

1 AN ACT concerning taxes.

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

4 Section 5. The Use Tax Act is amended by changing
5 Section 3-55 as follows:

6 (35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

7 Sec. 3-55. Multistate exemption. The tax imposed by this
8 Act does not apply to the use of tangible personal property
9 in this State under the following circumstances:

10 (a) The use, in this State, of tangible personal
11 property acquired outside this State by a nonresident
12 individual and brought into this State by the individual for
13 his or her own use while temporarily within this State or
14 while passing through this State.

15 (b) The use, in this State, of tangible personal
16 property by an interstate carrier for hire as rolling stock
17 moving in interstate commerce or by lessors under a lease of
18 one year or longer executed or in effect at the time of
19 purchase of tangible personal property by interstate carriers
20 for-hire for use as rolling stock moving in interstate
21 commerce as long as so used by the interstate carriers
22 for-hire, 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 (c) The use, in this State, by owners, shippers, or
27 lessors under a lease of one year or longer executed or in
28 effect at the time of purchase,~~--or--~~shippers of tangible
29 personal property that is utilized by interstate carriers for
30 hire for use as rolling stock moving in interstate commerce
31 as long as so used by the interstate carriers for hire, and

1 equipment operated by a telecommunications provider, licensed
2 as a common carrier by the Federal Communications Commission,
3 which is permanently installed in or affixed to aircraft
4 moving in interstate commerce. The changes made to this
5 subsection (c) by this amendatory Act of the 92nd General
6 Assembly are declaratory of existing law.

7 (d) The use, in this State, of tangible personal
8 property that is acquired outside this State and caused to be
9 brought into this State by a person who has already paid a
10 tax in another State in respect to the sale, purchase, or use
11 of that property, to the extent of the amount of the tax
12 properly due and paid in the other State.

13 (e) The temporary storage, in this State, of tangible
14 personal property that is acquired outside this State and
15 that, after being brought into this State and stored here
16 temporarily, is used solely outside this State or is
17 physically attached to or incorporated into other tangible
18 personal property that is used solely outside this State, or
19 is altered by converting, fabricating, manufacturing,
20 printing, processing, or shaping, and, as altered, is used
21 solely outside this State.

22 (f) The temporary storage in this State of building
23 materials and fixtures that are acquired either in this State
24 or outside this State by an Illinois registered combination
25 retailer and construction contractor, and that the purchaser
26 thereafter uses outside this State by incorporating that
27 property into real estate located outside this State.

28 (g) The use or purchase of tangible personal property by
29 a common carrier by rail or motor that receives the physical
30 possession of the property in Illinois, and that transports
31 the property, or shares with another common carrier in the
32 transportation of the property, out of Illinois on a standard
33 uniform bill of lading showing the seller of the property as
34 the shipper or consignor of the property to a destination

1 outside Illinois, for use outside Illinois.

2 (h) The use, in this State, of a motor vehicle that was
3 sold in this State to a nonresident, even though the motor
4 vehicle is delivered to the nonresident in this State, if the
5 motor vehicle is not to be titled in this State, and if a
6 driveaway decal 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
10 home state. The issuance of the driveaway decal permit or
11 having the out-of-state registration plates to be transferred
12 shall be prima facie evidence that the motor vehicle will not
13 be titled in this State.

14 (i) Beginning July 1, 1999, the use, in this State, of
15 fuel acquired outside this State and brought into this State
16 in the fuel supply tanks of locomotives engaged in freight
17 hauling and passenger service for interstate commerce. This
18 subsection is exempt from the provisions of Section 3-90.

19 (Source: P.A. 90-519, eff. 6-1-98; 90-552, eff. 12-12-97;
20 91-51, eff. 6-30-99; 91-313, eff. 7-29-99; 91-587, eff.
21 8-14-99; revised 9-29-99.)

22 Section 10. The Service Use Tax Act is amended by
23 changing Section 3-5 as follows:

24 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

27 (1) Personal property purchased from a corporation,
28 society, association, foundation, institution, or
29 organization, other than a limited liability company, that is
30 organized and operated as a not-for-profit service enterprise
31 for the benefit of persons 65 years of age or older if the
32 personal property was not purchased by the enterprise for the

1 purpose of resale by the enterprise.

2 (2) Personal property purchased by a non-profit Illinois
3 county fair association for use in conducting, operating, or
4 promoting the county fair.

5 (3) Personal property purchased by a not-for-profit arts
6 or cultural organization that establishes, by proof required
7 by the Department by rule, that it has received an exemption
8 under Section 501(c)(3) of the Internal Revenue Code and that
9 is organized and operated for the presentation or support of
10 arts or cultural programming, activities, or services. These
11 organizations include, but are not limited to, music and
12 dramatic arts organizations such as symphony orchestras and
13 theatrical groups, arts and cultural service organizations,
14 local arts councils, visual arts organizations, and media
15 arts organizations.

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

20 (5) Graphic arts machinery and equipment, including
21 repair and replacement parts, both new and used, and
22 including that manufactured on special order or purchased for
23 lease, certified by the purchaser to be used primarily for
24 graphic arts production.

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

28 (7) Farm machinery and equipment, both new and used,
29 including that manufactured on special order, certified by
30 the purchaser to be used primarily for production agriculture
31 or State or federal agricultural programs, including
32 individual replacement parts for the machinery and equipment,
33 including machinery and equipment purchased for lease, and
34 including implements of husbandry defined in Section 1-130 of

1 the Illinois Vehicle Code, farm machinery and agricultural
2 chemical and fertilizer spreaders, and nurse wagons required
3 to be registered under Section 3-809 of the Illinois Vehicle
4 Code, but excluding other motor vehicles required to be
5 registered under the Illinois Vehicle Code. Horticultural
6 polyhouses or hoop houses used for propagating, growing, or
7 overwintering plants shall be considered farm machinery and
8 equipment under this item (7). Agricultural chemical tender
9 tanks and dry boxes shall include units sold separately from
10 a motor vehicle required to be licensed and units sold
11 mounted on a motor vehicle required to be licensed if the
12 selling price of the tender is separately stated.

13 Farm machinery and equipment shall include precision
14 farming equipment that is installed or purchased to be
15 installed on farm machinery and equipment including, but not
16 limited to, tractors, harvesters, sprayers, planters,
17 seeders, or spreaders. Precision farming equipment includes,
18 but is not limited to, soil testing sensors, computers,
19 monitors, software, global positioning and mapping systems,
20 and other such equipment.

21 Farm machinery and equipment also includes computers,
22 sensors, software, and related equipment used primarily in
23 the computer-assisted operation of production agriculture
24 facilities, equipment, and activities such as, but not
25 limited to, the collection, monitoring, and correlation of
26 animal and crop data for the purpose of formulating animal
27 diets and agricultural chemicals. This item (7) is exempt
28 from the provisions of Section 3-75.

29 (8) Fuel and petroleum products sold to or used by an
30 air common carrier, certified by the carrier to be used for
31 consumption, shipment, or storage in the conduct of its
32 business as an air common carrier, for a flight destined for
33 or returning from a location or locations outside the United
34 States without regard to previous or subsequent domestic

1 stopovers.

2 (9) Proceeds of mandatory service charges separately
3 stated on customers' bills for the purchase and consumption
4 of food and beverages acquired as an incident to the purchase
5 of a service from a serviceman, to the extent that the
6 proceeds of the service charge are in fact turned over as
7 tips or as a substitute for tips to the employees who
8 participate directly in preparing, serving, hosting or
9 cleaning up the food or beverage function with respect to
10 which the service charge is imposed.

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

20 (11) Proceeds from the sale of photoprocessing machinery
21 and equipment, including repair and replacement parts, both
22 new and used, including that manufactured on special order,
23 certified by the purchaser to be used primarily for
24 photoprocessing, and including photoprocessing machinery and
25 equipment purchased for lease.

26 (12) Coal exploration, mining, offhighway hauling,
27 processing, maintenance, and reclamation equipment, including
28 replacement parts and equipment, and including equipment
29 purchased for lease, but excluding motor vehicles required to
30 be registered under the Illinois Vehicle Code.

31 (13) Semen used for artificial insemination of livestock
32 for direct agricultural production.

33 (14) Horses, or interests in horses, registered with and
34 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.

5 (15) Computers and communications equipment utilized for
6 any hospital purpose and equipment used in the diagnosis,
7 analysis, or treatment of hospital patients purchased by a
8 lessor who leases the equipment, under a lease of one year or
9 longer executed or in effect at the time the lessor would
10 otherwise be subject to the tax imposed by this Act, to a
11 hospital that has been issued an active tax exemption
12 identification number by the Department under Section 1g of
13 the Retailers' Occupation Tax Act. If the equipment is leased
14 in a manner that does not qualify for this exemption or is
15 used in any other non-exempt manner, the lessor shall be
16 liable for the tax imposed under this Act or the Use Tax Act,
17 as the case may be, based on the fair market value of the
18 property at the time the non-qualifying use occurs. No
19 lessor shall collect or attempt to collect an amount (however
20 designated) that purports to reimburse that lessor for the
21 tax imposed by this Act or the Use Tax Act, as the case may
22 be, if the tax has not been paid by the lessor. If a lessor
23 improperly collects any such amount from the lessee, the
24 lessee shall have a legal right to claim a refund of that
25 amount from the lessor. If, however, that amount is not
26 refunded to the lessee for any reason, the lessor is liable
27 to pay that amount to the Department.

