24 including food, purchased through fundraising events for the
25 benefit of a public or private elementary or secondary school,
26 a group of those schools, or one or more school districts if
27 the events are sponsored by an entity recognized by the school
28 district that consists primarily of volunteers and includes
29 parents and teachers of the school children. This paragraph
30 does not apply to fundraising events (i) for the benefit of
31 private home instruction or (ii) for which the fundraising
32 entity purchases the personal property sold at the events from
33 another individual or entity that sold the property for the
34 purpose of resale by the fundraising entity and that profits
35 from the sale to the fundraising entity. This paragraph is
36 exempt from the provisions of Section 3-75.

1 (22) Beginning January 1, 2000 and through December 31,
2 2001, new or used automatic vending machines that prepare and
3 serve hot food and beverages, including coffee, soup, and other
4 items, and replacement parts for these machines. Beginning
5 January 1, 2002 and through June 30, 2003, machines and parts
6 for machines used in commercial, coin-operated amusement and
7 vending business if a use or occupation tax is paid on the
8 gross receipts derived from the use of the commercial,
9 coin-operated amusement and vending machines. This paragraph
10 is exempt from the provisions of Section 3-75.

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

21 (24) Beginning on the effective date of this amendatory Act
22 of the 92nd General Assembly, computers and communications
23 equipment utilized for any hospital purpose and equipment used
24 in the diagnosis, analysis, or treatment of hospital patients
25 purchased by a lessor who leases the equipment, under a lease
26 of one year or longer executed or in effect at the time the
27 lessor would otherwise be subject to the tax imposed by this
28 Act, to a hospital that has been issued an active tax exemption
29 identification number by the Department under Section 1g of the
30 Retailers' Occupation Tax Act. If the equipment is leased in a
31 manner that does not qualify for this exemption or is used in
32 any other nonexempt manner, the lessor shall be liable for the
33 tax imposed under this Act or the Use Tax Act, as the case may
34 be, based on the fair market value of the property at the time
35 the nonqualifying use occurs. No lessor shall collect or
36 attempt to collect an amount (however designated) that purports

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

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

31 (26) Beginning on July 1, 2006, construction materials used
32 in the construction of new railroad facilities in Illinois. For
33 the purpose of this item (26), "railroad facilities" includes
34 track and associated structures, including bridges, tunnels,
35 switches, spurs, terminals, and other similar structures. This
36 item (26) is exempt from the provisions of Section 3-75.

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

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

7 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

20 (3) Personal property purchased by any not-for-profit arts
21 or cultural organization that establishes, by proof required by
22 the Department by rule, that it has received an exemption under
23 Section 501(c)(3) of the Internal Revenue Code and that is
24 organized and operated primarily for the presentation or
25 support of arts or cultural programming, activities, or
26 services. These organizations include, but are not limited to,
27 music and dramatic arts organizations such as symphony
28 orchestras and theatrical groups, arts and cultural service
29 organizations, local arts councils, visual arts organizations,
30 and media arts organizations. On and after the effective date
31 of this amendatory Act of the 92nd General Assembly, however,
32 an entity otherwise eligible for this exemption shall not make
33 tax-free purchases unless it has an active identification
34 number issued by the Department.

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

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

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

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

36 Farm machinery and equipment shall include precision

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

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

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

23 (9) Proceeds of mandatory service charges separately
24 stated on customers' bills for the purchase and consumption of
25 food and beverages, to the extent that the proceeds of the
26 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) Photoprocessing machinery and equipment, including
5 repair and replacement parts, both new and used, including that
6 manufactured on special order, certified by the purchaser to be
7 used primarily for photoprocessing, and including
8 photoprocessing machinery and equipment purchased for lease.

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

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

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

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

33 (16) Computers and communications equipment utilized for
34 any hospital purpose and equipment used in the diagnosis,
35 analysis, or treatment of hospital patients sold to a lessor
36 who leases the equipment, under a lease of one year or longer

1 executed or in effect at the time of the purchase, to a
2 hospital that has been issued an active tax exemption
3 identification number by the Department under Section 1g of the
4 Retailers' Occupation Tax Act.

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

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

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

33 (20) Beginning July 1, 1999, game or game birds sold at a
34 "game breeding and hunting preserve area" or an "exotic game
35 hunting area" as those terms are used in the Wildlife Code or
36 at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from
2 the provisions of Section 3-55.

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

21 (22) Beginning January 1, 2000, personal property,
22 including food, purchased through fundraising events for the
23 benefit of a public or private elementary or secondary school,
24 a group of those schools, or one or more school districts if
25 the events are sponsored by an entity recognized by the school
26 district that consists primarily of volunteers and includes
27 parents and teachers of the school children. This paragraph
28 does not apply to fundraising events (i) for the benefit of
29 private home instruction or (ii) for which the fundraising
30 entity purchases the personal property sold at the events from
31 another individual or entity that sold the property for the
32 purpose of resale by the fundraising entity and that profits
33 from the sale to the fundraising entity. This paragraph is
34 exempt from the provisions of Section 3-55.

