

HB0328



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0328

Introduced 1/27/2009, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3b new
35 ILCS 120/2-75 new

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that no tax is imposed under the Acts upon the privilege of using in this State (for the Use Tax Act) or persons engaged in the business of selling at retail (for the Retailers' Occupation Tax Act) qualified merchandise that is purchased from 12:01 a.m. on the first Friday in August through midnight of the Sunday that follows 9 days later. Defines "qualified merchandise" as any article of clothing or footwear or computer that is sold at or below certain selling prices. Sets forth criteria for transactions to qualify for the exemption. Effective immediately.

LRB096 03073 HLH 13088 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 adding Section 3b
5 as follows:

6 (35 ILCS 105/3b new)

7 Sec. 3b. Back-To-School Tax Holiday.

8 (a) No tax is imposed under this Act upon the privilege of
9 using, in this State, qualified merchandise that is purchased
10 at retail from a retailer if the qualified merchandise is
11 purchased during the holiday period.

12 (b) For the purpose of this Section:

13 "Holiday period" means the period from 12:01 a.m. on the
14 first Friday in August through midnight of the Sunday that
15 follows 9 days later.

16 "Qualified merchandise" means:

17 (1) an article of clothing or footwear that is
18 purchased for a selling price of \$200 or less; and

19 (2) a computer that is purchased for a selling price of
20 \$3,000 or less.

21 "Clothing or footwear" means an article of apparel designed
22 to be worn about the human body. The term does not include
23 accessories such as jewelry, handbags, purses, briefcases,

1 luggage, wallets, watches, and similar items that are carried
2 on or about the human body, without regard to whether the item
3 is worn on the body in a manner that is characteristic of
4 clothing.

5 "Computer" means a central processing unit for personal use
6 plus any peripheral sold with it and any computer software
7 installed in it at the time of purchase. The term "computer"
8 includes desktop computers, laptop computers, hand-held
9 computers, and personal digital assistants. The term
10 "computer" does not include any device designed primarily for
11 video game applications. The term "peripheral" includes any
12 monitor, keyboard, printer, scanner, web/PC camera,
13 microphone, external drive, network card, internal drive, and
14 additional storage.

15 (c) For purpose of this Section, a "purchase" occurs during
16 the tax holiday if the buyer places an order and pays the
17 purchase price by cash or credit during the tax holiday period
18 regardless of whether the delivery of the item occurs after the
19 tax holiday period.

20 An item of qualified merchandise that is placed in a
21 layaway or similar deferred plan during the holiday period is
22 not eligible for the exemption unless the item is delivered to
23 the purchaser during the period. An item that was placed in a
24 layaway or similar deferred plan before the holiday period and
25 is then delivered to the purchaser during the holiday period is
26 eligible for the exemption.

1 (d) Any discount, coupon, or other credit offered either by
2 the retailer or by a vendor of the retailer to reduce the final
3 price to the customer must be taken into account in determining
4 the selling price of the item for the purposes of this holiday.
5 If the price of an item is free or reduced with the purchase of
6 another item, then the total price of the items may not be
7 averaged in order for both items to qualify for the holiday.

8 The amount of any rebate may not be considered when
9 determining the selling price of the item for the purposes of
10 this holiday.

11 (e) Articles that are normally sold as a unit must continue
12 to be sold in that manner; they may not be priced separately
13 and sold as individual items in order to be subject to the
14 holiday. For example, if a pair of shoes sells for \$220, the
15 pair cannot be split in order to sell each shoe for \$110 to
16 qualify for the holiday. If a uniform is normally priced at
17 \$250 on a single price tag, the uniform cannot be split into
18 separate articles so that any of the components may be sold for
19 less than \$200 in order to qualify for the holiday. Components
20 that are normally priced as separate articles, however, may
21 continue to be sold as separate articles.

22 (f) Qualified merchandise that customers purchase during
23 the holiday period with the use of a rain check qualify for the
24 holiday regardless of when the rain check was issued. The
25 issuance of a rain check, however, during the holiday period
26 does not qualify merchandise for the exemption if the

1 merchandise is actually purchased after the holiday period.

2 (g) If a customer purchases an item of qualified
3 merchandise during the holiday period but later exchanges the
4 item for a substantially similar item of a different size,
5 different color, or other feature, then no additional tax is
6 due even if the exchange is made after the holiday period.

7 If a customer purchases an item of qualified merchandise
8 during the holiday period, but after the holiday period has
9 ended, the customer returns the item and receives credit on the
10 purchase of a different item, then the newly purchased item is
11 subject to the full tax rate.

12 If a customer purchases an item of qualified merchandise
13 before the holiday period, but during the holiday period, the
14 customer returns the item and receives credit on the purchase
15 of a different item of qualified merchandise, then the newly
16 purchased item is subject to the exemption.