28 (16) Personal property purchased by a lessor who leases
29 the property, under a lease of one year or longer executed or
30 in effect at the time the lessor would otherwise be subject
31 to the tax imposed by this Act, to a governmental body that
32 has been issued an active tax exemption identification number
33 by the Department under Section 1g of the Retailers'
34 Occupation Tax Act. If the property is leased in a manner

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

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

25 (18) Beginning with taxable years ending on or after
26 December 31, 1995 and ending with taxable years ending on or
27 before December 31, 2004, personal property that is used in
28 the performance of infrastructure repairs in this State,
29 including but not limited to municipal roads and streets,
30 access roads, bridges, sidewalks, waste disposal systems,
31 water and sewer line extensions, water distribution and
32 purification facilities, storm water drainage and retention
33 facilities, and sewage treatment facilities, resulting from a
34 State or federally declared disaster in Illinois or bordering

1 Illinois when such repairs are initiated on facilities
2 located in the declared disaster area within 6 months after
3 the disaster.

4 (19) Beginning July 1, 1999, game or game birds
5 purchased at a "game breeding and hunting preserve area" or
6 an "exotic game hunting area" as those terms are used in the
7 Wildlife Code or at a hunting enclosure approved through
8 rules adopted by the Department of Natural Resources. This
9 paragraph is exempt from the provisions of Section 3-75.

10 (20) ~~(19)~~ A motor vehicle, as that term is defined in
11 Section 1-146 of the Illinois Vehicle Code, that is donated
12 to a corporation, limited liability company, society,
13 association, foundation, or institution that is determined by
14 the Department to be organized and operated exclusively for
15 educational purposes. For purposes of this exemption, "a
16 corporation, limited liability company, society, association,
17 foundation, or institution organized and operated exclusively
18 for educational purposes" means all tax-supported public
19 schools, private schools that offer systematic instruction in
20 useful branches of learning by methods common to public
21 schools and that compare favorably in their scope and
22 intensity with the course of study presented in tax-supported
23 schools, and vocational or technical schools or institutes
24 organized and operated exclusively to provide a course of
25 study of not less than 6 weeks duration and designed to
26 prepare individuals to follow a trade or to pursue a manual,
27 technical, mechanical, industrial, business, or commercial
28 occupation.

29 (21) ~~(20)~~ Beginning January 1, 2000, personal property,
30 including food, purchased through fundraising events for the
31 benefit of a public or private elementary or secondary
32 school, a group of those schools, or one or more school
33 districts if the events are sponsored by an entity recognized
34 by the school district that consists primarily of volunteers

1 and includes parents and teachers of the school children.
 2 This paragraph does not apply to fundraising events (i) for
 3 the benefit of private home instruction or (ii) for which the
 4 fundraising entity purchases the personal property sold at
 5 the events from another individual or entity that sold the
 6 property for the purpose of resale by the fundraising entity
 7 and that profits from the sale to the fundraising entity.
 8 This paragraph is exempt from the provisions of Section 3-75.

9 (22) ~~(19)~~ Beginning January 1, 2000, new or used
 10 automatic vending machines that prepare and serve hot food
 11 and beverages, including coffee, soup, and other items, and
 12 replacement parts for these machines. This paragraph is
 13 exempt from the provisions of Section 3-75.

14 (23) Food for human consumption that is to be consumed
 15 off the premises where it is sold (other than alcoholic
 16 beverages, soft drinks, and food that has been prepared for
 17 immediate consumption) and prescription and nonprescription
 18 medicines, drugs, medical appliances, and insulin, urine
 19 testing materials, syringes, and needles used by diabetics,
 20 for human use, when purchased for use by a person receiving
 21 medical assistance under Article 5 of the Illinois Public Aid
 22 Code who resides in a licensed long-term care facility, as
 23 defined in the Nursing Home Care Act.

24 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;
 25 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.
 26 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,
 27 eff. 8-20-99; revised 9-29-99.)

28 Section 15. The Retailers' Occupation Tax Act is amended
 29 by changing Sections 2-5, 3, 4, and 5 as follows:

30 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

31 Sec. 2-5. Exemptions. Gross receipts from proceeds from
 32 the sale of the following tangible personal property are

1 exempt from the tax imposed by this Act:

2 (1) Farm chemicals.

3 (2) Farm machinery and equipment, both new and used,
4 including that manufactured on special order, certified by
5 the purchaser to be used primarily for production agriculture
6 or State or federal agricultural programs, including
7 individual replacement parts for the machinery and equipment,
8 including machinery and equipment purchased for lease, and
9 including implements of husbandry defined in Section 1-130 of
10 the Illinois Vehicle Code, farm machinery and agricultural
11 chemical and fertilizer spreaders, and nurse wagons required
12 to be registered under Section 3-809 of the Illinois Vehicle
13 Code, but excluding other motor vehicles required to be
14 registered under the Illinois Vehicle Code. Horticultural
15 polyhouses or hoop houses used for propagating, growing, or
16 overwintering plants shall be considered farm machinery and
17 equipment under this item (2). Agricultural chemical tender
18 tanks and dry boxes shall include units sold separately from
19 a motor vehicle required to be licensed and units sold
20 mounted on a motor vehicle required to be licensed, if the
21 selling price of the tender is separately stated.

22 Farm machinery and equipment shall include precision
23 farming equipment that is installed or purchased to be
24 installed on farm machinery and equipment including, but not
25 limited to, tractors, harvesters, sprayers, planters,
26 seeders, or spreaders. Precision farming equipment includes,
27 but is not limited to, soil testing sensors, computers,
28 monitors, software, global positioning and mapping systems,
29 and other such equipment.

30 Farm machinery and equipment also includes computers,
31 sensors, software, and related equipment used primarily in
32 the computer-assisted operation of production agriculture
33 facilities, equipment, and activities such as, but not
34 limited to, the collection, monitoring, and correlation of

1 animal and crop data for the purpose of formulating animal
2 diets and agricultural chemicals. This item (7) is exempt
3 from the provisions of Section 2-70.

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

10 (4) Graphic arts machinery and equipment, including
11 repair and replacement parts, both new and used, and
12 including that manufactured on special order or purchased for
13 lease, certified by the purchaser to be used primarily for
14 graphic arts production.

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

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

29 (7) Proceeds of that portion of the selling price of a
30 passenger car the sale of which is subject to the Replacement
31 Vehicle Tax.

32 (8) Personal property sold to an Illinois county fair
33 association for use in conducting, operating, or promoting
34 the county fair.

1 (9) Personal property sold to a not-for-profit arts or
2 cultural organization that establishes, by proof required by
3 the Department by rule, that it has received an exemption
4 under Section 501(c)(3) of the Internal Revenue Code and that
5 is organized and operated for the presentation or support of
6 arts or cultural programming, activities, or services. These
7 organizations include, but are not limited to, music and
8 dramatic arts organizations such as symphony orchestras and
9 theatrical groups, arts and cultural service organizations,
10 local arts councils, visual arts organizations, and media
11 arts organizations.

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

19 (11) Personal property sold to a governmental body, to a
20 corporation, society, association, foundation, or institution
21 organized and operated exclusively for charitable, religious,
22 or educational purposes, or to a not-for-profit corporation,
23 society, association, foundation, institution, or
24 organization that has no compensated officers or employees
25 and that is organized and operated primarily for the
26 recreation of persons 55 years of age or older. A limited
27 liability company may qualify for the exemption under this
28 paragraph only if the limited liability company is organized
29 and operated exclusively for educational purposes. On and
30 after July 1, 1987, however, no entity otherwise eligible for
31 this exemption shall make tax-free purchases unless it has an
32 active identification number issued by the Department.

33 (12) Personal property sold to interstate carriers for
34 hire for use as rolling stock moving in interstate commerce

1 or to lessors under leases of one year or longer executed or
2 in effect at the time of purchase by interstate carriers for
3 hire for use as rolling stock moving in interstate commerce
4 and equipment operated by a telecommunications provider,
5 licensed as a common carrier by the Federal Communications
6 Commission, which is permanently installed in or affixed to
7 aircraft moving in interstate commerce.

8 (13) Proceeds from sales to owners, shippers, or lessors
9 under a lease of one year or longer executed or in effect at
10 the time of purchase,--er--shippers of tangible personal
11 property that is utilized by interstate carriers for hire for
12 use as rolling stock moving in interstate commerce and
13 equipment operated by a telecommunications provider, licensed
14 as a common carrier by the Federal Communications Commission,
15 which is permanently installed in or affixed to aircraft
16 moving in interstate commerce. The changes made to this
17 paragraph (13) by this amendatory Act of the 92nd General
18 Assembly are declaratory of existing law.

19 (14) Machinery and equipment that will be used by the
20 purchaser, or a lessee of the purchaser, primarily in the
21 process of manufacturing or assembling tangible personal
22 property for wholesale or retail sale or lease, whether the
23 sale or lease is made directly by the manufacturer or by some
24 other person, whether the materials used in the process are
25 owned by the manufacturer or some other person, or whether
26 the sale or lease is made apart from or as an incident to the
27 seller's engaging in the service occupation of producing
28 machines, tools, dies, jigs, patterns, gauges, or other
29 similar items of no commercial value on special order for a
30 particular purchaser.

31 (15) Proceeds of mandatory service charges separately
32 stated on customers' bills for purchase and consumption of
33 food and beverages, to the extent that the proceeds of the
34 service charge are in fact turned over as tips or as a

1 substitute for tips to the employees who participate directly
2 in preparing, serving, hosting or cleaning up the food or
3 beverage function with respect to which the service charge is
4 imposed.

5 (16) Petroleum products sold to a purchaser if the
6 seller is prohibited by federal law from charging tax to the
7 purchaser.

