



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3512

Introduced 2/24/2011, by Rep. Marlow H. Colvin

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-6	
35 ILCS 105/3-10	
35 ILCS 110/3-6 new	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 110/9	from Ch. 120, par. 439.39
35 ILCS 115/3-6 new	
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 115/9	from Ch. 120, par. 439.109
35 ILCS 120/2-8	
35 ILCS 120/2-10	

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, during the first Monday in September in 2011 and each year thereafter, the tax imposed under the Acts on Energy Star products shall be at the rate of 1.25% (instead of 6.25%). Effective immediately.

LRB097 10581 HLH 50940 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 changing Sections
5 3-6 and 3-10 as follows:

6 (35 ILCS 105/3-6)

7 Sec. 3-6. Sales tax holiday items.

8 (a) The tangible personal property described in this
9 subsection qualifies for the 1.25% reduced rate of tax for the
10 period set forth in Section 3-10 of this Act (hereinafter
11 referred to as the Sales Tax Holiday Period). The reduced rate
12 on these items shall be administered under the provisions of
13 subsection (b) of this Section. The following items are subject
14 to the reduced rate:

15 (1) Clothing items that each have a retail selling
16 price of less than \$100.

17 "Clothing" means, unless otherwise specified in this
18 Section, all human wearing apparel suitable for general
19 use. "Clothing" does not include clothing accessories,
20 protective equipment, or sport or recreational equipment.
21 "Clothing" includes, but is not limited to: household and
22 shop aprons; athletic supporters; bathing suits and caps;
23 belts and suspenders; boots; coats and jackets; ear muffs;

1 footlets; gloves and mittens for general use; hats and
2 caps; hosiery; insoles for shoes; lab coats; neckties;
3 overshoes; pantyhose; rainwear; rubber pants; sandals;
4 scarves; shoes and shoelaces; slippers; sneakers; socks
5 and stockings; steel-toed shoes; underwear; and school
6 uniforms.

7 "Clothing accessories" means, but is not limited to:
8 briefcases; cosmetics; hair notions, including, but not
9 limited to barrettes, hair bows, and hair nets; handbags;
10 handkerchiefs; jewelry; non-prescription sunglasses;
11 umbrellas; wallets; watches; and wigs and hair pieces.

12 "Protective equipment" means, but is not limited to:
13 breathing masks; clean room apparel and equipment; ear and
14 hearing protectors; face shields; hard hats; helmets;
15 paint or dust respirators; protective gloves; safety
16 glasses and goggles; safety belts; tool belts; and welder's
17 gloves and masks.

18 "Sport or recreational equipment" means, but is not
19 limited to: ballet and tap shoes; cleated or spiked
20 athletic shoes; gloves, including, but not limited to,
21 baseball, bowling, boxing, hockey, and golf gloves;
22 goggles; hand and elbow guards; life preservers and vests;
23 mouth guards; roller and ice skates; shin guards; shoulder
24 pads; ski boots; waders; and wetsuits and fins.

25 (2) School supplies. "School supplies" means, unless
26 otherwise specified in this Section, items used by a

1 student in a course of study. The purchase of school
2 supplies for use by persons other than students for use in
3 a course of study are not eligible for the reduced rate of
4 tax. "School supplies" do not include school art supplies;
5 school instructional materials; cameras; film and memory
6 cards; videocameras, tapes, and videotapes; computers;
7 cell phones; Personal Digital Assistants (PDAs); handheld
8 electronic schedulers; and school computer supplies.

9 "School supplies" includes, but is not limited to:
10 binders; book bags; calculators; cellophane tape;
11 blackboard chalk; compasses; composition books; crayons;
12 erasers; expandable, pocket, plastic, and manila folders;
13 glue, paste, and paste sticks; highlighters; index cards;
14 index card boxes; legal pads; lunch boxes; markers;
15 notebooks; paper, including loose leaf ruled notebook
16 paper, copy paper, graph paper, tracing paper, manila
17 paper, colored paper, poster board, and construction
18 paper; pencils; pencil leads; pens; ink and ink refills for
19 pens; pencil boxes and other school supply boxes; pencil
20 sharpeners; protractors; rulers; scissors; and writing
21 tablets.

22 "School art supply" means an item commonly used by a
23 student in a course of study for artwork and includes only
24 the following items: clay and glazes; acrylic, tempera, and
25 oil paint; paintbrushes for artwork; sketch and drawing
26 pads; and watercolors.

1 "School instructional material" means written material
2 commonly used by a student in a course of study as a
3 reference and to learn the subject being taught and
4 includes only the following items: reference books;
5 reference maps and globes; textbooks; and workbooks.

6 "School computer supply" means an item commonly used by
7 a student in a course of study in which a computer is used
8 and applies only to the following items: flashdrives and
9 other computer data storage devices; data storage media,
10 such as diskettes and compact disks; boxes and cases for
11 disk storage; external ports or drives; computer cases;
12 computer cables; computer printers; and printer
13 cartridges, toner, and ink.

14 (a-5) During the first Monday in September of each year
15 beginning in 2011, energy efficient products are also subject
16 to the reduced rate. For the purposes of this subsection (a-5),
17 "energy efficient product" means any product that qualifies as
18 an Energy Star product by the United States Environmental
19 Protection Agency. The reduced rate on these items shall be
20 administered under the provisions of subsection (b) of this
21 Section.

22 (b) Administration. Notwithstanding any other provision of
23 this Act, the reduced rate of tax under Section 3-10 of this
24 Act for sales tax holiday items described in this Section
25 ~~clothing and school supplies~~ shall be administered by the
26 Department under the provisions of this subsection (b).

1 (1) Bundled sales. Items that qualify for the reduced
2 rate of tax that are bundled together with items that do
3 not qualify for the reduced rate of tax and that are sold
4 for one itemized price will be subject to the reduced rate
5 of tax only if the value of the items that qualify for the
6 reduced rate of tax exceeds the value of the items that do
7 not qualify for the reduced rate of tax.

8 (2) Coupons and discounts. An unreimbursed discount by
9 the seller reduces the sales price of the property so that
10 the discounted sales price determines whether the sales
11 price is within a sales tax holiday price threshold. A
12 coupon or other reduction in the sales price is treated as
13 a discount if the seller is not reimbursed for the coupon
14 or reduction amount by a third party.

15 (3) Splitting of items normally sold together.
16 Articles that are normally sold as a single unit must
17 continue to be sold in that manner. Such articles cannot be
18 priced separately and sold as individual items in order to
19 obtain the reduced rate of tax. For example, a pair of
20 shoes cannot have each shoe sold separately so that the
21 sales price of each shoe is within a sales tax holiday
22 price threshold.

23 (4) Rain checks. A rain check is a procedure that
24 allows a customer to purchase an item at a certain price at
25 a later time because the particular item was out of stock.
26 Eligible property that customers purchase during the Sales

1 Tax Holiday Period with the use of a rain check will
2 qualify for the reduced rate of tax regardless of when the
3 rain check was issued. Issuance of a rain check during the
4 Sales Tax Holiday Period will not qualify eligible property
5 for the reduced rate of tax if the property is actually
6 purchased after the Sales Tax Holiday Period.

7 (5) Exchanges. The procedure for an exchange in regards
8 to a sales tax holiday is as follows:

9 (A) If a customer purchases an item of eligible
10 property during the Sales Tax Holiday Period, but later
11 exchanges the item for a similar eligible item, even if
12 a different size, different color, or other feature, no
13 additional tax is due even if the exchange is made
14 after the Sales Tax Holiday Period.

15 (B) If a customer purchases an item of eligible
16 property during the Sales Tax Holiday Period, but after
17 the Sales Tax Holiday Period has ended, the customer
18 returns the item and receives credit on the purchase of
19 a different item, the 6.25% general merchandise sales
20 tax rate is due on the sale of the newly purchased
21 item.

22 (C) If a customer purchases an item of eligible
23 property before the Sales Tax Holiday Period, but
24 during the Sales Tax Holiday Period the customer
25 returns the item and receives credit on the purchase of
26 a different item of eligible property, the reduced rate

1 of tax is due on the sale of the new item if the new
2 item is purchased during the Sales Tax Holiday Period.

3 (6) Delivery charges. Delivery charges, including
4 shipping, handling and service charges, are part of the
5 sales price of eligible property.

6 (7) Order date and back orders. For the purpose of a
7 sales tax holiday, eligible property qualifies for the
8 reduced rate of tax if: (i) the item is both delivered to
9 and paid for by the customer during the Sales Tax Holiday
10 Period or (ii) the customer orders and pays for the item
11 and the seller accepts the order during the Sales Tax
12 Holiday Period for immediate shipment, even if delivery is
13 made after the Sales Tax Holiday Period. The seller accepts
14 an order when the seller has taken action to fill the order
15 for immediate shipment. Actions to fill an order include
16 placement of an "in date" stamp on an order or assignment
17 of an "order number" to an order within the Sales Tax
18 Holiday Period. An order is for immediate shipment when the
19 customer does not request delayed shipment. An order is for
20 immediate shipment notwithstanding that the shipment may
21 be delayed because of a backlog of orders or because stock
22 is currently unavailable to, or on back order by, the
23 seller.

24 (8) Returns. For a 60-day period immediately after the
25 Sales Tax Holiday Period, if a customer returns an item
26 that would qualify for the reduced rate of tax, credit for

1 or refund of sales tax shall be given only at the reduced
2 rate unless the customer provides a receipt or invoice that
3 shows tax was paid at the 6.25% general merchandise rate,
4 or the seller has sufficient documentation to show that tax
5 was paid at the 6.25% general merchandise rate on the
6 specific item. This 60-day period is set solely for the
7 purpose of designating a time period during which the
8 customer must provide documentation that shows that the
9 appropriate sales tax rate was paid on returned
10 merchandise. The 60-day period is not intended to change a
11 seller's policy on the time period during which the seller
12 will accept returns.

13 (c) The Department may implement the provisions of this
14 Section through the use of emergency rules, along with
15 permanent rules filed concurrently with such emergency rules,
16 in accordance with the provisions of Section 5-45 of the
17 Illinois Administrative Procedure Act. For purposes of the
18 Illinois Administrative Procedure Act, the adoption of rules to
19 implement the provisions of this Section shall be deemed an
20 emergency and necessary for the public interest, safety, and
21 welfare.

22 (Source: P.A. 96-1012, eff. 7-7-10.)

23 (35 ILCS 105/3-10)

24 Sec. 3-10. Rate of tax. Unless otherwise provided in this
25 Section, the tax imposed by this Act is at the rate of 6.25% of

1 either the selling price or the fair market value, if any, of
2 the tangible personal property. In all cases where property
3 functionally used or consumed is the same as the property that
4 was purchased at retail, then the tax is imposed on the selling
5 price of the property. In all cases where property functionally
6 used or consumed is a by-product or waste product that has been
7 refined, manufactured, or produced from property purchased at
8 retail, then the tax is imposed on the lower of the fair market
9 value, if any, of the specific property so used in this State
10 or on the selling price of the property purchased at retail.
11 For purposes of this Section "fair market value" means the
12 price at which property would change hands between a willing
13 buyer and a willing seller, neither being under any compulsion
14 to buy or sell and both having reasonable knowledge of the
15 relevant facts. The fair market value shall be established by
16 Illinois sales by the taxpayer of the same property as that
17 functionally used or consumed, or if there are no such sales by
18 the taxpayer, then comparable sales or purchases of property of
19 like kind and character in Illinois.

