



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

#### HB3889

Introduced 11/29/2011, by Rep. La Shawn K. Ford

#### 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, from December 19 through December 23, 2011, the tax imposed on items purchased from a small business shall be at the rate of 1.25% (instead of 6.25%). Defines "small business". Makes changes concerning the distribution of moneys collected from the reduced tax on items purchased from a small business. Effective immediately.

LRB097 14810 HLH 59839 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing 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) From December 19 through December 23, 2011, items  
15 purchased from a small business (other than items that are  
16 otherwise subject to a 1% rate of tax under Section 3-10) are  
17 also subject to the reduced rate. For the purposes of this  
18 subsection (a-5), "small business" means a corporation or a  
19 concern, including its affiliates, that is independently owned  
20 and operated, not dominant in its field, and employs fewer than  
21 50 full-time employees or has gross annual sales of less than  
22 \$4,000,000. However, for the purposes of this Section, the  
23 Department may, by rule, define "small business" to include  
24 employment of 50 or more persons if it finds that such a  
25 definition is necessary to address the needs and problems of  
26 small businesses and organizations. The reduced rate on these

1 items shall be administered under the provisions of subsection  
2 (b) of this Section.

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

8 (1) Bundled sales. Items that qualify for the reduced  
9 rate of tax that are bundled together with items that do  
10 not qualify for the reduced rate of tax and that are sold  
11 for one itemized price will be subject to the reduced rate  
12 of tax only if the value of the items that qualify for the  
13 reduced rate of tax exceeds the value of the items that do  
14 not qualify for the reduced rate of tax.

15 (2) Coupons and discounts. An unreimbursed discount by  
16 the seller reduces the sales price of the property so that  
17 the discounted sales price determines whether the sales  
18 price is within a sales tax holiday price threshold. A  
19 coupon or other reduction in the sales price is treated as  
20 a discount if the seller is not reimbursed for the coupon  
21 or reduction amount by a third party.

22 (3) Splitting of items normally sold together.  
23 Articles that are normally sold as a single unit must  
24 continue to be sold in that manner. Such articles cannot be  
25 priced separately and sold as individual items in order to  
26 obtain the reduced rate of tax. For example, a pair of

1 shoes cannot have each shoe sold separately so that the  
2 sales price of each shoe is within a sales tax holiday  
3 price threshold.

4 (4) Rain checks. A rain check is a procedure that  
5 allows a customer to purchase an item at a certain price at  
6 a later time because the particular item was out of stock.  
7 Eligible property that customers purchase during the Sales  
8 Tax Holiday Period with the use of a rain check will  
9 qualify for the reduced rate of tax regardless of when the  
10 rain check was issued. Issuance of a rain check during the  
11 Sales Tax Holiday Period will not qualify eligible property  
12 for the reduced rate of tax if the property is actually  
13 purchased after the Sales Tax Holiday Period.

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

16 (A) If a customer purchases an item of eligible  
17 property during the Sales Tax Holiday Period, but later  
18 exchanges the item for a similar eligible item, even if  
19 a different size, different color, or other feature, no  
20 additional tax is due even if the exchange is made  
21 after the Sales Tax Holiday Period.

22 (B) If a customer purchases an item of eligible  
23 property during the Sales Tax Holiday Period, but after  
24 the Sales Tax Holiday Period has ended, the customer  
25 returns the item and receives credit on the purchase of  
26 a different item, the 6.25% general merchandise sales

1 tax rate is due on the sale of the newly purchased  
2 item.

3 (C) If a customer purchases an item of eligible  
4 property before the Sales Tax Holiday Period, but  
5 during the Sales Tax Holiday Period the customer  
6 returns the item and receives credit on the purchase of  
7 a different item of eligible property, the reduced rate  
8 of tax is due on the sale of the new item if the new  
9 item is purchased during the Sales Tax Holiday Period.

10 (6) Delivery charges. Delivery charges, including  
11 shipping, handling and service charges, are part of the  
12 sales price of eligible property.

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

1 immediate shipment notwithstanding that the shipment may  
2 be delayed because of a backlog of orders or because stock  
3 is currently unavailable to, or on back order by, the  
4 seller.

5 (8) Returns. For a 60-day period immediately after the  
6 Sales Tax Holiday Period, if a customer returns an item  
7 that would qualify for the reduced rate of tax, credit for  
8 or refund of sales tax shall be given only at the reduced  
9 rate unless the customer provides a receipt or invoice that  
10 shows tax was paid at the 6.25% general merchandise rate,  
11 or the seller has sufficient documentation to show that tax  
12 was paid at the 6.25% general merchandise rate on the  
13 specific item. This 60-day period is set solely for the  
14 purpose of designating a time period during which the  
15 customer must provide documentation that shows that the  
16 appropriate sales tax rate was paid on returned  
17 merchandise. The 60-day period is not intended to change a  
18 seller's policy on the time period during which the seller  
19 will accept returns.

20 (c) The Department may implement the provisions of this  
21 Section through the use of emergency rules, along with  
22 permanent rules filed concurrently with such emergency rules,  
23 in accordance with the provisions of Section 5-45 of the  
24 Illinois Administrative Procedure Act. For purposes of the  
25 Illinois Administrative Procedure Act, the adoption of rules to  
26 implement the provisions of this Section shall be deemed an

1 emergency and necessary for the public interest, safety, and  
2 welfare.

