

1 AN ACT concerning taxes.

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

4 Section 2. The Illinois Income Tax Act is amended by
5 adding Section 215 as follows:

6 (35 ILCS 5/215 new)

7 Sec. 215. Transportation Employee Credit.

8 (a) For each taxable year beginning on or after January
9 1, 2004, a qualified employer shall be allowed a credit
10 against the tax imposed by subsections (a) and (b) of Section
11 201 of this Act in the amount of \$50 for each eligible
12 employee employed by the taxpayer as of the last day of the
13 taxable year.

14 (b) For purposes of this Section, "qualified employer"
15 means:

16 (1) any employer who pays a commercial distribution
17 fee under Section 3-815.1 of the Illinois Vehicle Code
18 during the taxable year; or

19 (2) any employer who, as of the end of the taxable
20 year, has one or more employees whose compensation is
21 subject to tax only by the employee's state of residence
22 pursuant to 49 U.S.C 14503(a)(1).

23 (c) For purposes of this Section, "employee" includes an
24 individual who is treated as an employee of the taxpayer
25 under Section 401(c) of the Internal Revenue Code and whose
26 actual assigned duties are such that, if the individual were
27 a common-law employee performing such duties in 2 or more
28 states, the individual's compensation would be subject to tax
29 only by the individual's state of residence pursuant to 49
30 U.S.C. 14503(a)(1).

31 (d) An employee is an "eligible employee" only if all of

1 the following criteria are met:

2 (1) The employee is an operator of a motor vehicle;

3 (2) The employee's compensation, pursuant to 49
4 U.S.C. 14503(a)(1), is subject to tax only by the
5 employee's state of residence, or would be subject to tax
6 only by the employee's state of residence if the
7 employee's actual duties were performed in 2 or more
8 states;

9 (3) As of the end of the taxable year for which the
10 credit is claimed, the employee is a resident of this
11 State for purposes of this Act and 49 U.S.C. 14503(a)(1);
12 and

13 (4) The employee is a full-time employee working 30
14 or more hours per week for 180 consecutive days; provided
15 that such 180-day period may be completed after the end
16 of the taxable year for which the credit under this
17 Section is claimed.

18 (e) For partners, shareholders of subchapter S
19 corporations, and owners of limited liability companies, if
20 the limited liability company is treated as a partnership for
21 purposes of federal and State income taxation, there shall be
22 allowed a credit under this Section to be determined in
23 accordance with the determination of income and distributive
24 share of income under Sections 702 and 704 and subchapter S
25 of the Internal Revenue Code.

26 (f) Any credit allowed under this Section which is
27 unused in the year the credit is earned may be carried
28 forward to each of the 5 taxable years following the year for
29 which the credit is first computed until it is used. This
30 credit shall be applied first to the earliest year for which
31 there is a liability. If there is a credit under this Section
32 from more than one tax year that is available to offset a
33 liability, the earliest credit arising under this Section
34 shall be applied first.

1 (g) This Section is exempt from the provisions of
2 Section 250 of this Act.

3 (h) The Department of Revenue shall promulgate such
4 rules and regulations as may be deemed necessary to carry out
5 the purposes of this Section.

6 Section 5. The Use Tax Act is amended by changing
7 Sections 3-5, 3-55, 3-60, and 3-61 as follows:

8 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

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

1 Assembly, however, an entity otherwise eligible for this
2 exemption shall not make tax-free purchases unless it has an
3 active identification number issued by the Department.

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

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

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

31 (7) Farm chemicals.

32 (8) Legal tender, currency, medallions, or gold or
33 silver coinage issued by the State of Illinois, the
34 government of the United States of America, or the government

1 of any foreign country, and bullion.

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

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

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

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

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

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

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

32 (14) 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 (15) Photoprocessing machinery and equipment, including
8 repair and replacement parts, both new and used, including
9 that manufactured on special order, certified by the
10 purchaser to be used primarily for photoprocessing, and
11 including photoprocessing machinery and equipment purchased
12 for lease.

13 (16) 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 (17) Distillation machinery and equipment, sold as a
19 unit or kit, assembled or installed by the retailer,
20 certified by the user to be used only for the production of
21 ethyl alcohol that will be used for consumption as motor fuel
22 or as a component of motor fuel for the personal use of the
23 user, and not subject to sale or resale.