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

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

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

29 (20) Photoprocessing machinery and equipment, including
30 repair and replacement parts, both new and used, including
31 that manufactured on special order, certified by the
32 purchaser to be used primarily for photoprocessing, and
33 including photoprocessing machinery and equipment purchased
34 for lease.

1 (21) Coal exploration, mining, offhighway hauling,
2 processing, maintenance, and reclamation equipment, including
3 replacement parts and equipment, and including equipment
4 purchased for lease, but excluding motor vehicles required to
5 be registered under the Illinois Vehicle Code.

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

13 (23) A transaction in which the purchase order is
14 received by a florist who is located outside Illinois, but
15 who has a florist located in Illinois deliver the property to
16 the purchaser or the purchaser's donee in Illinois.

17 (24) Fuel consumed or used in the operation of ships,
18 barges, or vessels that are used primarily in or for the
19 transportation of property or the conveyance of persons for
20 hire on rivers bordering on this State if the fuel is
21 delivered by the seller to the purchaser's barge, ship, or
22 vessel while it is afloat upon that bordering river.

23 (25) A motor vehicle sold in this State to a nonresident
24 even though the motor vehicle is delivered to the nonresident
25 in this State, if the motor vehicle is not to be titled in
26 this State, and if a driveaway decal permit is issued to the
27 motor vehicle as provided in Section 3-603 of the Illinois
28 Vehicle Code or if the nonresident purchaser has vehicle
29 registration plates to transfer to the motor vehicle upon
30 returning to his or her home state. The issuance of the
31 driveaway decal permit or having the out-of-state
32 registration plates to be transferred is prima facie evidence
33 that the motor vehicle will not be titled in this State.

34 (26) Semen used for artificial insemination of livestock

1 for direct agricultural production.

2 (27) Horses, or interests in horses, registered with and
3 meeting the requirements of any of the Arabian Horse Club
4 Registry of America, Appaloosa Horse Club, American Quarter
5 Horse Association, United States Trotting Association, or
6 Jockey Club, as appropriate, used for purposes of breeding or
7 racing for prizes.

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

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

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

31 (31) Beginning with taxable years ending on or after
32 December 31, 1995 and ending with taxable years ending on or
33 before December 31, 2004, personal property that is used in
34 the performance of infrastructure repairs in this State,

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

10 (32) Beginning July 1, 1999, game or game birds sold at
11 a "game breeding and hunting preserve area" or an "exotic
12 game hunting area" as those terms are used in the Wildlife
13 Code or at a hunting enclosure approved through rules adopted
14 by the Department of Natural Resources. This paragraph is
15 exempt from the provisions of Section 2-70.

16 (33) ~~(32)~~ A motor vehicle, as that term is defined in
17 Section 1-146 of the Illinois Vehicle Code, that is donated
18 to a corporation, limited liability company, society,
19 association, foundation, or institution that is determined by
20 the Department to be organized and operated exclusively for
21 educational purposes. For purposes of this exemption, "a
22 corporation, limited liability company, society, association,
23 foundation, or institution organized and operated exclusively
24 for educational purposes" means all tax-supported public
25 schools, private schools that offer systematic instruction in
26 useful branches of learning by methods common to public
27 schools and that compare favorably in their scope and
28 intensity with the course of study presented in tax-supported
29 schools, and vocational or technical schools or institutes
30 organized and operated exclusively to provide a course of
31 study of not less than 6 weeks duration and designed to
32 prepare individuals to follow a trade or to pursue a manual,
33 technical, mechanical, industrial, business, or commercial
34 occupation.

1 (34) ~~(33)~~ Beginning January 1, 2000, personal property,
2 including food, purchased through fundraising events for the
3 benefit of a public or private elementary or secondary
4 school, a group of those schools, or one or more school
5 districts if the events are sponsored by an entity recognized
6 by the school district that consists primarily of volunteers
7 and includes parents and teachers of the school children.
8 This paragraph does not apply to fundraising events (i) for
9 the benefit of private home instruction or (ii) for which the
10 fundraising entity purchases the personal property sold at
11 the events from another individual or entity that sold the
12 property for the purpose of resale by the fundraising entity
13 and that profits from the sale to the fundraising entity.
14 This paragraph is exempt from the provisions of Section 2-70.

15 (35) ~~(32)~~ Beginning January 1, 2000, new or used
16 automatic vending machines that prepare and serve hot food
17 and beverages, including coffee, soup, and other items, and
18 replacement parts for these machines. This paragraph is
19 exempt from the provisions of Section 2-70.

20 (36) Food for human consumption that is to be consumed
21 off the premises where it is sold (other than alcoholic
22 beverages, soft drinks, and food that has been prepared for
23 immediate consumption) and prescription and nonprescription
24 medicines, drugs, medical appliances, and insulin, urine
25 testing materials, syringes, and needles used by diabetics,
26 for human use, when purchased for use by a person receiving
27 medical assistance under Article 5 of the Illinois Public Aid
28 Code who resides in a licensed long-term care facility, as
29 defined in the Nursing Home Care Act.

30 (Source: P.A. 90-14, eff. 7-1-97; 90-519, eff. 6-1-98;
31 90-552, eff. 12-12-97; 90-605, eff. 6-30-98; 91-51, eff.
32 6-30-99; 91-200, eff. 7-20-99; 91-439, eff. 8-6-99; 91-533,
33 eff. 8-13-99; 91-637, eff. 8-20-99; 91-644, eff. 8-20-99;
34 revised 9-28-99.)

1 (35 ILCS 120/3) (from Ch. 120, par. 442)

2 Sec. 3. Except as provided in this Section, on or before
3 the twentieth day of each calendar month, every person
4 engaged in the business of selling tangible personal property
5 at retail in this State during the preceding calendar month
6 shall file a return with the Department, stating:

7 1. The name of the seller;

8 2. His residence address and the address of his
9 principal place of business and the address of the
10 principal place of business (if that is a different
11 address) from which he engages in the business of selling
12 tangible personal property at retail in this State;

13 3. Total amount of receipts received by him during
14 the preceding calendar month or quarter, as the case may
15 be, from sales of tangible personal property, and from
16 services furnished, by him during such preceding calendar
17 month or quarter;

18 4. Total amount received by him during the
19 preceding calendar month or quarter on charge and time
20 sales of tangible personal property, and from services
21 furnished, by him prior to the month or quarter for which
22 the return is filed;

23 5. Deductions allowed by law;

24 6. Gross receipts which were received by him during
25 the preceding calendar month or quarter and upon the
26 basis of which the tax is imposed;

27 7. The amount of credit provided in Section 2d of
28 this Act;

29 8. The amount of tax due;

30 9. The signature of the taxpayer; and

31 10. Such other reasonable information as the
32 Department may require.

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

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

3 Each return shall be accompanied by the statement of
4 prepaid tax issued pursuant to Section 2e for which credit is
5 claimed.

6 A retailer may accept a Manufacturer's Purchase Credit
7 certification from a purchaser in satisfaction of Use Tax as
8 provided in Section 3-85 of the Use Tax Act if the purchaser
9 provides the appropriate documentation as required by Section
10 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit
11 certification, accepted by a retailer as provided in Section
12 3-85 of the Use Tax Act, may be used by that retailer to
13 satisfy Retailers' Occupation Tax liability in the amount
14 claimed in the certification, not to exceed 6.25% of the
15 receipts subject to tax from a qualifying purchase.

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

- 24 1. The name of the seller;
- 25 2. The address of the principal place of business
26 from which he engages in the business of selling tangible
27 personal property at retail in this State;
- 28 3. The total amount of taxable receipts received by
29 him during the preceding calendar month from sales of
30 tangible personal property by him during such preceding
31 calendar month, including receipts from charge and time
32 sales, but less all deductions allowed by law;
- 33 4. The amount of credit provided in Section 2d of
34 this Act;

- 1 5. The amount of tax due; and
- 2 6. Such other reasonable information as the
- 3 Department may require.

4 If a total amount of less than \$1 is payable, refundable
5 or creditable, such amount shall be disregarded if it is less
6 than 50 cents and shall be increased to \$1 if it is 50 cents
7 or more.

8 Beginning October 1, 1993, a taxpayer who has an average
9 monthly tax liability of \$150,000 or more shall make all
10 payments required by rules of the Department by electronic
11 funds transfer. Beginning October 1, 1994, a taxpayer who
12 has an average monthly tax liability of \$100,000 or more
13 shall make all payments required by rules of the Department
14 by electronic funds transfer. Beginning October 1, 1995, a
15 taxpayer who has an average monthly tax liability of \$50,000
16 or more shall make all payments required by rules of the
17 Department by electronic funds transfer. Beginning October
18 1, 2000, a taxpayer who has an annual tax liability of
19 \$200,000 or more shall make all payments required by rules of
20 the Department by electronic funds transfer. The term
21 "annual tax liability" shall be the sum of the taxpayer's
22 liabilities under this Act, and under all other State and
23 local occupation and use tax laws administered by the
24 Department, for the immediately preceding calendar year. The
25 term "average monthly tax liability" shall be the sum of the
26 taxpayer's liabilities under this Act, and under all other
27 State and local occupation and use tax laws administered by
28 the Department, for the immediately preceding calendar year
29 divided by 12.

30 Before August 1 of each year beginning in 1993, the
31 Department shall notify all taxpayers required to make
32 payments by electronic funds transfer. All taxpayers
33 required to make payments by electronic funds transfer shall
34 make those payments for a minimum of one year beginning on

1 October 1.

2 Any taxpayer not required to make payments by electronic
3 funds transfer may make payments by electronic funds transfer
4 with the permission of the Department.

