

SB1677



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1677

Introduced 2/15/2019, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-55
35 ILCS 110/3-45

from Ch. 120, par. 439.3-55
from Ch. 120, par. 439.33-45

Amends the Use Tax Act and the Service Use Tax Act. Provides that the multistate exemption includes the return of property of an out-of-State lessor or purchaser to this State for storage, repair, or refurbishment, so long as the property is not used by a lessee or purchaser in this State. Effective immediately.

LRB101 09640 HLH 54738 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

7 Sec. 3-55. Multistate exemption. To prevent actual or
8 likely multistate taxation, the tax imposed by this Act does
9 not apply to the use of tangible personal property in this
10 State under the following circumstances:

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

16 (b) (Blank).

17 (c) The use, in this State, by owners, lessors, or shippers
18 of tangible personal property that is utilized by interstate
19 carriers for hire for use as rolling stock moving in interstate
20 commerce as long as so used by the interstate carriers for
21 hire, and equipment operated by a telecommunications provider,
22 licensed as a common carrier by the Federal Communications
23 Commission, which is permanently installed in or affixed to

1 aircraft moving in interstate commerce.

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

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

17 (e-5) The return of property of an out-of-State lessor or
18 purchaser to this State for storage, repair, or refurbishment,
19 so long as the property is not used by a lessee or purchaser in
20 this State. As used in this subsection (e-5), refurbishment
21 includes the replacement of component parts as well as
22 upgrades.

23 (f) The temporary storage in this State of building
24 materials and fixtures that are acquired either in this State
25 or outside this State by an Illinois registered combination
26 retailer and construction contractor, and that the purchaser

1 thereafter uses outside this State by incorporating that
2 property into real estate located outside this State.

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

11 (h) Except as provided in subsection (h-1), the use, in
12 this State, of a motor vehicle that was sold in this State to a
13 nonresident, even though the motor vehicle is delivered to the
14 nonresident in this State, if the motor vehicle is not to be
15 titled in this State, and if a drive-away permit is issued to
16 the motor vehicle as provided in Section 3-603 of the Illinois
17 Vehicle Code or if the nonresident purchaser has vehicle
18 registration plates to transfer to the motor vehicle upon
19 returning to his or her home state. The issuance of the
20 drive-away permit or having the out-of-state registration
21 plates to be transferred shall be prima facie evidence that the
22 motor vehicle will not be titled in this State.

23 (h-1) The exemption under subsection (h) does not apply if
24 the state in which the motor vehicle will be titled does not
25 allow a reciprocal exemption for the use in that state of a
26 motor vehicle sold and delivered in that state to an Illinois

1 resident but titled in Illinois. The tax collected under this
2 Act on the sale of a motor vehicle in this State to a resident
3 of another state that does not allow a reciprocal exemption
4 shall be imposed at a rate equal to the state's rate of tax on
5 taxable property in the state in which the purchaser is a
6 resident, except that the tax shall not exceed the tax that
7 would otherwise be imposed under this Act. At the time of the
8 sale, the purchaser shall execute a statement, signed under
9 penalty of perjury, of his or her intent to title the vehicle
10 in the state in which the purchaser is a resident within 30
11 days after the sale and of the fact of the payment to the State
12 of Illinois of tax in an amount equivalent to the state's rate
13 of tax on taxable property in his or her state of residence and
14 shall submit the statement to the appropriate tax collection
15 agency in his or her state of residence. In addition, the
16 retailer must retain a signed copy of the statement in his or
17 her records. Nothing in this subsection shall be construed to
18 require the removal of the vehicle from this state following
19 the filing of an intent to title the vehicle in the purchaser's
20 state of residence if the purchaser titles the vehicle in his
21 or her state of residence within 30 days after the date of
22 sale. The tax collected under this Act in accordance with this
23 subsection (h-1) shall be proportionately distributed as if the
24 tax were collected at the 6.25% general rate imposed under this
25 Act.

26 (h-2) The following exemptions apply with respect to

1 certain aircraft:

2 (1) Beginning on July 1, 2007, no tax is imposed under
3 this Act on the purchase of an aircraft, as defined in
4 Section 3 of the Illinois Aeronautics Act, if all of the
5 following conditions are met:

6 (A) the aircraft leaves this State within 15 days
7 after the later of either the issuance of the final
8 billing for the purchase of the aircraft or the
9 authorized approval for return to service, completion
10 of the maintenance record entry, and completion of the
11 test flight and ground test for inspection, as required
12 by 14 C.F.R. 91.407;

13 (B) the aircraft is not based or registered in this
14 State after the purchase of the aircraft; and

15 (C) the purchaser provides the Department with a
16 signed and dated certification, on a form prescribed by
17 the Department, certifying that the requirements of
18 this item (1) are met. The certificate must also
19 include the name and address of the purchaser, the
20 address of the location where the aircraft is to be
21 titled or registered, the address of the primary
22 physical location of the aircraft, and other
23 information that the Department may reasonably
24 require.

