

1 AN ACT in relation to 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 3-5 as follows:

6 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

19 (3) Personal property purchased by a not-for-profit arts  
20 or cultural organization that establishes, by proof required  
21 by the Department by rule, that it has received an exemption  
22 under Section 501(c)(3) of the Internal Revenue Code and that  
23 is organized and operated primarily for the presentation or  
24 support of arts or cultural programming, activities, or  
25 services. These organizations include, but are not limited  
26 to, music and dramatic arts organizations such as symphony  
27 orchestras and theatrical groups, arts and cultural service  
28 organizations, local arts councils, visual arts  
29 organizations, and media arts organizations. On and after the  
30 effective date of this amendatory Act of the 92nd General  
31 Assembly, however, an entity otherwise eligible for this

1 exemption shall not make tax-free purchases unless it has an  
2 active identification number issued by the Department.

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

18 (5) A passenger car that is a replacement vehicle to the  
19 extent that the purchase price of the car is subject to the  
20 Replacement Vehicle Tax.

21 (6) Graphic arts machinery and equipment, including  
22 repair and replacement parts, both new and used, and  
23 including that manufactured on special order, certified by  
24 the purchaser to be used primarily for graphic arts  
25 production, and including machinery and equipment purchased  
26 for lease. Equipment includes chemicals or chemicals acting  
27 as catalysts but only if the chemicals or chemicals acting as  
28 catalysts effect a direct and immediate change upon a graphic  
29 arts product.

30 (7) Farm chemicals.

31 (8) Legal tender, currency, medallions, or gold or  
32 silver coinage issued by the State of Illinois, the  
33 government of the United States of America, or the government  
34 of any foreign country, and bullion.

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

4           (10) A motor vehicle of the first division, a motor  
5 vehicle of the second division that is a self-contained motor  
6 vehicle designed or permanently converted to provide living  
7 quarters for recreational, camping, or travel use, with  
8 direct walk through to the living quarters from the driver's  
9 seat, or a motor vehicle of the second division that is of  
10 the van configuration designed for the transportation of not  
11 less than 7 nor more than 16 passengers, as defined in  
12 Section 1-146 of the Illinois Vehicle Code, that is used for  
13 automobile renting, as defined in the Automobile Renting  
14 Occupation and Use Tax Act.

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

34           Farm machinery and equipment shall include precision

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

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

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

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

31 (14) Oil field exploration, drilling, and production  
32 equipment, including (i) rigs and parts of rigs, rotary rigs,  
33 cable tool rigs, and workover rigs, (ii) pipe and tubular  
34 goods, including casing and drill strings, (iii) pumps and

1 pump-jack units, (iv) storage tanks and flow lines, (v) any  
2 individual replacement part for oil field exploration,  
3 drilling, and production equipment, and (vi) machinery and  
4 equipment purchased for lease; but excluding motor vehicles  
5 required to be registered under the Illinois Vehicle Code.

6 (15) Photoprocessing machinery and equipment, including  
7 repair and replacement parts, both new and used, including  
8 that manufactured on special order, certified by the  
9 purchaser to be used primarily for photoprocessing, and  
10 including photoprocessing machinery and equipment purchased  
11 for lease.

12 (16) Coal exploration, mining, offhighway hauling,  
13 processing, maintenance, and reclamation equipment, including  
14 replacement parts and equipment, and including equipment  
15 purchased for lease, but excluding motor vehicles required to  
16 be registered under the Illinois Vehicle Code.

17 (17) Distillation machinery and equipment, sold as a  
18 unit or kit, assembled or installed by the retailer,  
19 certified by the user to be used only for the production of  
20 ethyl alcohol that will be used for consumption as motor fuel  
21 or as a component of motor fuel for the personal use of the  
22 user, and not subject to sale or resale.

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

34 (19) Personal property delivered to a purchaser or

1 purchaser's donee inside Illinois when the purchase order for  
2 that personal property was received by a florist located  
3 outside Illinois who has a florist located inside Illinois  
4 deliver the personal property.

5 (20) Semen used for artificial insemination of livestock  
6 for direct agricultural production.

7 (21) Horses, or interests in horses, registered with and  
8 meeting the requirements of any of the Arabian Horse Club  
9 Registry of America, Appaloosa Horse Club, American Quarter  
10 Horse Association, United States Trotting Association, or  
11 Jockey Club, as appropriate, used for purposes of breeding or  
12 racing for prizes.

