



Rep. Barbara Flynn Currie

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LRB098 09659 HLH 46616 a

1 AMENDMENT TO SENATE BILL 2243

2 AMENDMENT NO. _____. Amend Senate Bill 2243, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Use Tax Act is amended by changing Sections
6 3, 3-5, 3-25, and 3-50 as follows:

7 (35 ILCS 105/3) (from Ch. 120, par. 439.3)

8 Sec. 3. Tax imposed. A tax is imposed upon the privilege of
9 using in this State tangible personal property purchased at
10 retail from a retailer, including computer software, and
11 including photographs, negatives, and positives that are the
12 product of photoprocessing, but not including products of
13 photoprocessing produced for use in motion pictures for
14 commercial exhibition. Beginning January 1, 2001, prepaid
15 telephone calling arrangements shall be considered tangible
16 personal property subject to the tax imposed under this Act

1 regardless of the form in which those arrangements may be
2 embodied, transmitted, or fixed by any method now known or
3 hereafter developed. Purchases of (1) electricity delivered to
4 customers by wire; (2) natural or artificial gas that is
5 delivered to customers through pipes, pipelines, or mains; and
6 (3) water that is delivered to customers through pipes,
7 pipelines, or mains are not subject to tax under this Act. The
8 provisions of this amendatory Act of the 98th General Assembly
9 are declaratory of existing law as to the meaning and scope of
10 this Act.

11 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

12 (35 ILCS 105/3-5)

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

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

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

25 (3) Personal property purchased by a not-for-profit arts or

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

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

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

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

6 (6) Until July 1, 2003 and beginning again on September 1,
7 2004 through August 30, 2014, graphic arts machinery and
8 equipment, including repair and replacement parts, both new and
9 used, and including that manufactured on special order,
10 certified by the purchaser to be used primarily for graphic
11 arts production, and including machinery and equipment
12 purchased for lease. Equipment includes chemicals or chemicals
13 acting as catalysts but only if the chemicals or chemicals
14 acting as catalysts effect a direct and immediate change upon a
15 graphic arts product.

16 (7) Farm chemicals.

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

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

24 (10) A motor vehicle of the first division, a motor vehicle
25 of the second division that is a self-contained motor vehicle
26 designed or permanently converted to provide living quarters

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

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

1 tender is separately stated.

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

10 Farm machinery and equipment also includes computers,
11 sensors, software, and related equipment used primarily in the
12 computer-assisted operation of production agriculture
13 facilities, equipment, and activities such as, but not limited
14 to, the collection, monitoring, and correlation of animal and
15 crop data for the purpose of formulating animal diets and
16 agricultural chemicals. This item (11) is exempt from the
17 provisions of Section 3-90.

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

25 (13) Proceeds of mandatory service charges separately
26 stated on customers' bills for the purchase and consumption of

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

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

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

21 (16) Until July 1, 2003, and beginning again on the
22 effective date of this amendatory Act of the 97th General
23 Assembly and thereafter, coal and aggregate exploration,
24 mining, offhighway hauling, processing, maintenance, and
25 reclamation equipment, including replacement parts and
26 equipment, and including equipment purchased for lease, but

1 excluding motor vehicles required to be registered under the
2 Illinois Vehicle Code.

3 (17) Until July 1, 2003, distillation machinery and
4 equipment, sold as a unit or kit, assembled or installed by the
5 retailer, certified by the user to be used only for the
6 production of ethyl alcohol that will be used for consumption
7 as motor fuel or as a component of motor fuel for the personal
8 use of the user, and not subject to sale or resale.

9 (18) Manufacturing and assembling machinery and equipment
10 used primarily in the process of manufacturing or assembling
11 tangible personal property for wholesale or retail sale or
12 lease, whether that sale or lease is made directly by the
13 manufacturer or by some other person, whether the materials
14 used in the process are owned by the manufacturer or some other
15 person, or whether that sale or lease is made apart from or as
16 an incident to the seller's engaging in the service occupation
17 of producing machines, tools, dies, jigs, patterns, gauges, or
18 other similar items of no commercial value on special order for
19 a particular purchaser. The exemption provided by this
20 paragraph (18) does not include machinery and equipment used in
21 (i) the generation of electricity for wholesale or retail sale;
22 (ii) the generation or treatment of natural or artificial gas
23 for wholesale or retail sale that is delivered to customers
24 through pipes, pipelines, or mains; or (iii) the treatment of
25 water for wholesale or retail sale that is delivered to
26 customers through pipes, pipelines, or mains. The provisions of

1 this amendatory Act of the 98th General Assembly are
2 declaratory of existing law as to the meaning and scope of this
3 exemption.

4 (19) Personal property delivered to a purchaser or
5 purchaser's donee inside Illinois when the purchase order for
6 that personal property was received by a florist located
7 outside Illinois who has a florist located inside Illinois
8 deliver the personal property.

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

11 (21) Horses, or interests in horses, registered with and
12 meeting the requirements of any of the Arabian Horse Club
13 Registry of America, Appaloosa Horse Club, American Quarter
14 Horse Association, United States Trotting Association, or
15 Jockey Club, as appropriate, used for purposes of breeding or
16 racing for prizes. This item (21) is exempt from the provisions
17 of Section 3-90, and the exemption provided for under this item
18 (21) applies for all periods beginning May 30, 1995, but no
19 claim for credit or refund is allowed on or after January 1,
20 2008 for such taxes paid during the period beginning May 30,
21 2000 and ending on January 1, 2008.

22 (22) Computers and communications equipment utilized for
23 any hospital purpose and equipment used in the diagnosis,
24 analysis, or treatment of hospital patients purchased by a
25 lessor who leases the equipment, under a lease of one year or
26 longer executed or in effect at the time the lessor would

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

19 (23) Personal property purchased by a lessor who leases the
20 property, under a lease of one year or longer executed or in
21 effect at the time the lessor would otherwise be subject to the
22 tax imposed by this Act, to a governmental body that has been
23 issued an active sales tax exemption identification number by
24 the Department under Section 1g of the Retailers' Occupation
25 Tax Act. If the property is leased in a manner that does not
26 qualify for this exemption or used in any other non-exempt

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

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

23 (25) Beginning with taxable years ending on or after
24 December 31, 1995 and ending with taxable years ending on or
25 before December 31, 2004, personal property that is used in the
26 performance of infrastructure repairs in this State, including

1 but not limited to municipal roads and streets, access roads,
2 bridges, sidewalks, waste disposal systems, water and sewer
3 line extensions, water distribution and purification
4 facilities, storm water drainage and retention facilities, and
5 sewage treatment facilities, resulting from a State or
6 federally declared disaster in Illinois or bordering Illinois
7 when such repairs are initiated on facilities located in the
8 declared disaster area within 6 months after the disaster.

9 (26) Beginning July 1, 1999, game or game birds purchased
10 at a "game breeding and hunting preserve area" as that term is
11 used in the Wildlife Code. This paragraph is exempt from the
12 provisions of Section 3-90.

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

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

5 (28) Beginning January 1, 2000, personal property,
6 including food, purchased through fundraising events for the
7 benefit of a public or private elementary or secondary school,
8 a group of those schools, or one or more school districts if
9 the events are sponsored by an entity recognized by the school
10 district that consists primarily of volunteers and includes
11 parents and teachers of the school children. This paragraph
12 does not apply to fundraising events (i) for the benefit of
13 private home instruction or (ii) for which the fundraising
14 entity purchases the personal property sold at the events from
15 another individual or entity that sold the property for the
16 purpose of resale by the fundraising entity and that profits
17 from the sale to the fundraising entity. This paragraph is
18 exempt from the provisions of Section 3-90.

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

1 coin-operated amusement and vending machines. This paragraph
2 is exempt from the provisions of Section 3-90.

3 (30) Beginning January 1, 2001 and through June 30, 2016,
4 food for human consumption that is to be consumed off the
5 premises where it is sold (other than alcoholic beverages, soft
6 drinks, and food that has been prepared for immediate
7 consumption) and prescription and nonprescription medicines,
8 drugs, medical appliances, and insulin, urine testing
9 materials, syringes, and needles used by diabetics, for human
10 use, when purchased for use by a person receiving medical
11 assistance under Article V of the Illinois Public Aid Code who
12 resides in a licensed long-term care facility, as defined in
13 the Nursing Home Care Act, or in a licensed facility as defined
14 in the ID/DD Community Care Act or the Specialized Mental
15 Health Rehabilitation Act.

16 (31) Beginning on the effective date of this amendatory Act
17 of the 92nd General Assembly, computers and communications
18 equipment utilized for any hospital purpose and equipment used
19 in the diagnosis, analysis, or treatment of hospital patients
20 purchased by a lessor who leases the equipment, under a lease
21 of one year or longer executed or in effect at the time the
22 lessor would otherwise be subject to the tax imposed by this
23 Act, to a hospital that has been issued an active tax exemption
24 identification number by the Department under Section 1g of the
25 Retailers' Occupation Tax Act. If the equipment is leased in a
26 manner that does not qualify for this exemption or is used in

1 any other nonexempt manner, the lessor shall be liable for the
2 tax imposed under this Act or the Service Use Tax Act, as the
3 case may be, based on the fair market value of the property at
4 the time the nonqualifying use occurs. No lessor shall collect
5 or attempt to collect an amount (however designated) that
6 purports to reimburse that lessor for the tax imposed by this
7 Act or the Service Use Tax Act, as the case may be, if the tax
8 has not been paid by the lessor. If a lessor improperly
9 collects any such amount from the lessee, the lessee shall have
10 a legal right to claim a refund of that amount from the lessor.
11 If, however, that amount is not refunded to the lessee for any
12 reason, the lessor is liable to pay that amount to the
13 Department. This paragraph is exempt from the provisions of
14 Section 3-90.

15 (32) Beginning on the effective date of this amendatory Act
16 of the 92nd General Assembly, personal property purchased by a
17 lessor who leases the property, under a lease of one year or
18 longer executed or in effect at the time the lessor would
19 otherwise be subject to the tax imposed by this Act, to a
20 governmental body that has been issued an active sales tax
21 exemption identification number by the Department under
22 Section 1g of the Retailers' Occupation Tax Act. If the
23 property is leased in a manner that does not qualify for this
24 exemption or used in any other nonexempt manner, the lessor
25 shall be liable for the tax imposed under this Act or the
26 Service Use Tax Act, as the case may be, based on the fair

1 market value of the property at the time the nonqualifying use
2 occurs. No lessor shall collect or attempt to collect an amount
3 (however designated) that purports to reimburse that lessor for
4 the tax imposed by this Act or the Service Use Tax Act, as the
5 case may be, if the tax has not been paid by the lessor. If a
6 lessor improperly collects any such amount from the lessee, the
7 lessee shall have a legal right to claim a refund of that
8 amount from the lessor. If, however, that amount is not
9 refunded to the lessee for any reason, the lessor is liable to
10 pay that amount to the Department. This paragraph is exempt
11 from the provisions of Section 3-90.

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

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

5 (34) Beginning January 1, 2008, tangible personal property
6 used in the construction or maintenance of a community water
7 supply, as defined under Section 3.145 of the Environmental
8 Protection Act, that is operated by a not-for-profit
9 corporation that holds a valid water supply permit issued under
10 Title IV of the Environmental Protection Act. This paragraph is
11 exempt from the provisions of Section 3-90.

12 (35) Beginning January 1, 2010, materials, parts,
13 equipment, components, and furnishings incorporated into or
14 upon an aircraft as part of the modification, refurbishment,
15 completion, replacement, repair, or maintenance of the
16 aircraft. This exemption includes consumable supplies used in
17 the modification, refurbishment, completion, replacement,
18 repair, and maintenance of aircraft, but excludes any
19 materials, parts, equipment, components, and consumable
20 supplies used in the modification, replacement, repair, and
21 maintenance of aircraft engines or power plants, whether such
22 engines or power plants are installed or uninstalled upon any
23 such aircraft. "Consumable supplies" include, but are not
24 limited to, adhesive, tape, sandpaper, general purpose
25 lubricants, cleaning solution, latex gloves, and protective
26 films. This exemption applies only to those organizations that

1 (i) hold an Air Agency Certificate and are empowered to operate
2 an approved repair station by the Federal Aviation
3 Administration, (ii) have a Class IV Rating, and (iii) conduct
4 operations in accordance with Part 145 of the Federal Aviation
5 Regulations. The exemption does not include aircraft operated
6 by a commercial air carrier providing scheduled passenger air
7 service pursuant to authority issued under Part 121 or Part 129
8 of the Federal Aviation Regulations.