5 All taxpayers required to make payment by electronic
6 funds transfer and any taxpayers authorized to voluntarily
7 make payments by electronic funds transfer shall make those
8 payments in the manner authorized by the Department.

9 The Department shall adopt such rules as are necessary to
10 effectuate a program of electronic funds transfer and the
11 requirements of this Section.

12 Any amount which is required to be shown or reported on
13 any return or other document under this Act shall, if such
14 amount is not a whole-dollar amount, be increased to the
15 nearest whole-dollar amount in any case where the fractional
16 part of a dollar is 50 cents or more, and decreased to the
17 nearest whole-dollar amount where the fractional part of a
18 dollar is less than 50 cents.

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

30 If the retailer is otherwise required to file a monthly
31 or quarterly return and if the retailer's average monthly tax
32 liability with the Department does not exceed \$50, the
33 Department may authorize his returns to be filed on an annual
34 basis, with the return for a given year being due by January

1 20 of the following year.

2 Such quarter annual and annual returns, as to form and
3 substance, shall be subject to the same requirements as
4 monthly returns.

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

12 Where the same person has more than one business
13 registered with the Department under separate registrations
14 under this Act, such person may not file each return that is
15 due as a single return covering all such registered
16 businesses, but shall file separate returns for each such
17 registered business.

18 In addition, with respect to motor vehicles, watercraft,
19 aircraft, and trailers that are required to be registered
20 with an agency of this State, every retailer selling this
21 kind of tangible personal property shall file, with the
22 Department, upon a form to be prescribed and supplied by the
23 Department, a separate return for each such item of tangible
24 personal property which the retailer sells, except that if,
25 in the same transaction, (i) a retailer of aircraft,
26 watercraft, motor vehicles or trailers transfers more than
27 one aircraft, watercraft, motor vehicle or trailer to another
28 aircraft, watercraft, motor vehicle retailer or trailer
29 retailer for the purpose of resale or (ii) a retailer of
30 aircraft, watercraft, motor vehicles, or trailers transfers
31 more than one aircraft, watercraft, motor vehicle, or trailer
32 to a purchaser for use as a qualifying rolling stock as
33 provided in Section 2-5 of this Act, then that seller may
34 report the transfer of all aircraft, watercraft, motor

1 vehicles or trailers involved in that transaction to the
2 Department on the same uniform invoice-transaction reporting
3 return form. For purposes of this Section, "watercraft"
4 means a Class 2, Class 3, or Class 4 watercraft as defined in
5 Section 3-2 of the Boat Registration and Safety Act, a
6 personal watercraft, or any boat equipped with an inboard
7 motor.

8 Any retailer who sells only motor vehicles, watercraft,
9 aircraft, or trailers that are required to be registered with
10 an agency of this State, so that all retailers' occupation
11 tax liability is required to be reported, and is reported, on
12 such transaction reporting returns and who is not otherwise
13 required to file monthly or quarterly returns, need not file
14 monthly or quarterly returns. However, those retailers shall
15 be required to file returns on an annual basis.

16 The transaction reporting return, in the case of motor
17 vehicles or trailers that are required to be registered with
18 an agency of this State, shall be the same document as the
19 Uniform Invoice referred to in Section 5-402 of The Illinois
20 Vehicle Code and must show the name and address of the
21 seller; the name and address of the purchaser; the amount of
22 the selling price including the amount allowed by the
23 retailer for traded-in property, if any; the amount allowed
24 by the retailer for the traded-in tangible personal property,
25 if any, to the extent to which Section 1 of this Act allows
26 an exemption for the value of traded-in property; the balance
27 payable after deducting such trade-in allowance from the
28 total selling price; the amount of tax due from the retailer
29 with respect to such transaction; the amount of tax collected
30 from the purchaser by the retailer on such transaction (or
31 satisfactory evidence that such tax is not due in that
32 particular instance, if that is claimed to be the fact); the
33 place and date of the sale; a sufficient identification of
34 the property sold; such other information as is required in

1 Section 5-402 of The Illinois Vehicle Code, and such other
2 information as the Department may reasonably require.

3 The transaction reporting return in the case of
4 watercraft or aircraft must show the name and address of the
5 seller; the name and address of the purchaser; the amount of
6 the selling price including the amount allowed by the
7 retailer for traded-in property, if any; the amount allowed
8 by the retailer for the traded-in tangible personal property,
9 if any, to the extent to which Section 1 of this Act allows
10 an exemption for the value of traded-in property; the balance
11 payable after deducting such trade-in allowance from the
12 total selling price; the amount of tax due from the retailer
13 with respect to such transaction; the amount of tax collected
14 from the purchaser by the retailer on such transaction (or
15 satisfactory evidence that such tax is not due in that
16 particular instance, if that is claimed to be the fact); the
17 place and date of the sale, a sufficient identification of
18 the property sold, and such other information as the
19 Department may reasonably require.

20 Such transaction reporting return shall be filed not
21 later than 20 days after the day of delivery of the item that
22 is being sold, but may be filed by the retailer at any time
23 sooner than that if he chooses to do so. The transaction
24 reporting return and tax remittance or proof of exemption
25 from the Illinois use tax may be transmitted to the
26 Department by way of the State agency with which, or State
27 officer with whom the tangible personal property must be
28 titled or registered (if titling or registration is required)
29 if the Department and such agency or State officer determine
30 that this procedure will expedite the processing of
31 applications for title or registration.

32 With each such transaction reporting return, the retailer
33 shall remit the proper amount of tax due (or shall submit
34 satisfactory evidence that the sale is not taxable if that is

1 the case), to the Department or its agents, whereupon the
2 Department shall issue, in the purchaser's name, a use tax
3 receipt (or a certificate of exemption if the Department is
4 satisfied that the particular sale is tax exempt) which such
5 purchaser may submit to the agency with which, or State
6 officer with whom, he must title or register the tangible
7 personal property that is involved (if titling or
8 registration is required) in support of such purchaser's
9 application for an Illinois certificate or other evidence of
10 title or registration to such tangible personal property.

11 No retailer's failure or refusal to remit tax under this
12 Act precludes a user, who has paid the proper tax to the
13 retailer, from obtaining his certificate of title or other
14 evidence of title or registration (if titling or registration
15 is required) upon satisfying the Department that such user
16 has paid the proper tax (if tax is due) to the retailer. The
17 Department shall adopt appropriate rules to carry out the
18 mandate of this paragraph.

19 If the user who would otherwise pay tax to the retailer
20 wants the transaction reporting return filed and the payment
21 of the tax or proof of exemption made to the Department
22 before the retailer is willing to take these actions and such
23 user has not paid the tax to the retailer, such user may
24 certify to the fact of such delay by the retailer and may
25 (upon the Department being satisfied of the truth of such
26 certification) transmit the information required by the
27 transaction reporting return and the remittance for tax or
28 proof of exemption directly to the Department and obtain his
29 tax receipt or exemption determination, in which event the
30 transaction reporting return and tax remittance (if a tax
31 payment was required) shall be credited by the Department to
32 the proper retailer's account with the Department, but
33 without the 2.1% or 1.75% discount provided for in this
34 Section being allowed. When the user pays the tax directly

1 to the Department, he shall pay the tax in the same amount
2 and in the same form in which it would be remitted if the tax
3 had been remitted to the Department by the retailer.

4 Refunds made by the seller during the preceding return
5 period to purchasers, on account of tangible personal
6 property returned to the seller, shall be allowed as a
7 deduction under subdivision 5 of his monthly or quarterly
8 return, as the case may be, in case the seller had
9 theretofore included the receipts from the sale of such
10 tangible personal property in a return filed by him and had
11 paid the tax imposed by this Act with respect to such
12 receipts.

13 Where the seller is a corporation, the return filed on
14 behalf of such corporation shall be signed by the president,
15 vice-president, secretary or treasurer or by the properly
16 accredited agent of such corporation.

17 Where the seller is a limited liability company, the
18 return filed on behalf of the limited liability company shall
19 be signed by a manager, member, or properly accredited agent
20 of the limited liability company.

21 Except as provided in this Section, the retailer filing
22 the return under this Section shall, at the time of filing
23 such return, pay to the Department the amount of tax imposed
24 by this Act less a discount of 2.1% prior to January 1, 1990
25 and 1.75% on and after January 1, 1990, or \$5 per calendar
26 year, whichever is greater, which is allowed to reimburse the
27 retailer for the expenses incurred in keeping records,
28 preparing and filing returns, remitting the tax and supplying
29 data to the Department on request. Any prepayment made
30 pursuant to Section 2d of this Act shall be included in the
31 amount on which such 2.1% or 1.75% discount is computed. In
32 the case of retailers who report and pay the tax on a
33 transaction by transaction basis, as provided in this
34 Section, such discount shall be taken with each such tax

1 remittance instead of when such retailer files his periodic
2 return.