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

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

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

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

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

1 amount is not refunded to the lessee for any reason, the
2 lessor is liable to pay that amount to the Department.

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

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

34 (25) Beginning with taxable years ending on or after

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

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

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

1 prepare individuals to follow a trade or to pursue a manual,
2 technical, mechanical, industrial, business, or commercial
3 occupation.

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

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

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

1 medical assistance under Article 5 of the Illinois Public Aid
2 Code who resides in a licensed long-term care facility, as
3 defined in the Nursing Home Care Act.

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

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

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

19 (33) On and after July 1, 2003, the use in this State of
20 motor vehicles of the second division with a gross vehicle
21 weight in excess of 8,000 pounds and that are subject to the
22 commercial distribution fee imposed under Section 3-815.1 of
23 the Illinois Vehicle Code. This exemption applies to repair
24 and replacement parts added after the initial purchase of
25 such a motor vehicle if that motor vehicle is used in a
26 manner that would qualify for the rolling stock exemption
27 otherwise provided for in this Act.

28 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
29 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644, eff.
30 8-20-99; 91-901, eff. 1-1-01; 92-35, eff. 7-1-01; 92-227,
31 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
32 92-651, eff. 7-11-02.)

33 (35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

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

5 (a) The use, in this State, of tangible personal
6 property acquired outside this State by a nonresident
7 individual and brought into this State by the individual for
8 his or her own use while temporarily within this State or
9 while passing through this State.

10 (b) The use, in this State, of tangible personal
11 property by an interstate carrier for hire as rolling stock
12 moving in interstate commerce or by lessors under a lease of
13 one year or longer executed or in effect at the time of
14 purchase of tangible personal property by interstate carriers
15 for-hire for use as rolling stock moving in interstate
16 commerce as long as so used by the interstate carriers
17 for-hire, and equipment operated by a telecommunications
18 provider, licensed as a common carrier by the Federal
19 Communications Commission, which is permanently installed in
20 or affixed to aircraft moving in interstate commerce.

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

30 (d) The use, in this State, of tangible personal
31 property that is acquired outside this State and caused to be
32 brought into this State by a person who has already paid a
33 tax in another State in respect to the sale, purchase, or use
34 of that property, to the extent of the amount of the tax

1 properly due and paid in the other State.

2 (e) The temporary storage, in this State, of tangible
3 personal property that is acquired outside this State and
4 that, after being brought into this State and stored here
5 temporarily, is used solely outside this State or is
6 physically attached to or incorporated into other tangible
7 personal property that is used solely outside this State, or
8 is altered by converting, fabricating, manufacturing,
9 printing, processing, or shaping, and, as altered, is used
10 solely outside this State.

11 (f) The temporary storage in this State of building
12 materials and fixtures that are acquired either in this State
13 or outside this State by an Illinois registered combination
14 retailer and construction contractor, and that the purchaser
15 thereafter uses outside this State by incorporating that
16 property into real estate located outside this State.

17 (g) The use or purchase of tangible personal property by
18 a common carrier by rail or motor that receives the physical
19 possession of the property in Illinois, and that transports
20 the property, or shares with another common carrier in the
21 transportation of the property, out of Illinois on a standard
22 uniform bill of lading showing the seller of the property as
23 the shipper or consignor of the property to a destination
24 outside Illinois, for use outside Illinois.

25 (h) The use, in this State, of a motor vehicle that was
26 sold in this State to a nonresident, even though the motor
27 vehicle is delivered to the nonresident in this State, if the
28 motor vehicle is not to be titled in this State, and if a
29 drive-away permit is issued to the motor vehicle as provided
30 in Section 3-603 of the Illinois Vehicle Code or if the
31 nonresident purchaser has vehicle registration plates to
32 transfer to the motor vehicle upon returning to his or her
33 home state. The issuance of the drive-away permit or having
34 the out-of-state registration plates to be transferred shall

1 be prima facie evidence that the motor vehicle will not be
2 titled in this State.

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

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

31 (Source: P.A. 91-51, eff. 6-30-99; 91-313, eff. 7-29-99;
32 91-587, eff. 8-14-99; 92-16, eff. 6-28-01; 92-488, eff.
33 8-23-01; 92-680, eff. 7-16-02.)