20 Beginning on July 1, 2000 and through December 31, 2000,
21 with respect to motor fuel, as defined in Section 1.1 of the
22 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
23 the Use Tax Act, the tax is imposed at the rate of 1.25%.

24 Beginning on August 6, 2010 through August 15, 2010, with
25 respect to sales tax holiday items as defined in subsection (a)
26 of Section 3-6 of this Act, the tax is imposed at the rate of

1 1.25%. During the first Monday in September of each year
2 beginning in 2011, with respect to sales tax holiday items as
3 defined in subsection (a-5) of Section 3-6 of this Act, the tax
4 is imposed at the rate of 1.25%.

5 With respect to gasohol, the tax imposed by this Act
6 applies to (i) 70% of the proceeds of sales made on or after
7 January 1, 1990, and before July 1, 2003, (ii) 80% of the
8 proceeds of sales made on or after July 1, 2003 and on or
9 before December 31, 2013, and (iii) 100% of the proceeds of
10 sales made thereafter. If, at any time, however, the tax under
11 this Act on sales of gasohol is imposed at the rate of 1.25%,
12 then the tax imposed by this Act applies to 100% of the
13 proceeds of sales of gasohol made during that time.

14 With respect to majority blended ethanol fuel, the tax
15 imposed by this Act does not apply to the proceeds of sales
16 made on or after July 1, 2003 and on or before December 31,
17 2013 but applies to 100% of the proceeds of sales made
18 thereafter.

19 With respect to biodiesel blends with no less than 1% and
20 no more than 10% biodiesel, the tax imposed by this Act applies
21 to (i) 80% of the proceeds of sales made on or after July 1,
22 2003 and on or before December 31, 2013 and (ii) 100% of the
23 proceeds of sales made thereafter. If, at any time, however,
24 the tax under this Act on sales of biodiesel blends with no
25 less than 1% and no more than 10% biodiesel is imposed at the
26 rate of 1.25%, then the tax imposed by this Act applies to 100%

1 of the proceeds of sales of biodiesel blends with no less than
2 1% and no more than 10% biodiesel made during that time.

3 With respect to 100% biodiesel and biodiesel blends with
4 more than 10% but no more than 99% biodiesel, the tax imposed
5 by this Act does not apply to the proceeds of sales made on or
6 after July 1, 2003 and on or before December 31, 2013 but
7 applies to 100% of the proceeds of sales made thereafter.

8 With respect to food for human consumption that is to be
9 consumed off the premises where it is sold (other than
10 alcoholic beverages, soft drinks, and food that has been
11 prepared for immediate consumption) and prescription and
12 nonprescription medicines, drugs, medical appliances,
13 modifications to a motor vehicle for the purpose of rendering
14 it usable by a disabled person, and insulin, urine testing
15 materials, syringes, and needles used by diabetics, for human
16 use, the tax is imposed at the rate of 1%. For the purposes of
17 this Section, until September 1, 2009: the term "soft drinks"
18 means any complete, finished, ready-to-use, non-alcoholic
19 drink, whether carbonated or not, including but not limited to
20 soda water, cola, fruit juice, vegetable juice, carbonated
21 water, and all other preparations commonly known as soft drinks
22 of whatever kind or description that are contained in any
23 closed or sealed bottle, can, carton, or container, regardless
24 of size; but "soft drinks" does not include coffee, tea,
25 non-carbonated water, infant formula, milk or milk products as
26 defined in the Grade A Pasteurized Milk and Milk Products Act,

1 or drinks containing 50% or more natural fruit or vegetable
2 juice.

3 Notwithstanding any other provisions of this Act,
4 beginning September 1, 2009, "soft drinks" means non-alcoholic
5 beverages that contain natural or artificial sweeteners. "Soft
6 drinks" do not include beverages that contain milk or milk
7 products, soy, rice or similar milk substitutes, or greater
8 than 50% of vegetable or fruit juice by volume.

9 Until August 1, 2009, and notwithstanding any other
10 provisions of this Act, "food for human consumption that is to
11 be consumed off the premises where it is sold" includes all
12 food sold through a vending machine, except soft drinks and
13 food products that are dispensed hot from a vending machine,
14 regardless of the location of the vending machine. Beginning
15 August 1, 2009, and notwithstanding any other provisions of
16 this Act, "food for human consumption that is to be consumed
17 off the premises where it is sold" includes all food sold
18 through a vending machine, except soft drinks, candy, and food
19 products that are dispensed hot from a vending machine,
20 regardless of the location of the vending machine.

21 Notwithstanding any other provisions of this Act,
22 beginning September 1, 2009, "food for human consumption that
23 is to be consumed off the premises where it is sold" does not
24 include candy. For purposes of this Section, "candy" means a
25 preparation of sugar, honey, or other natural or artificial
26 sweeteners in combination with chocolate, fruits, nuts or other

1 ingredients or flavorings in the form of bars, drops, or
2 pieces. "Candy" does not include any preparation that contains
3 flour or requires refrigeration.

4 Notwithstanding any other provisions of this Act,
5 beginning September 1, 2009, "nonprescription medicines and
6 drugs" does not include grooming and hygiene products. For
7 purposes of this Section, "grooming and hygiene products"
8 includes, but is not limited to, soaps and cleaning solutions,
9 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
10 lotions and screens, unless those products are available by
11 prescription only, regardless of whether the products meet the
12 definition of "over-the-counter-drugs". For the purposes of
13 this paragraph, "over-the-counter-drug" means a drug for human
14 use that contains a label that identifies the product as a drug
15 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
16 label includes:

17 (A) A "Drug Facts" panel; or

18 (B) A statement of the "active ingredient(s)" with a
19 list of those ingredients contained in the compound,
20 substance or preparation.

21 If the property that is purchased at retail from a retailer
22 is acquired outside Illinois and used outside Illinois before
23 being brought to Illinois for use here and is taxable under
24 this Act, the "selling price" on which the tax is computed
25 shall be reduced by an amount that represents a reasonable
26 allowance for depreciation for the period of prior out-of-state

1 use.

2 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
3 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

4 Section 10. The Service Use Tax Act is amended by changing
5 Sections 3-10 and 9 and by adding Section 3-6 as follows:

6 (35 ILCS 110/3-6 new)

7 Sec. 3-6. Sales tax holiday items.

8 (a) During the first Monday in September of each year
9 beginning in 2011, energy efficient products qualify for a
10 1.25% reduced rate of tax as set forth in Section 3-10 of this
11 Act. For the purposes of this subsection (a), "energy efficient
12 product" means any product that qualifies as an Energy Star
13 product by the United States Environmental Protection Agency.
14 The reduced rate on these items shall be administered under the
15 provisions of subsection (b) of this Section.

16 (b) Notwithstanding any other provision of this Act, the
17 reduced rate of tax under Section 3-10 of this Act for sales
18 tax holiday items described in subsection (a) of this Section
19 shall be administered by the Department in the same manner as
20 provided in subsection (b) of Section 3-6 of the Use Tax Act.

21 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

22 Sec. 3-10. Rate of tax. Unless otherwise provided in this
23 Section, the tax imposed by this Act is at the rate of 6.25% of

1 the selling price of tangible personal property transferred as
2 an incident to the sale of service, but, for the purpose of
3 computing this tax, in no event shall the selling price be less
4 than the cost price of the property to the serviceman.

5 Beginning on July 1, 2000 and through December 31, 2000,
6 with respect to motor fuel, as defined in Section 1.1 of the
7 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
8 the Use Tax Act, the tax is imposed at the rate of 1.25%.

9 With respect to gasohol, as defined in the Use Tax Act, the
10 tax imposed by this Act applies to (i) 70% of the selling price
11 of property transferred as an incident to the sale of service
12 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
13 of the selling price of property transferred as an incident to
14 the sale of service on or after July 1, 2003 and on or before
15 December 31, 2013, and (iii) 100% of the selling price
16 thereafter. If, at any time, however, the tax under this Act on
17 sales of gasohol, as defined in the Use Tax Act, is imposed at
18 the rate of 1.25%, then the tax imposed by this Act applies to
19 100% of the proceeds of sales of gasohol made during that time.

20 With respect to majority blended ethanol fuel, as defined
21 in the Use Tax Act, the tax imposed by this Act does not apply
22 to the selling price of property transferred as an incident to
23 the sale of service on or after July 1, 2003 and on or before
24 December 31, 2013 but applies to 100% of the selling price
25 thereafter.

26 With respect to biodiesel blends, as defined in the Use Tax

1 Act, with no less than 1% and no more than 10% biodiesel, the
2 tax imposed by this Act applies to (i) 80% of the selling price
3 of property transferred as an incident to the sale of service
4 on or after July 1, 2003 and on or before December 31, 2013 and
5 (ii) 100% of the proceeds of the selling price thereafter. If,
6 at any time, however, the tax under this Act on sales of
7 biodiesel blends, as defined in the Use Tax Act, with no less
8 than 1% and no more than 10% biodiesel is imposed at the rate
9 of 1.25%, then the tax imposed by this Act applies to 100% of
10 the proceeds of sales of biodiesel blends with no less than 1%
11 and no more than 10% biodiesel made during that time.

12 With respect to 100% biodiesel, as defined in the Use Tax
13 Act, and biodiesel blends, as defined in the Use Tax Act, with
14 more than 10% but no more than 99% biodiesel, the tax imposed
15 by this Act does not apply to the proceeds of the selling price
16 of property transferred as an incident to the sale of service
17 on or after July 1, 2003 and on or before December 31, 2013 but
18 applies to 100% of the selling price thereafter.

19 During the first Monday in September of each year beginning
20 in 2011, with respect to sales tax holiday items as defined in
21 Section 3-6 of this Act, the tax is imposed at the rate of
22 1.25%.

23 At the election of any registered serviceman made for each
24 fiscal year, sales of service in which the aggregate annual
25 cost price of tangible personal property transferred as an
26 incident to the sales of service is less than 35%, or 75% in

1 the case of servicemen transferring prescription drugs or
2 servicemen engaged in graphic arts production, of the aggregate
3 annual total gross receipts from all sales of service, the tax
4 imposed by this Act shall be based on the serviceman's cost
5 price of the tangible personal property transferred as an
6 incident to the sale of those services.