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

4 (35 ILCS 105/3-10)

5 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
6 Section, the tax imposed by this Act is at the rate of 6.25% of  
7 either the selling price or the fair market value, if any, of  
8 the tangible personal property. In all cases where property  
9 functionally used or consumed is the same as the property that  
10 was purchased at retail, then the tax is imposed on the selling  
11 price of the property. In all cases where property functionally  
12 used or consumed is a by-product or waste product that has been  
13 refined, manufactured, or produced from property purchased at  
14 retail, then the tax is imposed on the lower of the fair market  
15 value, if any, of the specific property so used in this State  
16 or on the selling price of the property purchased at retail.  
17 For purposes of this Section "fair market value" means the  
18 price at which property would change hands between a willing  
19 buyer and a willing seller, neither being under any compulsion  
20 to buy or sell and both having reasonable knowledge of the  
21 relevant facts. The fair market value shall be established by  
22 Illinois sales by the taxpayer of the same property as that  
23 functionally used or consumed, or if there are no such sales by  
24 the taxpayer, then comparable sales or purchases of property of  
25 like kind and character in Illinois.

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

5           Beginning on August 6, 2010 through August 15, 2010, with  
6 respect to sales tax holiday items as defined in subsection (a)  
7 of Section 3-6 of this Act, the tax is imposed at the rate of  
8 1.25%. From December 19 through December 23, 2011, with respect  
9 to items purchased from a small business, as defined in  
10 subsection (a-5) of Section 3-6 of this Act, the tax is imposed  
11 at the rate of 1.25%.

12           With respect to gasohol, the tax imposed by this Act  
13 applies to (i) 70% of the proceeds of sales made on or after  
14 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
15 proceeds of sales made on or after July 1, 2003 and on or  
16 before December 31, 2013, and (iii) 100% of the proceeds of  
17 sales made thereafter. If, at any time, however, the tax under  
18 this Act on sales of gasohol is imposed at the rate of 1.25%,  
19 then the tax imposed by this Act applies to 100% of the  
20 proceeds of sales of gasohol made during that time.

21           With respect to majority blended ethanol fuel, the tax  
22 imposed by this Act does not apply to the proceeds of sales  
23 made on or after July 1, 2003 and on or before December 31,  
24 2013 but applies to 100% of the proceeds of sales made  
25 thereafter.

26           With respect to biodiesel blends with no less than 1% and

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

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

15 With respect to food for human consumption that is to be  
16 consumed off the premises where it is sold (other than  
17 alcoholic beverages, soft drinks, and food that has been  
18 prepared for immediate consumption) and prescription and  
19 nonprescription medicines, drugs, medical appliances,  
20 modifications to a motor vehicle for the purpose of rendering  
21 it usable by a disabled person, and insulin, urine testing  
22 materials, syringes, and needles used by diabetics, for human  
23 use, the tax is imposed at the rate of 1%. For the purposes of  
24 this Section, until September 1, 2009: the term "soft drinks"  
25 means any complete, finished, ready-to-use, non-alcoholic  
26 drink, whether carbonated or not, including but not limited to

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

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

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

1 regardless of the location of the vending machine.

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

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

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

25 (B) A statement of the "active ingredient(s)" with a  
26 list of those ingredients contained in the compound,

1 substance or preparation.

2 If the property that is purchased at retail from a retailer  
3 is acquired outside Illinois and used outside Illinois before  
4 being brought to Illinois for use here and is taxable under  
5 this Act, the "selling price" on which the tax is computed  
6 shall be reduced by an amount that represents a reasonable  
7 allowance for depreciation for the period of prior out-of-state  
8 use.

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

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

13 (35 ILCS 110/3-6 new)

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

15 (a) From December 19 through December 23, 2011, items  
16 purchased from a small business (other than items that are  
17 otherwise subject to a 1% rate of tax under Section 3-10)  
18 qualify for a 1.25% reduced rate of tax as set forth in Section  
19 3-10 of this Act. For the purposes of this subsection (a),  
20 "small business" means a corporation or a concern, including  
21 its affiliates, that is independently owned and operated, not  
22 dominant in its field, and employs fewer than 50 full-time  
23 employees or has gross annual sales of less than \$4,000,000.  
24 However, for the purposes of this Section, the Department may,

1 by rule, define "small business" to include employment of 50 or  
2 more persons if it finds that such a definition is necessary to  
3 address the needs and problems of small businesses and  
4 organizations. The reduced rate on these items shall be  
5 administered under the provisions of subsection (b) of this  
6 Section.

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

12 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

13 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
14 Section, the tax imposed by this Act is at the rate of 6.25% of  
15 the selling price of tangible personal property transferred as  
16 an incident to the sale of service, but, for the purpose of  
17 computing this tax, in no event shall the selling price be less  
18 than the cost price of the property to the serviceman.

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

23 With respect to gasohol, as defined in the Use Tax Act, the  
24 tax imposed by this Act applies to (i) 70% of the selling price  
25 of property transferred as an incident to the sale of service

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

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

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

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

8 From December 19 through December 23, 2011, with respect to  
9 items purchased from a small business, as defined in Section  
10 3-6 of this Act, the tax is imposed at the rate of 1.25%.