1 (35 ILCS 105/3-60) (from Ch. 120, par. 439.3-60)
 2 Sec. 3-60. Rolling stock exemption. Except as provided
 3 in Section 3-61 of this Act, the rolling stock exemption
 4 applies to rolling stock used by an interstate carrier for
 5 hire, even just between points in Illinois, if the rolling
 6 stock transports, for hire, persons whose journeys or
 7 property whose shipments originate or terminate outside
 8 Illinois.
 9 (Source: P.A. 91-51, eff. 6-30-99.)

10 (35 ILCS 105/3-61)
 11 Sec. 3-61. Motor vehicles; use as rolling stock
 12 definition. Through June 30, 2003, "use as rolling stock
 13 moving in interstate commerce" in subsections (b) and (c) of
 14 Section 3-55 means for motor vehicles, as defined in Section
 15 1-146 of the Illinois Vehicle Code, and trailers, as defined
 16 in Section 1-209 of the Illinois Vehicle Code, when on 15 or
 17 more occasions in a 12-month period the motor vehicle and
 18 trailer has carried persons or property for hire in
 19 interstate commerce, even just between points in Illinois, if
 20 the motor vehicle and trailer transports persons whose
 21 journeys or property whose shipments originate or terminate
 22 outside Illinois. This definition applies to all property
 23 purchased for the purpose of being attached to those motor
 24 vehicles or trailers as a part thereof. On and after July 1,
 25 2003, "use as rolling stock moving in interstate commerce" in
 26 paragraphs (b) and (c) of Section 3-55 occurs for motor
 27 vehicles, as defined in Section 1-146 of the Illinois Vehicle
 28 Code, when during a 12-month period the rolling stock has
 29 carried persons or property for hire in interstate commerce
 30 for 51% of its total trips and transports persons whose
 31 journeys or property whose shipments originate or terminate
 32 outside Illinois. Trips that are only between points in
 33 Illinois shall not be counted as interstate trips when

1 calculating whether the tangible personal property qualifies
2 for the exemption but such trips shall be included in total
3 trips taken.

4 (Source: P.A. 91-587, eff. 8-14-99.)

5 Section 10. The Service Use Tax Act is amended by
6 changing Sections 2, 3-45, 3-50, and 3-51 as follows:

7 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

8 Sec. 2. "Use" means the exercise by any person of any
9 right or power over tangible personal property incident to
10 the ownership of that property, but does not include the sale
11 or use for demonstration by him of that property in any form
12 as tangible personal property in the regular course of
13 business. "Use" does not mean the interim use of tangible
14 personal property nor the physical incorporation of tangible
15 personal property, as an ingredient or constituent, into
16 other tangible personal property, (a) which is sold in the
17 regular course of business or (b) which the person
18 incorporating such ingredient or constituent therein has
19 undertaken at the time of such purchase to cause to be
20 transported in interstate commerce to destinations outside
21 the State of Illinois.

22 "Purchased from a serviceman" means the acquisition of
23 the ownership of, or title to, tangible personal property
24 through a sale of service.

25 "Purchaser" means any person who, through a sale of
26 service, acquires the ownership of, or title to, any tangible
27 personal property.

28 "Cost price" means the consideration paid by the
29 serviceman for a purchase valued in money, whether paid in
30 money or otherwise, including cash, credits and services, and
31 shall be determined without any deduction on account of the
32 supplier's cost of the property sold or on account of any

1 other expense incurred by the supplier. When a serviceman
2 contracts out part or all of the services required in his
3 sale of service, it shall be presumed that the cost price to
4 the serviceman of the property transferred to him or her by
5 his or her subcontractor is equal to 50% of the
6 subcontractor's charges to the serviceman in the absence of
7 proof of the consideration paid by the subcontractor for the
8 purchase of such property.

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

20 "Department" means the Department of Revenue.

21 "Person" means any natural individual, firm, partnership,
22 association, joint stock company, joint venture, public or
23 private corporation, limited liability company, and any
24 receiver, executor, trustee, guardian or other representative
25 appointed by order of any court.

26 "Sale of service" means any transaction except:

27 (1) a retail sale of tangible personal property
28 taxable under the Retailers' Occupation Tax Act or under
29 the Use Tax Act.