3 Before October 1, 2000, if the taxpayer's average monthly
4 tax liability to the Department under this Act, the Use Tax
5 Act, the Service Occupation Tax Act, and the Service Use Tax
6 Act, excluding any liability for prepaid sales tax to be
7 remitted in accordance with Section 2d of this Act, was
8 \$10,000 or more during the preceding 4 complete calendar
9 quarters, he shall file a return with the Department each
10 month by the 20th day of the month next following the month
11 during which such tax liability is incurred and shall make
12 payments to the Department on or before the 7th, 15th, 22nd
13 and last day of the month during which such liability is
14 incurred. On and after October 1, 2000, if the taxpayer's
15 average monthly tax liability to the Department under this
16 Act, the Use Tax Act, the Service Occupation Tax Act, and the
17 Service Use Tax Act, excluding any liability for prepaid
18 sales tax to be remitted in accordance with Section 2d of
19 this Act, was \$20,000 or more during the preceding 4 complete
20 calendar quarters, he shall file a return with the Department
21 each month by the 20th day of the month next following the
22 month during which such tax liability is incurred and shall
23 make payment to the Department on or before the 7th, 15th,
24 22nd and last day of the month during which such liability is
25 incurred. If the month during which such tax liability is
26 incurred began prior to January 1, 1985, each payment shall
27 be in an amount equal to 1/4 of the taxpayer's actual
28 liability for the month or an amount set by the Department
29 not to exceed 1/4 of the average monthly liability of the
30 taxpayer to the Department for the preceding 4 complete
31 calendar quarters (excluding the month of highest liability
32 and the month of lowest liability in such 4 quarter period).
33 If the month during which such tax liability is incurred
34 begins on or after January 1, 1985 and prior to January 1,

1 1987, each payment shall be in an amount equal to 22.5% of
2 the taxpayer's actual liability for the month or 27.5% of the
3 taxpayer's liability for the same calendar month of the
4 preceding year. If the month during which such tax liability
5 is incurred begins on or after January 1, 1987 and prior to
6 January 1, 1988, each payment shall be in an amount equal to
7 22.5% of the taxpayer's actual liability for the month or
8 26.25% of the taxpayer's liability for the same calendar
9 month of the preceding year. If the month during which such
10 tax liability is incurred begins on or after January 1, 1988,
11 and prior to January 1, 1989, or begins on or after January
12 1, 1996, each payment shall be in an amount equal to 22.5% of
13 the taxpayer's actual liability for the month or 25% of the
14 taxpayer's liability for the same calendar month of the
15 preceding year. If the month during which such tax liability
16 is incurred begins on or after January 1, 1989, and prior to
17 January 1, 1996, each payment shall be in an amount equal to
18 22.5% of the taxpayer's actual liability for the month or 25%
19 of the taxpayer's liability for the same calendar month of
20 the preceding year or 100% of the taxpayer's actual liability
21 for the quarter monthly reporting period. The amount of such
22 quarter monthly payments shall be credited against the final
23 tax liability of the taxpayer's return for that month.
24 Before October 1, 2000, once applicable, the requirement of
25 the making of quarter monthly payments to the Department by
26 taxpayers having an average monthly tax liability of \$10,000
27 or more as determined in the manner provided above shall
28 continue until such taxpayer's average monthly liability to
29 the Department during the preceding 4 complete calendar
30 quarters (excluding the month of highest liability and the
31 month of lowest liability) is less than \$9,000, or until such
32 taxpayer's average monthly liability to the Department as
33 computed for each calendar quarter of the 4 preceding
34 complete calendar quarter period is less than \$10,000.

1 However, if a taxpayer can show the Department that a
2 substantial change in the taxpayer's business has occurred
3 which causes the taxpayer to anticipate that his average
4 monthly tax liability for the reasonably foreseeable future
5 will fall below the \$10,000 threshold stated above, then such
6 taxpayer may petition the Department for a change in such
7 taxpayer's reporting status. On and after October 1, 2000,
8 once applicable, the requirement of the making of quarter
9 monthly payments to the Department by taxpayers having an
10 average monthly tax liability of \$20,000 or more as
11 determined in the manner provided above shall continue until
12 such taxpayer's average monthly liability to the Department
13 during the preceding 4 complete calendar quarters (excluding
14 the month of highest liability and the month of lowest
15 liability) is less than \$19,000 or until such taxpayer's
16 average monthly liability to the Department as computed for
17 each calendar quarter of the 4 preceding complete calendar
18 quarter period is less than \$20,000. However, if a taxpayer
19 can show the Department that a substantial change in the
20 taxpayer's business has occurred which causes the taxpayer to
21 anticipate that his average monthly tax liability for the
22 reasonably foreseeable future will fall below the \$20,000
23 threshold stated above, then such taxpayer may petition the
24 Department for a change in such taxpayer's reporting status.
25 The Department shall change such taxpayer's reporting status
26 unless it finds that such change is seasonal in nature and
27 not likely to be long term. If any such quarter monthly
28 payment is not paid at the time or in the amount required by
29 this Section, then the taxpayer shall be liable for penalties
30 and interest on the difference between the minimum amount due
31 as a payment and the amount of such quarter monthly payment
32 actually and timely paid, except insofar as the taxpayer has
33 previously made payments for that month to the Department in
34 excess of the minimum payments previously due as provided in

1 this Section. The Department shall make reasonable rules and
2 regulations to govern the quarter monthly payment amount and
3 quarter monthly payment dates for taxpayers who file on other
4 than a calendar monthly basis.

5 The provisions of this paragraph apply before October 1,
6 2001. Without regard to whether a taxpayer is required to
7 make quarter monthly payments as specified above, any
8 taxpayer who is required by Section 2d of this Act to collect
9 and remit prepaid taxes and has collected prepaid taxes which
10 average in excess of \$25,000 per month during the preceding 2
11 complete calendar quarters, shall file a return with the
12 Department as required by Section 2f and shall make payments
13 to the Department on or before the 7th, 15th, 22nd and last
14 day of the month during which such liability is incurred. If
15 the month during which such tax liability is incurred began
16 prior to the effective date of this amendatory Act of 1985,
17 each payment shall be in an amount not less than 22.5% of the
18 taxpayer's actual liability under Section 2d. If the month
19 during which such tax liability is incurred begins on or
20 after January 1, 1986, each payment shall be in an amount
21 equal to 22.5% of the taxpayer's actual liability for the
22 month or 27.5% of the taxpayer's liability for the same
23 calendar month of the preceding calendar year. If the month
24 during which such tax liability is incurred begins on or
25 after January 1, 1987, each payment shall be in an amount
26 equal to 22.5% of the taxpayer's actual liability for the
27 month or 26.25% of the taxpayer's liability for the same
28 calendar month of the preceding year. The amount of such
29 quarter monthly payments shall be credited against the final
30 tax liability of the taxpayer's return for that month filed
31 under this Section or Section 2f, as the case may be. Once
32 applicable, the requirement of the making of quarter monthly
33 payments to the Department pursuant to this paragraph shall
34 continue until such taxpayer's average monthly prepaid tax

1 collections during the preceding 2 complete calendar quarters
2 is \$25,000 or less. If any such quarter monthly payment is
3 not paid at the time or in the amount required, the taxpayer
4 shall be liable for penalties and interest on such
5 difference, except insofar as the taxpayer has previously
6 made payments for that month in excess of the minimum
7 payments previously due.

8 The provisions of this paragraph apply on and after
9 October 1, 2001. Without regard to whether a taxpayer is
10 required to make quarter monthly payments as specified above,
11 any taxpayer who is required by Section 2d of this Act to
12 collect and remit prepaid taxes and has collected prepaid
13 taxes that average in excess of \$20,000 per month during the
14 preceding 4 complete calendar quarters (excluding the month
15 of highest liability and the month of lowest liability),
16 shall file a return with the Department as required by
17 Section 2f and shall make payments to the Department on or
18 before the 7th, 15th, 22nd and last day of the month during
19 which the liability is incurred. Each payment shall be in an
20 amount equal to 22.5% of the taxpayer's actual liability for
21 the month or 25% of the taxpayer's liability for the same
22 calendar month of the preceding year. The amount of the
23 quarter monthly payments shall be credited against the final
24 tax liability of the taxpayer's return for that month filed
25 under this Section or Section 2f, as the case may be. Once
26 applicable, the requirement of the making of quarter monthly
27 payments to the Department pursuant to this paragraph shall
28 continue until the taxpayer's average monthly prepaid tax
29 collections during the preceding 4 complete calendar quarters
30 (excluding the month of highest liability and the month of
31 lowest liability) is \$20,000 or less. If any such quarter
32 monthly payment is not paid at the time or in the amount
33 required, the taxpayer shall be liable for penalties and
34 interest on such difference, except insofar as the taxpayer

1 has previously made payments for that month in excess of the
2 minimum payments previously due.

3 If any payment provided for in this Section exceeds the
4 taxpayer's liabilities under this Act, the Use Tax Act, the
5 Service Occupation Tax Act and the Service Use Tax Act, as
6 shown on an original monthly return, the Department shall, if
7 requested by the taxpayer, issue to the taxpayer a credit
8 memorandum no later than 30 days after the date of payment.
9 The credit evidenced by such credit memorandum may be
10 assigned by the taxpayer to a similar taxpayer under this
11 Act, the Use Tax Act, the Service Occupation Tax Act or the
12 Service Use Tax Act, in accordance with reasonable rules and
13 regulations to be prescribed by the Department. If no such
14 request is made, the taxpayer may credit such excess payment
15 against tax liability subsequently to be remitted to the
16 Department under this Act, the Use Tax Act, the Service
17 Occupation Tax Act or the Service Use Tax Act, in accordance
18 with reasonable rules and regulations prescribed by the
19 Department. If the Department subsequently determined that
20 all or any part of the credit taken was not actually due to
21 the taxpayer, the taxpayer's 2.1% and 1.75% vendor's discount
22 shall be reduced by 2.1% or 1.75% of the difference between
23 the credit taken and that actually due, and that taxpayer
24 shall be liable for penalties and interest on such
25 difference.

26 If a retailer of motor fuel is entitled to a credit under
27 Section 2d of this Act which exceeds the taxpayer's liability
28 to the Department under this Act for the month which the
29 taxpayer is filing a return, the Department shall issue the
30 taxpayer a credit memorandum for the excess.