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

21 The tax shall be imposed at the rate of 1% on food prepared  
22 for immediate consumption and transferred incident to a sale of  
23 service subject to this Act or the Service Occupation Tax Act  
24 by an entity licensed under the Hospital Licensing Act, the  
25 Nursing Home Care Act, the ID/DD Community Care Act, the  
26 Specialized Mental Health Rehabilitation Act, or the Child Care

1 Act of 1969. The tax shall also be imposed at the rate of 1% on  
2 food for human consumption that is to be consumed off the  
3 premises where it is sold (other than alcoholic beverages, soft  
4 drinks, and food that has been prepared for immediate  
5 consumption and is not otherwise included in this paragraph)  
6 and prescription and nonprescription medicines, drugs, medical  
7 appliances, modifications to a motor vehicle for the purpose of  
8 rendering it usable by a disabled person, and insulin, urine  
9 testing materials, syringes, and needles used by diabetics, for  
10 human use. For the purposes of this Section, until September 1,  
11 2009: the term "soft drinks" means any complete, finished,  
12 ready-to-use, non-alcoholic drink, whether carbonated or not,  
13 including but not limited to soda water, cola, fruit juice,  
14 vegetable juice, carbonated water, and all other preparations  
15 commonly known as soft drinks of whatever kind or description  
16 that are contained in any closed or sealed bottle, can, carton,  
17 or container, regardless of size; but "soft drinks" does not  
18 include coffee, tea, non-carbonated water, infant formula,  
19 milk or milk products as defined in the Grade A Pasteurized  
20 Milk and Milk Products Act, or drinks containing 50% or more  
21 natural fruit or vegetable juice.

22 Notwithstanding any other provisions of this Act,  
23 beginning September 1, 2009, "soft drinks" means non-alcoholic  
24 beverages that contain natural or artificial sweeteners. "Soft  
25 drinks" do not include beverages that contain milk or milk  
26 products, soy, rice or similar milk substitutes, or greater

1 than 50% of vegetable or fruit juice by volume.

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

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

23       Notwithstanding any other provisions of this Act,  
24 beginning September 1, 2009, "nonprescription medicines and  
25 drugs" does not include grooming and hygiene products. For  
26 purposes of this Section, "grooming and hygiene products"

1 includes, but is not limited to, soaps and cleaning solutions,  
2 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
3 lotions and screens, unless those products are available by  
4 prescription only, regardless of whether the products meet the  
5 definition of "over-the-counter-drugs". For the purposes of  
6 this paragraph, "over-the-counter-drug" means a drug for human  
7 use that contains a label that identifies the product as a drug  
8 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
9 label includes:

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

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

14 If the property that is acquired from a serviceman is  
15 acquired outside Illinois and used outside Illinois before  
16 being brought to Illinois for use here and is taxable under  
17 this Act, the "selling price" on which the tax is computed  
18 shall be reduced by an amount that represents a reasonable  
19 allowance for depreciation for the period of prior out-of-state  
20 use.

21 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
22 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,  
23 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

24 (35 ILCS 110/9) (from Ch. 120, par. 439.39)

25 Sec. 9. Each serviceman required or authorized to collect

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

14 Except as provided hereinafter in this Section, on or  
15 before the twentieth day of each calendar month, such  
16 serviceman shall file a return for the preceding calendar month  
17 in accordance with reasonable Rules and Regulations to be  
18 promulgated by the Department. Such return shall be filed on a  
19 form prescribed by the Department and shall contain such  
20 information as the Department may reasonably require.

21 The Department may require returns to be filed on a  
22 quarterly basis. If so required, a return for each calendar  
23 quarter shall be filed on or before the twentieth day of the  
24 calendar month following the end of such calendar quarter. The  
25 taxpayer shall also file a return with the Department for each  
26 of the first two months of each calendar quarter, on or before

1 the twentieth day of the following calendar month, stating:

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

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

19 Beginning October 1, 1993, a taxpayer who has an average  
20 monthly tax liability of \$150,000 or more shall make all  
21 payments required by rules of the Department by electronic  
22 funds transfer. Beginning October 1, 1994, a taxpayer who has  
23 an average monthly tax liability of \$100,000 or more shall make  
24 all payments required by rules of the Department by electronic  
25 funds transfer. Beginning October 1, 1995, a taxpayer who has  
26 an average monthly tax liability of \$50,000 or more shall make

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

18 Before August 1 of each year beginning in 1993, the  
19 Department shall notify all taxpayers required to make payments  
20 by electronic funds transfer. All taxpayers required to make  
21 payments by electronic funds transfer shall make those payments  
22 for a minimum of one year beginning on October 1.

23 Any taxpayer not required to make payments by electronic  
24 funds transfer may make payments by electronic funds transfer  
25 with the permission of the Department.

26 All taxpayers required to make payment by electronic funds

1 transfer and any taxpayers authorized to voluntarily make  
2 payments by electronic funds transfer shall make those payments  
3 in the manner authorized by the Department.

4 The Department shall adopt such rules as are necessary to  
5 effectuate a program of electronic funds transfer and the  
6 requirements of this Section.

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

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

24 Such quarter annual and annual returns, as to form and  
25 substance, shall be subject to the same requirements as monthly  
26 returns.

1           Notwithstanding any other provision in this Act concerning  
2 the time within which a serviceman may file his return, in the  
3 case of any serviceman who ceases to engage in a kind of  
4 business which makes him responsible for filing returns under  
5 this Act, such serviceman shall file a final return under this  
6 Act with the Department not more than 1 month after  
7 discontinuing such business.