7 The tax shall be imposed at the rate of 1% on food prepared
8 for immediate consumption and transferred incident to a sale of
9 service subject to this Act or the Service Occupation Tax Act
10 by an entity licensed under the Hospital Licensing Act, the
11 Nursing Home Care Act, the MR/DD Community Care Act, or the
12 Child Care Act of 1969. The tax shall also be imposed at the
13 rate of 1% on food for human consumption that is to be consumed
14 off the premises where it is sold (other than alcoholic
15 beverages, soft drinks, and food that has been prepared for
16 immediate consumption and is not otherwise included in this
17 paragraph) and prescription and nonprescription medicines,
18 drugs, medical appliances, modifications to a motor vehicle for
19 the purpose of rendering it usable by a disabled person, and
20 insulin, urine testing materials, syringes, and needles used by
21 diabetics, for human use. For the purposes of this Section,
22 until September 1, 2009: the term "soft drinks" means any
23 complete, finished, ready-to-use, non-alcoholic drink, whether
24 carbonated or not, including but not limited to soda water,
25 cola, fruit juice, vegetable juice, carbonated water, and all
26 other preparations commonly known as soft drinks of whatever

1 kind or description that are contained in any closed or sealed
2 bottle, can, carton, or container, regardless of size; but
3 "soft drinks" does not include coffee, tea, non-carbonated
4 water, infant formula, milk or milk products as defined in the
5 Grade A Pasteurized Milk and Milk Products Act, or drinks
6 containing 50% or more natural fruit or vegetable juice.

7 Notwithstanding any other provisions of this Act,
8 beginning September 1, 2009, "soft drinks" means non-alcoholic
9 beverages that contain natural or artificial sweeteners. "Soft
10 drinks" do not include beverages that contain milk or milk
11 products, soy, rice or similar milk substitutes, or greater
12 than 50% of vegetable or fruit juice by volume.

13 Until August 1, 2009, and notwithstanding any other
14 provisions of this Act, "food for human consumption that is to
15 be consumed off the premises where it is sold" includes all
16 food sold through a vending machine, except soft drinks and
17 food products that are dispensed hot from a vending machine,
18 regardless of the location of the vending machine. Beginning
19 August 1, 2009, and notwithstanding any other provisions of
20 this Act, "food for human consumption that is to be consumed
21 off the premises where it is sold" includes all food sold
22 through a vending machine, except soft drinks, candy, and food
23 products that are dispensed hot from a vending machine,
24 regardless of the location of the vending machine.

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "food for human consumption that

1 is to be consumed off the premises where it is sold" does not
2 include candy. For purposes of this Section, "candy" means a
3 preparation of sugar, honey, or other natural or artificial
4 sweeteners in combination with chocolate, fruits, nuts or other
5 ingredients or flavorings in the form of bars, drops, or
6 pieces. "Candy" does not include any preparation that contains
7 flour or requires refrigeration.

8 Notwithstanding any other provisions of this Act,
9 beginning September 1, 2009, "nonprescription medicines and
10 drugs" does not include grooming and hygiene products. For
11 purposes of this Section, "grooming and hygiene products"
12 includes, but is not limited to, soaps and cleaning solutions,
13 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
14 lotions and screens, unless those products are available by
15 prescription only, regardless of whether the products meet the
16 definition of "over-the-counter-drugs". For the purposes of
17 this paragraph, "over-the-counter-drug" means a drug for human
18 use that contains a label that identifies the product as a drug
19 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
20 label includes:

21 (A) A "Drug Facts" panel; or

22 (B) A statement of the "active ingredient(s)" with a
23 list of those ingredients contained in the compound,
24 substance or preparation.

25 If the property that is acquired from a serviceman is
26 acquired outside Illinois and used outside Illinois before

1 being brought to Illinois for use here and is taxable under
2 this Act, the "selling price" on which the tax is computed
3 shall be reduced by an amount that represents a reasonable
4 allowance for depreciation for the period of prior out-of-state
5 use.

6 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
7 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

8 (35 ILCS 110/9) (from Ch. 120, par. 439.39)

9 Sec. 9. Each serviceman required or authorized to collect
10 the tax herein imposed shall pay to the Department the amount
11 of such tax (except as otherwise provided) at the time when he
12 is required to file his return for the period during which such
13 tax was collected, less a discount of 2.1% prior to January 1,
14 1990 and 1.75% on and after January 1, 1990, or \$5 per calendar
15 year, whichever is greater, which is allowed to reimburse the
16 serviceman for expenses incurred in collecting the tax, keeping
17 records, preparing and filing returns, remitting the tax and
18 supplying data to the Department on request. A serviceman need
19 not remit that part of any tax collected by him to the extent
20 that he is required to pay and does pay the tax imposed by the
21 Service Occupation Tax Act with respect to his sale of service
22 involving the incidental transfer by him of the same property.

23 Except as provided hereinafter in this Section, on or
24 before the twentieth day of each calendar month, such
25 serviceman shall file a return for the preceding calendar month

1 in accordance with reasonable Rules and Regulations to be
2 promulgated by the Department. Such return shall be filed on a
3 form prescribed by the Department and shall contain such
4 information as the Department may reasonably require.

5 The Department may require returns to be filed on a
6 quarterly basis. If so required, a return for each calendar
7 quarter shall be filed on or before the twentieth day of the
8 calendar month following the end of such calendar quarter. The
9 taxpayer shall also file a return with the Department for each
10 of the first two months of each calendar quarter, on or before
11 the twentieth day of the following calendar month, stating:

- 12 1. The name of the seller;
- 13 2. The address of the principal place of business from
14 which he engages in business as a serviceman in this State;
- 15 3. The total amount of taxable receipts received by him
16 during the preceding calendar month, including receipts
17 from charge and time sales, but less all deductions allowed
18 by law;
- 19 4. The amount of credit provided in Section 2d of this
20 Act;
- 21 5. The amount of tax due;
- 22 5-5. The signature of the taxpayer; and
- 23 6. Such other reasonable information as the Department
24 may require.

25 If a taxpayer fails to sign a return within 30 days after
26 the proper notice and demand for signature by the Department,

1 the return shall be considered valid and any amount shown to be
2 due on the return shall be deemed assessed.

3 Beginning October 1, 1993, a taxpayer who has an average
4 monthly tax liability of \$150,000 or more shall make all
5 payments required by rules of the Department by electronic
6 funds transfer. Beginning October 1, 1994, a taxpayer who has
7 an average monthly tax liability of \$100,000 or more shall make
8 all payments required by rules of the Department by electronic
9 funds transfer. Beginning October 1, 1995, a taxpayer who has
10 an average monthly tax liability of \$50,000 or more shall make
11 all payments required by rules of the Department by electronic
12 funds transfer. Beginning October 1, 2000, a taxpayer who has
13 an annual tax liability of \$200,000 or more shall make all
14 payments required by rules of the Department by electronic
15 funds transfer. The term "annual tax liability" shall be the
16 sum of the taxpayer's liabilities under this Act, and under all
17 other State and local occupation and use tax laws administered
18 by the Department, for the immediately preceding calendar year.
19 The term "average monthly tax liability" means the sum of the
20 taxpayer's liabilities under this Act, and under all other
21 State and local occupation and use tax laws administered by the
22 Department, for the immediately preceding calendar year
23 divided by 12. Beginning on October 1, 2002, a taxpayer who has
24 a tax liability in the amount set forth in subsection (b) of
25 Section 2505-210 of the Department of Revenue Law shall make
26 all payments required by rules of the Department by electronic

1 funds transfer.

2 Before August 1 of each year beginning in 1993, the
3 Department shall notify all taxpayers required to make payments
4 by electronic funds transfer. All taxpayers required to make
5 payments by electronic funds transfer shall make those payments
6 for a minimum of one year beginning on October 1.

7 Any taxpayer not required to make payments by electronic
8 funds transfer may make payments by electronic funds transfer
9 with the permission of the Department.

10 All taxpayers required to make payment by electronic funds
11 transfer and any taxpayers authorized to voluntarily make
12 payments by electronic funds transfer shall make those payments
13 in the manner authorized by the Department.

14 The Department shall adopt such rules as are necessary to
15 effectuate a program of electronic funds transfer and the
16 requirements of this Section.

17 If the serviceman is otherwise required to file a monthly
18 return and if the serviceman's average monthly tax liability to
19 the Department does not exceed \$200, the Department may
20 authorize his returns to be filed on a quarter annual basis,
21 with the return for January, February and March of a given year
22 being due by April 20 of such year; with the return for April,
23 May and June of a given year being due by July 20 of such year;
24 with the return for July, August and September of a given year
25 being due by October 20 of such year, and with the return for
26 October, November and December of a given year being due by

1 January 20 of the following year.

2 If the serviceman is otherwise required to file a monthly
3 or quarterly return and if the serviceman's average monthly tax
4 liability to the Department does not exceed \$50, the Department
5 may authorize his returns to be filed on an annual basis, with
6 the return for a given year being due by January 20 of the
7 following year.

8 Such quarter annual and annual returns, as to form and
9 substance, shall be subject to the same requirements as monthly
10 returns.

11 Notwithstanding any other provision in this Act concerning
12 the time within which a serviceman may file his return, in the
13 case of any serviceman who ceases to engage in a kind of
14 business which makes him responsible for filing returns under
15 this Act, such serviceman shall file a final return under this
16 Act with the Department not more than 1 month after
17 discontinuing such business.

18 Where a serviceman collects the tax with respect to the
19 selling price of property which he sells and the purchaser
20 thereafter returns such property and the serviceman refunds the
21 selling price thereof to the purchaser, such serviceman shall
22 also refund, to the purchaser, the tax so collected from the
23 purchaser. When filing his return for the period in which he
24 refunds such tax to the purchaser, the serviceman may deduct
25 the amount of the tax so refunded by him to the purchaser from
26 any other Service Use Tax, Service Occupation Tax, retailers'

1 occupation tax or use tax which such serviceman may be required
2 to pay or remit to the Department, as shown by such return,
3 provided that the amount of the tax to be deducted shall
4 previously have been remitted to the Department by such
5 serviceman. If the serviceman shall not previously have
6 remitted the amount of such tax to the Department, he shall be
7 entitled to no deduction hereunder upon refunding such tax to
8 the purchaser.

9 Any serviceman filing a return hereunder shall also include
10 the total tax upon the selling price of tangible personal
11 property purchased for use by him as an incident to a sale of
12 service, and such serviceman shall remit the amount of such tax
13 to the Department when filing such return.

14 If experience indicates such action to be practicable, the
15 Department may prescribe and furnish a combination or joint
16 return which will enable servicemen, who are required to file
17 returns hereunder and also under the Service Occupation Tax
18 Act, to furnish all the return information required by both
19 Acts on the one form.

20 Where the serviceman has more than one business registered
21 with the Department under separate registration hereunder,
22 such serviceman shall not file each return that is due as a
23 single return covering all such registered businesses, but
24 shall file separate returns for each such registered business.

25 Beginning January 1, 1990, each month the Department shall
26 pay into the State and Local Tax Reform Fund, a special fund in

1 the State Treasury, the net revenue realized for the preceding
2 month from the 1% tax on sales of food for human consumption
3 which is to be consumed off the premises where it is sold
4 (other than alcoholic beverages, soft drinks and food which has
5 been prepared for immediate consumption) and prescription and
6 nonprescription medicines, drugs, medical appliances and
7 insulin, urine testing materials, syringes and needles used by
8 diabetics.