31 Beginning January 1, 1990, each month the Department
32 shall pay into the Local Government Tax Fund, a special fund
33 in the State treasury which is hereby created, the net
34 revenue realized for the preceding month from the 1% tax on

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

7 Beginning January 1, 1990, each month the Department
8 shall pay into the County and Mass Transit District Fund, a
9 special fund in the State treasury which is hereby created,
10 4% of the net revenue realized for the preceding month from
11 the 6.25% general rate.

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

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

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

25 Of the remainder of the moneys received by the Department
26 pursuant to this Act, (a) 1.75% thereof shall be paid into
27 the Build Illinois Fund and (b) prior to July 1, 1989, 2.2%
28 and on and after July 1, 1989, 3.8% thereof shall be paid
29 into the Build Illinois Fund; provided, however, that if in
30 any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%,
31 as the case may be, of the moneys received by the Department
32 and required to be paid into the Build Illinois Fund pursuant
33 to this Act, Section 9 of the Use Tax Act, Section 9 of the
34 Service Use Tax Act, and Section 9 of the Service Occupation

1 Tax Act, such Acts being hereinafter called the "Tax Acts"
 2 and such aggregate of 2.2% or 3.8%, as the case may be, of
 3 moneys being hereinafter called the "Tax Act Amount", and (2)
 4 the amount transferred to the Build Illinois Fund from the
 5 State and Local Sales Tax Reform Fund shall be less than the
 6 Annual Specified Amount (as hereinafter defined), an amount
 7 equal to the difference shall be immediately paid into the
 8 Build Illinois Fund from other moneys received by the
 9 Department pursuant to the Tax Acts; the "Annual Specified
 10 Amount" means the amounts specified below for fiscal years
 11 1986 through 1993:

12	Fiscal Year	Annual Specified Amount
13	1986	\$54,800,000
14	1987	\$76,650,000
15	1988	\$80,480,000
16	1989	\$88,510,000
17	1990	\$115,330,000
18	1991	\$145,470,000
19	1992	\$182,730,000
20	1993	\$206,520,000;

21 and means the Certified Annual Debt Service Requirement (as
 22 defined in Section 13 of the Build Illinois Bond Act) or the
 23 Tax Act Amount, whichever is greater, for fiscal year 1994
 24 and each fiscal year thereafter; and further provided, that
 25 if on the last business day of any month the sum of (1) the
 26 Tax Act Amount required to be deposited into the Build
 27 Illinois Bond Account in the Build Illinois Fund during such
 28 month and (2) the amount transferred to the Build Illinois
 29 Fund from the State and Local Sales Tax Reform Fund shall
 30 have been less than 1/12 of the Annual Specified Amount, an
 31 amount equal to the difference shall be immediately paid into
 32 the Build Illinois Fund from other moneys received by the
 33 Department pursuant to the Tax Acts; and, further provided,
 34 that in no event shall the payments required under the

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

1 charge set forth in Section 12 of the Build Illinois Bond
2 Act.

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

16	Fiscal Year	Total Deposit
17	1993	\$0
18	1994	53,000,000
19	1995	58,000,000
20	1996	61,000,000
21	1997	64,000,000
22	1998	68,000,000
23	1999	71,000,000
24	2000	75,000,000
25	2001	80,000,000
26	2002	84,000,000
27	2003	89,000,000
28	2004	93,000,000
29	2005	97,000,000
30	2006	102,000,000
31	2007	108,000,000
32	2008	115,000,000
33	2009	120,000,000
34	2010	126,000,000

1	2011	132,000,000
2	2012	138,000,000
3	2013 and	145,000,000

4 each fiscal year
5 thereafter that bonds
6 are outstanding under
7 Section 13.2 of the
8 Metropolitan Pier and
9 Exposition Authority
10 Act, but not after fiscal year 2029.

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

24 Subject to payment of amounts into the Build Illinois
25 Fund and the McCormick Place Expansion Project Fund pursuant
26 to the preceding paragraphs or in any amendment thereto
27 hereafter enacted, each month the Department shall pay into
28 the Local Government Distributive Fund 0.4% of the net
29 revenue realized for the preceding month from the 5% general
30 rate or 0.4% of 80% of the net revenue realized for the
31 preceding month from the 6.25% general rate, as the case may
32 be, on the selling price of tangible personal property which
33 amount shall, subject to appropriation, be distributed as
34 provided in Section 2 of the State Revenue Sharing Act. No

1 payments or distributions pursuant to this paragraph shall be
2 made if the tax imposed by this Act on photoprocessing
3 products is declared unconstitutional, or if the proceeds
4 from such tax are unavailable for distribution because of
5 litigation.

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

15 Of the remainder of the moneys received by the Department
16 pursuant to this Act, 75% thereof shall be paid into the
17 State Treasury and 25% shall be reserved in a special account
18 and used only for the transfer to the Common School Fund as
19 part of the monthly transfer from the General Revenue Fund in
20 accordance with Section 8a of the State Finance Act.

21 The Department may, upon separate written notice to a
22 taxpayer, require the taxpayer to prepare and file with the
23 Department on a form prescribed by the Department within not
24 less than 60 days after receipt of the notice an annual
25 information return for the tax year specified in the notice.
26 Such annual return to the Department shall include a
27 statement of gross receipts as shown by the retailer's last
28 Federal income tax return. If the total receipts of the
29 business as reported in the Federal income tax return do not
30 agree with the gross receipts reported to the Department of
31 Revenue for the same period, the retailer shall attach to his
32 annual return a schedule showing a reconciliation of the 2
33 amounts and the reasons for the difference. The retailer's
34 annual return to the Department shall also disclose the cost

1 of goods sold by the retailer during the year covered by such
2 return, opening and closing inventories of such goods for
3 such year, costs of goods used from stock or taken from stock
4 and given away by the retailer during such year, payroll
5 information of the retailer's business during such year and
6 any additional reasonable information which the Department
7 deems would be helpful in determining the accuracy of the
8 monthly, quarterly or annual returns filed by such retailer
9 as provided for in this Section.

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

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

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

23 The chief executive officer, proprietor, owner or highest
24 ranking manager shall sign the annual return to certify the
25 accuracy of the information contained therein. Any person
26 who willfully signs the annual return containing false or
27 inaccurate information shall be guilty of perjury and
28 punished accordingly. The annual return form prescribed by
29 the Department shall include a warning that the person
30 signing the return may be liable for perjury.

31 The provisions of this Section concerning the filing of
32 an annual information return do not apply to a retailer who
33 is not required to file an income tax return with the United
34 States Government.

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

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

13 For greater simplicity of administration, manufacturers,
14 importers and wholesalers whose products are sold at retail
15 in Illinois by numerous retailers, and who wish to do so, may
16 assume the responsibility for accounting and paying to the
17 Department all tax accruing under this Act with respect to
18 such sales, if the retailers who are affected do not make
19 written objection to the Department to this arrangement.

20 Any person who promotes, organizes, provides retail
21 selling space for concessionaires or other types of sellers
22 at the Illinois State Fair, DuQuoin State Fair, county fairs,
23 local fairs, art shows, flea markets and similar exhibitions
24 or events, including any transient merchant as defined by
25 Section 2 of the Transient Merchant Act of 1987, is required
26 to file a report with the Department providing the name of
27 the merchant's business, the name of the person or persons
28 engaged in merchant's business, the permanent address and
29 Illinois Retailers Occupation Tax Registration Number of the
30 merchant, the dates and location of the event and other
31 reasonable information that the Department may require. The
32 report must be filed not later than the 20th day of the month
33 next following the month during which the event with retail
34 sales was held. Any person who fails to file a report

1 required by this Section commits a business offense and is
2 subject to a fine not to exceed \$250.

3 Any person engaged in the business of selling tangible
4 personal property at retail as a concessionaire or other type
5 of seller at the Illinois State Fair, county fairs, art
6 shows, flea markets and similar exhibitions or events, or any
7 transient merchants, as defined by Section 2 of the Transient
8 Merchant Act of 1987, may be required to make a daily report
9 of the amount of such sales to the Department and to make a
10 daily payment of the full amount of tax due. The Department
11 shall impose this requirement when it finds that there is a
12 significant risk of loss of revenue to the State at such an
13 exhibition or event. Such a finding shall be based on
14 evidence that a substantial number of concessionaires or
15 other sellers who are not residents of Illinois will be
16 engaging in the business of selling tangible personal
17 property at retail at the exhibition or event, or other
18 evidence of a significant risk of loss of revenue to the
19 State. The Department shall notify concessionaires and other
20 sellers affected by the imposition of this requirement. In
21 the absence of notification by the Department, the
22 concessionaires and other sellers shall file their returns as
23 otherwise required in this Section.

24 (Source: P.A. 90-491, eff. 1-1-99; 90-612, eff. 7-8-98;
25 91-37, eff. 7-1-99; 91-51, eff. 6-30-99; 91-101, eff.
26 7-12-99; 91-541, eff. 8-13-99; 91-872, eff. 7-1-00; 91-901,
27 eff. 1-1-01; revised 1-15-01.)