8           Where a serviceman collects the tax with respect to the  
9 selling price of property which he sells and the purchaser  
10 thereafter returns such property and the serviceman refunds the  
11 selling price thereof to the purchaser, such serviceman shall  
12 also refund, to the purchaser, the tax so collected from the  
13 purchaser. When filing his return for the period in which he  
14 refunds such tax to the purchaser, the serviceman may deduct  
15 the amount of the tax so refunded by him to the purchaser from  
16 any other Service Use Tax, Service Occupation Tax, retailers'  
17 occupation tax or use tax which such serviceman may be required  
18 to pay or remit to the Department, as shown by such return,  
19 provided that the amount of the tax to be deducted shall  
20 previously have been remitted to the Department by such  
21 serviceman. If the serviceman shall not previously have  
22 remitted the amount of such tax to the Department, he shall be  
23 entitled to no deduction hereunder upon refunding such tax to  
24 the purchaser.

25           Any serviceman filing a return hereunder shall also include  
26 the total tax upon the selling price of tangible personal

1 property purchased for use by him as an incident to a sale of  
2 service, and such serviceman shall remit the amount of such tax  
3 to the Department when filing such return.

4 If experience indicates such action to be practicable, the  
5 Department may prescribe and furnish a combination or joint  
6 return which will enable servicemen, who are required to file  
7 returns hereunder and also under the Service Occupation Tax  
8 Act, to furnish all the return information required by both  
9 Acts on the one form.

10 Where the serviceman has more than one business registered  
11 with the Department under separate registration hereunder,  
12 such serviceman shall not file each return that is due as a  
13 single return covering all such registered businesses, but  
14 shall file separate returns for each such registered business.

15 Beginning January 1, 1990, each month the Department shall  
16 pay into the State and Local Tax Reform Fund, a special fund in  
17 the State Treasury, the net revenue realized for the preceding  
18 month from the 1% tax on sales of food for human consumption  
19 which is to be consumed off the premises where it is sold  
20 (other than alcoholic beverages, soft drinks and food which has  
21 been prepared for immediate consumption) and prescription and  
22 nonprescription medicines, drugs, medical appliances and  
23 insulin, urine testing materials, syringes and needles used by  
24 diabetics.

25 Beginning January 1, 1990, each month the Department shall  
26 pay into the State and Local Sales Tax Reform Fund 20% of the

1 net revenue realized for the preceding month from the 6.25%  
2 general rate on transfers of tangible personal property, other  
3 than tangible personal property which is purchased outside  
4 Illinois at retail from a retailer and which is titled or  
5 registered by an agency of this State's government.

6 Beginning August 1, 2000, each month the Department shall  
7 pay into the State and Local Sales Tax Reform Fund 100% 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 January 1, 2012, the Department shall pay into the State  
11 and Local Sales Tax Reform Fund 100% of the net revenue  
12 realized for the preceding month from the 1.25% rate on the  
13 selling price of items purchased from a small business, as  
14 defined in Section 3-6, during the previous month.

15 Beginning October 1, 2009, each month the Department shall  
16 pay into the Capital Projects Fund an amount that is equal to  
17 an amount estimated by the Department to represent 80% of the  
18 net revenue realized for the preceding month from the sale of  
19 candy, grooming and hygiene products, and soft drinks that had  
20 been taxed at a rate of 1% prior to September 1, 2009 but that  
21 is now taxed at 6.25%.

22 Of the remainder of the moneys received by the Department  
23 pursuant to this Act, (a) 1.75% thereof shall be paid into the  
24 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on  
25 and after July 1, 1989, 3.8% thereof shall be paid into the  
26 Build Illinois Fund; provided, however, that if in any fiscal

1 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case  
2 may be, of the moneys received by the Department and required  
3 to be paid into the Build Illinois Fund pursuant to Section 3  
4 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax  
5 Act, Section 9 of the Service Use Tax Act, and Section 9 of the  
6 Service Occupation Tax Act, such Acts being hereinafter called  
7 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case  
8 may be, of moneys being hereinafter called the "Tax Act  
9 Amount", and (2) the amount transferred to the Build Illinois  
10 Fund from the State and Local Sales Tax Reform Fund shall be  
11 less than the Annual Specified Amount (as defined in Section 3  
12 of the Retailers' Occupation Tax Act), an amount equal to the  
13 difference shall be immediately paid into the Build Illinois  
14 Fund from other moneys received by the Department pursuant to  
15 the Tax Acts; and further provided, that if on the last  
16 business day of any month the sum of (1) the Tax Act Amount  
17 required to be deposited into the Build Illinois Bond Account  
18 in the Build Illinois Fund during such month and (2) the amount  
19 transferred during such month to the Build Illinois Fund from  
20 the State and Local Sales Tax Reform Fund shall have been less  
21 than 1/12 of the Annual Specified Amount, an amount equal to  
22 the difference shall be immediately paid into the Build  
23 Illinois Fund from other moneys received by the Department  
24 pursuant to the Tax Acts; and, further provided, that in no  
25 event shall the payments required under the preceding proviso  
26 result in aggregate payments into the Build Illinois Fund

