



## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

### SB0203

Introduced 2/7/2007, by Sen. 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. In provisions exempting farm machinery and equipment, provides that "farm machinery and equipment" includes drainage, irrigation, and sub-irrigation systems, which include, without limitation, sub-irrigation tiling. Effective immediately.

LRB095 06168 BDD 26262 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

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

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

25 (5) Until July 1, 2003, a passenger car that is a  
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

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

11 (7) Farm chemicals.

12 (8) Legal tender, currency, medallions, or gold or silver  
13 coinage issued by the State of Illinois, the government of the  
14 United States of America, or the government of any foreign  
15 country, and bullion.

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

19 (10) A motor vehicle of the first division, a motor vehicle  
20 of the second division that is a self-contained motor vehicle  
21 designed or permanently converted to provide living quarters  
22 for recreational, camping, or travel use, with direct walk  
23 through to the living quarters from the driver's seat, or a  
24 motor vehicle of the second division that is of the van  
25 configuration designed for the transportation of not less than  
26 7 nor more than 16 passengers, as defined in Section 1-146 of

1 the Illinois Vehicle Code, that is used for automobile renting,  
2 as defined in the Automobile Renting Occupation and Use Tax  
3 Act.

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

23 Farm machinery and equipment shall include precision  
24 farming equipment that is installed or purchased to be  
25 installed on farm machinery and equipment including, but not  
26 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not  
2 limited to, soil testing sensors, computers, monitors,  
3 software, global positioning and mapping systems, and other  
4 such equipment.

5 Farm machinery and equipment also includes computers,  
6 sensors, software, and related equipment used primarily in the  
7 computer-assisted operation of production agriculture  
8 facilities, equipment, and activities such as, but not limited  
9 to, the collection, monitoring, and correlation of animal and  
10 crop data for the purpose of formulating animal diets and  
11 agricultural chemicals.

12 Farm machinery and equipment also includes drainage,  
13 irrigation, and sub-irrigation systems, which include, without  
14 limitation, sub-irrigation tiling.

15 This item (11) is exempt from the provisions of Section  
16 3-90.

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

24 (13) Proceeds of mandatory service charges separately  
25 stated on customers' bills for the purchase and consumption of  
26 food and beverages purchased at retail from a retailer, to the

1 extent that the proceeds of the service charge are in fact  
2 turned over as tips or as a substitute for tips to the  
3 employees who participate directly in preparing, serving,  
4 hosting or cleaning up the food or beverage function with  
5 respect to which the service charge is imposed.

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

15 (15) Photoprocessing machinery and equipment, including  
16 repair and replacement parts, both new and used, including that  
17 manufactured on special order, certified by the purchaser to be  
18 used primarily for photoprocessing, and including  
19 photoprocessing machinery and equipment purchased for lease.

20 (16) Until July 1, 2003, coal exploration, mining,  
21 offhighway hauling, processing, maintenance, and reclamation  
22 equipment, including replacement parts and equipment, and  
23 including equipment purchased for lease, but excluding motor  
24 vehicles required to be registered under the Illinois Vehicle  
25 Code.

26 (17) Until July 1, 2003, distillation machinery and

1 equipment, sold as a unit or kit, assembled or installed by the  
2 retailer, certified by the user to be used only for the  
3 production of ethyl alcohol that will be used for consumption  
4 as motor fuel or as a component of motor fuel for the personal  
5 use of the user, and not subject to sale or resale.

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

17 (19) Personal property delivered to a purchaser or  
18 purchaser's donee inside Illinois when the purchase order for  
19 that personal property was received by a florist located  
20 outside Illinois who has a florist located inside Illinois  
21 deliver the personal property.

22 (20) Semen used for artificial insemination of livestock  
23 for direct agricultural production.

24 (21) Horses, or interests in horses, registered with and  
25 meeting the requirements of any of the Arabian Horse Club  
26 Registry of America, Appaloosa Horse Club, American Quarter



1 Horse Association, United States Trotting Association, or  
2 Jockey Club, as appropriate, used for purposes of breeding or  
3 racing for prizes.

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

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

21           (24) 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 donated for  
24 disaster relief to be used in a State or federally declared  
25 disaster area in Illinois or bordering Illinois by a  
26 manufacturer or retailer that is registered in this State to a

1 corporation, society, association, foundation, or institution  
2 that has been issued a sales tax exemption identification  
3 number by the Department that assists victims of the disaster  
4 who reside within the declared disaster area.

