

HB5941



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5941

by Rep. Michael Unes

SYNOPSIS AS INTRODUCED:

35 ILCS 115/2d

Amends the Service Occupation Tax Act. Makes a technical change in a Section concerning rolling stock.

LRB099 18683 HLH 43066 b

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Service Occupation Tax Act is amended by
5 changing Section 2d as follows:

6 (35 ILCS 115/2d)

7 Sec. 2d. Motor vehicles; trailers; use as rolling stock
8 definition.

9 (a) Through June 30, 2003, "use as ~~as~~ rolling stock moving
10 in interstate commerce" in subsections (d) and (d-1) of the
11 definition of "sale of service" in Section 2 means for motor
12 vehicles, as defined in Section 1-146 of the Illinois Vehicle
13 Code, and trailers, as defined in Section 1-209 of the Illinois
14 Vehicle Code, when on 15 or more occasions in a 12-month period
15 the motor vehicle and trailer has carried persons or property
16 for hire in interstate commerce, even just between points in
17 Illinois, if the motor vehicle and trailer transports persons
18 whose journeys or property whose shipments originate or
19 terminate outside Illinois. This definition applies to all
20 property purchased for the purpose of being attached to those
21 motor vehicles or trailers as a part thereof.

22 (b) On and after July 1, 2003 and through June 30, 2004,
23 "use as rolling stock moving in interstate commerce" in

1 paragraphs (d) and (d-1) of the definition of "sale of service"
2 in Section 2 occurs for motor vehicles, as defined in Section
3 1-146 of the Illinois Vehicle Code, when during a 12-month
4 period the rolling stock has carried persons or property for
5 hire in interstate commerce for 51% of its total trips and
6 transports persons whose journeys or property whose shipments
7 originate or terminate outside Illinois. Trips that are only
8 between points in Illinois will not be counted as interstate
9 trips when calculating whether the tangible personal property
10 qualifies for the exemption but such trips will be included in
11 total trips taken.

12 (c) Beginning July 1, 2004, "use as rolling stock moving in
13 interstate commerce" in paragraphs (d) and (d-1) of the
14 definition of "sale of service" in Section 2 occurs for motor
15 vehicles, as defined in Section 1-146 of the Illinois Vehicle
16 Code, when during a 12-month period the rolling stock has
17 carried persons or property for hire in interstate commerce for
18 greater than 50% of its total trips for that period or for
19 greater than 50% of its total miles for that period. The person
20 claiming the exemption shall make an election at the time of
21 purchase to use either the trips or mileage method. Persons who
22 purchased motor vehicles prior to July 1, 2004 shall make an
23 election to use either the trips or mileage method and document
24 that election in their books and records. If no election is
25 made under this subsection to use the trips or mileage method,
26 the person shall be deemed to have chosen the mileage method.

1 For purposes of determining qualifying trips or miles,
2 motor vehicles that carry persons or property for hire, even
3 just between points in Illinois, will be considered used for
4 hire in interstate commerce if the motor vehicle transports
5 persons whose journeys or property whose shipments originate or
6 terminate outside Illinois. The exemption for motor vehicles
7 used as rolling stock moving in interstate commerce may be
8 claimed only for the following vehicles: (i) motor vehicles
9 whose gross vehicle weight rating exceeds 16,000 pounds; and
10 (ii) limousines, as defined in Section 1-139.1 of the Illinois
11 Vehicle Code. This definition applies to all property purchased
12 for the purpose of being attached to those motor vehicles as a
13 part thereof.

14 (d) Beginning July 1, 2004, "use as rolling stock moving in
15 interstate commerce" in paragraphs (d) and (d-1) of the
16 definition of "sale of service" in Section 2 occurs for
17 trailers, as defined in Section 1-209 of the Illinois Vehicle
18 Code, semitrailers as defined in Section 1-187 of the Illinois
19 Vehicle Code, and pole trailers as defined in Section 1-161 of
20 the Illinois Vehicle Code, when during a 12-month period the
21 rolling stock has carried persons or property for hire in
22 interstate commerce for greater than 50% of its total trips for
23 that period or for greater than 50% of its total miles for that
24 period. The person claiming the exemption for a trailer or
25 trailers that will not be dedicated to a motor vehicle or group
26 of motor vehicles shall make an election at the time of

1 purchase to use either the trips or mileage method. Persons who
2 purchased trailers prior to July 1, 2004 that are not dedicated
3 to a motor vehicle or group of motor vehicles shall make an
4 election to use either the trips or mileage method and document
5 that election in their books and records. If no election is
6 made under this subsection to use the trips or mileage method,
7 the person shall be deemed to have chosen the mileage method.