1 pursuant to this clause (b) for any fiscal year in excess of  
2 the greater of (i) the Tax Act Amount or (ii) the Annual  
3 Specified Amount for such fiscal year; and, further provided,  
4 that the amounts payable into the Build Illinois Fund under  
5 this clause (b) shall be payable only until such time as the  
6 aggregate amount on deposit under each trust indenture securing  
7 Bonds issued and outstanding pursuant to the Build Illinois  
8 Bond Act is sufficient, taking into account any future  
9 investment income, to fully provide, in accordance with such  
10 indenture, for the defeasance of or the payment of the  
11 principal of, premium, if any, and interest on the Bonds  
12 secured by such indenture and on any Bonds expected to be  
13 issued thereafter and all fees and costs payable with respect  
14 thereto, all as certified by the Director of the Bureau of the  
15 Budget (now Governor's Office of Management and Budget). If on  
16 the last business day of any month in which Bonds are  
17 outstanding pursuant to the Build Illinois Bond Act, the  
18 aggregate of the moneys deposited in the Build Illinois Bond  
19 Account in the Build Illinois Fund in such month shall be less  
20 than the amount required to be transferred in such month from  
21 the Build Illinois Bond Account to the Build Illinois Bond  
22 Retirement and Interest Fund pursuant to Section 13 of the  
23 Build Illinois Bond Act, an amount equal to such deficiency  
24 shall be immediately paid from other moneys received by the  
25 Department pursuant to the Tax Acts to the Build Illinois Fund;  
26 provided, however, that any amounts paid to the Build Illinois

1 Fund in any fiscal year pursuant to this sentence shall be  
 2 deemed to constitute payments pursuant to clause (b) of the  
 3 preceding sentence and shall reduce the amount otherwise  
 4 payable for such fiscal year pursuant to clause (b) of the  
 5 preceding sentence. The moneys received by the Department  
 6 pursuant to this Act and required to be deposited into the  
 7 Build Illinois Fund are subject to the pledge, claim and charge  
 8 set forth in Section 12 of the Build Illinois Bond Act.

9 Subject to payment of amounts into the Build Illinois Fund  
 10 as provided in the preceding paragraph or in any amendment  
 11 thereto hereafter enacted, the following specified monthly  
 12 installment of the amount requested in the certificate of the  
 13 Chairman of the Metropolitan Pier and Exposition Authority  
 14 provided under Section 8.25f of the State Finance Act, but not  
 15 in excess of the sums designated as "Total Deposit", shall be  
 16 deposited in the aggregate from collections under Section 9 of  
 17 the Use Tax Act, Section 9 of the Service Use Tax Act, Section  
 18 9 of the Service Occupation Tax Act, and Section 3 of the  
 19 Retailers' Occupation Tax Act into the McCormick Place  
 20 Expansion Project Fund in the specified fiscal years.

21	Fiscal Year	Total
		Deposit
22	1993	\$0
23	1994	53,000,000
24	1995	58,000,000
25	1996	61,000,000

1	1997	64,000,000
2	1998	68,000,000
3	1999	71,000,000
4	2000	75,000,000
5	2001	80,000,000
6	2002	93,000,000
7	2003	99,000,000
8	2004	103,000,000
9	2005	108,000,000
10	2006	113,000,000
11	2007	119,000,000
12	2008	126,000,000
13	2009	132,000,000
14	2010	139,000,000
15	2011	146,000,000
16	2012	153,000,000
17	2013	161,000,000
18	2014	170,000,000
19	2015	179,000,000
20	2016	189,000,000
21	2017	199,000,000
22	2018	210,000,000
23	2019	221,000,000
24	2020	233,000,000
25	2021	246,000,000
26	2022	260,000,000

1	2023	275,000,000
2	2024	275,000,000
3	2025	275,000,000
4	2026	279,000,000
5	2027	292,000,000
6	2028	307,000,000
7	2029	322,000,000
8	2030	338,000,000
9	2031	350,000,000
10	2032	350,000,000

11                   and  
12                   each fiscal year  
13                   thereafter that bonds  
14                   are outstanding under  
15                   Section 13.2 of the  
16                   Metropolitan Pier and  
17                   Exposition Authority Act,  
18                   but not after fiscal year 2060.

19                   Beginning July 20, 1993 and in each month of each fiscal  
20                   year thereafter, one-eighth of the amount requested in the  
21                   certificate of the Chairman of the Metropolitan Pier and  
22                   Exposition Authority for that fiscal year, less the amount  
23                   deposited into the McCormick Place Expansion Project Fund by  
24                   the State Treasurer in the respective month under subsection  
25                   (g) of Section 13 of the Metropolitan Pier and Exposition  
26                   Authority Act, plus cumulative deficiencies in the deposits

1 required under this Section for previous months and years,  
2 shall be deposited into the McCormick Place Expansion Project  
3 Fund, until the full amount requested for the fiscal year, but  
4 not in excess of the amount specified above as "Total Deposit",  
5 has been deposited.

6 Subject to payment of amounts into the Build Illinois Fund  
7 and the McCormick Place Expansion Project Fund pursuant to the  
8 preceding paragraphs or in any amendments thereto hereafter  
9 enacted, beginning July 1, 1993, the Department shall each  
10 month pay into the Illinois Tax Increment Fund 0.27% of 80% of  
11 the net revenue realized for the preceding month from the 6.25%  
12 general rate on the selling price of tangible personal  
13 property.