9 (36) Tangible personal property purchased by a
10 public-facilities corporation, as described in Section
11 11-65-10 of the Illinois Municipal Code, for purposes of
12 constructing or furnishing a municipal convention hall, but
13 only if the legal title to the municipal convention hall is
14 transferred to the municipality without any further
15 consideration by or on behalf of the municipality at the time
16 of the completion of the municipal convention hall or upon the
17 retirement or redemption of any bonds or other debt instruments
18 issued by the public-facilities corporation in connection with
19 the development of the municipal convention hall. This
20 exemption includes existing public-facilities corporations as
21 provided in Section 11-65-25 of the Illinois Municipal Code.
22 This paragraph is exempt from the provisions of Section 3-90.

23 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
24 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
25 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431, eff.
26 8-16-11; 97-636, eff. 6-1-12; 97-767, eff. 7-9-12.)

1 (35 ILCS 105/3-25) (from Ch. 120, par. 439.3-25)

2 Sec. 3-25. Computer software. For the purposes of this Act,
3 "computer software" means a set of statements, data, or
4 instructions to be used directly or indirectly in a computer in
5 order to bring about a certain result in any form in which
6 those statements, data, or instructions may be embodied,
7 transmitted, or fixed, by any method now known or hereafter
8 developed, regardless of whether the statements, data, or
9 instructions are capable of being perceived by or communicated
10 to humans, and includes prewritten or canned software that is
11 held for repeated sale or lease, and all associated
12 documentation and materials, if any, whether contained on
13 magnetic tapes, discs, cards, or other devices or media, but
14 does not include software that is adapted to specific
15 individualized requirements of a purchaser, custom-made and
16 modified software designed for a particular or limited use by a
17 purchaser, or software used to operate exempt machinery and
18 equipment used in the process of manufacturing or assembling
19 tangible personal property for wholesale or retail sale or
20 lease. Software used to operate machinery and equipment used in
21 (i) the generation of electricity for wholesale or retail sale;
22 (ii) the generation or treatment of natural or artificial gas
23 for wholesale or retail sale that is delivered to customers
24 through pipes, pipelines, or mains; or (iii) the treatment of
25 water for wholesale or retail sale that is delivered to

1 customers though pipes, pipelines, or mains is considered
2 "computer software". The provisions of this amendatory Act of
3 the 98th General Assembly are declaratory of existing law as to
4 the meaning and scope of this exemption.

5 For the purposes of this Act, computer software shall be
6 considered to be tangible personal property.

7 (Source: P.A. 91-51, eff. 6-30-99.)

8 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

9 Sec. 3-50. Manufacturing and assembly exemption. The
10 manufacturing and assembling machinery and equipment exemption
11 includes machinery and equipment that replaces machinery and
12 equipment in an existing manufacturing facility as well as
13 machinery and equipment that are for use in an expanded or new
14 manufacturing facility. The machinery and equipment exemption
15 also includes machinery and equipment used in the general
16 maintenance or repair of exempt machinery and equipment or for
17 in-house manufacture of exempt machinery and equipment. The
18 machinery and equipment exemption does not include machinery
19 and equipment used in (i) the generation of electricity for
20 wholesale or retail sale; (ii) the generation or treatment of
21 natural or artificial gas for wholesale or retail sale that is
22 delivered to customers though pipes, pipelines, or mains; or
23 (iii) the treatment of water for wholesale or retail sale that
24 is delivered to customers though pipes, pipelines, or mains.
25 The provisions of this amendatory Act of the 98th General

1 Assembly are declaratory of existing law as to the meaning and
2 scope of this exemption. For the purposes of this exemption,
3 terms have the following meanings:

4 (1) "Manufacturing process" means the production of an
5 article of tangible personal property, whether the article
6 is a finished product or an article for use in the process
7 of manufacturing or assembling a different article of
8 tangible personal property, by a procedure commonly
9 regarded as manufacturing, processing, fabricating, or
10 refining that changes some existing material into a
11 material with a different form, use, or name. In relation
12 to a recognized integrated business composed of a series of
13 operations that collectively constitute manufacturing, or
14 individually constitute manufacturing operations, the
15 manufacturing process commences with the first operation
16 or stage of production in the series and does not end until
17 the completion of the final product in the last operation
18 or stage of production in the series. For purposes of this
19 exemption, photoprocessing is a manufacturing process of
20 tangible personal property for wholesale or retail sale.

21 (2) "Assembling process" means the production of an
22 article of tangible personal property, whether the article
23 is a finished product or an article for use in the process
24 of manufacturing or assembling a different article of
25 tangible personal property, by the combination of existing
26 materials in a manner commonly regarded as assembling that

1 results in an article or material of a different form, use,
2 or name.

3 (3) "Machinery" means major mechanical machines or
4 major components of those machines contributing to a
5 manufacturing or assembling process.

6 (4) "Equipment" includes an independent device or tool
7 separate from machinery but essential to an integrated
8 manufacturing or assembly process; including computers
9 used primarily in a manufacturer's computer assisted
10 design, computer assisted manufacturing (CAD/CAM) system;
11 any subunit or assembly comprising a component of any
12 machinery or auxiliary, adjunct, or attachment parts of
13 machinery, such as tools, dies, jigs, fixtures, patterns,
14 and molds; and any parts that require periodic replacement
15 in the course of normal operation; but does not include
16 hand tools. Equipment includes chemicals or chemicals
17 acting as catalysts but only if the chemicals or chemicals
18 acting as catalysts effect a direct and immediate change
19 upon a product being manufactured or assembled for
20 wholesale or retail sale or lease.

21 (5) "Production related tangible personal property"
22 means all tangible personal property that is used or
23 consumed by the purchaser in a manufacturing facility in
24 which a manufacturing process takes place and includes,
25 without limitation, tangible personal property that is
26 purchased for incorporation into real estate within a

1 manufacturing facility and tangible personal property that
2 is used or consumed in activities such as research and
3 development, preproduction material handling, receiving,
4 quality control, inventory control, storage, staging, and
5 packaging for shipping and transportation purposes.
6 "Production related tangible personal property" does not
7 include (i) tangible personal property that is used, within
8 or without a manufacturing facility, in sales, purchasing,
9 accounting, fiscal management, marketing, personnel
10 recruitment or selection, or landscaping or (ii) tangible
11 personal property that is required to be titled or
12 registered with a department, agency, or unit of federal,
13 State, or local government.

14 The manufacturing and assembling machinery and equipment
15 exemption includes production related tangible personal
16 property that is purchased on or after July 1, 2007 and on or
17 before June 30, 2008. The exemption for production related
18 tangible personal property is subject to both of the following
19 limitations:

20 (1) The maximum amount of the exemption for any one
21 taxpayer may not exceed 5% of the purchase price of
22 production related tangible personal property that is
23 purchased on or after July 1, 2007 and on or before June
24 30, 2008. A credit under Section 3-85 of this Act may not
25 be earned by the purchase of production related tangible
26 personal property for which an exemption is received under

1 this Section.

2 (2) The maximum aggregate amount of the exemptions for
3 production related tangible personal property awarded
4 under this Act and the Retailers' Occupation Tax Act to all
5 taxpayers may not exceed \$10,000,000. If the claims for the
6 exemption exceed \$10,000,000, then the Department shall
7 reduce the amount of the exemption to each taxpayer on a
8 pro rata basis.

9 The Department may adopt rules to implement and administer the
10 exemption for production related tangible personal property.

11 The manufacturing and assembling machinery and equipment
12 exemption includes the sale of materials to a purchaser who
13 produces exempted types of machinery, equipment, or tools and
14 who rents or leases that machinery, equipment, or tools to a
15 manufacturer of tangible personal property. This exemption
16 also includes the sale of materials to a purchaser who
17 manufactures those materials into an exempted type of
18 machinery, equipment, or tools that the purchaser uses himself
19 or herself in the manufacturing of tangible personal property.
20 This exemption includes the sale of exempted types of machinery
21 or equipment to a purchaser who is not the manufacturer, but
22 who rents or leases the use of the property to a manufacturer.
23 The purchaser of the machinery and equipment who has an active
24 resale registration number shall furnish that number to the
25 seller at the time of purchase. A user of the machinery,
26 equipment, or tools without an active resale registration

1 number shall prepare a certificate of exemption for each
2 transaction stating facts establishing the exemption for that
3 transaction, and that certificate shall be available to the
4 Department for inspection or audit. The Department shall
5 prescribe the form of the certificate. Informal rulings,
6 opinions, or letters issued by the Department in response to an
7 inquiry or request for an opinion from any person regarding the
8 coverage and applicability of this exemption to specific
9 devices shall be published, maintained as a public record, and
10 made available for public inspection and copying. If the
11 informal ruling, opinion, or letter contains trade secrets or
12 other confidential information, where possible, the Department
13 shall delete that information before publication. Whenever
14 informal rulings, opinions, or letters contain a policy of
15 general applicability, the Department shall formulate and
16 adopt that policy as a rule in accordance with the Illinois
17 Administrative Procedure Act.

18 (Source: P.A. 95-707, eff. 1-11-08.)

19 Section 10. The Service Use Tax Act is amended by changing
20 Sections 2, 3, and 3-25 as follows:

21 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

22 Sec. 2. "Use" means the exercise by any person of any right
23 or power over tangible personal property incident to the
24 ownership of that property, but does not include the sale or

1 use for demonstration by him of that property in any form as
2 tangible personal property in the regular course of business.
3 "Use" does not mean the interim use of tangible personal
4 property nor the physical incorporation of tangible personal
5 property, as an ingredient or constituent, into other tangible
6 personal property, (a) which is sold in the regular course of
7 business or (b) which the person incorporating such ingredient
8 or constituent therein has undertaken at the time of such
9 purchase to cause to be transported in interstate commerce to
10 destinations outside the State of Illinois.

11 "Purchased from a serviceman" means the acquisition of the
12 ownership of, or title to, tangible personal property through a
13 sale of service.

14 "Purchaser" means any person who, through a sale of
15 service, acquires the ownership of, or title to, any tangible
16 personal property.

17 "Cost price" means the consideration paid by the serviceman
18 for a purchase valued in money, whether paid in money or
19 otherwise, including cash, credits and services, and shall be
20 determined without any deduction on account of the supplier's
21 cost of the property sold or on account of any other expense
22 incurred by the supplier. When a serviceman contracts out part
23 or all of the services required in his sale of service, it
24 shall be presumed that the cost price to the serviceman of the
25 property transferred to him or her by his or her subcontractor
26 is equal to 50% of the subcontractor's charges to the

1 serviceman in the absence of proof of the consideration paid by
2 the subcontractor for the purchase of such property.

3 "Selling price" means the consideration for a sale valued
4 in money whether received in money or otherwise, including
5 cash, credits and service, and shall be determined without any
6 deduction on account of the serviceman's cost of the property
7 sold, the cost of materials used, labor or service cost or any
8 other expense whatsoever, but does not include interest or
9 finance charges which appear as separate items on the bill of
10 sale or sales contract nor charges that are added to prices by
11 sellers on account of the seller's duty to collect, from the
12 purchaser, the tax that is imposed by this Act.

13 "Department" means the Department of Revenue.

14 "Person" means any natural individual, firm, partnership,
15 association, joint stock company, joint venture, public or
16 private corporation, limited liability company, and any
17 receiver, executor, trustee, guardian or other representative
18 appointed by order of any court.

19 "Sale of service" means any transaction except:

20 (1) a retail sale of tangible personal property taxable
21 under the Retailers' Occupation Tax Act or under the Use
22 Tax Act.

23 (2) a sale of tangible personal property for the
24 purpose of resale made in compliance with Section 2c of the
25 Retailers' Occupation Tax Act.