28 (35 ILCS 120/4) (from Ch. 120, par. 443)

29 Sec. 4. Examination and correction of return. As soon
30 as practicable after any return is filed, the Department
31 shall examine such return and shall, if necessary, correct
32 such return according to its best judgment and information.
33 If the correction of a return results in an amount of tax

1 that is understated on the taxpayer's return due to a
2 mathematical error, the Department shall notify the taxpayer
3 that the amount of tax in excess of that shown on the return
4 is due and has been assessed. The term "mathematical error"
5 means arithmetic errors or incorrect computations on the
6 return or supporting schedules. No such notice of additional
7 tax due shall be issued on and after each July 1 and January
8 1 covering gross receipts received during any month or period
9 of time more than 3 years prior to such July 1 and January 1,
10 respectively. Such notice of additional tax due shall not be
11 considered a notice of tax liability nor shall the taxpayer
12 have any right of protest. In the event that the return is
13 corrected for any reason other than a mathematical error, any
14 return so corrected by the Department shall be prima facie
15 correct and shall be prima facie evidence of the correctness
16 of the amount of tax due, as shown therein. In correcting
17 transaction by transaction reporting returns provided for in
18 Section 3 of this Act, it shall be permissible for the
19 Department to show a single corrected return figure for any
20 given period of a calendar month instead of having to correct
21 each transaction by transaction return form individually and
22 having to show a corrected return figure for each of such
23 transaction by transaction return forms. In making a
24 correction of transaction by transaction, monthly, or
25 quarterly returns covering a period of one month ~~6-months~~ or
26 more, it shall be permissible for the Department to show a
27 single corrected return figure for any given ~~6-month~~ period.

28 Instead of requiring the person filing such return to
29 file an amended return, the Department may simply notify him
30 of the correction or corrections it has made.

31 Proof of such correction by the Department may be made at
32 any hearing before the Department or in any legal proceeding
33 by a reproduced copy or computer print-out of the
34 Department's record relating thereto in the name of the

1 Department under the certificate of the Director of Revenue.
2 If reproduced copies of the Department's records are offered
3 as proof of such correction, the Director must certify that
4 those copies are true and exact copies of records on file
5 with the Department. If computer print-outs of the
6 Department's records are offered as proof of such correction,
7 the Director must certify that those computer print-outs are
8 true and exact representations of records properly entered
9 into standard electronic computing equipment, in the regular
10 course of the Department's business, at or reasonably near
11 the time of the occurrence of the facts recorded, from
12 trustworthy and reliable information. Such certified
13 reproduced copy or certified computer print-out shall without
14 further proof, be admitted into evidence before the
15 Department or in any legal proceeding and shall be prima
16 facie proof of the correctness of the amount of tax due, as
17 shown therein.

18 If the tax computed upon the basis of the gross receipts
19 as fixed by the Department is greater than the amount of tax
20 due under the return or returns as filed, the Department
21 shall (or if the tax or any part thereof that is admitted to
22 be due by a return or returns, whether filed on time or not,
23 is not paid, the Department may) issue the taxpayer a notice
24 of tax liability for the amount of tax claimed by the
25 Department to be due, together with a penalty in an amount
26 determined in accordance with Section 3-3 of the Uniform
27 Penalty and Interest Act. Provided, that if the incorrectness
28 of any return or returns as determined by the Department is
29 due to negligence or fraud, said penalty shall be in an
30 amount determined in accordance with Section 3-5 or Section
31 3-6 of the Uniform Penalty and Interest Act, as the case may
32 be. If the notice of tax liability is not based on a
33 correction of the taxpayer's return or returns, but is based
34 on the taxpayer's failure to pay all or a part of the tax

1 admitted by his return or returns (whether filed on time or
2 not) to be due, such notice of tax liability shall be prima
3 facie correct and shall be prima facie evidence of the
4 correctness of the amount of tax due, as shown therein.

5 Proof of such notice of tax liability by the Department
6 may be made at any hearing before the Department or in any
7 legal proceeding by a reproduced copy of the Department's
8 record relating thereto in the name of the Department under
9 the certificate of the Director of Revenue. Such reproduced
10 copy shall without further proof, be admitted into evidence
11 before the Department or in any legal proceeding and shall be
12 prima facie proof of the correctness of the amount of tax
13 due, as shown therein.

14 If the person filing any return dies or becomes a person
15 under legal disability at any time before the Department
16 issues its notice of tax liability, such notice shall be
17 issued to the administrator, executor or other legal
18 representative, as such, of such person.

19 Except in case of a fraudulent return, or in the case of
20 an amended return (where a notice of tax liability may be
21 issued on or after each January 1 and July 1 for an amended
22 return filed not more than 3 years prior to such January 1 or
23 July 1, respectively), no notice of tax liability shall be
24 issued on and after each January 1 and July 1 covering gross
25 receipts received during any month or period of time more
26 than 3 years prior to such January 1 and July 1,
27 respectively. If, before the expiration of the time
28 prescribed in this Section for the issuance of a notice of
29 tax liability, both the Department and the taxpayer have
30 consented in writing to its issuance after such time, such
31 notice may be issued at any time prior to the expiration of
32 the period agreed upon. The period so agreed upon may be
33 extended by subsequent agreements in writing made before the
34 expiration of the period previously agreed upon. The

1 foregoing limitations upon the issuance of a notice of tax
2 liability shall not apply to the issuance of a notice of tax
3 liability with respect to any period of time prior thereto in
4 cases where the Department has, within the period of
5 limitation then provided, notified the person making the
6 return of a notice of tax liability even though such return,
7 with which the tax that was shown by such return to be due
8 was paid when the return was filed, had not been corrected by
9 the Department in the manner required herein prior to the
10 issuance of such notice, but in no case shall the amount of
11 any such notice of tax liability for any period otherwise
12 barred by this Act exceed for such period the amount shown in
13 the notice of tax liability theretofore issued.

14 If, when a tax or penalty under this Act becomes due and
15 payable, the person alleged to be liable therefor is out of
16 the State, the notice of tax liability may be issued within
17 the times herein limited after his coming into or return to
18 the State; and if, after the tax or penalty under this Act
19 becomes due and payable, the person alleged to be liable
20 therefor departs from and remains out of the State, the time
21 of his or her absence is no part of the time limited for the
22 issuance of the notice of tax liability; but the foregoing
23 provisions concerning absence from the State shall not apply
24 to any case in which, at the time when a tax or penalty
25 becomes due under this Act, the person allegedly liable
26 therefor is not a resident of this State.

27 The time limitation period on the Department's right to
28 issue a notice of tax liability shall not run during any
29 period of time in which the Order of any Court has the effect
30 of enjoining or restraining the Department from issuing the
31 notice of tax liability.

32 If such person or legal representative shall within 60
33 days after such notice of tax liability file a protest to
34 said notice of tax liability and request a hearing thereon,

1 the Department shall give notice to such person or legal
2 representative of the time and place fixed for such hearing
3 and shall hold a hearing in conformity with the provisions of
4 this Act, and pursuant thereto shall issue to such person or
5 legal representative a final assessment for the amount found
6 to be due as a result of such hearing.

7 If a protest to the notice of tax liability and a request
8 for a hearing thereon is not filed within 60 days after such
9 notice, such notice of tax liability shall become final
10 without the necessity of a final assessment being issued and
11 shall be deemed to be a final assessment.

12 After the issuance of a final assessment, or a notice of
13 tax liability which becomes final without the necessity of
14 actually issuing a final assessment as hereinbefore provided,
15 the Department, at any time before such assessment is reduced
16 to judgment, may (subject to rules of the Department) grant a
17 rehearing (or grant departmental review and hold an original
18 hearing if no previous hearing in the matter has been held)
19 upon the application of the person aggrieved. Pursuant to
20 such hearing or rehearing, the Department shall issue a
21 revised final assessment to such person or his legal
22 representative for the amount found to be due as a result of
23 such hearing or rehearing.

24 (Source: P.A. 89-379, eff. 1-1-96.)

25 (35 ILCS 120/5) (from Ch. 120, par. 444)

26 Sec. 5. Failure to file return, file timely return, or
27 pay tax. In case any person engaged in the business of
28 selling tangible personal property at retail fails to file a
29 return when and as herein required, but thereafter, prior to
30 the Department's issuance of a notice of tax liability under
31 this Section, files a return and pays the tax, he shall also
32 pay a penalty in an amount determined in accordance with
33 Section 3-3 of the Uniform Penalty and Interest Act.

1 In case any person engaged in the business of selling
2 tangible personal property at retail files the return at the
3 time required by this Act but fails to pay the tax, or any
4 part thereof, when due, a penalty in an amount determined in
5 accordance with Section 3-3 of the Uniform Penalty and
6 Interest Act shall be added thereto.

7 In case any person engaged in the business of selling
8 tangible personal property at retail fails to file a return
9 when and as herein required, but thereafter, prior to the
10 Department's issuance of a notice of tax liability under this
11 Section, files a return but fails to pay the entire tax, a
12 penalty in an amount determined in accordance with Section
13 3-3 of the Uniform Penalty and Interest Act shall be added
14 thereto.

15 In case any person engaged in the business of selling
16 tangible personal property at retail fails to file a return,
17 the Department shall determine the amount of tax due from him
18 according to its best judgment and information, which amount
19 so fixed by the Department shall be prima facie correct and
20 shall be prima facie evidence of the correctness of the
21 amount of tax due, as shown in such determination. In making
22 any such determination of tax due, it shall be permissible
23 for the Department to show a figure that represents the tax
24 due for any given period of ~~6~~-6-months instead of showing the
25 amount of tax due for each month separately. Proof of such
26 determination by the Department may be made at any hearing
27 before the Department or in any legal proceeding by a
28 reproduced copy or computer print-out of the Department's
29 record relating thereto in the name of the Department under
30 the certificate of the Director of Revenue. If reproduced
31 copies of the Department's records are offered as proof of
32 such determination, the Director must certify that those
33 copies are true and exact copies of records on file with the
34 Department. If computer print-outs of the Department's

1 records are offered as proof of such determination, the
2 Director must certify that those computer print-outs are true
3 and exact representations of records properly entered into
4 standard electronic computing equipment, in the regular
5 course of the Department's business, at or reasonably near
6 the time of the occurrence of the facts recorded, from
7 trustworthy and reliable information. Such certified
8 reproduced copy or certified computer print-out shall,
9 without further proof, be admitted into evidence before the
10 Department or in any legal proceeding and shall be prima
11 facie proof of the correctness of the amount of tax due, as
12 shown therein. The Department shall issue the taxpayer a
13 notice of tax liability for the amount of tax claimed by the
14 Department to be due, together with a penalty of 30% thereof.