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

1 lessor is liable to pay that amount to the Department.

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

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

33 (25) Beginning with taxable years ending on or after  
34 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is used in  
2 the performance of infrastructure repairs in this State,  
3 including but not limited to municipal roads and streets,  
4 access roads, bridges, sidewalks, waste disposal systems,  
5 water and sewer line extensions, water distribution and  
6 purification facilities, storm water drainage and retention  
7 facilities, and sewage treatment facilities, resulting from a  
8 State or federally declared disaster in Illinois or bordering  
9 Illinois when such repairs are initiated on facilities  
10 located in the declared disaster area within 6 months after  
11 the disaster.

12 (26) Beginning July 1, 1999, game or game birds  
13 purchased at a "game breeding and hunting preserve area" or  
14 an "exotic game hunting area" as those terms are used in the  
15 Wildlife Code or at a hunting enclosure approved through  
16 rules adopted by the Department of Natural Resources. This  
17 paragraph is exempt from the provisions of Section 3-90.

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

1 technical, mechanical, industrial, business, or commercial  
2 occupation.

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

17 (29) Beginning January 1, 2000 and through December 31,  
18 2001, new or used automatic vending machines that prepare and  
19 serve hot food and beverages, including coffee, soup, and  
20 other items, and replacement parts for these machines.  
21 Beginning January 1, 2002, machines and parts for machines  
22 used in commercial, coin-operated amusement and vending  
23 business if a use or occupation tax is paid on the gross  
24 receipts derived from the use of the commercial,  
25 coin-operated amusement and vending machines. This paragraph  
26 is exempt from the provisions of Section 3-90.

27 (30) Food for human consumption that is to be consumed  
28 off the premises where it is sold (other than alcoholic  
29 beverages, soft drinks, and food that has been prepared for  
30 immediate consumption) and prescription and nonprescription  
31 medicines, drugs, medical appliances, and insulin, urine  
32 testing materials, syringes, and needles used by diabetics,  
33 for human use, when purchased for use by a person receiving  
34 medical assistance under Article 5 of the Illinois Public Aid

1 Code who resides in a licensed long-term care facility, as  
2 defined in the Nursing Home Care Act.

3 (31) Beginning on the effective date of this amendatory  
4 Act of the 92nd General Assembly, computers and  
5 communications equipment utilized for any hospital purpose  
6 and equipment used in the diagnosis, analysis, or treatment  
7 of hospital patients purchased by a lessor who leases the  
8 equipment, under a lease of one year or longer executed or in  
9 effect at the time the lessor would otherwise be subject to  
10 the tax imposed by this Act, to a hospital that has been  
11 issued an active tax exemption identification number by the  
12 Department under Section 1g of the Retailers' Occupation Tax  
13 Act. If the equipment is leased in a manner that does not  
14 qualify for this exemption or is used in any other nonexempt  
15 manner, the lessor shall be liable for the tax imposed under  
16 this Act or the Service Use Tax Act, as the case may be,  
17 based on the fair market value of the property at the time  
18 the nonqualifying use occurs. No lessor shall collect or  
19 attempt to collect an amount (however designated) that  
20 purports to reimburse that lessor for the tax imposed by this  
21 Act or the Service Use Tax Act, as the case may be, if the  
22 tax has not been paid by the lessor. If a lessor improperly  
23 collects any such amount from the lessee, the lessee shall  
24 have a legal right to claim a refund of that amount from the  
25 lessor. If, however, that amount is not refunded to the  
26 lessee for any reason, the lessor is liable to pay that  
27 amount to the Department. This paragraph is exempt from the  
28 provisions of Section 3-90.

29 (32) Beginning on the effective date of this amendatory  
30 Act of the 92nd General Assembly, personal property purchased  
31 by a lessor who leases the property, under a lease of one  
32 year or longer executed or in effect at the time the lessor  
33 would otherwise be subject to the tax imposed by this Act, to  
34 a governmental body that has been issued an active sales tax

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

18 (33) Beginning on January 1, 2003, broadband equipment  
19 and its component parts purchased by a broadband provider.  
20 For purposes of this exemption, "broadband provider" means a  
21 person or an affiliate who provides the transmission of  
22 signals from the Internet to the subscriber at speeds of at  
23 least 128 kilobits per second. For purposes of this  
24 exemption, "broadband equipment" means machinery, equipment,  
25 operating software, cable, wires, fiber, replacement parts,  
26 and accessories that are capable of providing the  
27 transmission of Internet signals to the subscriber at speeds  
28 of at least 128 kilobits per second. This paragraph (33) is  
29 exempt from the provisions of Section 3-90.