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

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

23 (27) A motor vehicle, as that term is defined in Section  
24 1-146 of the Illinois Vehicle Code, that is donated to a  
25 corporation, limited liability company, society, association,  
26 foundation, or institution that is determined by the Department

1 to be organized and operated exclusively for educational  
2 purposes. For purposes of this exemption, "a corporation,  
3 limited liability company, society, association, foundation,  
4 or institution organized and operated exclusively for  
5 educational purposes" means all tax-supported public schools,  
6 private schools that offer systematic instruction in useful  
7 branches of learning by methods common to public schools and  
8 that compare favorably in their scope and intensity with the  
9 course of study presented in tax-supported schools, and  
10 vocational or technical schools or institutes organized and  
11 operated exclusively to provide a course of study of not less  
12 than 6 weeks duration and designed to prepare individuals to  
13 follow a trade or to pursue a manual, technical, mechanical,  
14 industrial, business, or commercial occupation.

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

3 (29) 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 3-90.

13 (30) Beginning January 1, 2001 and through June 30, 2011,  
14 food for human consumption that is to be consumed off the  
15 premises where it is sold (other than alcoholic beverages, soft  
16 drinks, and food that has been prepared for immediate  
17 consumption) and prescription and nonprescription medicines,  
18 drugs, medical appliances, and insulin, urine testing  
19 materials, syringes, and needles used by diabetics, for human  
20 use, when purchased for use by a person receiving medical  
21 assistance under Article 5 of the Illinois Public Aid Code who  
22 resides in a licensed long-term care facility, as defined in  
23 the Nursing Home Care Act.

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

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

23 (32) Beginning on the effective date of this amendatory Act  
24 of the 92nd General Assembly, personal property purchased by a  
25 lessor who leases the property, under a lease of one year or  
26 longer executed or in effect at the time the lessor would

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

20 (33) On and after July 1, 2003 and through June 30, 2004,  
21 the use in this State of motor vehicles of the second division  
22 with a gross vehicle weight in excess of 8,000 pounds and that  
23 are subject to the commercial distribution fee imposed under  
24 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
25 1, 2004 and through June 30, 2005, the use in this State of  
26 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 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
14 eff. 7-30-04; 93-1033, eff. 9-3-04; 94-1002, eff. 7-3-06.)

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

17 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

20 (1) Personal property purchased from a corporation,  
21 society, association, foundation, institution, or  
22 organization, other than a limited liability company, that is  
23 organized and operated as a not-for-profit service enterprise  
24 for the benefit of persons 65 years of age or older if the



1 personal property was not purchased by the enterprise for the  
2 purpose of resale by the enterprise.

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

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

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

25 (5) Until July 1, 2003 and beginning again on September 1,  
26 2004, graphic arts machinery and equipment, including repair

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

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

11 (7) 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 (7). Agricultural chemical tender tanks and dry boxes  
26 shall include units sold separately from a motor vehicle

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

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

12 Farm machinery and equipment also includes computers,  
13 sensors, software, and related equipment used primarily in the  
14 computer-assisted operation of production agriculture  
15 facilities, equipment, and activities such as, but not limited  
16 to, the collection, monitoring, and correlation of animal and  
17 crop data for the purpose of formulating animal diets and  
18 agricultural chemicals.

19 Farm machinery and equipment also includes drainage,  
20 irrigation, and sub-irrigation systems, which include, without  
21 limitation, sub-irrigation tiling.

22 This item (7) is exempt from the provisions of Section  
23 3-75.

24 (8) Fuel and petroleum products sold to or used by an air  
25 common carrier, certified by the carrier to be used for  
26 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

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

3 (12) 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 (13) Semen used for artificial insemination of livestock  
10 for direct agricultural production.