17 (h) Each unit of local government that imposes a use tax
18 may, by resolution or ordinance, declare a tax holiday with
19 respect to its use tax for the same items, during the same
20 periods, and under the same conditions and is encouraged to do
21 so.

22 Section 10. The Retailers' Occupation Tax Act is amended by
23 adding Section 2-75 as follows:

24 (35 ILCS 120/2-75 new)

1 Sec. 2-75. Back-To-School Tax Holiday.

2 (a) No tax is imposed under this Act upon persons engaged
3 in the business of selling, at retail, qualified merchandise if
4 the qualified merchandise is purchased during the holiday
5 period.

6 (b) For the purpose of this Section:

7 "Holiday period" means the period from 12:01 a.m. on the
8 first Friday in August through midnight of the Sunday that
9 follows 9 days later.

10 "Qualified merchandise" means:

11 (1) an article of clothing or footwear that is
12 purchased for a selling price of \$200 or less; and

13 (2) a computer that is purchased for a selling price of
14 \$3,000 or less.

15 "Clothing or footwear" means an article of apparel designed
16 to be worn about the human body. The term does not include
17 accessories such as jewelry, handbags, purses, briefcases,
18 luggage, wallets, watches, and similar items that are carried
19 on or about the human body, without regard to whether the item
20 is worn on the body in a manner that is characteristic of
21 clothing.

22 "Computer" means a central processing unit for personal use
23 plus any peripheral sold with it and any computer software
24 installed in it at the time of purchase. The term "computer"
25 includes desktop computers, laptop computers, hand-held
26 computers, and personal digital assistants. The term

1 "computer" does not include any device designed primarily for
2 video game applications. The term "peripheral" includes any
3 monitor, keyboard, printer, scanner, web/PC camera,
4 microphone, external drive, network card, internal drive, and
5 additional storage.

6 (c) For purpose of this Section, a "purchase" occurs during
7 the tax holiday if the buyer places an order and pays the
8 purchase price by cash or credit during the tax holiday period
9 regardless of whether the delivery of the item occurs after the
10 tax holiday period.

11 An item of qualified merchandise that is placed in a
12 layaway or similar deferred plan during the holiday period is
13 not eligible for the exemption unless the item is delivered to
14 the purchaser during the period. An item that was placed in a
15 layaway or similar deferred plan before the holiday period and
16 is then delivered to the purchaser during the holiday period is
17 eligible for the exemption.

18 (d) Any discount, coupon, or other credit offered either by
19 the retailer or by a vendor of the retailer to reduce the final
20 price to the customer must be taken into account in determining
21 the selling price of the item for the purposes of this holiday.
22 If the price of an item is free or reduced with the purchase of
23 another item, then the total price of the items may not be
24 averaged in order for both items to qualify for the holiday.

25 The amount of any rebate may not be considered when
26 determining the selling price of the item for the purposes of

1 this holiday.

2 (e) Articles that are normally sold as a unit must continue
3 to be sold in that manner; they may not be priced separately
4 and sold as individual items in order to be subject to the
5 holiday. For example, if a pair of shoes sells for \$220, the
6 pair cannot be split in order to sell each shoe for \$110 to
7 qualify for the holiday. If a uniform is normally priced at
8 \$250 on a single price tag, the uniform cannot be split into
9 separate articles so that any of the components may be sold for
10 less than \$200 in order to qualify for the holiday. Components
11 that are normally priced as separate articles, however, may
12 continue to be sold as separate articles.

13 (f) Qualified merchandise that customers purchase during
14 the holiday period with the use of a rain check qualify for the
15 holiday regardless of when the rain check was issued. The
16 issuance of a rain check, however, during the holiday period
17 does not qualify merchandise for the exemption if the
18 merchandise is actually purchased after the holiday period.

19 (g) If a customer purchases an item of qualified
20 merchandise during the holiday period but later exchanges the
21 item for a substantially similar item of a different size,
22 different color, or other feature, then no additional tax is
23 due even if the exchange is made after the holiday period.

24 If a customer purchases an item of qualified merchandise
25 during the holiday period, but after the holiday period has
26 ended, the customer returns the item and receives credit on the

1 purchase of a different item, then the newly purchased item is
2 subject to the full tax rate.

3 If a customer purchases an item of qualified merchandise
4 before the holiday period, but during the holiday period, the
5 customer returns the item and receives credit on the purchase
6 of a different item of qualified merchandise, then the newly
7 purchased item is subject to the exemption.

8 (h) Each unit of local government that imposes a retailers'
9 occupation tax may, by resolution or ordinance, declare a tax
10 holiday with respect to its use tax for the same items, during
11 the same periods, and under the same conditions and is
12 encouraged to do so.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.