30 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;  
31 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.  
32 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,  
33 eff. 8-20-99; 91-901, eff. 1-1-01; 92-35, eff. 7-1-01;  
34 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff.

1 8-23-01; revised 10-10-01.)

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

4 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

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

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

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

32 (4) Legal tender, currency, medallions, or gold or

1 silver coinage issued by the State of Illinois, the  
2 government of the United States of America, or the government  
3 of any foreign country, and bullion.

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

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

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

34 Farm machinery and equipment shall include precision

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

8 Farm machinery and equipment also includes computers,  
9 sensors, software, and related equipment used primarily in  
10 the computer-assisted operation of production agriculture  
11 facilities, equipment, and activities such as, but not  
12 limited to, the collection, monitoring, and correlation of  
13 animal and crop data for the purpose of formulating animal  
14 diets and agricultural chemicals. This item (7) is exempt  
15 from the provisions of Section 3-75.

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

23 (9) Proceeds of mandatory service charges separately  
24 stated on customers' bills for the purchase and consumption  
25 of food and beverages acquired as an incident to the purchase  
26 of a service from a serviceman, to the extent that the  
27 proceeds of the service charge are in fact turned over as  
28 tips or as a substitute for tips to the employees who  
29 participate directly in preparing, serving, hosting or  
30 cleaning up the food or beverage function with respect to  
31 which the service charge is imposed.

32 (10) Oil field exploration, drilling, and production  
33 equipment, including (i) rigs and parts of rigs, rotary rigs,  
34 cable tool rigs, and workover rigs, (ii) pipe and tubular

1 goods, including casing and drill strings, (iii) pumps and  
2 pump-jack units, (iv) storage tanks and flow lines, (v) any  
3 individual replacement part for oil field exploration,  
4 drilling, and production equipment, and (vi) machinery and  
5 equipment purchased for lease; but excluding motor vehicles  
6 required to be registered under the Illinois Vehicle Code.

7 (11) Proceeds from the sale of photoprocessing machinery  
8 and equipment, including repair and replacement parts, both  
9 new and used, including that manufactured on special order,  
10 certified by the purchaser to be used primarily for  
11 photoprocessing, and including photoprocessing machinery and  
12 equipment purchased for lease.

13 (12) Coal exploration, mining, offhighway hauling,  
14 processing, maintenance, and reclamation equipment, including  
15 replacement parts and equipment, and including equipment  
16 purchased for lease, but excluding motor vehicles required to  
17 be registered under the Illinois Vehicle Code.

18 (13) Semen used for artificial insemination of livestock  
19 for direct agricultural production.

20 (14) Horses, or interests in horses, registered with and  
21 meeting the requirements of any of the Arabian Horse Club  
22 Registry of America, Appaloosa Horse Club, American Quarter  
23 Horse Association, United States Trotting Association, or  
24 Jockey Club, as appropriate, used for purposes of breeding or  
25 racing for prizes.

26 (15) Computers and communications equipment utilized for  
27 any hospital purpose and equipment used in the diagnosis,  
28 analysis, or treatment of hospital patients purchased by a  
29 lessor who leases the equipment, under a lease of one year or  
30 longer executed or in effect at the time the lessor would  
31 otherwise be subject to the tax imposed by this Act, to a  
32 hospital that has been issued an active tax exemption  
33 identification number by the Department under Section 1g of  
34 the Retailers' Occupation Tax Act. If the equipment is leased