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

17 (15) Computers and communications equipment utilized for  
18 any hospital purpose and equipment used in the diagnosis,  
19 analysis, or treatment of hospital patients purchased by a  
20 lessor who leases the equipment, under a lease of one year or  
21 longer executed or in effect at the time the lessor would  
22 otherwise be subject to the tax imposed by this Act, to a  
23 hospital that has been issued an active tax exemption  
24 identification number by the Department under Section 1g of the  
25 Retailers' Occupation Tax Act. If the equipment is leased in a  
26 manner that does not qualify for this exemption or is used in

1 any other non-exempt manner, the lessor shall be liable for the  
2 tax imposed under this Act or the Use Tax Act, as the case may  
3 be, based on the fair market value of the property at the time  
4 the non-qualifying use occurs. No lessor shall collect or  
5 attempt to collect an amount (however designated) that purports  
6 to 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 (16) Personal property purchased by a lessor who leases the  
14 property, under a lease of one year or longer executed or in  
15 effect at the time the lessor would otherwise be subject to the  
16 tax imposed by this Act, to a governmental body that has been  
17 issued an active tax exemption identification number by the  
18 Department under Section 1g of the Retailers' Occupation Tax  
19 Act. If the property is leased in a manner that does not  
20 qualify for this exemption or is used in any other non-exempt  
21 manner, the lessor shall be liable for the tax imposed under  
22 this Act or the Use Tax Act, as the case may be, based on the  
23 fair market value of the property at the time the  
24 non-qualifying use occurs. No lessor shall collect or attempt  
25 to collect an amount (however designated) that purports to  
26 reimburse that lessor for the tax imposed by this Act or the

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

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

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

1 when such repairs are initiated on facilities located in the  
2 declared disaster area within 6 months after the disaster.

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

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



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

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

25           (23) Beginning August 23, 2001 and through June 30, 2011,  
26 food for human consumption that is to be consumed off the

1 premises where it is sold (other than alcoholic beverages, soft  
2 drinks, and food that has been prepared for immediate  
3 consumption) and prescription and nonprescription medicines,  
4 drugs, medical appliances, and insulin, urine testing  
5 materials, syringes, and needles used by diabetics, for human  
6 use, when purchased for use by a person receiving medical  
7 assistance under Article 5 of the Illinois Public Aid Code who  
8 resides in a licensed long-term care facility, as defined in  
9 the Nursing Home Care Act.

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

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

8 (25) Beginning on the effective date of this amendatory Act  
9 of the 92nd General Assembly, personal property purchased by a  
10 lessor who leases the property, 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 governmental body 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 property is leased in a  
16 manner that does not qualify for this exemption or is used in  
17 any other nonexempt 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 nonqualifying 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

1 is not refunded to the lessee for any reason, the lessor is  
2 liable to pay that amount to the Department. This paragraph is  
3 exempt from the provisions of Section 3-75.

4 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
5 94-1002, eff. 7-3-06.)

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

8 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

21 (3) Personal property purchased by any not-for-profit arts  
22 or cultural organization that establishes, by proof required by  
23 the Department by rule, that it has received an exemption under  
24 Section 501(c)(3) of the Internal Revenue Code and that is

1 organized and operated primarily for the presentation or  
2 support of arts or cultural programming, activities, or  
3 services. These organizations include, but are not limited to,  
4 music and dramatic arts organizations such as symphony  
5 orchestras and theatrical groups, arts and cultural service  
6 organizations, local arts councils, visual arts organizations,  
7 and media arts organizations. On and after the effective date  
8 of this amendatory Act of the 92nd General Assembly, however,  
9 an entity otherwise eligible for this exemption shall not make  
10 tax-free purchases unless it has an active identification  
11 number issued by the Department.

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

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

25 (6) Personal property sold by a teacher-sponsored student  
26 organization affiliated with an elementary or secondary school

1 located in Illinois.

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

21 Farm machinery and equipment shall include precision  
22 farming equipment that is installed or purchased to be  
23 installed on farm machinery and equipment including, but not  
24 limited to, tractors, harvesters, sprayers, planters, seeders,  
25 or spreaders. Precision farming equipment includes, but is not  
26 limited to, soil testing sensors, computers, monitors,

1 software, global positioning and mapping systems, and other  
2 such equipment.

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

10 Farm machinery and equipment also includes drainage,  
11 irrigation, and sub-irrigation systems, which include, without  
12 limitation, sub-irrigation tiling.