14 Subject to payment of amounts into the Build Illinois Fund  
15 and the McCormick Place Expansion Project Fund pursuant to the  
16 preceding paragraphs or in any amendments thereto hereafter  
17 enacted, beginning with the receipt of the first report of  
18 taxes paid by an eligible business and continuing for a 25-year  
19 period, the Department shall each month pay into the Energy  
20 Infrastructure Fund 80% of the net revenue realized from the  
21 6.25% general rate on the selling price of Illinois-mined coal  
22 that was sold to an eligible business. For purposes of this  
23 paragraph, the term "eligible business" means a new electric  
24 generating facility certified pursuant to Section 605-332 of  
25 the Department of Commerce and Economic Opportunity Law of the  
26 Civil Administrative Code of Illinois.

1 All remaining moneys received by the Department pursuant to  
2 this Act shall be paid into the General Revenue Fund of the  
3 State Treasury.

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

11 Net revenue realized for a month shall be the revenue  
12 collected by the State pursuant to this Act, less the amount  
13 paid out during that month as refunds to taxpayers for  
14 overpayment of liability.

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

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

20 (35 ILCS 115/3-6 new)

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

22 (a) From December 19 through December 23, 2011, items  
23 purchased from a small business (other than items that are  
24 otherwise subject to a 1% rate of tax under Section 3-10)

1 qualify for a 1.25% reduced rate of tax as set forth in Section  
2 3-10 of this Act. For the purposes of this subsection (a),  
3 "small business" means a corporation or a concern, including  
4 its affiliates, that is independently owned and operated, not  
5 dominant in its field, and employs fewer than 50 full-time  
6 employees or has gross annual sales of less than \$4,000,000.  
7 However, for the purposes of this Section, the Department may,  
8 by rule, define "small business" to include employment of 50 or  
9 more persons if it finds that such a definition is necessary to  
10 address the needs and problems of small businesses and  
11 organizations. The reduced rate on these items shall be  
12 administered under the provisions of subsection (b) of this  
13 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  
25 less than the cost price to the serviceman of the tangible

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

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

17 With respect to gasohol, as defined in the Use Tax Act, the  
18 tax imposed by this Act shall apply to (i) 70% of the cost  
19 price of property transferred as an incident to the sale of  
20 service on or after January 1, 1990, and before July 1, 2003,  
21 (ii) 80% of the selling price of property transferred as an  
22 incident to the sale of service on or after July 1, 2003 and on  
23 or before December 31, 2013, and (iii) 100% of the cost price  
24 thereafter. If, at any time, however, the tax under this Act on  
25 sales of gasohol, as defined in the Use Tax Act, is imposed at  
26 the rate of 1.25%, then the tax imposed by this Act applies to

1 100% of the proceeds of sales of gasohol made during that time.

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

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

20 With respect to 100% biodiesel, as defined in the Use Tax  
21 Act, and biodiesel blends, as defined in the Use Tax Act, with  
22 more than 10% but no more than 99% biodiesel material, the tax  
23 imposed by this Act does not apply to the proceeds of the  
24 selling price of property transferred as an incident to the  
25 sale of service on or after July 1, 2003 and on or before  
26 December 31, 2013 but applies to 100% of the selling price

1 thereafter.

2 From December 19 through December 23, 2011, with respect to  
3 items purchased from a small business, as defined in Section  
4 3-6 of this Act, the tax is imposed at the rate of 1.25%.

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

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

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

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

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

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

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

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

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

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

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

8 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
9 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,  
10 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

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 January 1, 2012, the Department shall pay into the  
11 County and Mass Transit District Fund 20% of the net revenue  
12 realized for the preceding month from the 1.25% rate on the  
13 selling price of items purchased from a small business, as  
14 defined in Section 3-6, during the previous month.

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

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

23 On January 1, 2012, the Department shall pay into the Local  
24 Government Tax Fund 80% of the net revenue realized for the  
25 preceding month from the 1.25% rate on the selling price of  
26 items purchased from a small business, as defined in Section

1 3-6, during the previous month.

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

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

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

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

22 Subject to payment of amounts into the Build Illinois Fund  
23 as provided in the preceding paragraph or in any amendment  
24 thereto hereafter enacted, the following specified monthly  
25 installment of the amount requested in the certificate of the  
26 Chairman of the Metropolitan Pier and Exposition Authority

1 provided under Section 8.25f of the State Finance Act, but not  
 2 in excess of the sums designated as "Total Deposit", shall be  
 3 deposited in the aggregate from collections under Section 9 of  
 4 the Use Tax Act, Section 9 of the Service Use Tax Act, Section  
 5 9 of the Service Occupation Tax Act, and Section 3 of the  
 6 Retailers' Occupation Tax Act into the McCormick Place  
 7 Expansion Project Fund in the specified fiscal years.

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

1	2010	139,000,000
2	2011	146,000,000
3	2012	153,000,000
4	2013	161,000,000
5	2014	170,000,000
6	2015	179,000,000
7	2016	189,000,000
8	2017	199,000,000
9	2018	210,000,000
10	2019	221,000,000
11	2020	233,000,000
12	2021	246,000,000
13	2022	260,000,000
14	2023	275,000,000
15	2024	275,000,000
16	2025	275,000,000
17	2026	279,000,000
18	2027	292,000,000
19	2028	307,000,000
20	2029	322,000,000
21	2030	338,000,000
22	2031	350,000,000
23	2032	350,000,000
24	and	
25	each fiscal year	
26	thereafter that bonds	

1           are outstanding under  
2           Section 13.2 of the  
3           Metropolitan Pier and  
4           Exposition Authority Act,  
5       but not after fiscal year 2060.