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

33 (3) except as hereinafter provided, a sale or
34 transfer of tangible personal property as an incident to

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

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

26 (4a) a sale or transfer of tangible personal
27 property as an incident to the rendering of service for
28 owners, lessors, or shippers of tangible personal
29 property which is utilized by interstate carriers for
30 hire for use as rolling stock moving in interstate
31 commerce so long as so used by interstate carriers for
32 hire, and equipment operated by a telecommunications
33 provider, licensed as a common carrier by the Federal
34 Communications Commission, which is permanently installed

1 in or affixed to aircraft moving in interstate commerce.

2 (4a-5) on and after July 1, 2003, a sale or
 3 transfer of a motor vehicle of the second division with
 4 a gross vehicle weight in excess of 8,000 pounds as an
 5 incident to the rendering of service if that motor
 6 vehicle is subject to the commercial distribution fee
 7 imposed under Section 3-815.1 of the Illinois Vehicle
 8 Code. This exemption applies to repair and replacement
 9 parts added after the initial purchase of such a motor
 10 vehicle if that motor vehicle is used in a manner that
 11 would qualify for the rolling stock exemption otherwise
 12 provided for in this Act.

13 (5) a sale or transfer of machinery and equipment
 14 used primarily in the process of the manufacturing or
 15 assembling, either in an existing, an expanded or a new
 16 manufacturing facility, of tangible personal property for
 17 wholesale or retail sale or lease, whether such sale or
 18 lease is made directly by the manufacturer or by some
 19 other person, whether the materials used in the process
 20 are owned by the manufacturer or some other person, or
 21 whether such sale or lease is made apart from or as an
 22 incident to the seller's engaging in a service occupation
 23 and the applicable tax is a Service Use Tax or Service
 24 Occupation Tax, rather than Use Tax or Retailers'
 25 Occupation Tax.

26 (5a) the repairing, reconditioning or remodeling,
 27 for a common carrier by rail, of tangible personal
 28 property which belongs to such carrier for hire, and as
 29 to which such carrier receives the physical possession of
 30 the repaired, reconditioned or remodeled item of tangible
 31 personal property in Illinois, and which such carrier
 32 transports, or shares with another common carrier in the
 33 transportation of such property, out of Illinois on a
 34 standard uniform bill of lading showing the person who

1 repaired, reconditioned or remodeled the property to a
2 destination outside Illinois, for use outside Illinois.

3 (5b) a sale or transfer of tangible personal
4 property which is produced by the seller thereof on
5 special order in such a way as to have made the
6 applicable tax the Service Occupation Tax or the Service
7 Use Tax, rather than the Retailers' Occupation Tax or the
8 Use Tax, for an interstate carrier by rail which receives
9 the physical possession of such property in Illinois, and
10 which transports such property, or shares with another
11 common carrier in the transportation of such property,
12 out of Illinois on a standard uniform bill of lading
13 showing the seller of the property as the shipper or
14 consignor of such property to a destination outside
15 Illinois, for use outside Illinois.

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

24 (7) at the election of any serviceman not required
25 to be otherwise registered as a retailer under Section 2a
26 of the Retailers' Occupation Tax Act, made for each
27 fiscal year sales of service in which the aggregate
28 annual cost price of tangible personal property
29 transferred as an incident to the sales of service is
30 less than 35%, or 75% in the case of servicemen
31 transferring prescription drugs or servicemen engaged in
32 graphic arts production, of the aggregate annual total
33 gross receipts from all sales of service. The purchase of
34 such tangible personal property by the serviceman shall

1 be subject to tax under the Retailers' Occupation Tax Act
2 and the Use Tax Act. However, if a primary serviceman who
3 has made the election described in this paragraph
4 subcontracts service work to a secondary serviceman who
5 has also made the election described in this paragraph,
6 the primary serviceman does not incur a Use Tax liability
7 if the secondary serviceman (i) has paid or will pay Use
8 Tax on his or her cost price of any tangible personal
9 property transferred to the primary serviceman and (ii)
10 certifies that fact in writing to the primary serviceman.

11 Tangible personal property transferred incident to the
12 completion of a maintenance agreement is exempt from the tax
13 imposed pursuant to this Act.