9 Beginning January 1, 1990, each month the Department shall
10 pay into the State and Local Sales Tax Reform Fund 20% of the
11 net revenue realized for the preceding month from the 6.25%
12 general rate on transfers of tangible personal property, other
13 than tangible personal property which is purchased outside
14 Illinois at retail from a retailer and which is titled or
15 registered by an agency of this State's government.

16 Beginning August 1, 2000, each month the Department shall
17 pay into the State and Local Sales Tax Reform Fund 100% of the
18 net revenue realized for the preceding month from the 1.25%
19 rate on the selling price of motor fuel and gasohol.

20 On October 1 of each year beginning in 2011, the Department
21 shall pay into the State and Local Sales Tax Reform Fund 100%
22 of the net revenue realized for the preceding month from the
23 1.25% rate on the selling price of sales tax holiday items.

24 Beginning October 1, 2009, each month the Department shall
25 pay into the Capital Projects Fund an amount that is equal to
26 an amount estimated by the Department to represent 80% of the

1 net revenue realized for the preceding month from the sale of
2 candy, grooming and hygiene products, and soft drinks that had
3 been taxed at a rate of 1% prior to September 1, 2009 but that
4 is now taxed at 6.25%.

5 Of the remainder of the moneys received by the Department
6 pursuant to this Act, (a) 1.75% thereof shall be paid into the
7 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
8 and after July 1, 1989, 3.8% thereof shall be paid into the
9 Build Illinois Fund; provided, however, that if in any fiscal
10 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
11 may be, of the moneys received by the Department and required
12 to be paid into the Build Illinois Fund pursuant to Section 3
13 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax
14 Act, Section 9 of the Service Use Tax Act, and Section 9 of the
15 Service Occupation Tax Act, such Acts being hereinafter called
16 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case
17 may be, of moneys being hereinafter called the "Tax Act
18 Amount", and (2) the amount transferred to the Build Illinois
19 Fund from the State and Local Sales Tax Reform Fund shall be
20 less than the Annual Specified Amount (as defined in Section 3
21 of the Retailers' Occupation Tax Act), an amount equal to the
22 difference shall be immediately paid into the Build Illinois
23 Fund from other moneys received by the Department pursuant to
24 the Tax Acts; and further provided, that if on the last
25 business day of any month the sum of (1) the Tax Act Amount
26 required to be deposited into the Build Illinois Bond Account

1 in the Build Illinois Fund during such month and (2) the amount
2 transferred during such month to the Build Illinois Fund from
3 the State and Local Sales Tax Reform Fund shall have been less
4 than 1/12 of the Annual Specified Amount, an amount equal to
5 the difference shall be immediately paid into the Build
6 Illinois Fund from other moneys received by the Department
7 pursuant to the Tax Acts; and, further provided, that in no
8 event shall the payments required under the preceding proviso
9 result in aggregate payments into the Build Illinois Fund
10 pursuant to this clause (b) for any fiscal year in excess of
11 the greater of (i) the Tax Act Amount or (ii) the Annual
12 Specified Amount for such fiscal year; and, further provided,
13 that the amounts payable into the Build Illinois Fund under
14 this clause (b) shall be payable only until such time as the
15 aggregate amount on deposit under each trust indenture securing
16 Bonds issued and outstanding pursuant to the Build Illinois
17 Bond Act is sufficient, taking into account any future
18 investment income, to fully provide, in accordance with such
19 indenture, for the defeasance of or the payment of the
20 principal of, premium, if any, and interest on the Bonds
21 secured by such indenture and on any Bonds expected to be
22 issued thereafter and all fees and costs payable with respect
23 thereto, all as certified by the Director of the Bureau of the
24 Budget (now Governor's Office of Management and Budget). If on
25 the last business day of any month in which Bonds are
26 outstanding pursuant to the Build Illinois Bond Act, the

1 aggregate of the moneys deposited in the Build Illinois Bond
2 Account in the Build Illinois Fund in such month shall be less
3 than the amount required to be transferred in such month from
4 the Build Illinois Bond Account to the Build Illinois Bond
5 Retirement and Interest Fund pursuant to Section 13 of the
6 Build Illinois Bond Act, an amount equal to such deficiency
7 shall be immediately paid from other moneys received by the
8 Department pursuant to the Tax Acts to the Build Illinois Fund;
9 provided, however, that any amounts paid to the Build Illinois
10 Fund in any fiscal year pursuant to this sentence shall be
11 deemed to constitute payments pursuant to clause (b) of the
12 preceding sentence and shall reduce the amount otherwise
13 payable for such fiscal year pursuant to clause (b) of the
14 preceding sentence. The moneys received by the Department
15 pursuant to this Act and required to be deposited into the
16 Build Illinois Fund are subject to the pledge, claim and charge
17 set forth in Section 12 of the Build Illinois Bond Act.

18 Subject to payment of amounts into the Build Illinois Fund
19 as provided in the preceding paragraph or in any amendment
20 thereto hereafter enacted, the following specified monthly
21 installment of the amount requested in the certificate of the
22 Chairman of the Metropolitan Pier and Exposition Authority
23 provided under Section 8.25f of the State Finance Act, but not
24 in excess of the sums designated as "Total Deposit", shall be
25 deposited in the aggregate from collections under Section 9 of
26 the Use Tax Act, Section 9 of the Service Use Tax Act, Section

1 9 of the Service Occupation Tax Act, and Section 3 of the
 2 Retailers' Occupation Tax Act into the McCormick Place
 3 Expansion Project Fund in the specified fiscal years.

4	Fiscal Year	Total
		Deposit
5	1993	\$0
6	1994	53,000,000
7	1995	58,000,000
8	1996	61,000,000
9	1997	64,000,000
10	1998	68,000,000
11	1999	71,000,000
12	2000	75,000,000
13	2001	80,000,000
14	2002	93,000,000
15	2003	99,000,000
16	2004	103,000,000
17	2005	108,000,000
18	2006	113,000,000
19	2007	119,000,000
20	2008	126,000,000
21	2009	132,000,000
22	2010	139,000,000
23	2011	146,000,000
24	2012	153,000,000
25	2013	161,000,000

1	2014	170,000,000
2	2015	179,000,000
3	2016	189,000,000
4	2017	199,000,000
5	2018	210,000,000
6	2019	221,000,000
7	2020	233,000,000
8	2021	246,000,000
9	2022	260,000,000
10	2023	275,000,000
11	2024	275,000,000
12	2025	275,000,000
13	2026	279,000,000
14	2027	292,000,000
15	2028	307,000,000
16	2029	322,000,000
17	2030	338,000,000
18	2031	350,000,000
19	2032	350,000,000

20 and

21 each fiscal year
22 thereafter that bonds
23 are outstanding under
24 Section 13.2 of the
25 Metropolitan Pier and
26 Exposition Authority Act,

1 but not after fiscal year 2060.

2 Beginning July 20, 1993 and in each month of each fiscal
3 year thereafter, one-eighth of the amount requested in the
4 certificate of the Chairman of the Metropolitan Pier and
5 Exposition Authority for that fiscal year, less the amount
6 deposited into the McCormick Place Expansion Project Fund by
7 the State Treasurer in the respective month under subsection
8 (g) of Section 13 of the Metropolitan Pier and Exposition
9 Authority Act, plus cumulative deficiencies in the deposits
10 required under this Section for previous months and years,
11 shall be deposited into the McCormick Place Expansion Project
12 Fund, until the full amount requested for the fiscal year, but
13 not in excess of the amount specified above as "Total Deposit",
14 has been deposited.

15 Subject to payment of amounts into the Build Illinois Fund
16 and the McCormick Place Expansion Project Fund pursuant to the
17 preceding paragraphs or in any amendments thereto hereafter
18 enacted, beginning July 1, 1993, the Department shall each
19 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
20 the net revenue realized for the preceding month from the 6.25%
21 general rate on the selling price of tangible personal
22 property.

23 Subject to payment of amounts into the Build Illinois Fund
24 and the McCormick Place Expansion Project Fund pursuant to the
25 preceding paragraphs or in any amendments thereto hereafter
26 enacted, beginning with the receipt of the first report of

1 taxes paid by an eligible business and continuing for a 25-year
2 period, the Department shall each month pay into the Energy
3 Infrastructure Fund 80% of the net revenue realized from the
4 6.25% general rate on the selling price of Illinois-mined coal
5 that was sold to an eligible business. For purposes of this
6 paragraph, the term "eligible business" means a new electric
7 generating facility certified pursuant to Section 605-332 of
8 the Department of Commerce and Economic Opportunity Law of the
9 Civil Administrative Code of Illinois.

10 All remaining moneys received by the Department pursuant to
11 this Act shall be paid into the General Revenue Fund of the
12 State Treasury.

13 As soon as possible after the first day of each month, upon
14 certification of the Department of Revenue, the Comptroller
15 shall order transferred and the Treasurer shall transfer from
16 the General Revenue Fund to the Motor Fuel Tax Fund an amount
17 equal to 1.7% of 80% of the net revenue realized under this Act
18 for the second preceding month. Beginning April 1, 2000, this
19 transfer is no longer required and shall not be made.

20 Net revenue realized for a month shall be the revenue
21 collected by the State pursuant to this Act, less the amount
22 paid out during that month as refunds to taxpayers for
23 overpayment of liability.

24 (Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898,
25 eff. 5-27-10.)

1 Section 15. The Service Occupation Tax Act is amended by
2 changing Sections 3-10 and 9 and by adding Section 3-6 as
3 follows:

4 (35 ILCS 115/3-6 new)

5 Sec. 3-6. Sales tax holiday items.

6 (a) During the first Monday in September of each year
7 beginning in 2011, energy efficient products qualify for a
8 1.25% reduced rate of tax as set forth in Section 3-10 of this
9 Act. For the purposes of this subsection (a), "energy efficient
10 product" means any product that qualifies as an Energy Star
11 product by the United States Environmental Protection Agency.
12 The reduced rate on these items shall be administered under the
13 provisions of subsection (b) of this Section.

14 (b) Notwithstanding any other provision of this Act, the
15 reduced rate of tax under Section 3-10 of this Act for sales
16 tax holiday items described in subsection (a) of this Section
17 shall be administered by the Department in the same manner as
18 provided in subsection (b) of Section 3-6 of the Use Tax Act.

19 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

20 Sec. 3-10. Rate of tax. Unless otherwise provided in this
21 Section, the tax imposed by this Act is at the rate of 6.25% of
22 the "selling price", as defined in Section 2 of the Service Use
23 Tax Act, of the tangible personal property. For the purpose of
24 computing this tax, in no event shall the "selling price" be

1 less than the cost price to the serviceman of the tangible
2 personal property transferred. The selling price of each item
3 of tangible personal property transferred as an incident of a
4 sale of service may be shown as a distinct and separate item on
5 the serviceman's billing to the service customer. If the
6 selling price is not so shown, the selling price of the
7 tangible personal property is deemed to be 50% of the
8 serviceman's entire billing to the service customer. When,
9 however, a serviceman contracts to design, develop, and produce
10 special order machinery or equipment, the tax imposed by this
11 Act shall be based on the serviceman's cost price of the
12 tangible personal property transferred incident to the
13 completion of the contract.