26 (3) except as hereinafter provided, a sale or transfer

1 of tangible personal property as an incident to the
2 rendering of service for or by any governmental body, or
3 for or by any corporation, society, association,
4 foundation or institution organized and operated
5 exclusively for charitable, religious or educational
6 purposes or any not-for-profit corporation, society,
7 association, foundation, institution or organization which
8 has no compensated officers or employees and which is
9 organized and operated primarily for the recreation of
10 persons 55 years of age or older. A limited liability
11 company may qualify for the exemption under this paragraph
12 only if the limited liability company is organized and
13 operated exclusively for educational purposes.

14 (4) a sale or transfer of tangible personal property as
15 an incident to the rendering of service for interstate
16 carriers for hire for use as rolling stock moving in
17 interstate commerce or by lessors under a lease of one year
18 or longer, executed or in effect at the time of purchase of
19 personal property, to interstate carriers for hire for use
20 as rolling stock moving in interstate commerce so long as
21 so used by such interstate carriers for hire, and equipment
22 operated by a telecommunications provider, licensed as a
23 common carrier by the Federal Communications Commission,
24 which is permanently installed in or affixed to aircraft
25 moving in interstate commerce.

26 (4a) a sale or transfer of tangible personal property

1 as an incident to the rendering of service for owners,
2 lessors, or shippers of tangible personal property which is
3 utilized by interstate carriers for hire for use as rolling
4 stock moving in interstate commerce so long as so used by
5 interstate carriers for hire, and equipment operated by a
6 telecommunications provider, licensed as a common carrier
7 by the Federal Communications Commission, which is
8 permanently installed in or affixed to aircraft moving in
9 interstate commerce.

10 (4a-5) on and after July 1, 2003 and through June 30,
11 2004, a sale or transfer of a motor vehicle of the second
12 division with a gross vehicle weight in excess of 8,000
13 pounds as an incident to the rendering of service if that
14 motor vehicle is subject to the commercial distribution fee
15 imposed under Section 3-815.1 of the Illinois Vehicle Code.
16 Beginning on July 1, 2004 and through June 30, 2005, the
17 use in this State of motor vehicles of the second division:
18 (i) with a gross vehicle weight rating in excess of 8,000
19 pounds; (ii) that are subject to the commercial
20 distribution fee imposed under Section 3-815.1 of the
21 Illinois Vehicle Code; and (iii) that are primarily used
22 for commercial purposes. Through June 30, 2005, this
23 exemption applies to repair and replacement parts added
24 after the initial purchase of such a motor vehicle if that
25 motor vehicle is used in a manner that would qualify for
26 the rolling stock exemption otherwise provided for in this

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

5 (5) a sale or transfer of machinery and equipment used
6 primarily in the process of the manufacturing or
7 assembling, either in an existing, an expanded or a new
8 manufacturing facility, of tangible personal property for
9 wholesale or retail sale or lease, whether such sale or
10 lease is made directly by the manufacturer or by some other
11 person, whether the materials used in the process are owned
12 by the manufacturer or some other person, or whether such
13 sale or lease is made apart from or as an incident to the
14 seller's engaging in a service occupation and the
15 applicable tax is a Service Use Tax or Service Occupation
16 Tax, rather than Use Tax or Retailers' Occupation Tax. The
17 exemption provided by this paragraph (5) does not include
18 machinery and equipment used in (i) the generation of
19 electricity for wholesale or retail sale; (ii) the
20 generation or treatment of natural or artificial gas for
21 wholesale or retail sale that is delivered to customers
22 through pipes, pipelines, or mains; or (iii) the treatment
23 of water for wholesale or retail sale that is delivered to
24 customers through pipes, pipelines, or mains. The
25 provisions of this amendatory Act of the 98th General
26 Assembly are declaratory of existing law as to the meaning

1 and scope of this exemption.

2 (5a) the repairing, reconditioning or remodeling, for
3 a common carrier by rail, of tangible personal property
4 which belongs to such carrier for hire, and as to which
5 such carrier receives the physical possession of the
6 repaired, reconditioned or remodeled item of tangible
7 personal property in Illinois, and which such carrier
8 transports, or shares with another common carrier in the
9 transportation of such property, out of Illinois on a
10 standard uniform bill of lading showing the person who
11 repaired, reconditioned or remodeled the property to a
12 destination outside Illinois, for use outside Illinois.

13 (5b) a sale or transfer of tangible personal property
14 which is produced by the seller thereof on special order in
15 such a way as to have made the applicable tax the Service
16 Occupation Tax or the Service Use Tax, rather than the
17 Retailers' Occupation Tax or the Use Tax, for an interstate
18 carrier by rail which receives the physical possession of
19 such property in Illinois, and which transports such
20 property, or shares with another common carrier in the
21 transportation of such property, out of Illinois on a
22 standard uniform bill of lading showing the seller of the
23 property as the shipper or consignor of such property to a
24 destination outside Illinois, for use outside Illinois.

25 (6) until July 1, 2003, a sale or transfer of
26 distillation machinery and equipment, sold as a unit or kit

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

7 (7) at the election of any serviceman not required to
8 be otherwise registered as a retailer under Section 2a of
9 the Retailers' Occupation Tax Act, made for each fiscal
10 year sales of service in which the aggregate annual cost
11 price of tangible personal property transferred as an
12 incident to the sales of service is less than 35%, or 75%
13 in the case of servicemen transferring prescription drugs
14 or servicemen engaged in graphic arts production, of the
15 aggregate annual total gross receipts from all sales of
16 service. The purchase of such tangible personal property by
17 the serviceman shall be subject to tax under the Retailers'
18 Occupation Tax Act and the Use Tax Act. However, if a
19 primary serviceman who has made the election described in
20 this paragraph subcontracts service work to a secondary
21 serviceman who has also made the election described in this
22 paragraph, the primary serviceman does not incur a Use Tax
23 liability if the secondary serviceman (i) has paid or will
24 pay Use Tax on his or her cost price of any tangible
25 personal property transferred to the primary serviceman
26 and (ii) certifies that fact in writing to the primary

1 serviceman.

2 Tangible personal property transferred incident to the
3 completion of a maintenance agreement is exempt from the tax
4 imposed pursuant to this Act.

5 Exemption (5) also includes machinery and equipment used in
6 the general maintenance or repair of such exempt machinery and
7 equipment or for in-house manufacture of exempt machinery and
8 equipment. The machinery and equipment exemption does not
9 include machinery and equipment used in (i) the generation of
10 electricity for wholesale or retail sale; (ii) the generation
11 or treatment of natural or artificial gas for wholesale or
12 retail sale that is delivered to customers through pipes,
13 pipelines, or mains; or (iii) the treatment of water for
14 wholesale or retail sale that is delivered to customers through
15 pipes, pipelines, or mains. The provisions of this amendatory
16 Act of the 98th General Assembly are declaratory of existing
17 law as to the meaning and scope of this exemption. For the
18 purposes of exemption (5), each of these terms shall have the
19 following meanings: (1) "manufacturing process" shall mean the
20 production of any article of tangible personal property,
21 whether such article is a finished product or an article for
22 use in the process of manufacturing or assembling a different
23 article of tangible personal property, by procedures commonly
24 regarded as manufacturing, processing, fabricating, or
25 refining which changes some existing material or materials into
26 a material with a different form, use or name. In relation to a

1 recognized integrated business composed of a series of
2 operations which collectively constitute manufacturing, or
3 individually constitute manufacturing operations, the
4 manufacturing process shall be deemed to commence with the
5 first operation or stage of production in the series, and shall
6 not be deemed to end until the completion of the final product
7 in the last operation or stage of production in the series; and
8 further, for purposes of exemption (5), photoprocessing is
9 deemed to be a manufacturing process of tangible personal
10 property for wholesale or retail sale; (2) "assembling process"
11 shall mean the production of any article of tangible personal
12 property, whether such article is a finished product or an
13 article for use in the process of manufacturing or assembling a
14 different article of tangible personal property, by the
15 combination of existing materials in a manner commonly regarded
16 as assembling which results in a material of a different form,
17 use or name; (3) "machinery" shall mean major mechanical
18 machines or major components of such machines contributing to a
19 manufacturing or assembling process; and (4) "equipment" shall
20 include any independent device or tool separate from any
21 machinery but essential to an integrated manufacturing or
22 assembly process; including computers used primarily in a
23 manufacturer's computer assisted design, computer assisted
24 manufacturing (CAD/CAM) system; or any subunit or assembly
25 comprising a component of any machinery or auxiliary, adjunct
26 or attachment parts of machinery, such as tools, dies, jigs,

1 fixtures, patterns and molds; or any parts which require
2 periodic replacement in the course of normal operation; but
3 shall not include hand tools. Equipment includes chemicals or
4 chemicals acting as catalysts but only if the chemicals or
5 chemicals acting as catalysts effect a direct and immediate
6 change upon a product being manufactured or assembled for
7 wholesale or retail sale or lease. The purchaser of such
8 machinery and equipment who has an active resale registration
9 number shall furnish such number to the seller at the time of
10 purchase. The user of such machinery and equipment and tools
11 without an active resale registration number shall prepare a
12 certificate of exemption for each transaction stating facts
13 establishing the exemption for that transaction, which
14 certificate shall be available to the Department for inspection
15 or audit. The Department shall prescribe the form of the
16 certificate.

17 Any informal rulings, opinions or letters issued by the
18 Department in response to an inquiry or request for any opinion
19 from any person regarding the coverage and applicability of
20 exemption (5) to specific devices shall be published,
21 maintained as a public record, and made available for public
22 inspection and copying. If the informal ruling, opinion or
23 letter contains trade secrets or other confidential
24 information, where possible the Department shall delete such
25 information prior to publication. Whenever such informal
26 rulings, opinions, or letters contain any policy of general

1 applicability, the Department shall formulate and adopt such
2 policy as a rule in accordance with the provisions of the
3 Illinois Administrative Procedure Act.

4 On and after July 1, 1987, no entity otherwise eligible
5 under exemption (3) of this Section shall make tax free
6 purchases unless it has an active exemption identification
7 number issued by the Department.

8 The purchase, employment and transfer of such tangible
9 personal property as newsprint and ink for the primary purpose
10 of conveying news (with or without other information) is not a
11 purchase, use or sale of service or of tangible personal
12 property within the meaning of this Act.

13 "Serviceman" means any person who is engaged in the
14 occupation of making sales of service.

15 "Sale at retail" means "sale at retail" as defined in the
16 Retailers' Occupation Tax Act.

17 "Supplier" means any person who makes sales of tangible
18 personal property to servicemen for the purpose of resale as an
19 incident to a sale of service.

20 "Serviceman maintaining a place of business in this State",
21 or any like term, means and includes any serviceman:

- 22 1. having or maintaining within this State, directly or
23 by a subsidiary, an office, distribution house, sales
24 house, warehouse or other place of business, or any agent
25 or other representative operating within this State under
26 the authority of the serviceman or its subsidiary,

1 irrespective of whether such place of business or agent or
2 other representative is located here permanently or
3 temporarily, or whether such serviceman or subsidiary is
4 licensed to do business in this State;

5 1.1. beginning July 1, 2011, having a contract with a
6 person located in this State under which the person, for a
7 commission or other consideration based on the sale of
8 service by the serviceman, directly or indirectly refers
9 potential customers to the serviceman by a link on the
10 person's Internet website. The provisions of this
11 paragraph 1.1 shall apply only if the cumulative gross
12 receipts from sales of service by the serviceman to
13 customers who are referred to the serviceman by all persons
14 in this State under such contracts exceed \$10,000 during
15 the preceding 4 quarterly periods ending on the last day of
16 March, June, September, and December;

17 1.2. beginning July 1, 2011, having a contract with a
18 person located in this State under which:

19 A. the serviceman sells the same or substantially
20 similar line of services as the person located in this
21 State and does so using an identical or substantially
22 similar name, trade name, or trademark as the person
23 located in this State; and

24 B. the serviceman provides a commission or other
25 consideration to the person located in this State based
26 upon the sale of services by the serviceman.