13 This item (7) is exempt from the provisions of Section  
14 3-55.

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

22 (9) Proceeds of mandatory service charges separately  
23 stated on customers' bills for the purchase and consumption of  
24 food and beverages, to the extent that the proceeds of the  
25 service charge are in fact turned over as tips or as a  
26 substitute for tips to the employees who participate directly

1 in preparing, serving, hosting or cleaning up the food or  
2 beverage function with respect to which the service charge is  
3 imposed.

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

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

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

24 (13) Beginning January 1, 1992 and through June 30, 2011,  
25 food for human consumption that is to be consumed off the  
26 premises where it is sold (other than alcoholic beverages, soft



1 drinks and food that has been prepared for immediate  
2 consumption) and prescription and non-prescription medicines,  
3 drugs, medical appliances, and insulin, urine testing  
4 materials, syringes, and needles used by diabetics, for human  
5 use, when purchased for use by a person receiving medical  
6 assistance under Article 5 of the Illinois Public Aid Code who  
7 resides in a licensed long-term care facility, as defined in  
8 the Nursing Home Care Act.

9 (14) Semen used for artificial insemination of livestock  
10 for direct agricultural production.

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

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

25 (17) Personal property sold to a lessor who leases the  
26 property, under a lease of one year or longer executed or in

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

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

15 (19) 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 used in the  
18 performance of infrastructure repairs in this State, including  
19 but not limited to municipal roads and streets, access roads,  
20 bridges, sidewalks, waste disposal systems, water and sewer  
21 line extensions, water distribution and purification  
22 facilities, storm water drainage and retention facilities, and  
23 sewage treatment facilities, resulting from a State or  
24 federally declared disaster in Illinois or bordering Illinois  
25 when such repairs are initiated on facilities located in the  
26 declared disaster area within 6 months after the disaster.

1           (20) 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 3-55.

7           (21) 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           (22) Beginning January 1, 2000, personal property,  
26 including food, purchased through fundraising events for the

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

13 (23) Beginning January 1, 2000 and through December 31,  
14 2001, new or used automatic vending machines that prepare and  
15 serve hot food and beverages, including coffee, soup, and other  
16 items, and replacement parts for these machines. Beginning  
17 January 1, 2002 and through June 30, 2003, machines and parts  
18 for machines used in commercial, coin-operated amusement and  
19 vending business if a use or occupation tax is paid on the  
20 gross receipts derived from the use of the commercial,  
21 coin-operated amusement and vending machines. This paragraph  
22 is exempt from the provisions of Section 3-55.

23 (24) Beginning on the effective date of this amendatory Act  
24 of the 92nd General Assembly, computers and communications  
25 equipment utilized for any hospital purpose and equipment used  
26 in the diagnosis, analysis, or treatment of hospital patients

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

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

15 (26) Beginning on January 1, 2002 and through June 30,  
16 2011, tangible personal property purchased from an Illinois  
17 retailer by a taxpayer engaged in centralized purchasing  
18 activities in Illinois who will, upon receipt of the property  
19 in Illinois, temporarily store the property in Illinois (i) for  
20 the purpose of subsequently transporting it outside this State  
21 for use or consumption thereafter solely outside this State or  
22 (ii) for the purpose of being processed, fabricated, or  
23 manufactured into, attached to, or incorporated into other  
24 tangible personal property to be transported outside this State  
25 and thereafter used or consumed solely outside this State. The  
26 Director of Revenue shall, pursuant to rules adopted in

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

12 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
13 94-1002, eff. 7-3-06.)

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

16 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

20 (1) Farm chemicals.

21 (2) Farm machinery and equipment, both new and used,  
22 including that manufactured on special order, certified by the  
23 purchaser to be used primarily for production agriculture or  
24 State or federal agricultural programs, including individual

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

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

24 Farm machinery and equipment also includes computers,  
25 sensors, software, and related equipment used primarily in the  
26 computer-assisted operation of production agriculture

1 facilities, equipment, and activities such as, but not limited  
2 to, the collection, monitoring, and correlation of animal and  
3 crop data for the purpose of formulating animal diets and  
4 agricultural chemicals.

5 Farm machinery and equipment also includes drainage,  
6 irrigation, and sub-irrigation systems, which include, without  
7 limitation, sub-irrigation tiling.

8 This item (2) ~~(7)~~ is exempt from the provisions of Section  
9 2-70.

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

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

25 (5) A motor vehicle of the first division, a motor vehicle  
26 of the second division that is a self-contained motor vehicle



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

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

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

16 (8) Personal property sold to an Illinois county fair  
17 association for use in conducting, operating, or promoting the  
18 county fair.