14 Beginning on July 1, 2000 and through December 31, 2000,
15 with respect to motor fuel, as defined in Section 1.1 of the
16 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
17 the Use Tax Act, the tax is imposed at the rate of 1.25%.

18 With respect to gasohol, as defined in the Use Tax Act, the
19 tax imposed by this Act shall apply to (i) 70% of the cost
20 price of property transferred as an incident to the sale of
21 service on or after January 1, 1990, and before July 1, 2003,
22 (ii) 80% of the selling price of property transferred as an
23 incident to the sale of service on or after July 1, 2003 and on
24 or before December 31, 2013, and (iii) 100% of the cost price
25 thereafter. If, at any time, however, the tax under this Act on
26 sales of gasohol, as defined in the Use Tax Act, is imposed at

1 the rate of 1.25%, then the tax imposed by this Act applies to
2 100% of the proceeds of sales of gasohol made during that time.

3 With respect to majority blended ethanol fuel, as defined
4 in the Use Tax Act, the tax imposed by this Act does not apply
5 to the selling price of property transferred as an incident to
6 the sale of service on or after July 1, 2003 and on or before
7 December 31, 2013 but applies to 100% of the selling price
8 thereafter.

9 With respect to biodiesel blends, as defined in the Use Tax
10 Act, with no less than 1% and no more than 10% biodiesel, the
11 tax imposed by this Act applies to (i) 80% of the selling price
12 of property transferred as an incident to the sale of service
13 on or after July 1, 2003 and on or before December 31, 2013 and
14 (ii) 100% of the proceeds of the selling price thereafter. If,
15 at any time, however, the tax under this Act on sales of
16 biodiesel blends, as defined in the Use Tax Act, with no less
17 than 1% and no more than 10% biodiesel is imposed at the rate
18 of 1.25%, then the tax imposed by this Act applies to 100% of
19 the proceeds of sales of biodiesel blends with no less than 1%
20 and no more than 10% biodiesel made during that time.

21 With respect to 100% biodiesel, as defined in the Use Tax
22 Act, and biodiesel blends, as defined in the Use Tax Act, with
23 more than 10% but no more than 99% biodiesel material, the tax
24 imposed by this Act does not apply to the proceeds of the
25 selling price of property transferred as an incident to the
26 sale of service on or after July 1, 2003 and on or before

1 December 31, 2013 but applies to 100% of the selling price
2 thereafter.

3 During the first Monday in September of each year beginning
4 in 2011, with respect to sales tax holiday items as defined in
5 Section 3-6 of this Act, the tax is imposed at the rate of
6 1.25%.

7 At the election of any registered serviceman made for each
8 fiscal year, sales of service in which the aggregate annual
9 cost price of tangible personal property transferred as an
10 incident to the sales of service is less than 35%, or 75% in
11 the case of servicemen transferring prescription drugs or
12 servicemen engaged in graphic arts production, of the aggregate
13 annual total gross receipts from all sales of service, the tax
14 imposed by this Act shall be based on the serviceman's cost
15 price of the tangible personal property transferred incident to
16 the sale of those services.

17 The tax shall be imposed at the rate of 1% on food prepared
18 for immediate consumption and transferred incident to a sale of
19 service subject to this Act or the Service Occupation Tax Act
20 by an entity licensed under the Hospital Licensing Act, the
21 Nursing Home Care Act, the MR/DD Community Care Act, or the
22 Child Care Act of 1969. The tax shall also be imposed at the
23 rate of 1% on food for human consumption that is to be consumed
24 off the premises where it is sold (other than alcoholic
25 beverages, soft drinks, and food that has been prepared for
26 immediate consumption and is not otherwise included in this

1 paragraph) and prescription and nonprescription medicines,
2 drugs, medical appliances, modifications to a motor vehicle for
3 the purpose of rendering it usable by a disabled person, and
4 insulin, urine testing materials, syringes, and needles used by
5 diabetics, for human use. For the purposes of this Section,
6 until September 1, 2009: the term "soft drinks" means any
7 complete, finished, ready-to-use, non-alcoholic drink, whether
8 carbonated or not, including but not limited to soda water,
9 cola, fruit juice, vegetable juice, carbonated water, and all
10 other preparations commonly known as soft drinks of whatever
11 kind or description that are contained in any closed or sealed
12 can, carton, or container, regardless of size; but "soft
13 drinks" does not include coffee, tea, non-carbonated water,
14 infant formula, milk or milk products as defined in the Grade A
15 Pasteurized Milk and Milk Products Act, or drinks containing
16 50% or more natural fruit or vegetable juice.

17 Notwithstanding any other provisions of this Act,
18 beginning September 1, 2009, "soft drinks" means non-alcoholic
19 beverages that contain natural or artificial sweeteners. "Soft
20 drinks" do not include beverages that contain milk or milk
21 products, soy, rice or similar milk substitutes, or greater
22 than 50% of vegetable or fruit juice by volume.

23 Until August 1, 2009, and notwithstanding any other
24 provisions of this Act, "food for human consumption that is to
25 be consumed off the premises where it is sold" includes all
26 food sold through a vending machine, except soft drinks and

1 food products that are dispensed hot from a vending machine,
2 regardless of the location of the vending machine. Beginning
3 August 1, 2009, and notwithstanding any other provisions of
4 this Act, "food for human consumption that is to be consumed
5 off the premises where it is sold" includes all food sold
6 through a vending machine, except soft drinks, candy, and food
7 products that are dispensed hot from a vending machine,
8 regardless of the location of the vending machine.

9 Notwithstanding any other provisions of this Act,
10 beginning September 1, 2009, "food for human consumption that
11 is to be consumed off the premises where it is sold" does not
12 include candy. For purposes of this Section, "candy" means a
13 preparation of sugar, honey, or other natural or artificial
14 sweeteners in combination with chocolate, fruits, nuts or other
15 ingredients or flavorings in the form of bars, drops, or
16 pieces. "Candy" does not include any preparation that contains
17 flour or requires refrigeration.

18 Notwithstanding any other provisions of this Act,
19 beginning September 1, 2009, "nonprescription medicines and
20 drugs" does not include grooming and hygiene products. For
21 purposes of this Section, "grooming and hygiene products"
22 includes, but is not limited to, soaps and cleaning solutions,
23 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
24 lotions and screens, unless those products are available by
25 prescription only, regardless of whether the products meet the
26 definition of "over-the-counter-drugs". For the purposes of

1 this paragraph, "over-the-counter-drug" means a drug for human
2 use that contains a label that identifies the product as a drug
3 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
4 label includes:

5 (A) A "Drug Facts" panel; or

6 (B) A statement of the "active ingredient(s)" with a
7 list of those ingredients contained in the compound,
8 substance or preparation.

9 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
10 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

11 (35 ILCS 115/9) (from Ch. 120, par. 439.109)

12 Sec. 9. Each serviceman required or authorized to collect
13 the tax herein imposed shall pay to the Department the amount
14 of such tax at the time when he is required to file his return
15 for the period during which such tax was collectible, less a
16 discount of 2.1% prior to January 1, 1990, and 1.75% on and
17 after January 1, 1990, or \$5 per calendar year, whichever is
18 greater, which is allowed to reimburse the serviceman for
19 expenses incurred in collecting the tax, keeping records,
20 preparing and filing returns, remitting the tax and supplying
21 data to the Department on request.

22 Where such tangible personal property is sold under a
23 conditional sales contract, or under any other form of sale
24 wherein the payment of the principal sum, or a part thereof, is
25 extended beyond the close of the period for which the return is

1 filed, the serviceman, in collecting the tax may collect, for
2 each tax return period, only the tax applicable to the part of
3 the selling price actually received during such tax return
4 period.

5 Except as provided hereinafter in this Section, on or
6 before the twentieth day of each calendar month, such
7 serviceman shall file a return for the preceding calendar month
8 in accordance with reasonable rules and regulations to be
9 promulgated by the Department of Revenue. Such return shall be
10 filed on a form prescribed by the Department and shall contain
11 such information as the Department may reasonably require.

12 The Department may require returns to be filed on a
13 quarterly basis. If so required, a return for each calendar
14 quarter shall be filed on or before the twentieth day of the
15 calendar month following the end of such calendar quarter. The
16 taxpayer shall also file a return with the Department for each
17 of the first two months of each calendar quarter, on or before
18 the twentieth day of the following calendar month, stating:

- 19 1. The name of the seller;
- 20 2. The address of the principal place of business from
21 which he engages in business as a serviceman in this State;
- 22 3. The total amount of taxable receipts received by him
23 during the preceding calendar month, including receipts
24 from charge and time sales, but less all deductions allowed
25 by law;
- 26 4. The amount of credit provided in Section 2d of this

1 Act;

2 5. The amount of tax due;

3 5-5. The signature of the taxpayer; and

4 6. Such other reasonable information as the Department
5 may require.

6 If a taxpayer fails to sign a return within 30 days after
7 the proper notice and demand for signature by the Department,
8 the return shall be considered valid and any amount shown to be
9 due on the return shall be deemed assessed.

10 Prior to October 1, 2003, and on and after September 1,
11 2004 a serviceman may accept a Manufacturer's Purchase Credit
12 certification from a purchaser in satisfaction of Service Use
13 Tax as provided in Section 3-70 of the Service Use Tax Act if
14 the purchaser provides the appropriate documentation as
15 required by Section 3-70 of the Service Use Tax Act. A
16 Manufacturer's Purchase Credit certification, accepted prior
17 to October 1, 2003 or on or after September 1, 2004 by a
18 serviceman as provided in Section 3-70 of the Service Use Tax
19 Act, may be used by that serviceman to satisfy Service
20 Occupation Tax liability in the amount claimed in the
21 certification, not to exceed 6.25% of the receipts subject to
22 tax from a qualifying purchase. A Manufacturer's Purchase
23 Credit reported on any original or amended return filed under
24 this Act after October 20, 2003 for reporting periods prior to
25 September 1, 2004 shall be disallowed. Manufacturer's Purchase
26 Credit reported on annual returns due on or after January 1,

1 2005 will be disallowed for periods prior to September 1, 2004.
2 No Manufacturer's Purchase Credit may be used after September
3 30, 2003 through August 31, 2004 to satisfy any tax liability
4 imposed under this Act, including any audit liability.

5 If the serviceman's average monthly tax liability to the
6 Department does not exceed \$200, the Department may authorize
7 his returns to be filed on a quarter annual basis, with the
8 return for January, February and March of a given year being
9 due by April 20 of such year; with the return for April, May
10 and June of a given year being due by July 20 of such year; with
11 the return for July, August and September of a given year being
12 due by October 20 of such year, and with the return for
13 October, November and December of a given year being due by
14 January 20 of the following year.

15 If the serviceman's average monthly tax liability to the
16 Department does not exceed \$50, the Department may authorize
17 his returns to be filed on an annual basis, with the return for
18 a given year being due by January 20 of the following year.

19 Such quarter annual and annual returns, as to form and
20 substance, shall be subject to the same requirements as monthly
21 returns.