35 (23) Beginning January 1, 2000 and through December 31,
36 2001, new or used automatic vending machines that prepare and

1 serve hot food and beverages, including coffee, soup, and other
2 items, and replacement parts for these machines. Beginning
3 January 1, 2002 and through June 30, 2003, machines and parts
4 for machines used in commercial, coin-operated amusement and
5 vending business if a use or occupation tax is paid on the
6 gross receipts derived from the use of the commercial,
7 coin-operated amusement and vending machines. This paragraph
8 is exempt from the provisions of Section 3-55.

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

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

27 (26) Beginning on January 1, 2002, tangible personal
28 property purchased from an Illinois retailer by a taxpayer
29 engaged in centralized purchasing activities in Illinois who
30 will, upon receipt of the property in Illinois, temporarily
31 store the property in Illinois (i) for the purpose of
32 subsequently transporting it outside this State for use or
33 consumption thereafter solely outside this State or (ii) for
34 the purpose of being processed, fabricated, or manufactured
35 into, attached to, or incorporated into other tangible personal
36 property to be transported outside this State and thereafter

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

13 (27) Beginning on July 1, 2006, construction materials used
14 in the construction of new railroad facilities in Illinois. For
15 the purpose of this item (27), "railroad facilities" includes
16 track and associated structures, including bridges, tunnels,
17 switches, spurs, terminals, and other similar structures. This
18 item (27) is exempt from the provisions of Section 3-55.

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

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

25 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

29 (1) Farm chemicals.

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

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

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

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

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

1 (4) Until July 1, 2003 and beginning again September 1,
2 2004, graphic arts machinery and equipment, including repair
3 and replacement parts, both new and used, and including that
4 manufactured on special order or purchased for lease, certified
5 by the purchaser to be used primarily for graphic arts
6 production. Equipment includes chemicals or chemicals acting
7 as catalysts but only if the chemicals or chemicals acting as
8 catalysts effect a direct and immediate change upon a graphic
9 arts product.

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

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

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

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

30 (9) Personal property sold to a not-for-profit arts or
31 cultural organization that establishes, by proof required by
32 the Department by rule, that it has received an exemption under
33 Section 501(c)(3) of the Internal Revenue Code and that is
34 organized and operated primarily for the presentation or
35 support of arts or cultural programming, activities, or
36 services. These organizations include, but are not limited to,

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

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

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

30 (12) Tangible personal property sold to interstate
31 carriers for hire for use as rolling stock moving in interstate
32 commerce or to lessors under leases of one year or longer
33 executed or in effect at the time of purchase by interstate
34 carriers for hire for use as rolling stock moving in interstate
35 commerce and equipment operated by a telecommunications
36 provider, licensed as a common carrier by the Federal

1 Communications Commission, which is permanently installed in
2 or affixed to aircraft moving in interstate commerce.

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

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

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

1 machines, tools, dies, jigs, patterns, gauges, or other similar
2 items of no commercial value on special order for a particular
3 purchaser.

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

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

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

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

26 (19) Until July 1 2003, oil field exploration, drilling,
27 and production equipment, including (i) rigs and parts of rigs,
28 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
29 tubular goods, including casing and drill strings, (iii) pumps
30 and pump-jack units, (iv) storage tanks and flow lines, (v) any
31 individual replacement part for oil field exploration,
32 drilling, and production equipment, and (vi) machinery and
33 equipment purchased for lease; but excluding motor vehicles
34 required to be registered under the Illinois Vehicle Code.

35 (20) Photoprocessing machinery and equipment, including
36 repair and replacement parts, both new and used, including that

1 manufactured on special order, certified by the purchaser to be
2 used primarily for photoprocessing, and including
3 photoprocessing machinery and equipment purchased for lease.

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

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

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

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

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

1 this State.

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

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

32 (27) 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 (28) 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
9 this Act.

10 (29) 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 this Act.

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

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

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

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

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

1 from the sale to the fundraising entity. This paragraph is
2 exempt from the provisions of Section 2-70.

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

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

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

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

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

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

25 (39) Beginning on July 1, 2006, construction materials used
26 in the construction of new railroad facilities in Illinois. For
27 the purpose of this item (39), "railroad facilities" includes
28 track and associated structures, including bridges, tunnels,
29 switches, spurs, terminals, and other similar structures. This
30 item (39) is exempt from the provisions of Section 2-70.

31 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
32 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
33 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
34 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
35 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)