19 (9) Personal property sold to 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

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

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

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

1 shall make tax-free purchases unless it has an active  
2 identification number issued by the Department.

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

12 (12-5) On and after July 1, 2003 and through June 30, 2004,  
13 motor vehicles of the second division with a gross vehicle  
14 weight in excess of 8,000 pounds that are subject to the  
15 commercial distribution fee imposed under Section 3-815.1 of  
16 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
17 through June 30, 2005, the use in this State of motor vehicles  
18 of the second division: (i) with a gross vehicle weight rating  
19 in excess of 8,000 pounds; (ii) that are subject to the  
20 commercial distribution fee imposed under Section 3-815.1 of  
21 the Illinois Vehicle Code; and (iii) that are primarily used  
22 for commercial purposes. Through June 30, 2005, this exemption  
23 applies to repair and replacement parts added after the initial  
24 purchase of such a motor vehicle if that motor vehicle is used  
25 in a manner that would qualify for the rolling stock exemption  
26 otherwise provided for in this Act. For purposes of this

1 paragraph, "used for commercial purposes" means the  
2 transportation of persons or property in furtherance of any  
3 commercial or industrial enterprise whether for-hire or not.

4 (13) Proceeds from sales to owners, lessors, or shippers of  
5 tangible personal property that is utilized by interstate  
6 carriers for hire for use as rolling stock moving in interstate  
7 commerce and equipment operated by a telecommunications  
8 provider, licensed as a common carrier by the Federal  
9 Communications Commission, which is permanently installed in  
10 or affixed to aircraft moving in interstate commerce.

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

23 (15) Proceeds of mandatory service charges separately  
24 stated on customers' bills for purchase and consumption of food  
25 and beverages, to the extent that the proceeds of the service  
26 charge are in fact turned over as tips or as a substitute for

1 tips to the employees who participate directly in preparing,  
2 serving, hosting or cleaning up the food or beverage function  
3 with respect to which the service charge is imposed.

4 (16) Petroleum products sold to a purchaser if the seller  
5 is prohibited by federal law from charging tax to the  
6 purchaser.

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

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

19 (19) Until July 1 2003, oil field exploration, drilling,  
20 and production equipment, including (i) rigs and parts of rigs,  
21 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
22 tubular goods, including casing and drill strings, (iii) pumps  
23 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
24 individual replacement part for oil field exploration,  
25 drilling, and production equipment, and (vi) machinery and  
26 equipment purchased for lease; but excluding motor vehicles

1 required to be registered under the Illinois Vehicle Code.

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

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

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

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

23 (24) Fuel consumed or used in the operation of ships,  
24 barges, or vessels that are used primarily in or for the  
25 transportation of property or the conveyance of persons for  
26 hire on rivers bordering on this State if the fuel is delivered

1 by the seller to the purchaser's barge, ship, or vessel while  
2 it is afloat upon that bordering river.

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

15 (25-5) The exemption under item (25) does not apply if the  
16 state in which the motor vehicle will be titled does not allow  
17 a reciprocal exemption for a motor vehicle sold and delivered  
18 in that state to an Illinois resident but titled in Illinois.  
19 The tax collected under this Act on the sale of a motor vehicle  
20 in this State to a resident of another state that does not  
21 allow a reciprocal exemption shall be imposed at a rate equal  
22 to the state's rate of tax on taxable property in the state in  
23 which the purchaser is a resident, except that the tax shall  
24 not exceed the tax that would otherwise be imposed under this  
25 Act. At the time of the sale, the purchaser shall execute a  
26 statement, signed under penalty of perjury, of his or her

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

17 (26) Semen used for artificial insemination of livestock  
18 for direct agricultural production.

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

25 (28) Computers and communications equipment utilized for  
26 any hospital purpose and equipment used in the diagnosis,



1 analysis, or treatment of hospital patients sold to a lessor  
2 who leases the equipment, under a lease of one year or longer  
3 executed or in effect at the time of the purchase, to a  
4 hospital that has been issued an active tax exemption  
5 identification number by the Department under Section 1g of  
6 this Act.