25 (2) Beginning on July 1, 2007, no tax is imposed under
26 this Act on the use of an aircraft, as defined in Section 3

1 of the Illinois Aeronautics Act, that is temporarily
2 located in this State for the purpose of a prepurchase
3 evaluation if all of the following conditions are met:

4 (A) the aircraft is not based or registered in this
5 State after the prepurchase evaluation; and

6 (B) the purchaser provides the Department with a
7 signed and dated certification, on a form prescribed by
8 the Department, certifying that the requirements of
9 this item (2) are met. The certificate must also
10 include the name and address of the purchaser, the
11 address of the location where the aircraft is to be
12 titled or registered, the address of the primary
13 physical location of the aircraft, and other
14 information that the Department may reasonably
15 require.

16 (3) Beginning on July 1, 2007, no tax is imposed under
17 this Act on the use of an aircraft, as defined in Section 3
18 of the Illinois Aeronautics Act, that is temporarily
19 located in this State for the purpose of a post-sale
20 customization if all of the following conditions are met:

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

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

1 State either before or after the post-sale
2 customization; and

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

13 If tax becomes due under this subsection (h-2) because of
14 the purchaser's use of the aircraft in this State, the
15 purchaser shall file a return with the Department and pay the
16 tax on the fair market value of the aircraft. This return and
17 payment of the tax must be made no later than 30 days after the
18 aircraft is used in a taxable manner in this State. The tax is
19 based on the fair market value of the aircraft on the date that
20 it is first used in a taxable manner in this State.

21 For purposes of this subsection (h-2):

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

26 "Post-sale customization" means any improvement,

1 maintenance, or repair that is performed on an aircraft
2 following a transfer of ownership of the aircraft.

3 "Prepurchase evaluation" means an examination of an
4 aircraft to provide a potential purchaser with information
5 relevant to the potential purchase.

6 "Registered in this State" means an aircraft registered
7 with the Department of Transportation, Aeronautics Division,
8 or titled or registered with the Federal Aviation
9 Administration to an address located in this State.

10 This subsection (h-2) is exempt from the provisions of
11 Section 3-90.

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

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

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

14 (Source: P.A. 100-321, eff. 8-24-17.)

15 Section 10. The Service Use Tax Act is amended by changing
16 Section 3-45 as follows:

17 (35 ILCS 110/3-45) (from Ch. 120, par. 439.33-45)

18 Sec. 3-45. Multistate exemption. To prevent actual or
19 likely multistate taxation, the tax imposed by this Act does
20 not apply to the use of tangible personal property in this
21 State under the following circumstances:

22 (a) The use, in this State, of property acquired outside
23 this State by a nonresident individual and brought into this
24 State by the individual for his or her own use while

1 temporarily within this State or while passing through this
2 State.

3 (b) The use, in this State, of property that is acquired
4 outside this State and that is moved into this State for use as
5 rolling stock moving in interstate commerce.

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

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

20 (d-5) The return of property of an out-of-State lessor or
21 purchaser to this State for storage, repair, or refurbishment,
22 so long as the property is not used by a lessee or purchaser in
23 this State. As used in this subsection (d-5), refurbishment
24 includes the replacement of component parts as well as
25 upgrades.

26 (e) Beginning July 1, 1999, the use, in this State, of fuel

1 acquired outside this State and brought into this State in the
2 fuel supply tanks of locomotives engaged in freight hauling and
3 passenger service for interstate commerce. This subsection is
4 exempt from the provisions of Section 3-75.

5 (f) Beginning on January 1, 2002 and through June 30, 2016,
6 the use of tangible personal property purchased from an
7 Illinois retailer by a taxpayer engaged in centralized
8 purchasing activities in Illinois who will, upon receipt of the
9 property in Illinois, temporarily store the property in
10 Illinois (i) for the purpose of subsequently transporting it
11 outside this State for use or consumption thereafter solely
12 outside this State or (ii) for the purpose of being processed,
13 fabricated, or manufactured into, attached to, or incorporated
14 into other tangible personal property to be transported outside
15 this State and thereafter used or consumed solely outside this
16 State. The Director of Revenue shall, pursuant to rules adopted
17 in accordance with the Illinois Administrative Procedure Act,
18 issue a permit to any taxpayer in good standing with the
19 Department who is eligible for the exemption under this
20 subsection (f). The permit issued under this subsection (f)
21 shall authorize the holder, to the extent and in the manner
22 specified in the rules adopted under this Act, to purchase
23 tangible personal property from a retailer exempt from the
24 taxes imposed by this Act. Taxpayers shall maintain all
25 necessary books and records to substantiate the use and
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

2 (Source: P.A. 97-73, eff. 6-30-11.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.