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

15 (16) Personal property purchased by a lessor who leases  
16 the property, under a lease of one year or longer executed or  
17 in effect at the time the lessor would otherwise be subject  
18 to the tax imposed by this Act, to a governmental body that  
19 has been issued an active tax exemption identification number  
20 by the Department under Section 1g of the Retailers'  
21 Occupation Tax Act. If the property is leased in a manner  
22 that does not qualify for this exemption or is used in any  
23 other non-exempt manner, the lessor shall be liable for the  
24 tax imposed under this Act or the Use Tax Act, as the case  
25 may be, based on the fair market value of the property at the  
26 time the non-qualifying use occurs. No lessor shall collect  
27 or attempt to collect an amount (however designated) that  
28 purports to reimburse that lessor for the tax imposed by this  
29 Act or the Use Tax Act, as the case may be, if the tax has  
30 not been paid by the lessor. If a lessor improperly collects  
31 any such amount from the lessee, the lessee shall have a  
32 legal right to claim a refund of that amount from the lessor.  
33 If, however, that amount is not refunded to the lessee for  
34 any reason, the lessor is liable to pay that amount to the

1 Department.

2 (17) Beginning with taxable years ending on or after  
3 December 31, 1995 and ending with taxable years ending on or  
4 before December 31, 2004, personal property that is donated  
5 for disaster relief to be used in a State or federally  
6 declared disaster area in Illinois or bordering Illinois by a  
7 manufacturer or retailer that is registered in this State to  
8 a corporation, society, association, foundation, or  
9 institution that has been issued a sales tax exemption  
10 identification number by the Department that assists victims  
11 of the disaster who reside within the declared disaster area.

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

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

31 (20) A motor vehicle, as that term is defined in Section  
32 1-146 of the Illinois Vehicle Code, that is donated to a  
33 corporation, limited liability company, society, association,  
34 foundation, or institution that is determined by the

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

16 (21) Beginning January 1, 2000, personal property,  
17 including food, purchased through fundraising events for the  
18 benefit of a public or private elementary or secondary  
19 school, a group of those schools, or one or more school  
20 districts if the events are sponsored by an entity recognized  
21 by the school district that consists primarily of volunteers  
22 and includes parents and teachers of the school children.  
23 This paragraph does not apply to fundraising events (i) for  
24 the benefit of private home instruction or (ii) for which the  
25 fundraising entity purchases the personal property sold at  
26 the events from another individual or entity that sold the  
27 property for the purpose of resale by the fundraising entity  
28 and that profits from the sale to the fundraising entity.  
29 This paragraph is exempt from the provisions of Section 3-75.

30 (22) Beginning January 1, 2000 and through December 31,  
31 2001, new or used automatic vending machines that prepare and  
32 serve hot food and beverages, including coffee, soup, and  
33 other items, and replacement parts for these machines.  
34 Beginning January 1, 2002, machines and parts for machines

1 used in commercial, coin-operated amusement and vending  
2 business if a use or occupation tax is paid on the gross  
3 receipts derived from the use of the commercial,  
4 coin-operated amusement and vending machines. This paragraph  
5 is exempt from the provisions of Section 3-75.

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

16 (24) ~~(23)~~ Beginning on the effective date of this  
17 amendatory Act of the 92nd General Assembly, computers and  
18 communications equipment utilized for any hospital purpose  
19 and equipment used in the diagnosis, analysis, or treatment  
20 of hospital patients purchased by a lessor who leases the  
21 equipment, under a lease of one year or longer executed or in  
22 effect at the time the lessor would otherwise be subject to  
23 the tax imposed by this Act, to a hospital that has been  
24 issued an active tax exemption identification number by the  
25 Department under Section 1g of the Retailers' Occupation Tax  
26 Act. If the equipment is leased in a manner that does not  
27 qualify for this exemption or is used in any other nonexempt  
28 manner, the lessor shall be liable for the tax imposed under  
29 this Act or the Use Tax Act, as the case may be, based on the  
30 fair market value of the property at the time the  
31 nonqualifying use occurs. No lessor shall collect or attempt  
32 to collect an amount (however designated) that purports to  
33 reimburse that lessor for the tax imposed by this Act or the  
34 Use Tax Act, as the case may be, if the tax has not been paid

1 by the lessor. If a lessor improperly collects any such  
2 amount from the lessee, the lessee shall have a legal right  
3 to claim a refund of that amount from the lessor. If,  
4 however, that amount is not refunded to the lessee for any  
5 reason, the lessor is liable to pay that amount to the  
6 Department. This paragraph is exempt from the provisions of  
7 Section 3-75.