15 However, where the failure to file any tax return
16 required under this Act on the date prescribed therefor
17 (including any extensions thereof), is shown to be
18 unintentional and nonfraudulent and has not occurred in the 2
19 years immediately preceding the failure to file on the
20 prescribed date or is due to other reasonable cause the
21 penalties imposed by this Act shall not apply.

22 If such person or the legal representative of such person
23 files, within 60 days after such notice, a protest to such
24 notice of tax liability and requests a hearing thereon, the
25 Department shall give notice to such person or the legal
26 representative of such person of the time and place fixed for
27 such hearing, and shall hold a hearing in conformity with the
28 provisions of this Act, and pursuant thereto shall issue a
29 final assessment to such person or to the legal
30 representative of such person for the amount found to be due
31 as a result of such hearing.

32 If a protest to the notice of tax liability and a request
33 for a hearing thereon is not filed within 60 days after such
34 notice, such notice of tax liability shall become final

1 without the necessity of a final assessment being issued and
2 shall be deemed to be a final assessment.

3 After the issuance of a final assessment, or a notice of
4 tax liability which becomes final without the necessity of
5 actually issuing a final assessment as hereinbefore provided,
6 the Department, at any time before such assessment is reduced
7 to judgment, may (subject to rules of the Department) grant a
8 rehearing (or grant departmental review and hold an original
9 hearing if no previous hearing in the matter has been held)
10 upon the application of the person aggrieved. Pursuant to
11 such hearing or rehearing, the Department shall issue a
12 revised final assessment to such person or his legal
13 representative for the amount found to be due as a result of
14 such hearing or rehearing.

15 Except in case of failure to file a return, or with the
16 consent of the person to whom the notice of tax liability is
17 to be issued, no notice of tax liability shall be issued on
18 and after each July 1 and January 1 covering gross receipts
19 received during any month or period of time more than 3 years
20 prior to such July 1 and January 1, respectively, except that
21 if a return is not filed at the required time, a notice of
22 tax liability may be issued not later than 3 years after the
23 time the return is filed. The foregoing limitations upon the
24 issuance of a notice of tax liability shall not apply to the
25 issuance of any such notice with respect to any period of
26 time prior thereto in cases where the Department has, within
27 the period of limitation then provided, notified a person of
28 the amount of tax computed even though the Department had not
29 determined the amount of tax due from such person in the
30 manner required herein prior to the issuance of such notice,
31 but in no case shall the amount of any such notice of tax
32 liability for any period otherwise barred by this Act exceed
33 for such period the amount shown in the notice theretofore
34 issued.

1 If, when a tax or penalty under this Act becomes due and
2 payable, the person alleged to be liable therefor is out of
3 the State, the notice of tax liability may be issued within
4 the times herein limited after his or her coming into or
5 return to the State; and if, after the tax or penalty under
6 this Act becomes due and payable, the person alleged to be
7 liable therefor departs from and remains out of the State,
8 the time of his or her absence is no part of the time limited
9 for the issuance of the notice of tax liability; but the
10 foregoing provisions concerning absence from the State shall
11 not apply to any case in which, at the time when a tax or
12 penalty becomes due under this Act, the person allegedly
13 liable therefor is not a resident of this State.

14 The time limitation period on the Department's right to
15 issue a notice of tax liability shall not run during any
16 period of time in which the order of any court has the effect
17 of enjoining or restraining the Department from issuing the
18 notice of tax liability.

19 In case of failure to pay the tax, or any portion
20 thereof, or any penalty provided for in this Act, or
21 interest, when due, the Department may bring suit to recover
22 the amount of such tax, or portion thereof, or penalty or
23 interest; or, if the taxpayer has died or become a person
24 under legal disability, may file a claim therefor against his
25 estate; provided that no such suit with respect to any tax,
26 or portion thereof, or penalty, or interest shall be
27 instituted more than 2 years after the date any proceedings
28 in court for review thereof have terminated or the time for
29 the taking thereof has expired without such proceedings being
30 instituted, except with the consent of the person from whom
31 such tax or penalty or interest is due; nor, except with such
32 consent, shall such suit be instituted more than 2 years
33 after the date any return is filed with the Department in
34 cases where the return constitutes the basis for the suit for

1 unpaid tax, or portion thereof, or penalty provided for in
2 this Act, or interest: Provided that the time limitation
3 period on the Department's right to bring any such suit shall
4 not run during any period of time in which the order of any
5 court has the effect of enjoining or restraining the
6 Department from bringing such suit.

7 After the expiration of the period within which the
8 person assessed may file an action for judicial review under
9 the Administrative Review Law without such an action being
10 filed, a certified copy of the final assessment or revised
11 final assessment of the Department may be filed with the
12 Circuit Court of the county in which the taxpayer has his
13 principal place of business, or of Sangamon County in those
14 cases in which the taxpayer does not have his principal place
15 of business in this State. The certified copy of the final
16 assessment or revised final assessment shall be accompanied
17 by a certification which recites facts that are sufficient to
18 show that the Department complied with the jurisdictional
19 requirements of the Act in arriving at its final assessment
20 or its revised final assessment and that the taxpayer had his
21 opportunity for an administrative hearing and for judicial
22 review, whether he availed himself or herself of either or
23 both of these opportunities or not. If the court is satisfied
24 that the Department complied with the jurisdictional
25 requirements of the Act in arriving at its final assessment
26 or its revised final assessment and that the taxpayer had his
27 opportunity for an administrative hearing and for judicial
28 review, whether he availed himself of either or both of these
29 opportunities or not, the court shall render judgment in
30 favor of the Department and against the taxpayer for the
31 amount shown to be due by the final assessment or the revised
32 final assessment, plus any interest which may be due, and
33 such judgment shall be entered in the judgment docket of the
34 court. Such judgment shall bear the rate of interest as set

1 by the Uniform Penalty and Interest Act, but otherwise shall
2 have the same effect as other judgments. The judgment may be
3 enforced, and all laws applicable to sales for the
4 enforcement of a judgment shall be applicable to sales made
5 under such judgments. The Department shall file the certified
6 copy of its assessment, as herein provided, with the Circuit
7 Court within 2 years after such assessment becomes final
8 except when the taxpayer consents in writing to an extension
9 of such filing period, and except that the time limitation
10 period on the Department's right to file the certified copy
11 of its assessment with the Circuit Court shall not run during
12 any period of time in which the order of any court has the
13 effect of enjoining or restraining the Department from filing
14 such certified copy of its assessment with the Circuit Court.

15 If, when the cause of action for a proceeding in court
16 accrues against a person, he or she is out of the State, the
17 action may be commenced within the times herein limited,
18 after his or her coming into or return to the State; and if,
19 after the cause of action accrues, he or she departs from and
20 remains out of the State, the time of his or her absence is
21 no part of the time limited for the commencement of the
22 action; but the foregoing provisions concerning absence from
23 the State shall not apply to any case in which, at the time
24 the cause of action accrues, the party against whom the cause
25 of action accrues is not a resident of this State. The time
26 within which a court action is to be commenced by the
27 Department hereunder shall not run from the date the taxpayer
28 files a petition in bankruptcy under the Federal Bankruptcy
29 Act until 30 days after notice of termination or expiration
30 of the automatic stay imposed by the Federal Bankruptcy Act.

31 No claim shall be filed against the estate of any
32 deceased person or any person under legal disability for any
33 tax or penalty or part of either, or interest, except in the
34 manner prescribed and within the time limited by the Probate

1 Act of 1975, as amended.

2 The collection of tax or penalty or interest by any means
3 provided for herein shall not be a bar to any prosecution
4 under this Act.

5 In addition to any penalty provided for in this Act, any
6 amount of tax which is not paid when due shall bear interest
7 at the rate and in the manner specified in Sections 3-2 and
8 3-9 of the Uniform Penalty and Interest Act from the date
9 when such tax becomes past due until such tax is paid or a
10 judgment therefor is obtained by the Department. If the time
11 for making or completing an audit of a taxpayer's books and
12 records is extended with the taxpayer's consent, at the
13 request of and for the convenience of the Department, beyond
14 the date on which the statute of limitations upon the
15 issuance of a notice of tax liability by the Department
16 otherwise would run, no interest shall accrue during the
17 period of such extension or until a Notice of Tax Liability
18 is issued, whichever occurs first.

19 In addition to any other remedy provided by this Act, and
20 regardless of whether the Department is making or intends to
21 make use of such other remedy, where a corporation or limited
22 liability company registered under this Act violates the
23 provisions of this Act or of any rule or regulation
24 promulgated thereunder, the Department may give notice to the
25 Attorney General of the identity of such a corporation or
26 limited liability company and of the violations committed by
27 such a corporation or limited liability company, for such
28 action as is not already provided for by this Act and as the
29 Attorney General may deem appropriate.

30 If the Department determines that an amount of tax or
31 penalty or interest was incorrectly assessed, whether as the
32 result of a mistake of fact or an error of law, the
33 Department shall waive the amount of tax or penalty or
34 interest that accrued due to the incorrect assessment.

1 (Source: P.A. 87-193; 87-205; 87-895; 88-480.)

2 Section 99. Effective date. This Act takes effect upon

3 becoming law.