1 The provisions of this paragraph 1.2 shall apply only if
2 the cumulative gross receipts from sales of service by the
3 serviceman to customers in this State under all such
4 contracts exceed \$10,000 during the preceding 4 quarterly
5 periods ending on the last day of March, June, September,
6 and December;

7 2. soliciting orders for tangible personal property by
8 means of a telecommunication or television shopping system
9 (which utilizes toll free numbers) which is intended by the
10 retailer to be broadcast by cable television or other means
11 of broadcasting, to consumers located in this State;

12 3. pursuant to a contract with a broadcaster or
13 publisher located in this State, soliciting orders for
14 tangible personal property by means of advertising which is
15 disseminated primarily to consumers located in this State
16 and only secondarily to bordering jurisdictions;

17 4. soliciting orders for tangible personal property by
18 mail if the solicitations are substantial and recurring and
19 if the retailer benefits from any banking, financing, debt
20 collection, telecommunication, or marketing activities
21 occurring in this State or benefits from the location in
22 this State of authorized installation, servicing, or
23 repair facilities;

24 5. being owned or controlled by the same interests
25 which own or control any retailer engaging in business in
26 the same or similar line of business in this State;

1 6. having a franchisee or licensee operating under its
2 trade name if the franchisee or licensee is required to
3 collect the tax under this Section;

4 7. pursuant to a contract with a cable television
5 operator located in this State, soliciting orders for
6 tangible personal property by means of advertising which is
7 transmitted or distributed over a cable television system
8 in this State; or

9 8. engaging in activities in Illinois, which
10 activities in the state in which the supply business
11 engaging in such activities is located would constitute
12 maintaining a place of business in that state.

13 (Source: P.A. 96-1544, eff. 3-10-11.)

14 (35 ILCS 110/3) (from Ch. 120, par. 439.33)

15 Sec. 3. Tax imposed. A tax is imposed upon the privilege of
16 using in this State real or tangible personal property acquired
17 as an incident to the purchase of a service from a serviceman,
18 including computer software, and including photographs,
19 negatives, and positives that are the product of
20 photoprocessing, but not including products of photoprocessing
21 produced for use in motion pictures for public commercial
22 exhibition. Beginning January 1, 2001, prepaid telephone
23 calling arrangements shall be considered tangible personal
24 property subject to the tax imposed under this Act regardless
25 of the form in which those arrangements may be embodied,

1 transmitted, or fixed by any method now known or hereafter
2 developed. Purchases of (1) electricity delivered to customers
3 by wire; (2) natural or artificial gas that is delivered to
4 customers through pipes, pipelines, or mains; and (3) water that
5 is delivered to customers through pipes, pipelines, or mains are
6 not subject to tax under this Act. The provisions of this
7 amendatory Act of the 98th General Assembly are declaratory of
8 existing law as to the meaning and scope of this Act.

9 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

10 (35 ILCS 110/3-25) (from Ch. 120, par. 439.33-25)

11 Sec. 3-25. Computer software. For the purposes of this Act,
12 "computer software" means a set of statements, data, or
13 instructions to be used directly or indirectly in a computer in
14 order to bring about a certain result in any form in which
15 those statements, data, or instructions may be embodied,
16 transmitted, or fixed, by any method now known or hereafter
17 developed, regardless of whether the statements, data, or
18 instructions are capable of being perceived by or communicated
19 to humans, and includes prewritten or canned software that is
20 held for repeated sale or lease, and all associated
21 documentation and materials, if any, whether contained on
22 magnetic tapes, discs, cards, or other devices or media, but
23 does not include software that is adapted to specific
24 individualized requirements of a purchaser, custom-made and
25 modified software designed for a particular or limited use by a

1 purchaser, or software used to operate exempt machinery and
2 equipment used in the process of manufacturing or assembling
3 tangible personal property for wholesale or retail sale or
4 lease. Software used to operate machinery and equipment used in
5 (i) the generation of electricity for wholesale or retail sale;
6 (ii) the generation or treatment of natural or artificial gas
7 for wholesale or retail sale that is delivered to customers
8 through pipes, pipelines, or mains; or (iii) the treatment of
9 water for wholesale or retail sale that is delivered to
10 customers through pipes, pipelines, or mains is considered
11 "computer software". The provisions of this amendatory Act of
12 the 98th General Assembly are declaratory of existing law as to
13 the meaning and scope of this exemption.

14 For the purposes of this Act, computer software shall be
15 considered to be tangible personal property.

16 (Source: P.A. 91-51, eff. 6-30-99.)

17 Section 15. The Service Occupation Tax Act is amended by
18 changing Sections 2, 3, and 3-25 as follows:

19 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

20 Sec. 2. "Transfer" means any transfer of the title to
21 property or of the ownership of property whether or not the
22 transferor retains title as security for the payment of amounts
23 due him from the transferee.

24 "Cost Price" means the consideration paid by the serviceman

1 for a purchase valued in money, whether paid in money or
2 otherwise, including cash, credits and services, and shall be
3 determined without any deduction on account of the supplier's
4 cost of the property sold or on account of any other expense
5 incurred by the supplier. When a serviceman contracts out part
6 or all of the services required in his sale of service, it
7 shall be presumed that the cost price to the serviceman of the
8 property transferred to him by his or her subcontractor is
9 equal to 50% of the subcontractor's charges to the serviceman
10 in the absence of proof of the consideration paid by the
11 subcontractor for the purchase of such property.

12 "Department" means the Department of Revenue.

13 "Person" means any natural individual, firm, partnership,
14 association, joint stock company, joint venture, public or
15 private corporation, limited liability company, and any
16 receiver, executor, trustee, guardian or other representative
17 appointed by order of any court.

18 "Sale of Service" means any transaction except:

19 (a) A retail sale of tangible personal property taxable
20 under the Retailers' Occupation Tax Act or under the Use Tax
21 Act.

22 (b) A sale of tangible personal property for the purpose of
23 resale made in compliance with Section 2c of the Retailers'
24 Occupation Tax Act.

25 (c) Except as hereinafter provided, a sale or transfer of
26 tangible personal property as an incident to the rendering of

1 service for or by any governmental body or for or by any
2 corporation, society, association, foundation or institution
3 organized and operated exclusively for charitable, religious
4 or educational purposes or any not-for-profit corporation,
5 society, association, foundation, institution or organization
6 which has no compensated officers or employees and which is
7 organized and operated primarily for the recreation of persons
8 55 years of age or older. A limited liability company may
9 qualify for the exemption under this paragraph only if the
10 limited liability company is organized and operated
11 exclusively for educational purposes.

12 (d) A sale or transfer of tangible personal property as an
13 incident to the rendering of service for interstate carriers
14 for hire for use as rolling stock moving in interstate commerce
15 or lessors under leases of one year or longer, executed or in
16 effect at the time of purchase, to interstate carriers for hire
17 for use as rolling stock moving in interstate commerce, and
18 equipment operated by a telecommunications provider, licensed
19 as a common carrier by the Federal Communications Commission,
20 which is permanently installed in or affixed to aircraft moving
21 in interstate commerce.

22 (d-1) A sale or transfer of tangible personal property as
23 an incident to the rendering of service for owners, lessors or
24 shippers of tangible personal property which is utilized by
25 interstate carriers for hire for use as rolling stock moving in
26 interstate commerce, and equipment operated by a

1 telecommunications provider, licensed as a common carrier by
2 the Federal Communications Commission, which is permanently
3 installed in or affixed to aircraft moving in interstate
4 commerce.

5 (d-1.1) On and after July 1, 2003 and through June 30,
6 2004, a sale or transfer of a motor vehicle of the second
7 division with a gross vehicle weight in excess of 8,000 pounds
8 as an incident to the rendering of service if that motor
9 vehicle is subject to the commercial distribution fee imposed
10 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
11 on July 1, 2004 and through June 30, 2005, the use in this
12 State of motor vehicles of the second division: (i) with a
13 gross vehicle weight rating in excess of 8,000 pounds; (ii)
14 that are subject to the commercial distribution fee imposed
15 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
16 that are primarily used for commercial purposes. Through June
17 30, 2005, this exemption applies to repair and replacement
18 parts added after the initial purchase of such a motor vehicle
19 if that motor vehicle is used in a manner that would qualify
20 for the rolling stock exemption otherwise provided for in this
21 Act. For purposes of this paragraph, "used for commercial
22 purposes" means the transportation of persons or property in
23 furtherance of any commercial or industrial enterprise whether
24 for-hire or not.

25 (d-2) The repairing, reconditioning or remodeling, for a
26 common carrier by rail, of tangible personal property which

1 belongs to such carrier for hire, and as to which such carrier
2 receives the physical possession of the repaired,
3 reconditioned or remodeled item of tangible personal property
4 in Illinois, and which such carrier transports, or shares with
5 another common carrier in the transportation of such property,
6 out of Illinois on a standard uniform bill of lading showing
7 the person who repaired, reconditioned or remodeled the
8 property as the shipper or consignor of such property to a
9 destination outside Illinois, for use outside Illinois.

10 (d-3) A sale or transfer of tangible personal property
11 which is produced by the seller thereof on special order in
12 such a way as to have made the applicable tax the Service
13 Occupation Tax or the Service Use Tax, rather than the
14 Retailers' Occupation Tax or the Use Tax, for an interstate
15 carrier by rail which receives the physical possession of such
16 property in Illinois, and which transports such property, or
17 shares with another common carrier in the transportation of
18 such property, out of Illinois on a standard uniform bill of
19 lading showing the seller of the property as the shipper or
20 consignor of such property to a destination outside Illinois,
21 for use outside Illinois.

22 (d-4) Until January 1, 1997, a sale, by a registered
23 serviceman paying tax under this Act to the Department, of
24 special order printed materials delivered outside Illinois and
25 which are not returned to this State, if delivery is made by
26 the seller or agent of the seller, including an agent who

1 causes the product to be delivered outside Illinois by a common
2 carrier or the U.S. postal service.

3 (e) A sale or transfer of machinery and equipment used
4 primarily in the process of the manufacturing or assembling,
5 either in an existing, an expanded or a new manufacturing
6 facility, of tangible personal property for wholesale or retail
7 sale or lease, whether such sale or lease is made directly by
8 the manufacturer or by some other person, whether the materials
9 used in the process are owned by the manufacturer or some other
10 person, or whether such sale or lease is made apart from or as
11 an incident to the seller's engaging in a service occupation
12 and the applicable tax is a Service Occupation Tax or Service
13 Use Tax, rather than Retailers' Occupation Tax or Use Tax. The
14 exemption provided by this paragraph (e) does not include
15 machinery and equipment used in (i) the generation of
16 electricity for wholesale or retail sale; (ii) the generation
17 or treatment of natural or artificial gas for wholesale or
18 retail sale that is delivered to customers through pipes,
19 pipelines, or mains; or (iii) the treatment of water for
20 wholesale or retail sale that is delivered to customers through
21 pipes, pipelines, or mains. The provisions of this amendatory
22 Act of the 98th General Assembly are declaratory of existing
23 law as to the meaning and scope of this exemption.

24 (f) Until July 1, 2003, the sale or transfer of
25 distillation machinery and equipment, sold as a unit or kit and
26 assembled or installed by the retailer, which machinery and

1 equipment is certified by the user to be used only for the
2 production of ethyl alcohol that will be used for consumption
3 as motor fuel or as a component of motor fuel for the personal
4 use of such user and not subject to sale or resale.

5 (g) At the election of any serviceman not required to be
6 otherwise registered as a retailer under Section 2a of the
7 Retailers' Occupation Tax Act, made for each fiscal year sales
8 of service in which the aggregate annual cost price of tangible
9 personal property transferred as an incident to the sales of
10 service is less than 35% (75% in the case of servicemen
11 transferring prescription drugs or servicemen engaged in
12 graphic arts production) of the aggregate annual total gross
13 receipts from all sales of service. The purchase of such
14 tangible personal property by the serviceman shall be subject
15 to tax under the Retailers' Occupation Tax Act and the Use Tax
16 Act. However, if a primary serviceman who has made the election
17 described in this paragraph subcontracts service work to a
18 secondary serviceman who has also made the election described
19 in this paragraph, the primary serviceman does not incur a Use
20 Tax liability if the secondary serviceman (i) has paid or will
21 pay Use Tax on his or her cost price of any tangible personal
22 property transferred to the primary serviceman and (ii)
23 certifies that fact in writing to the primary serviceman.

24 Tangible personal property transferred incident to the
25 completion of a maintenance agreement is exempt from the tax
26 imposed pursuant to this Act.