22 Notwithstanding any other provision in this Act concerning
23 the time within which a serviceman may file his return, in the
24 case of any serviceman who ceases to engage in a kind of
25 business which makes him responsible for filing returns under
26 this Act, such serviceman shall file a final return under this

1 Act with the Department not more than 1 month after
2 discontinuing such business.

3 Beginning October 1, 1993, a taxpayer who has an average
4 monthly tax liability of \$150,000 or more shall make all
5 payments required by rules of the Department by electronic
6 funds transfer. Beginning October 1, 1994, a taxpayer who has
7 an average monthly tax liability of \$100,000 or more shall make
8 all payments required by rules of the Department by electronic
9 funds transfer. Beginning October 1, 1995, a taxpayer who has
10 an average monthly tax liability of \$50,000 or more shall make
11 all payments required by rules of the Department by electronic
12 funds transfer. Beginning October 1, 2000, a taxpayer who has
13 an annual tax liability of \$200,000 or more shall make all
14 payments required by rules of the Department by electronic
15 funds transfer. The term "annual tax liability" shall be the
16 sum of the taxpayer's liabilities under this Act, and under all
17 other State and local occupation and use tax laws administered
18 by the Department, for the immediately preceding calendar year.
19 The term "average monthly tax liability" means the sum of the
20 taxpayer's liabilities under this Act, and under all other
21 State and local occupation and use tax laws administered by the
22 Department, for the immediately preceding calendar year
23 divided by 12. Beginning on October 1, 2002, a taxpayer who has
24 a tax liability in the amount set forth in subsection (b) of
25 Section 2505-210 of the Department of Revenue Law shall make
26 all payments required by rules of the Department by electronic

1 funds transfer.

2 Before August 1 of each year beginning in 1993, the
3 Department shall notify all taxpayers required to make payments
4 by electronic funds transfer. All taxpayers required to make
5 payments by electronic funds transfer shall make those payments
6 for a minimum of one year beginning on October 1.

7 Any taxpayer not required to make payments by electronic
8 funds transfer may make payments by electronic funds transfer
9 with the permission of the Department.

10 All taxpayers required to make payment by electronic funds
11 transfer and any taxpayers authorized to voluntarily make
12 payments by electronic funds transfer shall make those payments
13 in the manner authorized by the Department.

14 The Department shall adopt such rules as are necessary to
15 effectuate a program of electronic funds transfer and the
16 requirements of this Section.

17 Where a serviceman collects the tax with respect to the
18 selling price of tangible personal property which he sells and
19 the purchaser thereafter returns such tangible personal
20 property and the serviceman refunds the selling price thereof
21 to the purchaser, such serviceman shall also refund, to the
22 purchaser, the tax so collected from the purchaser. When filing
23 his return for the period in which he refunds such tax to the
24 purchaser, the serviceman may deduct the amount of the tax so
25 refunded by him to the purchaser from any other Service
26 Occupation Tax, Service Use Tax, Retailers' Occupation Tax or

1 Use Tax which such serviceman may be required to pay or remit
2 to the Department, as shown by such return, provided that the
3 amount of the tax to be deducted shall previously have been
4 remitted to the Department by such serviceman. If the
5 serviceman shall not previously have remitted the amount of
6 such tax to the Department, he shall be entitled to no
7 deduction hereunder upon refunding such tax to the purchaser.

8 If experience indicates such action to be practicable, the
9 Department may prescribe and furnish a combination or joint
10 return which will enable servicemen, who are required to file
11 returns hereunder and also under the Retailers' Occupation Tax
12 Act, the Use Tax Act or the Service Use Tax Act, to furnish all
13 the return information required by all said Acts on the one
14 form.

15 Where the serviceman has more than one business registered
16 with the Department under separate registrations hereunder,
17 such serviceman shall file separate returns for each registered
18 business.

19 Beginning January 1, 1990, each month the Department shall
20 pay into the Local Government Tax Fund the revenue realized for
21 the preceding month from the 1% tax on sales of food for human
22 consumption which is to be consumed off the premises where it
23 is sold (other than alcoholic beverages, soft drinks and food
24 which has been prepared for immediate consumption) and
25 prescription and nonprescription medicines, drugs, medical
26 appliances and insulin, urine testing materials, syringes and

1 needles used by diabetics.

2 Beginning January 1, 1990, each month the Department shall
3 pay into the County and Mass Transit District Fund 4% of the
4 revenue realized for the preceding month from the 6.25% general
5 rate.

6 Beginning August 1, 2000, each month the Department shall
7 pay into the County and Mass Transit District Fund 20% of the
8 net revenue realized for the preceding month from the 1.25%
9 rate on the selling price of motor fuel and gasohol.

10 On October 1 of each year beginning in 2011, the Department
11 shall pay into the County and Mass Transit District Fund 20% of
12 the net revenue realized for the preceding month from the 1.25%
13 rate on the selling price of sales tax holiday items.

14 Beginning January 1, 1990, each month the Department shall
15 pay into the Local Government Tax Fund 16% of the revenue
16 realized for the preceding month from the 6.25% general rate on
17 transfers of tangible personal property.

18 Beginning August 1, 2000, each month the Department shall
19 pay into the Local Government Tax Fund 80% of the net revenue
20 realized for the preceding month from the 1.25% rate on the
21 selling price of motor fuel and gasohol.

22 On October 1 of each year beginning in 2011, the Department
23 shall pay into the Local Government Tax Fund 80% of the net
24 revenue realized for the preceding month from the 1.25% rate on
25 the selling price of sales tax holiday items.

26 Beginning October 1, 2009, each month the Department shall

1 pay into the Capital Projects Fund an amount that is equal to
2 an amount estimated by the Department to represent 80% of the
3 net revenue realized for the preceding month from the sale of
4 candy, grooming and hygiene products, and soft drinks that had
5 been taxed at a rate of 1% prior to September 1, 2009 but that
6 is now taxed at 6.25%.

7 Of the remainder of the moneys received by the Department
8 pursuant to this Act, (a) 1.75% thereof shall be paid into the
9 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
10 and after July 1, 1989, 3.8% thereof shall be paid into the
11 Build Illinois Fund; provided, however, that if in any fiscal
12 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
13 may be, of the moneys received by the Department and required
14 to be paid into the Build Illinois Fund pursuant to Section 3
15 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax
16 Act, Section 9 of the Service Use Tax Act, and Section 9 of the
17 Service Occupation Tax Act, such Acts being hereinafter called
18 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case
19 may be, of moneys being hereinafter called the "Tax Act
20 Amount", and (2) the amount transferred to the Build Illinois
21 Fund from the State and Local Sales Tax Reform Fund shall be
22 less than the Annual Specified Amount (as defined in Section 3
23 of the Retailers' Occupation Tax Act), an amount equal to the
24 difference shall be immediately paid into the Build Illinois
25 Fund from other moneys received by the Department pursuant to
26 the Tax Acts; and further provided, that if on the last

1 business day of any month the sum of (1) the Tax Act Amount
2 required to be deposited into the Build Illinois Account in the
3 Build Illinois Fund during such month and (2) the amount
4 transferred during such month to the Build Illinois Fund from
5 the State and Local Sales Tax Reform Fund shall have been less
6 than 1/12 of the Annual Specified Amount, an amount equal to
7 the difference shall be immediately paid into the Build
8 Illinois Fund from other moneys received by the Department
9 pursuant to the Tax Acts; and, further provided, that in no
10 event shall the payments required under the preceding proviso
11 result in aggregate payments into the Build Illinois Fund
12 pursuant to this clause (b) for any fiscal year in excess of
13 the greater of (i) the Tax Act Amount or (ii) the Annual
14 Specified Amount for such fiscal year; and, further provided,
15 that the amounts payable into the Build Illinois Fund under
16 this clause (b) shall be payable only until such time as the
17 aggregate amount on deposit under each trust indenture securing
18 Bonds issued and outstanding pursuant to the Build Illinois
19 Bond Act is sufficient, taking into account any future
20 investment income, to fully provide, in accordance with such
21 indenture, for the defeasance of or the payment of the
22 principal of, premium, if any, and interest on the Bonds
23 secured by such indenture and on any Bonds expected to be
24 issued thereafter and all fees and costs payable with respect
25 thereto, all as certified by the Director of the Bureau of the
26 Budget (now Governor's Office of Management and Budget). If on

1 the last business day of any month in which Bonds are
2 outstanding pursuant to the Build Illinois Bond Act, the
3 aggregate of the moneys deposited in the Build Illinois Bond
4 Account in the Build Illinois Fund in such month shall be less
5 than the amount required to be transferred in such month from
6 the Build Illinois Bond Account to the Build Illinois Bond
7 Retirement and Interest Fund pursuant to Section 13 of the
8 Build Illinois Bond Act, an amount equal to such deficiency
9 shall be immediately paid from other moneys received by the
10 Department pursuant to the Tax Acts to the Build Illinois Fund;
11 provided, however, that any amounts paid to the Build Illinois
12 Fund in any fiscal year pursuant to this sentence shall be
13 deemed to constitute payments pursuant to clause (b) of the
14 preceding sentence and shall reduce the amount otherwise
15 payable for such fiscal year pursuant to clause (b) of the
16 preceding sentence. The moneys received by the Department
17 pursuant to this Act and required to be deposited into the
18 Build Illinois Fund are subject to the pledge, claim and charge
19 set forth in Section 12 of the Build Illinois Bond Act.

20 Subject to payment of amounts into the Build Illinois Fund
21 as provided in the preceding paragraph or in any amendment
22 thereto hereafter enacted, the following specified monthly
23 installment of the amount requested in the certificate of the
24 Chairman of the Metropolitan Pier and Exposition Authority
25 provided under Section 8.25f of the State Finance Act, but not
26 in excess of the sums designated as "Total Deposit", shall be

1 deposited in the aggregate from collections under Section 9 of
2 the Use Tax Act, Section 9 of the Service Use Tax Act, Section
3 9 of the Service Occupation Tax Act, and Section 3 of the
4 Retailers' Occupation Tax Act into the McCormick Place
5 Expansion Project Fund in the specified fiscal years.

	Fiscal Year	Total Deposit
6		
7	1993	\$0
8	1994	53,000,000
9	1995	58,000,000
10	1996	61,000,000
11	1997	64,000,000
12	1998	68,000,000
13	1999	71,000,000
14	2000	75,000,000
15	2001	80,000,000
16	2002	93,000,000
17	2003	99,000,000
18	2004	103,000,000
19	2005	108,000,000
20	2006	113,000,000
21	2007	119,000,000
22	2008	126,000,000
23	2009	132,000,000
24	2010	139,000,000
25	2011	146,000,000

1	2012	153,000,000
2	2013	161,000,000
3	2014	170,000,000
4	2015	179,000,000
5	2016	189,000,000
6	2017	199,000,000
7	2018	210,000,000
8	2019	221,000,000
9	2020	233,000,000
10	2021	246,000,000
11	2022	260,000,000
12	2023	275,000,000
13	2024	275,000,000
14	2025	275,000,000
15	2026	279,000,000
16	2027	292,000,000
17	2028	307,000,000
18	2029	322,000,000
19	2030	338,000,000
20	2031	350,000,000
21	2032	350,000,000

22 and
23 each fiscal year
24 thereafter that bonds
25 are outstanding under
26 Section 13.2 of the

1 Metropolitan Pier and
2 Exposition Authority Act,
3 but not after fiscal year 2060.

4 Beginning July 20, 1993 and in each month of each fiscal
5 year thereafter, one-eighth of the amount requested in the
6 certificate of the Chairman of the Metropolitan Pier and
7 Exposition Authority for that fiscal year, less the amount
8 deposited into the McCormick Place Expansion Project Fund by
9 the State Treasurer in the respective month under subsection
10 (g) of Section 13 of the Metropolitan Pier and Exposition
11 Authority Act, plus cumulative deficiencies in the deposits
12 required under this Section for previous months and years,
13 shall be deposited into the McCormick Place Expansion Project
14 Fund, until the full amount requested for the fiscal year, but
15 not in excess of the amount specified above as "Total Deposit",
16 has been deposited.