8 For purposes of determining qualifying trips or miles,
9 trailers, semitrailers, or pole trailers that carry property
10 for hire, even just between points in Illinois, will be
11 considered used for hire in interstate commerce if the
12 trailers, semitrailers, or pole trailers transport property
13 whose shipments originate or terminate outside Illinois. This
14 definition applies to all property purchased for the purpose of
15 being attached to those trailers, semitrailers, or pole
16 trailers as a part thereof. In lieu of a person providing
17 documentation regarding the qualifying use of each individual
18 trailer, semitrailer, or pole trailer, that person may document
19 such qualifying use by providing documentation of the
20 following:

21 (1) If a trailer, semitrailer, or pole trailer is
22 dedicated to a motor vehicle that qualifies as rolling
23 stock moving in interstate commerce under subsection (c) of
24 this Section, then that trailer, semitrailer, or pole
25 trailer qualifies as rolling stock moving in interstate
26 commerce under this subsection.

1 (2) If a trailer, semitrailer, or pole trailer is
2 dedicated to a group of motor vehicles that all qualify as
3 rolling stock moving in interstate commerce under
4 subsection (c) of this Section, then that trailer,
5 semitrailer, or pole trailer qualifies as rolling stock
6 moving in interstate commerce under this subsection.

7 (3) If one or more trailers, semitrailers, or pole
8 trailers are dedicated to a group of motor vehicles and not
9 all of those motor vehicles in that group qualify as
10 rolling stock moving in interstate commerce under
11 subsection (c) of this Section, then the percentage of
12 those trailers, semitrailers, or pole trailers that
13 qualifies as rolling stock moving in interstate commerce
14 under this subsection is equal to the percentage of those
15 motor vehicles in that group that qualify as rolling stock
16 moving in interstate commerce under subsection (c) of this
17 Section to which those trailers, semitrailers, or pole
18 trailers are dedicated. However, to determine the
19 qualification for the exemption provided under this item
20 (3), the mathematical application of the qualifying
21 percentage to one or more trailers, semitrailers, or pole
22 trailers under this subpart shall not be allowed as to any
23 fraction of a trailer, semitrailer, or pole trailer.

24 (e) For aircraft and watercraft purchased on or after
25 January 1 2014, "use as rolling stock moving in interstate
26 commerce" in paragraphs (d) and (d-1) of the definition of

1 "sale of service" in Section 2 occurs when, during a 12-month
2 period, the rolling stock has carried persons or property for
3 hire in interstate commerce for greater than 50% of its total
4 trips for that period or for greater than 50% of its total
5 miles for that period. The person claiming the exemption shall
6 make an election at the time of purchase to use either the
7 trips or mileage method and document that election in their
8 books and records. If no election is made under this subsection
9 to use the trips or mileage method, the person shall be deemed
10 to have chosen the mileage method. For aircraft, flight hours
11 may be used in lieu of recording miles in determining whether
12 the aircraft meets the mileage test in this subsection. For
13 watercraft, nautical miles or trip hours may be used in lieu of
14 recording miles in determining whether the watercraft meets the
15 mileage test in this subsection.

16 Notwithstanding any other provision of law to the contrary,
17 property purchased on or after January 1, 2014 for the purpose
18 of being attached to aircraft or watercraft as a part thereof
19 qualifies as rolling stock moving in interstate commerce only
20 if the aircraft or watercraft to which it will be attached
21 qualifies as rolling stock moving in interstate commerce under
22 the test set forth in this subsection (e), regardless of when
23 the aircraft or watercraft was purchased. Persons who purchased
24 aircraft or watercraft prior to January 1, 2014 shall make an
25 election to use either the trips or mileage method and document
26 that election in their books and records for the purpose of

1 determining whether property purchased on or after January 1,
2 2014 for the purpose of being attached to aircraft or
3 watercraft as a part thereof qualifies as rolling stock moving
4 in interstate commerce under this subsection (e).

5 (f) The election to use either the trips or mileage method
6 made under the provisions of subsections (c), (d), or (e) of
7 this Section will remain in effect for the duration of the
8 purchaser's ownership of that item.

9 (Source: P.A. 98-584, eff. 8-27-13.)