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

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

22 (31) Beginning with taxable years ending on or after  
23 December 31, 1995 and ending with taxable years ending on or  
24 before December 31, 2004, personal property that is used in the  
25 performance of infrastructure repairs in this State, including  
26 but not limited to municipal roads and streets, access roads,

1 bridges, sidewalks, waste disposal systems, water and sewer  
2 line extensions, water distribution and purification  
3 facilities, storm water drainage and retention facilities, and  
4 sewage treatment facilities, resulting from a State or  
5 federally declared disaster in Illinois or bordering Illinois  
6 when such repairs are initiated on facilities located in the  
7 declared disaster area within 6 months after the disaster.

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

14 (33) A motor vehicle, as that term is defined in Section  
15 1-146 of the Illinois Vehicle Code, that is donated to a  
16 corporation, limited liability company, society, association,  
17 foundation, or institution that is determined by the Department  
18 to be organized and operated exclusively for educational  
19 purposes. For purposes of this exemption, "a corporation,  
20 limited liability company, society, association, foundation,  
21 or institution organized and operated exclusively for  
22 educational purposes" means all tax-supported public schools,  
23 private schools that offer systematic instruction in useful  
24 branches of learning by methods common to public schools and  
25 that compare favorably in their scope and intensity with the  
26 course of study presented in tax-supported schools, and

1 vocational or technical schools or institutes organized and  
2 operated exclusively to provide a course of study of not less  
3 than 6 weeks duration and designed to prepare individuals to  
4 follow a trade or to pursue a manual, technical, mechanical,  
5 industrial, business, or commercial occupation.

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

20 (35) Beginning January 1, 2000 and through December 31,  
21 2001, new or used automatic vending machines that prepare and  
22 serve hot food and beverages, including coffee, soup, and other  
23 items, and replacement parts for these machines. Beginning  
24 January 1, 2002 and through June 30, 2003, machines and parts  
25 for machines used in commercial, coin-operated amusement and  
26 vending business if a use or occupation tax is paid on the

1 gross receipts derived from the use of the commercial,  
2 coin-operated amusement and vending machines. This paragraph  
3 is exempt from the provisions of Section 2-70.

4 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
5 food for human consumption that is to be consumed off the  
6 premises where it is sold (other than alcoholic beverages, soft  
7 drinks, and food that has been prepared for immediate  
8 consumption) and prescription and nonprescription medicines,  
9 drugs, medical appliances, and insulin, urine testing  
10 materials, syringes, and needles used by diabetics, for human  
11 use, when purchased for use by a person receiving medical  
12 assistance under Article 5 of the Illinois Public Aid Code who  
13 resides in a licensed long-term care facility, as defined in  
14 the Nursing Home Care Act.

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

24 (37) Beginning August 2, 2001, personal property sold to a  
25 lessor who leases the property, under a lease of one year or  
26 longer executed or in effect at the time of the purchase, to a

1 governmental body that has been issued an active tax exemption  
2 identification number by the Department under Section 1g of  
3 this Act. This paragraph is exempt from the provisions of  
4 Section 2-70.

5 (38) Beginning on January 1, 2002 and through June 30,  
6 2011, tangible personal property purchased from an Illinois  
7 retailer by a taxpayer engaged in centralized purchasing  
8 activities in Illinois who will, upon receipt of the property  
9 in Illinois, temporarily store the property in Illinois (i) for  
10 the purpose of subsequently transporting it outside this State  
11 for use or consumption thereafter solely outside this State or  
12 (ii) for the purpose of being processed, fabricated, or  
13 manufactured into, attached to, or incorporated into other  
14 tangible personal property to be transported outside this State  
15 and thereafter used or consumed solely outside this State. The  
16 Director of Revenue shall, pursuant to rules adopted in  
17 accordance with the Illinois Administrative Procedure Act,  
18 issue a permit to any taxpayer in good standing with the  
19 Department who is eligible for the exemption under this  
20 paragraph (38). The permit issued under this paragraph (38)  
21 shall authorize the holder, to the extent and in the manner  
22 specified in the rules adopted under this Act, to purchase  
23 tangible personal property from a retailer exempt from the  
24 taxes imposed by this Act. Taxpayers shall maintain all  
25 necessary books and records to substantiate the use and  
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

2 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
3 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;  
4 94-1002, eff. 7-3-06.)

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.