17 Subject to payment of amounts into the Build Illinois Fund
18 and the McCormick Place Expansion Project Fund pursuant to the
19 preceding paragraphs or in any amendments thereto hereafter
20 enacted, beginning July 1, 1993, the Department shall each
21 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
22 the net revenue realized for the preceding month from the 6.25%
23 general rate on the selling price of tangible personal
24 property.

25 Subject to payment of amounts into the Build Illinois Fund
26 and the McCormick Place Expansion Project Fund pursuant to the

1 preceding paragraphs or in any amendments thereto hereafter
2 enacted, beginning with the receipt of the first report of
3 taxes paid by an eligible business and continuing for a 25-year
4 period, the Department shall each month pay into the Energy
5 Infrastructure Fund 80% of the net revenue realized from the
6 6.25% general rate on the selling price of Illinois-mined coal
7 that was sold to an eligible business. For purposes of this
8 paragraph, the term "eligible business" means a new electric
9 generating facility certified pursuant to Section 605-332 of
10 the Department of Commerce and Economic Opportunity Law of the
11 Civil Administrative Code of Illinois.

12 Remaining moneys received by the Department pursuant to
13 this Act shall be paid into the General Revenue Fund of the
14 State Treasury.

15 The Department may, upon separate written notice to a
16 taxpayer, require the taxpayer to prepare and file with the
17 Department on a form prescribed by the Department within not
18 less than 60 days after receipt of the notice an annual
19 information return for the tax year specified in the notice.
20 Such annual return to the Department shall include a statement
21 of gross receipts as shown by the taxpayer's last Federal
22 income tax return. If the total receipts of the business as
23 reported in the Federal income tax return do not agree with the
24 gross receipts reported to the Department of Revenue for the
25 same period, the taxpayer shall attach to his annual return a
26 schedule showing a reconciliation of the 2 amounts and the

1 reasons for the difference. The taxpayer's annual return to the
2 Department shall also disclose the cost of goods sold by the
3 taxpayer during the year covered by such return, opening and
4 closing inventories of such goods for such year, cost of goods
5 used from stock or taken from stock and given away by the
6 taxpayer during such year, pay roll information of the
7 taxpayer's business during such year and any additional
8 reasonable information which the Department deems would be
9 helpful in determining the accuracy of the monthly, quarterly
10 or annual returns filed by such taxpayer as hereinbefore
11 provided for in this Section.

12 If the annual information return required by this Section
13 is not filed when and as required, the taxpayer shall be liable
14 as follows:

15 (i) Until January 1, 1994, the taxpayer shall be liable
16 for a penalty equal to 1/6 of 1% of the tax due from such
17 taxpayer under this Act during the period to be covered by
18 the annual return for each month or fraction of a month
19 until such return is filed as required, the penalty to be
20 assessed and collected in the same manner as any other
21 penalty provided for in this Act.

22 (ii) On and after January 1, 1994, the taxpayer shall
23 be liable for a penalty as described in Section 3-4 of the
24 Uniform Penalty and Interest Act.

25 The chief executive officer, proprietor, owner or highest
26 ranking manager shall sign the annual return to certify the

1 accuracy of the information contained therein. Any person who
2 willfully signs the annual return containing false or
3 inaccurate information shall be guilty of perjury and punished
4 accordingly. The annual return form prescribed by the
5 Department shall include a warning that the person signing the
6 return may be liable for perjury.

7 The foregoing portion of this Section concerning the filing
8 of an annual information return shall not apply to a serviceman
9 who is not required to file an income tax return with the
10 United States Government.

11 As soon as possible after the first day of each month, upon
12 certification of the Department of Revenue, the Comptroller
13 shall order transferred and the Treasurer shall transfer from
14 the General Revenue Fund to the Motor Fuel Tax Fund an amount
15 equal to 1.7% of 80% of the net revenue realized under this Act
16 for the second preceding month. Beginning April 1, 2000, this
17 transfer is no longer required and shall not be made.

18 Net revenue realized for a month shall be the revenue
19 collected by the State pursuant to this Act, less the amount
20 paid out during that month as refunds to taxpayers for
21 overpayment of liability.

22 For greater simplicity of administration, it shall be
23 permissible for manufacturers, importers and wholesalers whose
24 products are sold by numerous servicemen in Illinois, and who
25 wish to do so, to assume the responsibility for accounting and
26 paying to the Department all tax accruing under this Act with

1 respect to such sales, if the servicemen who are affected do
2 not make written objection to the Department to this
3 arrangement.

4 (Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898,
5 eff. 5-27-10.)

6 Section 20. The Retailers' Occupation Tax Act is amended by
7 changing Sections 2-8 and 2-10 as follows:

8 (35 ILCS 120/2-8)

9 Sec. 2-8. Sales tax holiday items.

10 (a) The tangible personal property described in this
11 subsection qualifies for the 1.25% reduced rate of tax for the
12 period set forth in Section 2-10 of this Act (hereinafter
13 referred to as the Sales Tax Holiday Period). The reduced rate
14 on these items shall be administered under the provisions of
15 subsection (b) of this Section. The following items are subject
16 to the reduced rate:

17 (1) Clothing items that each have a retail selling
18 price of less than \$100.

19 "Clothing" means, unless otherwise specified in this
20 Section, all human wearing apparel suitable for general
21 use. "Clothing" does not include clothing accessories,
22 protective equipment, or sport or recreational equipment.
23 "Clothing" includes, but is not limited to: household and
24 shop aprons; athletic supporters; bathing suits and caps;

1 belts and suspenders; boots; coats and jackets; ear muffs;
2 footlets; gloves and mittens for general use; hats and
3 caps; hosiery; insoles for shoes; lab coats; neckties;
4 overshoes; pantyhose; rainwear; rubber pants; sandals;
5 scarves; shoes and shoelaces; slippers; sneakers; socks
6 and stockings; steel-toed shoes; underwear; and school
7 uniforms.

8 "Clothing accessories" means, but is not limited to:
9 briefcases; cosmetics; hair notions, including, but not
10 limited to barrettes, hair bows, and hair nets; handbags;
11 handkerchiefs; jewelry; non-prescription sunglasses;
12 umbrellas; wallets; watches; and wigs and hair pieces.

13 "Protective equipment" means, but is not limited to:
14 breathing masks; clean room apparel and equipment; ear and
15 hearing protectors; face shields; hard hats; helmets;
16 paint or dust respirators; protective gloves; safety
17 glasses and goggles; safety belts; tool belts; and welder's
18 gloves and masks.

19 "Sport or recreational equipment" means, but is not
20 limited to: ballet and tap shoes; cleated or spiked
21 athletic shoes; gloves, including, but not limited to,
22 baseball, bowling, boxing, hockey, and golf gloves;
23 goggles; hand and elbow guards; life preservers and vests;
24 mouth guards; roller and ice skates; shin guards; shoulder
25 pads; ski boots; waders; and wetsuits and fins.

26 (2) School supplies. "School supplies" means, unless

1 otherwise specified in this Section, items used by a
2 student in a course of study. The purchase of school
3 supplies for use by persons other than students for use in
4 a course of study are not eligible for the reduced rate of
5 tax. "School supplies" do not include school art supplies;
6 school instructional materials; cameras; film and memory
7 cards; videocameras, tapes, and videotapes; computers;
8 cell phones; Personal Digital Assistants (PDAs); handheld
9 electronic schedulers; and school computer supplies.

10 "School supplies" includes, but is not limited to:
11 binders; book bags; calculators; cellophane tape;
12 blackboard chalk; compasses; composition books; crayons;
13 erasers; expandable, pocket, plastic, and manila folders;
14 glue, paste, and paste sticks; highlighters; index cards;
15 index card boxes; legal pads; lunch boxes; markers;
16 notebooks; paper, including loose leaf ruled notebook
17 paper, copy paper, graph paper, tracing paper, manila
18 paper, colored paper, poster board, and construction
19 paper; pencils; pencil leads; pens; ink and ink refills for
20 pens; pencil boxes and other school supply boxes; pencil
21 sharpeners; protractors; rulers; scissors; and writing
22 tablets.

23 "School art supply" means an item commonly used by a
24 student in a course of study for artwork and includes only
25 the following items: clay and glazes; acrylic, tempera, and
26 oil paint; paintbrushes for artwork; sketch and drawing

1 pads; and watercolors.

2 "School instructional material" means written material
3 commonly used by a student in a course of study as a
4 reference and to learn the subject being taught and
5 includes only the following items: reference books;
6 reference maps and globes; textbooks; and workbooks.

7 "School computer supply" means an item commonly used by
8 a student in a course of study in which a computer is used
9 and applies only to the following items: flashdrives and
10 other computer data storage devices; data storage media,
11 such as diskettes and compact disks; boxes and cases for
12 disk storage; external ports or drives; computer cases;
13 computer cables; computer printers; and printer
14 cartridges, toner, and ink.

15 (a-5) During the first Monday in September of each year
16 beginning in 2011, energy efficient products are also subject
17 to the reduced rate. For the purposes of this subsection (a-5),
18 "energy efficient product" means any product that qualifies as
19 an Energy Star product by the United States Environmental
20 Protection Agency.

21 (b) Administration. Notwithstanding any other provision of
22 this Act, the reduced rate of tax under Section 3-10 of this
23 Act for sales tax holiday items described in this Section
24 ~~clothing and school supplies~~ shall be administered by the
25 Department under the provisions of this subsection (b).

26 (1) Bundled sales. Items that qualify for the reduced

1 rate of tax that are bundled together with items that do
2 not qualify for the reduced rate of tax and that are sold
3 for one itemized price will be subject to the reduced rate
4 of tax only if the value of the items that qualify for the
5 reduced rate of tax exceeds the value of the items that do
6 not qualify for the reduced rate of tax.

7 (2) Coupons and discounts. An unreimbursed discount by
8 the seller reduces the sales price of the property so that
9 the discounted sales price determines whether the sales
10 price is within a sales tax holiday price threshold. A
11 coupon or other reduction in the sales price is treated as
12 a discount if the seller is not reimbursed for the coupon
13 or reduction amount by a third party.