8 (25) ~~(24)~~ Beginning on the effective date of this  
9 amendatory Act of the 92nd General Assembly, personal  
10 property purchased by a lessor who leases the property, under  
11 a lease of one year or longer executed or in effect at the  
12 time the lessor would otherwise be subject to the tax imposed  
13 by this Act, to a governmental body that has been issued an  
14 active tax exemption identification number by the Department  
15 under Section 1g of the Retailers' Occupation Tax Act. If  
16 the property is leased in a manner that does not qualify for  
17 this exemption or is used in any other nonexempt manner, the  
18 lessor shall be liable for the tax imposed under this Act or  
19 the Use Tax Act, as the case may be, based on the fair market  
20 value of the property at the time the nonqualifying use  
21 occurs. No lessor shall collect or attempt to collect an  
22 amount (however designated) that purports to reimburse that  
23 lessor for the tax imposed by this Act or the Use Tax Act, as  
24 the case may be, if the tax has not been paid by the lessor.  
25 If a lessor improperly collects any such amount from the  
26 lessee, the lessee shall have a legal right to claim a refund  
27 of that amount from the lessor. If, however, that amount is  
28 not refunded to the lessee for any reason, the lessor is  
29 liable to pay that amount to the Department. This paragraph  
30 is exempt from the provisions of Section 3-75.

31 (26) Beginning on January 1, 2003, broadband equipment  
32 and its component parts purchased by a broadband provider.  
33 For purposes of this exemption, "broadband provider" means a  
34 person or an affiliate who provides the transmission of

1 signals from the Internet to the subscriber at speeds of at  
 2 least 128 kilobits per second. For purposes of this  
 3 exemption, "broadband equipment" means machinery, equipment,  
 4 operating software, cable, wires, fiber, replacement parts,  
 5 and accessories that are capable of providing the  
 6 transmission of Internet signals to the subscriber at speeds  
 7 of at least 128 kilobits per second. This paragraph (26) is  
 8 exempt from the provisions of Section 3-75.

9 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;  
 10 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644, eff.  
 11 8-20-99; 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
 12 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
 13 revised 10-10-01.)

14 Section 15. The Service Occupation Tax Act is amended by  
 15 changing Section 3-5 as follows:

16 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

17 Sec. 3-5. Exemptions. The following tangible personal  
 18 property is exempt from the tax imposed by this Act:

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

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

29 (3) Personal property purchased by any not-for-profit  
 30 arts or cultural organization that establishes, by proof  
 31 required by the Department by rule, that it has received an  
 32 exemption under Section 501(c)(3) of the Internal Revenue

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

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

16 (5) Graphic arts machinery and equipment, including  
17 repair and replacement parts, both new and used, and  
18 including that manufactured on special order or purchased for  
19 lease, certified by the purchaser to be used primarily for  
20 graphic arts production. Equipment includes chemicals or  
21 chemicals acting as catalysts but only if the chemicals or  
22 chemicals acting as catalysts effect a direct and immediate  
23 change upon a graphic arts product.

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

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

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

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

20 Farm machinery and equipment also includes computers,  
21 sensors, software, and related equipment used primarily in  
22 the computer-assisted operation of production agriculture  
23 facilities, equipment, and activities such as, but not  
24 limited to, the collection, monitoring, and correlation of  
25 animal and crop data for the purpose of formulating animal  
26 diets and agricultural chemicals. This item (7) is exempt  
27 from the provisions of Section 3-55.

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

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

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

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

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

29           (13) Food for human consumption that is to be consumed  
30 off the premises where it is sold (other than alcoholic  
31 beverages, soft drinks and food that has been prepared for  
32 immediate consumption) and prescription and non-prescription  
33 medicines, drugs, medical appliances, and insulin, urine  
34 testing materials, syringes, and needles used by diabetics,

1 for human use, when purchased for use by a person receiving  
2 medical assistance under Article 5 of the Illinois Public Aid  
3 Code who resides in a licensed long-term care facility, as  
4 defined in the Nursing Home Care Act.

5 (14) Semen used for artificial insemination of livestock  
6 for direct agricultural production.

7 (15) Horses, or interests in horses, registered with and  
8 meeting the requirements of any of the Arabian Horse Club  
9 Registry of America, Appaloosa Horse Club, American Quarter  
10 Horse Association, United States Trotting Association, or  
11 Jockey Club, as appropriate, used for purposes of breeding or  
12 racing for prizes.