14 Exemption (5) also includes machinery and equipment used
15 in the general maintenance or repair of such exempt machinery
16 and equipment or for in-house manufacture of exempt machinery
17 and equipment. For the purposes of exemption (5), each of
18 these terms shall have the following meanings: (1)
19 "manufacturing process" shall mean the production of any
20 article of tangible personal property, whether such article
21 is a finished product or an article for use in the process of
22 manufacturing or assembling a different article of tangible
23 personal property, by procedures commonly regarded as
24 manufacturing, processing, fabricating, or refining which
25 changes some existing material or materials into a material
26 with a different form, use or name. In relation to a
27 recognized integrated business composed of a series of
28 operations which collectively constitute manufacturing, or
29 individually constitute manufacturing operations, the
30 manufacturing process shall be deemed to commence with the
31 first operation or stage of production in the series, and
32 shall not be deemed to end until the completion of the final
33 product in the last operation or stage of production in the
34 series; and further, for purposes of exemption (5),

1 photoprocessing is deemed to be a manufacturing process of
2 tangible personal property for wholesale or retail sale; (2)
3 "assembling process" shall mean the production of any article
4 of tangible personal property, whether such article is a
5 finished product or an article for use in the process of
6 manufacturing or assembling a different article of tangible
7 personal property, by the combination of existing materials
8 in a manner commonly regarded as assembling which results in
9 a material of a different form, use or name; (3) "machinery"
10 shall mean major mechanical machines or major components of
11 such machines contributing to a manufacturing or assembling
12 process; and (4) "equipment" shall include any independent
13 device or tool separate from any machinery but essential to
14 an integrated manufacturing or assembly process; including
15 computers used primarily in a manufacturer's computer
16 assisted design, computer assisted manufacturing (CAD/CAM)
17 system; or any subunit or assembly comprising a component of
18 any machinery or auxiliary, adjunct or attachment parts of
19 machinery, such as tools, dies, jigs, fixtures, patterns and
20 molds; or any parts which require periodic replacement in the
21 course of normal operation; but shall not include hand tools.
22 Equipment includes chemicals or chemicals acting as catalysts
23 but only if the chemicals or chemicals acting as catalysts
24 effect a direct and immediate change upon a product being
25 manufactured or assembled for wholesale or retail sale or
26 lease. The purchaser of such machinery and equipment who has
27 an active resale registration number shall furnish such
28 number to the seller at the time of purchase. The user of
29 such machinery and equipment and tools without an active
30 resale registration number shall prepare a certificate of
31 exemption for each transaction stating facts establishing the
32 exemption for that transaction, which certificate shall be
33 available to the Department for inspection or audit. The
34 Department shall prescribe the form of the certificate.

1 Any informal rulings, opinions or letters issued by the
2 Department in response to an inquiry or request for any
3 opinion from any person regarding the coverage and
4 applicability of exemption (5) to specific devices shall be
5 published, maintained as a public record, and made available
6 for public inspection and copying. If the informal ruling,
7 opinion or letter contains trade secrets or other
8 confidential information, where possible the Department shall
9 delete such information prior to publication. Whenever such
10 informal rulings, opinions, or letters contain any policy of
11 general applicability, the Department shall formulate and
12 adopt such policy as a rule in accordance with the provisions
13 of the Illinois Administrative Procedure Act.

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

18 The purchase, employment and transfer of such tangible
19 personal property as newsprint and ink for the primary
20 purpose of conveying news (with or without other information)
21 is not a purchase, use or sale of service or of tangible
22 personal property within the meaning of this Act.

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

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

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

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

32 1. having or maintaining within this State,
33 directly or by a subsidiary, an office, distribution
34 house, sales house, warehouse or other place of business,

1 or any agent or other representative operating within
2 this State under the authority of the serviceman or its
3 subsidiary, irrespective of whether such place of
4 business or agent or other representative is located here
5 permanently or temporarily, or whether such serviceman or
6 subsidiary is licensed to do business in this State;

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

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

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

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

28 6. having a franchisee or licensee operating under
29 its trade name if the franchisee or licensee is required
30 to collect the tax under this Section;

31 7. pursuant to a contract with a cable television
32 operator located in this State, soliciting orders for
33 tangible personal property by means of advertising which
34 is transmitted or distributed over a cable television

1 system in this State; or

2 8. engaging in activities in Illinois, which
3 activities in the state in which the supply business
4 engaging in such activities is located would constitute
5 maintaining a place of business in that state.

6 (Source: P.A. 91-51, eff. 6-30-99; 92-484, eff. 8-23-01.)