1 Exemption (e) also includes machinery and equipment used in
2 the general maintenance or repair of such exempt machinery and
3 equipment or for in-house manufacture of exempt machinery and
4 equipment. The machinery and equipment exemption does not
5 include machinery and equipment used in (i) the generation of
6 electricity for wholesale or retail sale; (ii) the generation
7 or treatment of natural or artificial gas for wholesale or
8 retail sale that is delivered to customers through pipes,
9 pipelines, or mains; or (iii) the treatment of water for
10 wholesale or retail sale that is delivered to customers through
11 pipes, pipelines, or mains. The provisions of this amendatory
12 Act of the 98th General Assembly are declaratory of existing
13 law as to the meaning and scope of this exemption. For the
14 purposes of exemption (e), each of these terms shall have the
15 following meanings: (1) "manufacturing process" shall mean the
16 production of any article of tangible personal property,
17 whether such article is a finished product or an article for
18 use in the process of manufacturing or assembling a different
19 article of tangible personal property, by procedures commonly
20 regarded as manufacturing, processing, fabricating, or
21 refining which changes some existing material or materials into
22 a material with a different form, use or name. In relation to a
23 recognized integrated business composed of a series of
24 operations which collectively constitute manufacturing, or
25 individually constitute manufacturing operations, the
26 manufacturing process shall be deemed to commence with the

1 first operation or stage of production in the series, and shall
2 not be deemed to end until the completion of the final product
3 in the last operation or stage of production in the series; and
4 further for purposes of exemption (e), photoprocessing is
5 deemed to be a manufacturing process of tangible personal
6 property for wholesale or retail sale; (2) "assembling process"
7 shall mean the production of any article of tangible personal
8 property, whether such article is a finished product or an
9 article for use in the process of manufacturing or assembling a
10 different article of tangible personal property, by the
11 combination of existing materials in a manner commonly regarded
12 as assembling which results in a material of a different form,
13 use or name; (3) "machinery" shall mean major mechanical
14 machines or major components of such machines contributing to a
15 manufacturing or assembling process; and (4) "equipment" shall
16 include any independent device or tool separate from any
17 machinery but essential to an integrated manufacturing or
18 assembly process; including computers used primarily in a
19 manufacturer's computer assisted design, computer assisted
20 manufacturing (CAD/CAM) system; or any subunit or assembly
21 comprising a component of any machinery or auxiliary, adjunct
22 or attachment parts of machinery, such as tools, dies, jigs,
23 fixtures, patterns and molds; or any parts which require
24 periodic replacement in the course of normal operation; but
25 shall not include hand tools. Equipment includes chemicals or
26 chemicals acting as catalysts but only if the chemicals or

1 chemicals acting as catalysts effect a direct and immediate
2 change upon a product being manufactured or assembled for
3 wholesale or retail sale or lease. The purchaser of such
4 machinery and equipment who has an active resale registration
5 number shall furnish such number to the seller at the time of
6 purchase. The purchaser of such machinery and equipment and
7 tools without an active resale registration number shall
8 furnish to the seller a certificate of exemption for each
9 transaction stating facts establishing the exemption for that
10 transaction, which certificate shall be available to the
11 Department for inspection or audit.

12 Except as provided in Section 2d of this Act, the rolling
13 stock exemption applies to rolling stock used by an interstate
14 carrier for hire, even just between points in Illinois, if such
15 rolling stock transports, for hire, persons whose journeys or
16 property whose shipments originate or terminate outside
17 Illinois.

18 Any informal rulings, opinions or letters issued by the
19 Department in response to an inquiry or request for any opinion
20 from any person regarding the coverage and applicability of
21 exemption (e) to specific devices shall be published,
22 maintained as a public record, and made available for public
23 inspection and copying. If the informal ruling, opinion or
24 letter contains trade secrets or other confidential
25 information, where possible the Department shall delete such
26 information prior to publication. Whenever such informal

1 rulings, opinions, or letters contain any policy of general
2 applicability, the Department shall formulate and adopt such
3 policy as a rule in accordance with the provisions of the
4 Illinois Administrative Procedure Act.

5 On and after July 1, 1987, no entity otherwise eligible
6 under exemption (c) of this Section shall make tax free
7 purchases unless it has an active exemption identification
8 number issued by the Department.

9 "Serviceman" means any person who is engaged in the
10 occupation of making sales of service.

11 "Sale at Retail" means "sale at retail" as defined in the
12 Retailers' Occupation Tax Act.

13 "Supplier" means any person who makes sales of tangible
14 personal property to servicemen for the purpose of resale as an
15 incident to a sale of service.

16 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
17 eff. 6-20-03; 93-1033, eff. 9-3-04.)

18 (35 ILCS 115/3) (from Ch. 120, par. 439.103)

19 Sec. 3. Tax imposed. A tax is imposed upon all persons
20 engaged in the business of making sales of service (referred to
21 as "servicemen") on all tangible personal property transferred
22 as an incident of a sale of service, including computer
23 software, and including photographs, negatives, and positives
24 that are the product of photoprocessing, but not including
25 products of photoprocessing produced for use in motion pictures

1 for public commercial exhibition. Beginning January 1, 2001,
2 prepaid telephone calling arrangements shall be considered
3 tangible personal property subject to the tax imposed under
4 this Act regardless of the form in which those arrangements may
5 be embodied, transmitted, or fixed by any method now known or
6 hereafter developed. Sales of (1) electricity delivered to
7 customers by wire; (2) natural or artificial gas that is
8 delivered to customers through pipes, pipelines, or mains; and
9 (3) water that is delivered to customers through pipes,
10 pipelines, or mains are not subject to tax under this Act. The
11 provisions of this amendatory Act of the 98th General Assembly
12 are declaratory of existing law as to the meaning and scope of
13 this Act.

14 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

15 (35 ILCS 115/3-25) (from Ch. 120, par. 439.103-25)

16 Sec. 3-25. Computer software. For the purposes of this Act,
17 "computer software" means a set of statements, data, or
18 instructions to be used directly or indirectly in a computer in
19 order to bring about a certain result in any form in which
20 those statements, data, or instructions may be embodied,
21 transmitted, or fixed, by any method now known or hereafter
22 developed, regardless of whether the statements, data, or
23 instructions are capable of being perceived by or communicated
24 to humans, and includes prewritten or canned software that is
25 held for repeated sale or lease, and all associated

1 documentation and materials, if any, whether contained on
2 magnetic tapes, discs, cards, or other devices or media, but
3 does not include software that is adapted to specific
4 individualized requirements of a purchaser, custom-made and
5 modified software designed for a particular or limited use by a
6 purchaser, or software used to operate exempt machinery and
7 equipment used in the process of manufacturing or assembling
8 tangible personal property for wholesale or retail sale or
9 lease. Software used to operate machinery and equipment used in
10 (i) the generation of electricity for wholesale or retail sale;
11 (ii) the generation or treatment of natural or artificial gas
12 for wholesale or retail sale that is delivered to customers
13 through pipes, pipelines, or mains; or (iii) the treatment of
14 water for wholesale or retail sale that is delivered to
15 customers through pipes, pipelines, or mains is considered
16 "computer software". The provisions of this amendatory Act of
17 the 98th General Assembly are declaratory of existing law as to
18 the meaning and scope of this exemption.

19 For the purposes of this Act, computer software shall be
20 considered to be tangible personal property.

21 (Source: P.A. 91-51, eff. 6-30-99.)

22 Section 20. The Retailers' Occupation Tax Act is amended by
23 changing Sections 1d, 2, 2-5, 2-25, 2-45, and 2a as follows:

24 (35 ILCS 120/1d) (from Ch. 120, par. 440d)

1 Sec. 1d. Subject to the provisions of Section 1f, all
2 tangible personal property to be used or consumed within an
3 enterprise zone established pursuant to the "Illinois
4 Enterprise Zone Act", as amended, or subject to the provisions
5 of Section 5.5 of the Illinois Enterprise Zone Act, all
6 tangible personal property to be used or consumed by any High
7 Impact Business, in the process of the manufacturing or
8 assembly of tangible personal property for wholesale or retail
9 sale or lease or in the process of graphic arts production if
10 used or consumed at a facility which is a Department of
11 Commerce and Economic Opportunity certified business and
12 located in a county of more than 4,000 persons and less than
13 45,000 persons is exempt from the tax imposed by this Act. This
14 exemption includes repair and replacement parts for machinery
15 and equipment used primarily in the process of manufacturing or
16 assembling tangible personal property or in the process of
17 graphic arts production if used or consumed at a facility which
18 is a Department of Commerce and Economic Opportunity certified
19 business and located in a county of more than 4,000 persons and
20 less than 45,000 persons for wholesale or retail sale, or
21 lease, and equipment, manufacturing or graphic arts fuels,
22 material and supplies for the maintenance, repair or operation
23 of such manufacturing or assembling or graphic arts machinery
24 or equipment. The exemption provided in this Section for
25 tangible personal property to be used or consumed in the
26 process of manufacturing or assembly of tangible personal

1 property for wholesale or retail sale or lease, and the repair
2 and replacement parts for that machinery and equipment, does
3 not apply to such property used or consumed in (i) the
4 generation of electricity for wholesale or retail sale; (ii)
5 the generation or treatment of natural or artificial gas for
6 wholesale or retail sale that is delivered to customers through
7 pipes, pipelines, or mains; or (iii) the treatment of water for
8 wholesale or retail sale that is delivered to customers through
9 pipes, pipelines, or mains. The provisions of this amendatory
10 Act of the 98th General Assembly are declaratory of existing
11 law as to the meaning and scope of this exemption.

12 (Source: P.A. 94-793, eff. 5-19-06.)

13 (35 ILCS 120/2) (from Ch. 120, par. 441)

14 Sec. 2. Tax imposed. A tax is imposed upon persons engaged
15 in the business of selling at retail tangible personal
16 property, including computer software, and including
17 photographs, negatives, and positives that are the product of
18 photoprocessing, but not including products of photoprocessing
19 produced for use in motion pictures for public commercial
20 exhibition. Beginning January 1, 2001, prepaid telephone
21 calling arrangements shall be considered tangible personal
22 property subject to the tax imposed under this Act regardless
23 of the form in which those arrangements may be embodied,
24 transmitted, or fixed by any method now known or hereafter
25 developed. Sales of (1) electricity delivered to customers by

1 wire; (2) natural or artificial gas that is delivered to
2 customers through pipes, pipelines, or mains; and (3) water that
3 is delivered to customers through pipes, pipelines, or mains are
4 not subject to tax under this Act. The provisions of this
5 amendatory Act of the 98th General Assembly are declaratory of
6 existing law as to the meaning and scope of this Act.

7 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

8 (35 ILCS 120/2-5)

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

12 (1) Farm chemicals.

13 (2) Farm machinery and equipment, both new and used,
14 including that manufactured on special order, certified by the
15 purchaser to be used primarily for production agriculture or
16 State or federal agricultural programs, including individual
17 replacement parts for the machinery and equipment, including
18 machinery and equipment purchased for lease, and including
19 implements of husbandry defined in Section 1-130 of the
20 Illinois Vehicle Code, farm machinery and agricultural
21 chemical and fertilizer spreaders, and nurse wagons required to
22 be registered under Section 3-809 of the Illinois Vehicle Code,
23 but excluding other motor vehicles required to be registered
24 under the Illinois Vehicle Code. Horticultural polyhouses or
25 hoop houses used for propagating, growing, or overwintering

1 plants shall be considered farm machinery and equipment under
2 this item (2). Agricultural chemical tender tanks and dry boxes
3 shall include units sold separately from a motor vehicle
4 required to be licensed and units sold mounted on a motor
5 vehicle required to be licensed, if the selling price of the
6 tender is separately stated.

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

15 Farm machinery and equipment also includes computers,
16 sensors, software, and related equipment used primarily in the
17 computer-assisted operation of production agriculture
18 facilities, equipment, and activities such as, but not limited
19 to, the collection, monitoring, and correlation of animal and
20 crop data for the purpose of formulating animal diets and
21 agricultural chemicals. This item (2) is exempt from the
22 provisions of Section 2-70.

23 (3) Until July 1, 2003, distillation machinery and
24 equipment, sold as a unit or kit, assembled or installed by the
25 retailer, certified by the user to be used only for the
26 production of ethyl alcohol that will be used for consumption

1 as motor fuel or as a component of motor fuel for the personal
2 use of the user, and not subject to sale or resale.