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

21 (17) Personal property sold to a lessor who leases the  
22 property, under a lease of one year or longer executed or in  
23 effect at the time of the purchase, to a governmental body  
24 that has been issued an active tax exemption identification  
25 number by the Department under Section 1g of the Retailers'  
26 Occupation Tax Act.

27 (18) Beginning with taxable years ending on or after  
28 December 31, 1995 and ending with taxable years ending on or  
29 before December 31, 2004, personal property that is donated  
30 for disaster relief to be used in a State or federally  
31 declared disaster area in Illinois or bordering Illinois by a  
32 manufacturer or retailer that is registered in this State to  
33 a corporation, society, association, foundation, or  
34 institution that has been issued a sales tax exemption

1 identification number by the Department that assists victims  
2 of the disaster who reside within the declared disaster area.

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

16 (20) Beginning July 1, 1999, game or game birds sold at  
17 a "game breeding and hunting preserve area" or an "exotic  
18 game hunting area" as those terms are used in the Wildlife  
19 Code or at a hunting enclosure approved through rules adopted  
20 by the Department of Natural Resources. This paragraph is  
21 exempt from the provisions of Section 3-55.

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

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

7 (22) Beginning January 1, 2000, personal property,  
8 including food, purchased through fundraising events for the  
9 benefit of a public or private elementary or secondary  
10 school, a group of those schools, or one or more school  
11 districts if the events are sponsored by an entity recognized  
12 by the school district that consists primarily of volunteers  
13 and includes parents and teachers of the school children.  
14 This paragraph does not apply to fundraising events (i) for  
15 the benefit of private home instruction or (ii) for which the  
16 fundraising entity purchases the personal property sold at  
17 the events from another individual or entity that sold the  
18 property for the purpose of resale by the fundraising entity  
19 and that profits from the sale to the fundraising entity.  
20 This paragraph is exempt from the provisions of Section 3-55.

21 (23) Beginning January 1, 2000 and through December 31,  
22 2001, new or used automatic vending machines that prepare and  
23 serve hot food and beverages, including coffee, soup, and  
24 other items, and replacement parts for these machines.  
25 Beginning January 1, 2002, machines and parts for machines  
26 used in commercial, coin-operated amusement and vending  
27 business if a use or occupation tax is paid on the gross  
28 receipts derived from the use of the commercial,  
29 coin-operated amusement and vending machines. This paragraph  
30 is exempt from the provisions of Section 3-55.

31 (24) Beginning on the effective date of this amendatory  
32 Act of the 92nd General Assembly, computers and  
33 communications equipment utilized for any hospital purpose  
34 and equipment used in the diagnosis, analysis, or treatment

1 of hospital patients sold to a lessor who leases the  
2 equipment, under a lease of one year or longer executed or in  
3 effect at the time of the purchase, to a hospital that has  
4 been issued an active tax exemption identification number by  
5 the Department under Section 1g of the Retailers' Occupation  
6 Tax Act. This paragraph is exempt from the provisions of  
7 Section 3-55.

8 (25) Beginning on the effective date of this amendatory  
9 Act of the 92nd General Assembly, personal property sold to a  
10 lessor who leases the property, under a lease of one year or  
11 longer executed or in effect at the time of the purchase, to  
12 a governmental body that has been issued an active tax  
13 exemption identification number by the Department under  
14 Section 1g of the Retailers' Occupation Tax Act. This  
15 paragraph is exempt from the provisions of Section 3-55.

16 (26) ~~(24)~~ Beginning on January 1, 2002, tangible  
17 personal property purchased from an Illinois retailer by a  
18 taxpayer engaged in centralized purchasing activities in  
19 Illinois who will, upon receipt of the property in Illinois,  
20 temporarily store the property in Illinois (i) for the  
21 purpose of subsequently transporting it outside this State  
22 for use or consumption thereafter solely outside this State  
23 or (ii) for the purpose of being processed, fabricated, or  
24 manufactured into, attached to, or incorporated into other  
25 tangible personal property to be transported outside this  
26 State and thereafter used or consumed solely outside this  
27 State. The Director of Revenue shall, pursuant to rules  
28 adopted in accordance with the Illinois Administrative  
29 Procedure Act, issue a permit to any taxpayer in good  
30 standing with the Department who is eligible for the  
31 exemption under this paragraph (26) ~~(24)~~. The permit issued  
32 under this paragraph (26) ~~(24)~~ shall authorize the holder, to  
33 the extent and in the manner specified in the rules adopted  
34 under this Act, to purchase tangible personal property from a

1 retailer exempt from the taxes imposed by this Act.  
 2 Taxpayers shall maintain all necessary books and records to  
 3 substantiate the use and consumption of all such tangible  
 4 personal property outside of the State of Illinois.