14 (3) Splitting of items normally sold together.
15 Articles that are normally sold as a single unit must
16 continue to be sold in that manner. Such articles cannot be
17 priced separately and sold as individual items in order to
18 obtain the reduced rate of tax. For example, a pair of
19 shoes cannot have each shoe sold separately so that the
20 sales price of each shoe is within a sales tax holiday
21 price threshold.

22 (4) Rain checks. A rain check is a procedure that
23 allows a customer to purchase an item at a certain price at
24 a later time because the particular item was out of stock.
25 Eligible property that customers purchase during the Sales
26 Tax Holiday Period with the use of a rain check will

1 qualify for the reduced rate of tax regardless of when the
2 rain check was issued. Issuance of a rain check during the
3 Sales Tax Holiday Period will not qualify eligible property
4 for the reduced rate of tax if the property is actually
5 purchased after the Sales Tax Holiday Period.

6 (5) Exchanges. The procedure for an exchange in regards
7 to a sales tax holiday is as follows:

8 (A) If a customer purchases an item of eligible
9 property during the Sales Tax Holiday Period, but later
10 exchanges the item for a similar eligible item, even if
11 a different size, different color, or other feature, no
12 additional tax is due even if the exchange is made
13 after the Sales Tax Holiday Period.

14 (B) If a customer purchases an item of eligible
15 property during the Sales Tax Holiday Period, but after
16 the Sales Tax Holiday Period has ended, the customer
17 returns the item and receives credit on the purchase of
18 a different item, the 6.25% general merchandise sales
19 tax rate is due on the sale of the newly purchased
20 item.

21 (C) If a customer purchases an item of eligible
22 property before the Sales Tax Holiday Period, but
23 during the Sales Tax Holiday Period the customer
24 returns the item and receives credit on the purchase of
25 a different item of eligible property, the reduced rate
26 of tax is due on the sale of the new item if the new

1 item is purchased during the Sales Tax Holiday Period.

2 (6) Delivery charges. Delivery charges, including
3 shipping, handling and service charges, are part of the
4 sales price of eligible property.

5 (7) Order date and back orders. For the purpose of a
6 sales tax holiday, eligible property qualifies for the
7 reduced rate of tax if: (i) the item is both delivered to
8 and paid for by the customer during the Sales Tax Holiday
9 Period or (ii) the customer orders and pays for the item
10 and the seller accepts the order during the Sales Tax
11 Holiday Period for immediate shipment, even if delivery is
12 made after the Sales Tax Holiday Period. The seller accepts
13 an order when the seller has taken action to fill the order
14 for immediate shipment. Actions to fill an order include
15 placement of an "in date" stamp on an order or assignment
16 of an "order number" to an order within the Sales Tax
17 Holiday Period. An order is for immediate shipment when the
18 customer does not request delayed shipment. An order is for
19 immediate shipment notwithstanding that the shipment may
20 be delayed because of a backlog of orders or because stock
21 is currently unavailable to, or on back order by, the
22 seller.

23 (8) Returns. For a 60-day period immediately after the
24 Sales Tax Holiday Period, if a customer returns an item
25 that would qualify for the reduced rate of tax, credit for
26 or refund of sales tax shall be given only at the reduced

1 rate unless the customer provides a receipt or invoice that
2 shows tax was paid at the 6.25% general merchandise rate,
3 or the seller has sufficient documentation to show that tax
4 was paid at the 6.25% general merchandise rate on the
5 specific item. This 60-day period is set solely for the
6 purpose of designating a time period during which the
7 customer must provide documentation that shows that the
8 appropriate sales tax rate was paid on returned
9 merchandise. The 60-day period is not intended to change a
10 seller's policy on the time period during which the seller
11 will accept returns.

12 (c) The Department may implement the provisions of this
13 Section through the use of emergency rules, along with
14 permanent rules filed concurrently with such emergency rules,
15 in accordance with the provisions of Section 5-45 of the
16 Illinois Administrative Procedure Act. For purposes of the
17 Illinois Administrative Procedure Act, the adoption of rules to
18 implement the provisions of this Section shall be deemed an
19 emergency and necessary for the public interest, safety, and
20 welfare.

21 (Source: P.A. 96-1012, eff. 7-7-10.)

22 (35 ILCS 120/2-10)

23 Sec. 2-10. Rate of tax. Unless otherwise provided in this
24 Section, the tax imposed by this Act is at the rate of 6.25% of
25 gross receipts from sales of tangible personal property made in

1 the course of business.

2 Beginning on July 1, 2000 and through December 31, 2000,
3 with respect to motor fuel, as defined in Section 1.1 of the
4 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
5 the Use Tax Act, the tax is imposed at the rate of 1.25%.

6 Beginning on August 6, 2010 through August 15, 2010, with
7 respect to sales tax holiday items as defined in subsection (a)
8 of Section 2-8 of this Act, the tax is imposed at the rate of
9 1.25%. During the first Monday in September of each year
10 beginning in 2011, with respect to sales tax holiday items as
11 defined in subsection (a-5) of Section 3-6 of this Act, the tax
12 is imposed at the rate of 1.25%.

13 Within 14 days after the effective date of this amendatory
14 Act of the 91st General Assembly, each retailer of motor fuel
15 and gasohol shall cause the following notice to be posted in a
16 prominently visible place on each retail dispensing device that
17 is used to dispense motor fuel or gasohol in the State of
18 Illinois: "As of July 1, 2000, the State of Illinois has
19 eliminated the State's share of sales tax on motor fuel and
20 gasohol through December 31, 2000. The price on this pump
21 should reflect the elimination of the tax." The notice shall be
22 printed in bold print on a sign that is no smaller than 4
23 inches by 8 inches. The sign shall be clearly visible to
24 customers. Any retailer who fails to post or maintain a
25 required sign through December 31, 2000 is guilty of a petty
26 offense for which the fine shall be \$500 per day per each

1 retail premises where a violation occurs.

2 With respect to gasohol, as defined in the Use Tax Act, the
3 tax imposed by this Act applies to (i) 70% of the proceeds of
4 sales made on or after January 1, 1990, and before July 1,
5 2003, (ii) 80% of the proceeds of sales made on or after July
6 1, 2003 and on or before December 31, 2013, and (iii) 100% of
7 the proceeds of sales made thereafter. If, at any time,
8 however, the tax under this Act on sales of gasohol, as defined
9 in the Use Tax Act, is imposed at the rate of 1.25%, then the
10 tax imposed by this Act applies to 100% of the proceeds of
11 sales of gasohol made during that time.

12 With respect to majority blended ethanol fuel, as defined
13 in the Use Tax Act, the tax imposed by this Act does not apply
14 to the proceeds of sales made on or after July 1, 2003 and on or
15 before December 31, 2013 but applies to 100% of the proceeds of
16 sales made thereafter.

17 With respect to biodiesel blends, as defined in the Use Tax
18 Act, with no less than 1% and no more than 10% biodiesel, the
19 tax imposed by this Act applies to (i) 80% of the proceeds of
20 sales made on or after July 1, 2003 and on or before December
21 31, 2013 and (ii) 100% of the proceeds of sales made
22 thereafter. If, at any time, however, the tax under this Act on
23 sales of biodiesel blends, as defined in the Use Tax Act, with
24 no less than 1% and no more than 10% biodiesel is imposed at
25 the rate of 1.25%, then the tax imposed by this Act applies to
26 100% of the proceeds of sales of biodiesel blends with no less

1 than 1% and no more than 10% biodiesel made during that time.

2 With respect to 100% biodiesel, as defined in the Use Tax
3 Act, and biodiesel blends, as defined in the Use Tax Act, with
4 more than 10% but no more than 99% biodiesel, the tax imposed
5 by this Act does not apply to the proceeds of sales made on or
6 after July 1, 2003 and on or before December 31, 2013 but
7 applies to 100% of the proceeds of sales made thereafter.

8 With respect to food for human consumption that is to be
9 consumed off the premises where it is sold (other than
10 alcoholic beverages, soft drinks, and food that has been
11 prepared for immediate consumption) and prescription and
12 nonprescription medicines, drugs, medical appliances,
13 modifications to a motor vehicle for the purpose of rendering
14 it usable by a disabled person, and insulin, urine testing
15 materials, syringes, and needles used by diabetics, for human
16 use, the tax is imposed at the rate of 1%. For the purposes of
17 this Section, until September 1, 2009: the term "soft drinks"
18 means any complete, finished, ready-to-use, non-alcoholic
19 drink, whether carbonated or not, including but not limited to
20 soda water, cola, fruit juice, vegetable juice, carbonated
21 water, and all other preparations commonly known as soft drinks
22 of whatever kind or description that are contained in any
23 closed or sealed bottle, can, carton, or container, regardless
24 of size; but "soft drinks" does not include coffee, tea,
25 non-carbonated water, infant formula, milk or milk products as
26 defined in the Grade A Pasteurized Milk and Milk Products Act,

1 or drinks containing 50% or more natural fruit or vegetable
2 juice.

3 Notwithstanding any other provisions of this Act,
4 beginning September 1, 2009, "soft drinks" means non-alcoholic
5 beverages that contain natural or artificial sweeteners. "Soft
6 drinks" do not include beverages that contain milk or milk
7 products, soy, rice or similar milk substitutes, or greater
8 than 50% of vegetable or fruit juice by volume.

9 Until August 1, 2009, and notwithstanding any other
10 provisions of this Act, "food for human consumption that is to
11 be consumed off the premises where it is sold" includes all
12 food sold through a vending machine, except soft drinks and
13 food products that are dispensed hot from a vending machine,
14 regardless of the location of the vending machine. Beginning
15 August 1, 2009, and notwithstanding any other provisions of
16 this Act, "food for human consumption that is to be consumed
17 off the premises where it is sold" includes all food sold
18 through a vending machine, except soft drinks, candy, and food
19 products that are dispensed hot from a vending machine,
20 regardless of the location of the vending machine.

21 Notwithstanding any other provisions of this Act,
22 beginning September 1, 2009, "food for human consumption that
23 is to be consumed off the premises where it is sold" does not
24 include candy. For purposes of this Section, "candy" means a
25 preparation of sugar, honey, or other natural or artificial
26 sweeteners in combination with chocolate, fruits, nuts or other

1 ingredients or flavorings in the form of bars, drops, or
2 pieces. "Candy" does not include any preparation that contains
3 flour or requires refrigeration.

4 Notwithstanding any other provisions of this Act,
5 beginning September 1, 2009, "nonprescription medicines and
6 drugs" does not include grooming and hygiene products. For
7 purposes of this Section, "grooming and hygiene products"
8 includes, but is not limited to, soaps and cleaning solutions,
9 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
10 lotions and screens, unless those products are available by
11 prescription only, regardless of whether the products meet the
12 definition of "over-the-counter-drugs". For the purposes of
13 this paragraph, "over-the-counter-drug" means a drug for human
14 use that contains a label that identifies the product as a drug
15 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
16 label includes:

17 (A) A "Drug Facts" panel; or

18 (B) A statement of the "active ingredient(s)" with a
19 list of those ingredients contained in the compound,
20 substance or preparation.

21 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
22 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.