3 (4) Until July 1, 2003 and beginning again September 1,
4 2004 through August 30, 2014, graphic arts machinery and
5 equipment, including repair and replacement parts, both new and
6 used, and including that manufactured on special order or
7 purchased for lease, certified by the purchaser to be used
8 primarily for graphic arts production. Equipment includes
9 chemicals or chemicals acting as catalysts but only if the
10 chemicals or chemicals acting as catalysts effect a direct and
11 immediate change upon a graphic arts product.

12 (5) A motor vehicle of the first division, a motor vehicle
13 of the second division that is a self contained motor vehicle
14 designed or permanently converted to provide living quarters
15 for recreational, camping, or travel use, with direct walk
16 through access to the living quarters from the driver's seat,
17 or a motor vehicle of the second division that is of the van
18 configuration designed for the transportation of not less than
19 7 nor more than 16 passengers, as defined in Section 1-146 of
20 the Illinois Vehicle Code, that is used for automobile renting,
21 as defined in the Automobile Renting Occupation and Use Tax
22 Act. This paragraph is exempt from the provisions of Section
23 2-70.

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

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

4 (8) Personal property sold to an Illinois county fair
5 association for use in conducting, operating, or promoting the
6 county fair.

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

22 (10) Personal property sold by a corporation, society,
23 association, foundation, institution, or organization, other
24 than a limited liability company, that is organized and
25 operated as a not-for-profit service enterprise for the benefit
26 of persons 65 years of age or older if the personal property

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

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

17 (12) Tangible personal property sold to interstate
18 carriers for hire for use as rolling stock moving in interstate
19 commerce or to lessors under leases of one year or longer
20 executed or in effect at the time of purchase by interstate
21 carriers for hire for use as rolling stock moving in interstate
22 commerce and equipment operated by a telecommunications
23 provider, licensed as a common carrier by the Federal
24 Communications Commission, which is permanently installed in
25 or affixed to aircraft moving in interstate commerce.

26 (12-5) On and after July 1, 2003 and through June 30, 2004,

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

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

25 (14) Machinery and equipment that will be used by the
26 purchaser, or a lessee of the purchaser, primarily in the

1 process of manufacturing or assembling tangible personal
2 property for wholesale or retail sale or lease, whether the
3 sale or lease is made directly by the manufacturer or by some
4 other person, whether the materials used in the process are
5 owned by the manufacturer or some other person, or whether the
6 sale or lease is made apart from or as an incident to the
7 seller's engaging in the service occupation of producing
8 machines, tools, dies, jigs, patterns, gauges, or other similar
9 items of no commercial value on special order for a particular
10 purchaser. The exemption provided by this paragraph (14) does
11 not include machinery and equipment used in (i) the generation
12 of electricity for wholesale or retail sale; (ii) the
13 generation or treatment of natural or artificial gas for
14 wholesale or retail sale that is delivered to customers through
15 pipes, pipelines, or mains; or (iii) the treatment of water for
16 wholesale or retail sale that is delivered to customers through
17 pipes, pipelines, or mains. The provisions of this amendatory
18 Act of the 98th General Assembly are declaratory of existing
19 law as to the meaning and scope of this exemption.

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

1 (16) Petroleum products sold to a purchaser if the seller
2 is prohibited by federal law from charging tax to the
3 purchaser.

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

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

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

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

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

4 (21) Until July 1, 2003, and beginning again on the
5 effective date of this amendatory Act of the 97th General
6 Assembly and thereafter, coal and aggregate exploration,
7 mining, offhighway hauling, processing, maintenance, and
8 reclamation equipment, including replacement parts and
9 equipment, and including equipment purchased for lease, but
10 excluding motor vehicles required to be registered under the
11 Illinois Vehicle Code.

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

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

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

1 it is afloat upon that bordering river.

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

14 (25-5) The exemption under item (25) does not apply if the
15 state in which the motor vehicle will be titled does not allow
16 a reciprocal exemption for a motor vehicle sold and delivered
17 in that state to an Illinois resident but titled in Illinois.
18 The tax collected under this Act on the sale of a motor vehicle
19 in this State to a resident of another state that does not
20 allow a reciprocal exemption shall be imposed at a rate equal
21 to the state's rate of tax on taxable property in the state in
22 which the purchaser is a resident, except that the tax shall
23 not exceed the tax that would otherwise be imposed under this
24 Act. At the time of the sale, the purchaser shall execute a
25 statement, signed under penalty of perjury, of his or her
26 intent to title the vehicle in the state in which the purchaser

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

16 (25-7) Beginning on July 1, 2007, no tax is imposed under
17 this Act on the sale of an aircraft, as defined in Section 3 of
18 the Illinois Aeronautics Act, if all of the following
19 conditions are met:

20 (1) the aircraft leaves this State within 15 days after
21 the later of either the issuance of the final billing for
22 the sale of the aircraft, or the authorized approval for
23 return to service, completion of the maintenance record
24 entry, and completion of the test flight and ground test
25 for inspection, as required by 14 C.F.R. 91.407;

26 (2) the aircraft is not based or registered in this

1 State after the sale of the aircraft; and

2 (3) the seller retains in his or her books and records
3 and provides to the Department a signed and dated
4 certification from the purchaser, on a form prescribed by
5 the Department, certifying that the requirements of this
6 item (25-7) are met. The certificate must also include the
7 name and address of the purchaser, the address of the
8 location where the aircraft is to be titled or registered,
9 the address of the primary physical location of the
10 aircraft, and other information that the Department may
11 reasonably require.

12 For purposes of this item (25-7):

13 "Based in this State" means hangared, stored, or otherwise
14 used, excluding post-sale customizations as defined in this
15 Section, for 10 or more days in each 12-month period
16 immediately following the date of the sale of the aircraft.

17 "Registered in this State" means an aircraft registered
18 with the Department of Transportation, Aeronautics Division,
19 or titled or registered with the Federal Aviation
20 Administration to an address located in this State.

21 This paragraph (25-7) is exempt from the provisions of
22 Section 2-70.

23 (26) Semen used for artificial insemination of livestock
24 for direct agricultural production.

25 (27) Horses, or interests in horses, registered with and
26 meeting the requirements of any of the Arabian Horse Club

1 Registry of America, Appaloosa Horse Club, American Quarter
2 Horse Association, United States Trotting Association, or
3 Jockey Club, as appropriate, used for purposes of breeding or
4 racing for prizes. This item (27) is exempt from the provisions
5 of Section 2-70, and the exemption provided for under this item
6 (27) applies for all periods beginning May 30, 1995, but no
7 claim for credit or refund is allowed on or after January 1,
8 2008 (the effective date of Public Act 95-88) for such taxes
9 paid during the period beginning May 30, 2000 and ending on
10 January 1, 2008 (the effective date of Public Act 95-88).

11 (28) Computers and communications equipment utilized for
12 any hospital purpose and equipment used in the diagnosis,
13 analysis, or treatment of hospital patients sold to a lessor
14 who leases the equipment, under a lease of one year or longer
15 executed or in effect at the time of the purchase, to a
16 hospital that has been issued an active tax exemption
17 identification number by the Department under Section 1g of
18 this Act.

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

24 (30) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is donated for

1 disaster relief to be used in a State or federally declared
2 disaster area in Illinois or bordering Illinois by a
3 manufacturer or retailer that is registered in this State to a
4 corporation, society, association, foundation, or institution
5 that has been issued a sales tax exemption identification
6 number by the Department that assists victims of the disaster
7 who reside within the declared disaster area.

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

20 (32) Beginning July 1, 1999, game or game birds sold at a
21 "game breeding and hunting preserve area" as that term is used
22 in the Wildlife Code. This paragraph is exempt from the
23 provisions of Section 2-70.

24 (33) A motor vehicle, as that term is defined in Section
25 1-146 of the Illinois Vehicle Code, that is donated to a
26 corporation, limited liability company, society, association,

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

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

1 purpose of resale by the fundraising entity and that profits
2 from the sale to the fundraising entity. This paragraph is
3 exempt from the provisions of Section 2-70.

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

14 (35-5) Beginning August 23, 2001 and through June 30, 2016,
15 food for human consumption that is to be consumed off the
16 premises where it is sold (other than alcoholic beverages, soft
17 drinks, and food that has been prepared for immediate
18 consumption) and prescription and nonprescription medicines,
19 drugs, medical appliances, and insulin, urine testing
20 materials, syringes, and needles used by diabetics, for human
21 use, when purchased for use by a person receiving medical
22 assistance under Article V of the Illinois Public Aid Code who
23 resides in a licensed long-term care facility, as defined in
24 the Nursing Home Care Act, or a licensed facility as defined in
25 the ID/DD Community Care Act or the Specialized Mental Health
26 Rehabilitation Act.

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

10 (37) Beginning August 2, 2001, personal property sold to a
11 lessor who leases the property, under a lease of one year or
12 longer executed or in effect at the time of the purchase, to a
13 governmental body that has been issued an active tax exemption
14 identification number by the Department under Section 1g of
15 this Act. This paragraph is exempt from the provisions of
16 Section 2-70.

17 (38) Beginning on January 1, 2002 and through June 30,
18 2016, tangible personal property purchased from an Illinois
19 retailer by a taxpayer engaged in centralized purchasing
20 activities in Illinois who will, upon receipt of the property
21 in Illinois, temporarily store the property in Illinois (i) for
22 the purpose of subsequently transporting it outside this State
23 for use or consumption thereafter solely outside this State or
24 (ii) for the purpose of being processed, fabricated, or
25 manufactured into, attached to, or incorporated into other
26 tangible personal property to be transported outside this State

1 and thereafter used or consumed solely outside this State. The
2 Director of Revenue shall, pursuant to rules adopted in
3 accordance with the Illinois Administrative Procedure Act,
4 issue a permit to any taxpayer in good standing with the
5 Department who is eligible for the exemption under this
6 paragraph (38). The permit issued under this paragraph (38)
7 shall authorize the holder, to the extent and in the manner
8 specified in the rules adopted under this Act, to purchase
9 tangible personal property from a retailer exempt from the
10 taxes imposed by this Act. Taxpayers shall maintain all
11 necessary books and records to substantiate the use and
12 consumption of all such tangible personal property outside of
13 the State of Illinois.

14 (39) Beginning January 1, 2008, tangible personal property
15 used in the construction or maintenance of a community water
16 supply, as defined under Section 3.145 of the Environmental
17 Protection Act, that is operated by a not-for-profit
18 corporation that holds a valid water supply permit issued under
19 Title IV of the Environmental Protection Act. This paragraph is
20 exempt from the provisions of Section 2-70.

21 (40) Beginning January 1, 2010, materials, parts,
22 equipment, components, and furnishings incorporated into or
23 upon an aircraft as part of the modification, refurbishment,
24 completion, replacement, repair, or maintenance of the
25 aircraft. This exemption includes consumable supplies used in
26 the modification, refurbishment, completion, replacement,

1 repair, and maintenance of aircraft, but excludes any
2 materials, parts, equipment, components, and consumable
3 supplies used in the modification, replacement, repair, and
4 maintenance of aircraft engines or power plants, whether such
5 engines or power plants are installed or uninstalled upon any
6 such aircraft. "Consumable supplies" include, but are not
7 limited to, adhesive, tape, sandpaper, general purpose
8 lubricants, cleaning solution, latex gloves, and protective
9 films. This exemption applies only to those organizations that
10 (i) hold an Air Agency Certificate and are empowered to operate
11 an approved repair station by the Federal Aviation
12 Administration, (ii) have a Class IV Rating, and (iii) conduct
13 operations in accordance with Part 145 of the Federal Aviation
14 Regulations. The exemption does not include aircraft operated
15 by a commercial air carrier providing scheduled passenger air
16 service pursuant to authority issued under Part 121 or Part 129
17 of the Federal Aviation Regulations.