5 (27) Beginning on January 1, 2003, broadband equipment  
 6 and its component parts purchased by a broadband provider.  
 7 For purposes of this exemption, "broadband provider" means a  
 8 person or an affiliate who provides the transmission of  
 9 signals from the Internet to the subscriber at speeds of at  
 10 least 128 kilobits per second. For purposes of this  
 11 exemption, "broadband equipment" means machinery, equipment,  
 12 operating software, cable, wires, fiber, replacement parts,  
 13 and accessories that are capable of providing the  
 14 transmission of Internet signals to the subscriber at speeds  
 15 of at least 128 kilobits per second. This paragraph (27) is  
 16 exempt from the provisions of Section 3-55.

17 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;  
 18 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff.  
 19 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35,  
 20 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01;  
 21 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; revised 1-15-02.)

22 Section 20. The Retailers' Occupation Tax Act is amended  
 23 by changing Section 2-5 as follows:

24 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

- 28 (1) Farm chemicals.
- 29 (2) Farm machinery and equipment, both new and used,  
 30 including that manufactured on special order, certified by  
 31 the purchaser to be used primarily for production agriculture  
 32 or State or federal agricultural programs, including

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

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

24 Farm machinery and equipment also includes computers,  
25 sensors, software, and related equipment used primarily in  
26 the computer-assisted operation of production agriculture  
27 facilities, equipment, and activities such as, but not  
28 limited to, the collection, monitoring, and correlation of  
29 animal and crop data for the purpose of formulating animal  
30 diets and agricultural chemicals. This item (7) is exempt  
31 from the provisions of Section 2-70.

32 (3) Distillation machinery and equipment, sold as a unit  
33 or kit, assembled or installed by the retailer, certified by  
34 the user to be used only for the production of ethyl alcohol

1 that will be used for consumption as motor fuel or as a  
2 component of motor fuel for the personal use of the user, and  
3 not subject to sale or resale.

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

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

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

26 (7) Proceeds of that portion of the selling price of a  
27 passenger car the sale of which is subject to the Replacement  
28 Vehicle Tax.

29 (8) Personal property sold to an Illinois county fair  
30 association for use in conducting, operating, or promoting  
31 the county fair.

32 (9) Personal property sold to a not-for-profit arts or  
33 cultural organization that establishes, by proof required by  
34 the Department by rule, that it has received an exemption

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

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

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

34 (12) Personal property sold to interstate carriers for

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

9 (13) Proceeds from sales to owners, lessors, or shippers  
10 of tangible personal property that is utilized by interstate  
11 carriers for hire for use as rolling stock moving in  
12 interstate commerce and equipment operated by a  
13 telecommunications provider, licensed as a common carrier by  
14 the Federal Communications Commission, which is permanently  
15 installed in or affixed to aircraft moving in interstate  
16 commerce.

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

29 (15) Proceeds of mandatory service charges separately  
30 stated on customers' bills for purchase and consumption of  
31 food and beverages, to the extent that the proceeds of the  
32 service charge are in fact turned over as tips or as a  
33 substitute for tips to the employees who participate directly  
34 in preparing, serving, hosting or cleaning up the food or

1 beverage function with respect to which the service charge is  
2 imposed.

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

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

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

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

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

33 (21) Coal exploration, mining, offhighway hauling,  
34 processing, maintenance, and reclamation equipment, including

1 replacement parts and equipment, and including equipment  
2 purchased for lease, but excluding motor vehicles required to  
3 be registered under the Illinois Vehicle Code.

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

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

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

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

32 (26) Semen used for artificial insemination of livestock  
33 for direct agricultural production.

34 (27) Horses, or interests in horses, registered with and

1 meeting the requirements of any of the Arabian Horse Club  
2 Registry of America, Appaloosa Horse Club, American Quarter  
3 Horse Association, United States Trotting Association, or  
4 Jockey Club, as appropriate, used for purposes of breeding or  
5 racing for prizes.