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

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

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

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

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

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

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

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

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

1           The chief executive officer, proprietor, owner or highest  
2 ranking manager shall sign the annual return to certify the  
3 accuracy of the information contained therein. Any person who  
4 willfully signs the annual return containing false or  
5 inaccurate information shall be guilty of perjury and punished  
6 accordingly. The annual return form prescribed by the  
7 Department shall include a warning that the person signing the  
8 return may be liable for perjury.

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

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           For greater simplicity of administration, it shall be  
25 permissible for manufacturers, importers and wholesalers whose  
26 products are sold by numerous servicemen in Illinois, and who

1 wish to do so, to assume the responsibility for accounting and  
2 paying to the Department all tax accruing under this Act with  
3 respect to such sales, if the servicemen who are affected do  
4 not make written objection to the Department to this  
5 arrangement.

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

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

10 (35 ILCS 120/2-8)

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

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

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

21 "Clothing" means, unless otherwise specified in this  
22 Section, all human wearing apparel suitable for general  
23 use. "Clothing" does not include clothing accessories,  
24 protective equipment, or sport or recreational equipment.

1 "Clothing" includes, but is not limited to: household and  
2 shop aprons; athletic supporters; bathing suits and caps;  
3 belts and suspenders; boots; coats and jackets; ear muffs;  
4 footlets; gloves and mittens for general use; hats and  
5 caps; hosiery; insoles for shoes; lab coats; neckties;  
6 overshoes; pantyhose; rainwear; rubber pants; sandals;  
7 scarves; shoes and shoelaces; slippers; sneakers; socks  
8 and stockings; steel-toed shoes; underwear; and school  
9 uniforms.

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

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

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

1 pads; ski boots; waders; and wetsuits and fins.

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

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

25 "School art supply" means an item commonly used by a  
26 student in a course of study for artwork and includes only

1 the following items: clay and glazes; acrylic, tempera, and  
2 oil paint; paintbrushes for artwork; sketch and drawing  
3 pads; and watercolors.

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

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

17 (a-5) From December 19 through December 23, 2011, items  
18 purchased from a small business (other than items that are  
19 otherwise subject to a 1% rate of tax under Section 2-10) are  
20 also subject to the reduced rate. For the purposes of this  
21 subsection (a-5), "small business" means a corporation or a  
22 concern, including its affiliates, that is independently owned  
23 and operated, not dominant in its field, and employs fewer than  
24 50 full-time employees or has gross annual sales of less than  
25 \$4,000,000. However, for the purposes of this Section, the  
26 Department may, by rule, define "small business" to include

1 employment of 50 or more persons if it finds that such a  
2 definition is necessary to address the needs and problems of  
3 small businesses and organizations. The reduced rate on these  
4 items shall be administered under the provisions of subsection  
5 (b) of this Section.

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

11 (1) Bundled sales. Items that qualify for the reduced  
12 rate of tax that are bundled together with items that do  
13 not qualify for the reduced rate of tax and that are sold  
14 for one itemized price will be subject to the reduced rate  
15 of tax only if the value of the items that qualify for the  
16 reduced rate of tax exceeds the value of the items that do  
17 not qualify for the reduced rate of tax.

18 (2) Coupons and discounts. An unreimbursed discount by  
19 the seller reduces the sales price of the property so that  
20 the discounted sales price determines whether the sales  
21 price is within a sales tax holiday price threshold. A  
22 coupon or other reduction in the sales price is treated as  
23 a discount if the seller is not reimbursed for the coupon  
24 or reduction amount by a third party.

25 (3) Splitting of items normally sold together.  
26 Articles that are normally sold as a single unit must

1 continue to be sold in that manner. Such articles cannot be  
2 priced separately and sold as individual items in order to  
3 obtain the reduced rate of tax. For example, a pair of  
4 shoes cannot have each shoe sold separately so that the  
5 sales price of each shoe is within a sales tax holiday  
6 price threshold.

7 (4) Rain checks. A rain check is a procedure that  
8 allows a customer to purchase an item at a certain price at  
9 a later time because the particular item was out of stock.  
10 Eligible property that customers purchase during the Sales  
11 Tax Holiday Period with the use of a rain check will  
12 qualify for the reduced rate of tax regardless of when the  
13 rain check was issued. Issuance of a rain check during the  
14 Sales Tax Holiday Period will not qualify eligible property  
15 for the reduced rate of tax if the property is actually  
16 purchased after the Sales Tax Holiday Period.

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

19 (A) If a customer purchases an item of eligible  
20 property during the Sales Tax Holiday Period, but later  
21 exchanges the item for a similar eligible item, even if  
22 a different size, different color, or other feature, no  
23 additional tax is due even if the exchange is made  
24 after the Sales Tax Holiday Period.

25 (B) If a customer purchases an item of eligible  
26 property during the Sales Tax Holiday Period, but after

1           the Sales Tax Holiday Period has ended, the customer  
2           returns the item and receives credit on the purchase of  
3           a different item, the 6.25% general merchandise sales  
4           tax rate is due on the sale of the newly purchased  
5           item.

6           (C) If a customer purchases an item of eligible  
7           property before the Sales Tax Holiday Period, but  
8           during the Sales Tax Holiday Period the customer  
9           returns the item and receives credit on the purchase of  
10          a different item of eligible property, the reduced rate  
11          of tax is due on the sale of the new item if the new  
12          item is purchased during the Sales Tax Holiday Period.