18 (41) Tangible personal property sold to a
19 public-facilities corporation, as described in Section
20 11-65-10 of the Illinois Municipal Code, for purposes of
21 constructing or furnishing a municipal convention hall, but
22 only if the legal title to the municipal convention hall is
23 transferred to the municipality without any further
24 consideration by or on behalf of the municipality at the time
25 of the completion of the municipal convention hall or upon the
26 retirement or redemption of any bonds or other debt instruments

1 issued by the public-facilities corporation in connection with
2 the development of the municipal convention hall. This
3 exemption includes existing public-facilities corporations as
4 provided in Section 11-65-25 of the Illinois Municipal Code.
5 This paragraph is exempt from the provisions of Section 2-70.

6 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
7 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
8 7-2-10; 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227, eff.
9 1-1-12; 97-431, eff. 8-16-11; 97-636, eff. 6-1-12; 97-767, eff.
10 7-9-12.)

11 (35 ILCS 120/2-25) (from Ch. 120, par. 441-25)

12 Sec. 2-25. Computer software. For the purposes of this Act,
13 "computer software" means a set of statements, data, or
14 instructions to be used directly or indirectly in a computer in
15 order to bring about a certain result in any form in which
16 those statements, data, or instructions may be embodied,
17 transmitted, or fixed, by any method now known or hereafter
18 developed, regardless of whether the statements, data, or
19 instructions are capable of being perceived by or communicated
20 to humans, and includes prewritten or canned software that is
21 held for repeated sale or lease, and all associated
22 documentation and materials, if any, whether contained on
23 magnetic tapes, discs, cards, or other devices or media, but
24 does not include software that is adapted to specific
25 individualized requirements of a purchaser, custom-made and

1 modified software designed for a particular or limited use by a
2 purchaser, or software used to operate exempt machinery and
3 equipment used in the process of manufacturing or assembling
4 tangible personal property for wholesale or retail sale or
5 lease. Software used to operate machinery and equipment used in
6 (i) the generation of electricity for wholesale or retail sale;
7 (ii) the generation or treatment of natural or artificial gas
8 for wholesale or retail sale that is delivered to customers
9 through pipes, pipelines, or mains; or (iii) the treatment of
10 water for wholesale or retail sale that is delivered to
11 customers through pipes, pipelines, or mains is considered
12 "computer software". The provisions of this amendatory Act of
13 the 98th General Assembly are declaratory of existing law as to
14 the meaning and scope of this exemption.

15 For the purposes of this Act, computer software shall be
16 considered to be tangible personal property.

17 (Source: P.A. 91-51, eff. 6-30-99.)

18 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

19 Sec. 2-45. Manufacturing and assembly exemption. The
20 manufacturing and assembly machinery and equipment exemption
21 includes machinery and equipment that replaces machinery and
22 equipment in an existing manufacturing facility as well as
23 machinery and equipment that are for use in an expanded or new
24 manufacturing facility.

25 The machinery and equipment exemption also includes

1 machinery and equipment used in the general maintenance or
2 repair of exempt machinery and equipment or for in-house
3 manufacture of exempt machinery and equipment. The machinery
4 and equipment exemption does not include machinery and
5 equipment used in (i) the generation of electricity for
6 wholesale or retail sale; (ii) the generation or treatment of
7 natural or artificial gas for wholesale or retail sale that is
8 delivered to customers through pipes, pipelines, or mains; or
9 (iii) the treatment of water for wholesale or retail sale that
10 is delivered to customers through pipes, pipelines, or mains.
11 The provisions of this amendatory Act of the 98th General
12 Assembly are declaratory of existing law as to the meaning and
13 scope of this exemption. For the purposes of this exemption,
14 terms have the following meanings:

15 (1) "Manufacturing process" means the production of an
16 article of tangible personal property, whether the article
17 is a finished product or an article for use in the process
18 of manufacturing or assembling a different article of
19 tangible personal property, by a procedure commonly
20 regarded as manufacturing, processing, fabricating, or
21 refining that changes some existing material or materials
22 into a material with a different form, use, or name. In
23 relation to a recognized integrated business composed of a
24 series of operations that collectively constitute
25 manufacturing, or individually constitute manufacturing
26 operations, the manufacturing process commences with the

1 first operation or stage of production in the series and
2 does not end until the completion of the final product in
3 the last operation or stage of production in the series.
4 For purposes of this exemption, photoprocessing is a
5 manufacturing process of tangible personal property for
6 wholesale or retail sale.

7 (2) "Assembling process" means the production of an
8 article of tangible personal property, whether the article
9 is a finished product or an article for use in the process
10 of manufacturing or assembling a different article of
11 tangible personal property, by the combination of existing
12 materials in a manner commonly regarded as assembling that
13 results in a material of a different form, use, or name.

14 (3) "Machinery" means major mechanical machines or
15 major components of those machines contributing to a
16 manufacturing or assembling process.

17 (4) "Equipment" includes an independent device or tool
18 separate from machinery but essential to an integrated
19 manufacturing or assembly process; including computers
20 used primarily in a manufacturer's computer assisted
21 design, computer assisted manufacturing (CAD/CAM) system;
22 any subunit or assembly comprising a component of any
23 machinery or auxiliary, adjunct, or attachment parts of
24 machinery, such as tools, dies, jigs, fixtures, patterns,
25 and molds; and any parts that require periodic replacement
26 in the course of normal operation; but does not include

1 hand tools. Equipment includes chemicals or chemicals
2 acting as catalysts but only if the chemicals or chemicals
3 acting as catalysts effect a direct and immediate change
4 upon a product being manufactured or assembled for
5 wholesale or retail sale or lease.

6 (5) "Production related tangible personal property"
7 means all tangible personal property that is used or
8 consumed by the purchaser in a manufacturing facility in
9 which a manufacturing process takes place and includes,
10 without limitation, tangible personal property that is
11 purchased for incorporation into real estate within a
12 manufacturing facility and tangible personal property that
13 is used or consumed in activities such as research and
14 development, preproduction material handling, receiving,
15 quality control, inventory control, storage, staging, and
16 packaging for shipping and transportation purposes.
17 "Production related tangible personal property" does not
18 include (i) tangible personal property that is used, within
19 or without a manufacturing facility, in sales, purchasing,
20 accounting, fiscal management, marketing, personnel
21 recruitment or selection, or landscaping or (ii) tangible
22 personal property that is required to be titled or
23 registered with a department, agency, or unit of federal,
24 State, or local government.

25 The manufacturing and assembling machinery and equipment
26 exemption includes production related tangible personal

1 property that is purchased on or after July 1, 2007 and on or
2 before June 30, 2008. The exemption for production related
3 tangible personal property is subject to both of the following
4 limitations:

5 (1) The maximum amount of the exemption for any one
6 taxpayer may not exceed 5% of the purchase price of
7 production related tangible personal property that is
8 purchased on or after July 1, 2007 and on or before June
9 30, 2008. A credit under Section 3-85 of this Act may not
10 be earned by the purchase of production related tangible
11 personal property for which an exemption is received under
12 this Section.

13 (2) The maximum aggregate amount of the exemptions for
14 production related tangible personal property awarded
15 under this Act and the Use Tax Act to all taxpayers may not
16 exceed \$10,000,000. If the claims for the exemption exceed
17 \$10,000,000, then the Department shall reduce the amount of
18 the exemption to each taxpayer on a pro rata basis.
19 The Department may adopt rules to implement and administer the
20 exemption for production related tangible personal property.

21 The manufacturing and assembling machinery and equipment
22 exemption includes the sale of materials to a purchaser who
23 produces exempted types of machinery, equipment, or tools and
24 who rents or leases that machinery, equipment, or tools to a
25 manufacturer of tangible personal property. This exemption
26 also includes the sale of materials to a purchaser who

1 manufactures those materials into an exempted type of
2 machinery, equipment, or tools that the purchaser uses himself
3 or herself in the manufacturing of tangible personal property.
4 The purchaser of the machinery and equipment who has an active
5 resale registration number shall furnish that number to the
6 seller at the time of purchase. A purchaser of the machinery,
7 equipment, and tools without an active resale registration
8 number shall furnish to the seller a certificate of exemption
9 for each transaction stating facts establishing the exemption
10 for that transaction, and that certificate shall be available
11 to the Department for inspection or audit. Informal rulings,
12 opinions, or letters issued by the Department in response to an
13 inquiry or request for an opinion from any person regarding the
14 coverage and applicability of this exemption to specific
15 devices shall be published, maintained as a public record, and
16 made available for public inspection and copying. If the
17 informal ruling, opinion, or letter contains trade secrets or
18 other confidential information, where possible, the Department
19 shall delete that information before publication. Whenever
20 informal rulings, opinions, or letters contain a policy of
21 general applicability, the Department shall formulate and
22 adopt that policy as a rule in accordance with the Illinois
23 Administrative Procedure Act.

24 (Source: P.A. 95-707, eff. 1-11-08; 96-328, eff. 8-11-09.)

1 Sec. 2a. It is unlawful for any person to engage in the
2 business of selling tangible personal property at retail in
3 this State without a certificate of registration from the
4 Department. Application for a certificate of registration
5 shall be made to the Department upon forms furnished by it.
6 Each such application shall be signed and verified and shall
7 state: (1) the name and social security number of the
8 applicant; (2) the address of his principal place of business;
9 (3) the address of the principal place of business from which
10 he engages in the business of selling tangible personal
11 property at retail in this State and the addresses of all other
12 places of business, if any (enumerating such addresses, if any,
13 in a separate list attached to and made a part of the
14 application), from which he engages in the business of selling
15 tangible personal property at retail in this State; (4) the
16 name and address of the person or persons who will be
17 responsible for filing returns and payment of taxes due under
18 this Act; (5) in the case of a publicly-traded corporation, the
19 name and title of the Chief Financial Officer, Chief Operating
20 Officer, and any other officer or employee with responsibility
21 for preparing tax returns under this Act, along with the last 4
22 digits of each of their social security numbers, and in the
23 case of all other corporations ~~a corporation~~, the name, title,
24 and social security number of each corporate officer; (6) in
25 the case of a limited liability company, the name, social
26 security number, and FEIN number of each manager and member;

1 and (7) such other information as the Department may reasonably
2 require. The application shall contain an acceptance of
3 responsibility signed by the person or persons who will be
4 responsible for filing returns and payment of the taxes due
5 under this Act. If the applicant will sell tangible personal
6 property at retail through vending machines, his application to
7 register shall indicate the number of vending machines to be so
8 operated. If requested by the Department at any time, that
9 person shall verify the total number of vending machines he or
10 she uses in his or her business of selling tangible personal
11 property at retail.

12 The Department may deny a certificate of registration to
13 any applicant if the owner, any partner, any manager or member
14 of a limited liability company, or a corporate officer of the
15 applicant, is or has been the owner, a partner, a manager or
16 member of a limited liability company, or a corporate officer,
17 of another retailer that is in default for moneys due under
18 this Act.

19 The Department may require an applicant for a certificate
20 of registration hereunder to, at the time of filing such
21 application, furnish a bond from a surety company authorized to
22 do business in the State of Illinois, or an irrevocable bank
23 letter of credit or a bond signed by 2 personal sureties who
24 have filed, with the Department, sworn statements disclosing
25 net assets equal to at least 3 times the amount of the bond to
26 be required of such applicant, or a bond secured by an

1 assignment of a bank account or certificate of deposit, stocks
2 or bonds, conditioned upon the applicant paying to the State of
3 Illinois all moneys becoming due under this Act and under any
4 other State tax law or municipal or county tax ordinance or
5 resolution under which the certificate of registration that is
6 issued to the applicant under this Act will permit the
7 applicant to engage in business without registering separately
8 under such other law, ordinance or resolution. In making a
9 determination as to whether to require a bond or other
10 security, the Department shall take into consideration whether
11 the owner, any partner, any manager or member of a limited
12 liability company, or a corporate officer of the applicant is
13 or has been the owner, a partner, a manager or member of a
14 limited liability company, or a corporate officer of another
15 retailer that is in default for moneys due under this Act or
16 any other tax or fee Act administered by the Department; and
17 whether the owner, any partner, any manager or member of a
18 limited liability company, or a corporate officer of the
19 applicant is or has been the owner, a partner, a manager or
20 member of a limited liability company, or a corporate officer
21 of another retailer whose certificate of registration has been
22 revoked within the previous 5 years under this Act or any other
23 tax or fee Act administered by the Department. If a bond or
24 other security is required, the Department shall fix the amount
25 of the bond or other security, taking into consideration the
26 amount of money expected to become due from the applicant under

1 this Act and under any other State tax law or municipal or
2 county tax ordinance or resolution under which the certificate
3 of registration that is issued to the applicant under this Act
4 will permit the applicant to engage in business without
5 registering separately under such other law, ordinance, or
6 resolution. The amount of security required by the Department
7 shall be such as, in its opinion, will protect the State of
8 Illinois against failure to pay the amount which may become due
9 from the applicant under this Act and under any other State tax
10 law or municipal or county tax ordinance or resolution under
11 which the certificate of registration that is issued to the
12 applicant under this Act will permit the applicant to engage in
13 business without registering separately under such other law,
14 ordinance or resolution, but the amount of the security
15 required by the Department shall not exceed three times the
16 amount of the applicant's average monthly tax liability, or
17 \$50,000.00, whichever amount is lower.