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

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

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

29 (31) Beginning with taxable years ending on or after  
30 December 31, 1995 and ending with taxable years ending on or  
31 before December 31, 2004, personal property that is used in  
32 the performance of infrastructure repairs in this State,  
33 including but not limited to municipal roads and streets,  
34 access roads, bridges, sidewalks, waste disposal systems,

1 water and sewer line extensions, water distribution and  
2 purification facilities, storm water drainage and retention  
3 facilities, and sewage treatment facilities, resulting from a  
4 State or federally declared disaster in Illinois or bordering  
5 Illinois when such repairs are initiated on facilities  
6 located in the declared disaster area within 6 months after  
7 the disaster.

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

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

33 (34) Beginning January 1, 2000, personal property,  
34 including food, purchased through fundraising events for the

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

13 (35) Beginning January 1, 2000 and through December 31,  
14 2001, new or used automatic vending machines that prepare and  
15 serve hot food and beverages, including coffee, soup, and  
16 other items, and replacement parts for these machines.  
17 Beginning January 1, 2002, machines and parts for machines  
18 used in commercial, coin-operated amusement and vending  
19 business if a use or occupation tax is paid on the gross  
20 receipts derived from the use of the commercial,  
21 coin-operated amusement and vending machines. This paragraph  
22 is exempt from the provisions of Section 2-70.

23 (36) Beginning on the effective date of this amendatory  
24 Act of the 92nd General Assembly, computers and  
25 communications equipment utilized for any hospital purpose  
26 and equipment used in the diagnosis, analysis, or treatment  
27 of hospital patients sold to a lessor who leases the  
28 equipment, under a lease of one year or longer executed or in  
29 effect at the time of the purchase, to a hospital that has  
30 been issued an active tax exemption identification number by  
31 the Department under Section 1g of this Act. This paragraph  
32 is exempt from the provisions of Section 2-70.

33 (37) Beginning on the effective date of this amendatory  
34 Act of the 92nd General Assembly, personal property sold to a

1 lessor who leases the property, under a lease of one year or  
2 longer executed or in effect at the time of the purchase, to  
3 a governmental body that has been issued an active tax  
4 exemption identification number by the Department under  
5 Section 1g of this Act. This paragraph is exempt from the  
6 provisions of Section 2-70.

7 (38) ~~(36)~~ Beginning on January 1, 2002, tangible  
8 personal property purchased from an Illinois retailer by a  
9 taxpayer engaged in centralized purchasing activities in  
10 Illinois who will, upon receipt of the property in Illinois,  
11 temporarily store the property in Illinois (i) for the  
12 purpose of subsequently transporting it outside this State  
13 for use or consumption thereafter solely outside this State  
14 or (ii) for the purpose of being processed, fabricated, or  
15 manufactured into, attached to, or incorporated into other  
16 tangible personal property to be transported outside this  
17 State and thereafter used or consumed solely outside this  
18 State. The Director of Revenue shall, pursuant to rules  
19 adopted in accordance with the Illinois Administrative  
20 Procedure Act, issue a permit to any taxpayer in good  
21 standing with the Department who is eligible for the  
22 exemption under this paragraph (38) ~~(36)~~. The permit issued  
23 under this paragraph (38) ~~(36)~~ shall authorize the holder, to  
24 the extent and in the manner specified in the rules adopted  
25 under this Act, to purchase tangible personal property from a  
26 retailer exempt from the taxes imposed by this Act.  
27 Taxpayers shall maintain all necessary books and records to  
28 substantiate the use and consumption of all such tangible  
29 personal property outside of the State of Illinois.

30 (39) Beginning on January 1, 2003, broadband equipment  
31 and its component parts purchased by a broadband provider.  
32 For purposes of this exemption, "broadband provider" means a  
33 person or an affiliate who provides the transmission of  
34 signals from the Internet to the subscriber at speeds of at

1 least 128 kilobits per second. For purposes of this  
2 exemption, "broadband equipment" means machinery, equipment,  
3 operating software, cable, wires, fiber, replacement parts,  
4 and accessories that are capable of providing the  
5 transmission of Internet signals to the subscriber at speeds  
6 of at least 128 kilobits per second. This paragraph (39) is  
7 exempt from the provisions of Section 2-70.

8 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;  
9 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff.  
10 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35,  
11 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01;  
12 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; revised 1-15-02.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.