13          (6) Delivery charges. Delivery charges, including  
14          shipping, handling and service charges, are part of the  
15          sales price of eligible property.

16          (7) Order date and back orders. For the purpose of a  
17          sales tax holiday, eligible property qualifies for the  
18          reduced rate of tax if: (i) the item is both delivered to  
19          and paid for by the customer during the Sales Tax Holiday  
20          Period or (ii) the customer orders and pays for the item  
21          and the seller accepts the order during the Sales Tax  
22          Holiday Period for immediate shipment, even if delivery is  
23          made after the Sales Tax Holiday Period. The seller accepts  
24          an order when the seller has taken action to fill the order  
25          for immediate shipment. Actions to fill an order include  
26          placement of an "in date" stamp on an order or assignment

1 of an "order number" to an order within the Sales Tax  
2 Holiday Period. An order is for immediate shipment when the  
3 customer does not request delayed shipment. An order is for  
4 immediate shipment notwithstanding that the shipment may  
5 be delayed because of a backlog of orders or because stock  
6 is currently unavailable to, or on back order by, the  
7 seller.

8 (8) Returns. For a 60-day period immediately after the  
9 Sales Tax Holiday Period, if a customer returns an item  
10 that would qualify for the reduced rate of tax, credit for  
11 or refund of sales tax shall be given only at the reduced  
12 rate unless the customer provides a receipt or invoice that  
13 shows tax was paid at the 6.25% general merchandise rate,  
14 or the seller has sufficient documentation to show that tax  
15 was paid at the 6.25% general merchandise rate on the  
16 specific item. This 60-day period is set solely for the  
17 purpose of designating a time period during which the  
18 customer must provide documentation that shows that the  
19 appropriate sales tax rate was paid on returned  
20 merchandise. The 60-day period is not intended to change a  
21 seller's policy on the time period during which the seller  
22 will accept returns.

23 (c) The Department may implement the provisions of this  
24 Section through the use of emergency rules, along with  
25 permanent rules filed concurrently with such emergency rules,  
26 in accordance with the provisions of Section 5-45 of the

1 Illinois Administrative Procedure Act. For purposes of the  
2 Illinois Administrative Procedure Act, the adoption of rules to  
3 implement the provisions of this Section shall be deemed an  
4 emergency and necessary for the public interest, safety, and  
5 welfare.

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

7 (35 ILCS 120/2-10)

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

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

16 Beginning on August 6, 2010 through August 15, 2010, with  
17 respect to sales tax holiday items as defined in subsection (a)  
18 of Section 2-8 of this Act, the tax is imposed at the rate of  
19 1.25%. From December 19 through December 23, 2011, with respect  
20 to items purchased from a small business, as defined in  
21 subsection (a-5) of Section 2-8 of this Act, the tax is imposed  
22 at the rate of 1.25%.

23 Within 14 days after the effective date of this amendatory  
24 Act of the 91st General Assembly, each retailer of motor fuel  
25 and gasohol shall cause the following notice to be posted in a

1 prominently visible place on each retail dispensing device that  
2 is used to dispense motor fuel or gasohol in the State of  
3 Illinois: "As of July 1, 2000, the State of Illinois has  
4 eliminated the State's share of sales tax on motor fuel and  
5 gasohol through December 31, 2000. The price on this pump  
6 should reflect the elimination of the tax." The notice shall be  
7 printed in bold print on a sign that is no smaller than 4  
8 inches by 8 inches. The sign shall be clearly visible to  
9 customers. Any retailer who fails to post or maintain a  
10 required sign through December 31, 2000 is guilty of a petty  
11 offense for which the fine shall be \$500 per day per each  
12 retail premises where a violation occurs.

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

23 With respect to majority blended ethanol fuel, as defined  
24 in the Use Tax Act, the tax imposed by this Act does not apply  
25 to the proceeds of sales made on or after July 1, 2003 and on or  
26 before December 31, 2013 but applies to 100% of the proceeds of

1 sales made thereafter.

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

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

19 With respect to food for human consumption that is to be  
20 consumed off the premises where it is sold (other than  
21 alcoholic beverages, soft drinks, and food that has been  
22 prepared for immediate consumption) and prescription and  
23 nonprescription medicines, drugs, medical appliances,  
24 modifications to a motor vehicle for the purpose of rendering  
25 it usable by a disabled person, and insulin, urine testing  
26 materials, syringes, and needles used by diabetics, for human

1 use, the tax is imposed at the rate of 1%. For the purposes of  
2 this Section, until September 1, 2009: the term "soft drinks"  
3 means any complete, finished, ready-to-use, non-alcoholic  
4 drink, whether carbonated or not, including but not limited to  
5 soda water, cola, fruit juice, vegetable juice, carbonated  
6 water, and all other preparations commonly known as soft drinks  
7 of whatever kind or description that are contained in any  
8 closed or sealed bottle, can, carton, or container, regardless  
9 of size; but "soft drinks" does not include coffee, tea,  
10 non-carbonated water, infant formula, milk or milk products as  
11 defined in the Grade A Pasteurized Milk and Milk Products Act,  
12 or drinks containing 50% or more natural fruit or vegetable  
13 juice.

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

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

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

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

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

1 label includes:

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

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

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

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.