18 No certificate of registration under this Act shall be
19 issued by the Department until the applicant provides the
20 Department with satisfactory security, if required, as herein
21 provided for.

22 Upon receipt of the application for certificate of
23 registration in proper form, and upon approval by the
24 Department of the security furnished by the applicant, if
25 required, the Department shall issue to such applicant a
26 certificate of registration which shall permit the person to

1 whom it is issued to engage in the business of selling tangible
2 personal property at retail in this State. The certificate of
3 registration shall be conspicuously displayed at the place of
4 business which the person so registered states in his
5 application to be the principal place of business from which he
6 engages in the business of selling tangible personal property
7 at retail in this State.

8 No certificate of registration issued to a taxpayer who
9 files returns required by this Act on a monthly basis shall be
10 valid after the expiration of 5 years from the date of its
11 issuance or last renewal. The expiration date of a
12 sub-certificate of registration shall be that of the
13 certificate of registration to which the sub-certificate
14 relates. A certificate of registration shall automatically be
15 renewed, subject to revocation as provided by this Act, for an
16 additional 5 years from the date of its expiration unless
17 otherwise notified by the Department as provided by this
18 paragraph. Where a taxpayer to whom a certificate of
19 registration is issued under this Act is in default to the
20 State of Illinois for delinquent returns or for moneys due
21 under this Act or any other State tax law or municipal or
22 county ordinance administered or enforced by the Department,
23 the Department shall, not less than 120 days before the
24 expiration date of such certificate of registration, give
25 notice to the taxpayer to whom the certificate was issued of
26 the account period of the delinquent returns, the amount of

1 tax, penalty and interest due and owing from the taxpayer, and
2 that the certificate of registration shall not be automatically
3 renewed upon its expiration date unless the taxpayer, on or
4 before the date of expiration, has filed and paid the
5 delinquent returns or paid the defaulted amount in full. A
6 taxpayer to whom such a notice is issued shall be deemed an
7 applicant for renewal. The Department shall promulgate
8 regulations establishing procedures for taxpayers who file
9 returns on a monthly basis but desire and qualify to change to
10 a quarterly or yearly filing basis and will no longer be
11 subject to renewal under this Section, and for taxpayers who
12 file returns on a yearly or quarterly basis but who desire or
13 are required to change to a monthly filing basis and will be
14 subject to renewal under this Section.

15 The Department may in its discretion approve renewal by an
16 applicant who is in default if, at the time of application for
17 renewal, the applicant files all of the delinquent returns or
18 pays to the Department such percentage of the defaulted amount
19 as may be determined by the Department and agrees in writing to
20 waive all limitations upon the Department for collection of the
21 remaining defaulted amount to the Department over a period not
22 to exceed 5 years from the date of renewal of the certificate;
23 however, no renewal application submitted by an applicant who
24 is in default shall be approved if the immediately preceding
25 renewal by the applicant was conditioned upon the installment
26 payment agreement described in this Section. The payment

1 agreement herein provided for shall be in addition to and not
2 in lieu of the security that may be required by this Section of
3 a taxpayer who is no longer considered a prior continuous
4 compliance taxpayer. The execution of the payment agreement as
5 provided in this Act shall not toll the accrual of interest at
6 the statutory rate.

7 The Department may suspend a certificate of registration if
8 the Department finds that the person to whom the certificate of
9 registration has been issued knowingly sold contraband
10 cigarettes.

11 A certificate of registration issued under this Act more
12 than 5 years before the effective date of this amendatory Act
13 of 1989 shall expire and be subject to the renewal provisions
14 of this Section on the next anniversary of the date of issuance
15 of such certificate which occurs more than 6 months after the
16 effective date of this amendatory Act of 1989. A certificate of
17 registration issued less than 5 years before the effective date
18 of this amendatory Act of 1989 shall expire and be subject to
19 the renewal provisions of this Section on the 5th anniversary
20 of the issuance of the certificate.

21 If the person so registered states that he operates other
22 places of business from which he engages in the business of
23 selling tangible personal property at retail in this State, the
24 Department shall furnish him with a sub-certificate of
25 registration for each such place of business, and the applicant
26 shall display the appropriate sub-certificate of registration

1 at each such place of business. All sub-certificates of
2 registration shall bear the same registration number as that
3 appearing upon the certificate of registration to which such
4 sub-certificates relate.

5 If the applicant will sell tangible personal property at
6 retail through vending machines, the Department shall furnish
7 him with a sub-certificate of registration for each such
8 vending machine, and the applicant shall display the
9 appropriate sub-certificate of registration on each such
10 vending machine by attaching the sub-certificate of
11 registration to a conspicuous part of such vending machine. If
12 a person who is registered to sell tangible personal property
13 at retail through vending machines adds an additional vending
14 machine or additional vending machines to the number of vending
15 machines he or she uses in his or her business of selling
16 tangible personal property at retail, he or she shall notify
17 the Department, on a form prescribed by the Department, to
18 request an additional sub-certificate or additional
19 sub-certificates of registration, as applicable. With each
20 such request, the applicant shall report the number of
21 sub-certificates of registration he or she is requesting as
22 well as the total number of vending machines from which he or
23 she makes retail sales.

24 Where the same person engages in 2 or more businesses of
25 selling tangible personal property at retail in this State,
26 which businesses are substantially different in character or

1 engaged in under different trade names or engaged in under
2 other substantially dissimilar circumstances (so that it is
3 more practicable, from an accounting, auditing or bookkeeping
4 standpoint, for such businesses to be separately registered),
5 the Department may require or permit such person (subject to
6 the same requirements concerning the furnishing of security as
7 those that are provided for hereinbefore in this Section as to
8 each application for a certificate of registration) to apply
9 for and obtain a separate certificate of registration for each
10 such business or for any of such businesses, under a single
11 certificate of registration supplemented by related
12 sub-certificates of registration.

13 Any person who is registered under the "Retailers'
14 Occupation Tax Act" as of March 8, 1963, and who, during the
15 3-year period immediately prior to March 8, 1963, or during a
16 continuous 3-year period part of which passed immediately
17 before and the remainder of which passes immediately after
18 March 8, 1963, has been so registered continuously and who is
19 determined by the Department not to have been either delinquent
20 or deficient in the payment of tax liability during that period
21 under this Act or under any other State tax law or municipal or
22 county tax ordinance or resolution under which the certificate
23 of registration that is issued to the registrant under this Act
24 will permit the registrant to engage in business without
25 registering separately under such other law, ordinance or
26 resolution, shall be considered to be a Prior Continuous

1 Compliance taxpayer. Also any taxpayer who has, as verified by
2 the Department, faithfully and continuously complied with the
3 condition of his bond or other security under the provisions of
4 this Act for a period of 3 consecutive years shall be
5 considered to be a Prior Continuous Compliance taxpayer.

6 Every Prior Continuous Compliance taxpayer shall be exempt
7 from all requirements under this Act concerning the furnishing
8 of a bond or other security as a condition precedent to his
9 being authorized to engage in the business of selling tangible
10 personal property at retail in this State. This exemption shall
11 continue for each such taxpayer until such time as he may be
12 determined by the Department to be delinquent in the filing of
13 any returns, or is determined by the Department (either through
14 the Department's issuance of a final assessment which has
15 become final under the Act, or by the taxpayer's filing of a
16 return which admits tax that is not paid to be due) to be
17 delinquent or deficient in the paying of any tax under this Act
18 or under any other State tax law or municipal or county tax
19 ordinance or resolution under which the certificate of
20 registration that is issued to the registrant under this Act
21 will permit the registrant to engage in business without
22 registering separately under such other law, ordinance or
23 resolution, at which time that taxpayer shall become subject to
24 all the financial responsibility requirements of this Act and,
25 as a condition of being allowed to continue to engage in the
26 business of selling tangible personal property at retail, may

1 be required to post bond or other acceptable security with the
2 Department covering liability which such taxpayer may
3 thereafter incur. Any taxpayer who fails to pay an admitted or
4 established liability under this Act may also be required to
5 post bond or other acceptable security with this Department
6 guaranteeing the payment of such admitted or established
7 liability.

8 No certificate of registration shall be issued to any
9 person who is in default to the State of Illinois for moneys
10 due under this Act or under any other State tax law or
11 municipal or county tax ordinance or resolution under which the
12 certificate of registration that is issued to the applicant
13 under this Act will permit the applicant to engage in business
14 without registering separately under such other law, ordinance
15 or resolution.

16 Any person aggrieved by any decision of the Department
17 under this Section may, within 20 days after notice of such
18 decision, protest and request a hearing, whereupon the
19 Department shall give notice to such person of the time and
20 place fixed for such hearing and shall hold a hearing in
21 conformity with the provisions of this Act and then issue its
22 final administrative decision in the matter to such person. In
23 the absence of such a protest within 20 days, the Department's
24 decision shall become final without any further determination
25 being made or notice given.

26 With respect to security other than bonds (upon which the

1 Department may sue in the event of a forfeiture), if the
2 taxpayer fails to pay, when due, any amount whose payment such
3 security guarantees, the Department shall, after such
4 liability is admitted by the taxpayer or established by the
5 Department through the issuance of a final assessment that has
6 become final under the law, convert the security which that
7 taxpayer has furnished into money for the State, after first
8 giving the taxpayer at least 10 days' written notice, by
9 registered or certified mail, to pay the liability or forfeit
10 such security to the Department. If the security consists of
11 stocks or bonds or other securities which are listed on a
12 public exchange, the Department shall sell such securities
13 through such public exchange. If the security consists of an
14 irrevocable bank letter of credit, the Department shall convert
15 the security in the manner provided for in the Uniform
16 Commercial Code. If the security consists of a bank certificate
17 of deposit, the Department shall convert the security into
18 money by demanding and collecting the amount of such bank
19 certificate of deposit from the bank which issued such
20 certificate. If the security consists of a type of stocks or
21 other securities which are not listed on a public exchange, the
22 Department shall sell such security to the highest and best
23 bidder after giving at least 10 days' notice of the date, time
24 and place of the intended sale by publication in the "State
25 Official Newspaper". If the Department realizes more than the
26 amount of such liability from the security, plus the expenses

1 incurred by the Department in converting the security into
2 money, the Department shall pay such excess to the taxpayer who
3 furnished such security, and the balance shall be paid into the
4 State Treasury.

5 The Department shall discharge any surety and shall release
6 and return any security deposited, assigned, pledged or
7 otherwise provided to it by a taxpayer under this Section
8 within 30 days after:

9 (1) such taxpayer becomes a Prior Continuous
10 Compliance taxpayer; or

11 (2) such taxpayer has ceased to collect receipts on
12 which he is required to remit tax to the Department, has
13 filed a final tax return, and has paid to the Department an
14 amount sufficient to discharge his remaining tax
15 liability, as determined by the Department, under this Act
16 and under every other State tax law or municipal or county
17 tax ordinance or resolution under which the certificate of
18 registration issued under this Act permits the registrant
19 to engage in business without registering separately under
20 such other law, ordinance or resolution. The Department
21 shall make a final determination of the taxpayer's
22 outstanding tax liability as expeditiously as possible
23 after his final tax return has been filed; if the
24 Department cannot make such final determination within 45
25 days after receiving the final tax return, within such
26 period it shall so notify the taxpayer, stating its reasons

1 therefor.

2 (Source: P.A. 96-1355, eff. 7-28-10; 97-335, eff. 1-1-12.)".