7 (35 ILCS 110/3-45) (from Ch. 120, par. 439.33-45)

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

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

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

20 (c) The use, in this State, of property that is acquired
21 outside this State and caused to be brought into this State
22 by a person who has already paid a tax in another state in
23 respect to the sale, purchase, or use of that property, to
24 the extent of the amount of the tax properly due and paid in
25 the other state.

26 (d) The temporary storage, in this State, of property
27 that is acquired outside this State and that after being
28 brought into this State and stored here temporarily, is used
29 solely outside this State or is physically attached to or
30 incorporated into other property that is used solely outside
31 this State, or is altered by converting, fabricating,
32 manufacturing, printing, processing, or shaping, and, as
33 altered, is used solely outside this State.

1 (e) Beginning July 1, 1999, the use, in this State, of
2 fuel acquired outside this State and brought into this State
3 in the fuel supply tanks of locomotives engaged in freight
4 hauling and passenger service for interstate commerce. This
5 subsection is exempt from the provisions of Section 3-75.

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

29 (Source: P.A. 91-51, eff. 6-30-99; 91-313, eff. 7-29-99;
30 91-587, eff. 8-14-99; 92-16, eff. 6-28-01; 92-488, eff.
31 8-23-01.)

32 (35 ILCS 110/3-50) (from Ch. 120, par. 439.33-50)

33 Sec. 3-50. Rolling stock exemption. Except as provided

1 in Section 3-51 of this Act, the rolling stock exemption
2 applies to rolling stock used by an interstate carrier for
3 hire, even just between points in Illinois, if the rolling
4 stock transports, for hire, persons whose journeys or
5 property whose shipments originate or terminate outside
6 Illinois.

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

8 (35 ILCS 110/3-51)

9 Sec. 3-51. Motor vehicles; use as rolling stock
10 definition. Through June 30, 2003, "use as rolling stock
11 moving in interstate commerce" in subsection (b) of Section
12 3-45 means for motor vehicles, as defined in Section 1-46 of
13 the Illinois Vehicle Code, and trailers, as defined in
14 Section 1-209 of the Illinois Vehicle Code, when on 15 or
15 more occasions in a 12-month period the motor vehicle and
16 trailer has carried persons or property for hire in
17 interstate commerce, even just between points in Illinois, if
18 the motor vehicle and trailer transports persons whose
19 journeys or property whose shipments originate or terminate
20 outside Illinois. This definition applies to all property
21 purchased for the purpose of being attached to those motor
22 vehicles or trailers as a part thereof. On and after July 1,
23 2003, "use as rolling stock moving in interstate commerce" in
24 paragraphs (4) and (4a) of the definition of "sale of
25 service" in Section 2 and subsection (b) of Section 3-45
26 occurs for motor vehicles, as defined in Section 1-146 of the
27 Illinois Vehicle Code, when during a 12-month period the
28 rolling stock has carried persons or property for hire in
29 interstate commerce for 51% of its total trips and transports
30 persons whose journeys or property whose shipments originate
31 or terminate outside Illinois. Trips that are only between
32 points in Illinois shall not be counted as interstate trips
33 when calculating whether the tangible personal property

1 qualifies for the exemption but such trips shall be included
2 in total trips taken.

3 (Source: P.A. 91-587, eff. 8-14-99.)

4 Section 15. The Service Occupation Tax Act is amended by
5 changing Sections 2 and 2d as follows:

6 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

7 Sec. 2. "Transfer" means any transfer of the title to
8 property or of the ownership of property whether or not the
9 transferor retains title as security for the payment of
10 amounts due him from the transferee.

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

24 "Department" means the Department of Revenue.

25 "Person" means any natural individual, firm, partnership,
26 association, joint stock company, joint venture, public or
27 private corporation, limited liability company, and any
28 receiver, executor, trustee, guardian or other representative
29 appointed by order of any court.

30 "Sale of Service" means any transaction except:

31 (a) A retail sale of tangible personal property taxable
32 under the Retailers' Occupation Tax Act or under the Use Tax

1 Act.

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

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

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

29 (d-1) A sale or transfer of tangible personal property
30 as an incident to the rendering of service for owners,
31 lessors or shippers of tangible personal property which is
32 utilized by interstate carriers for hire for use as rolling
33 stock moving in interstate commerce, and equipment operated
34 by a telecommunications provider, licensed as a common

1 carrier by the Federal Communications Commission, which is
2 permanently installed in or affixed to aircraft moving in
3 interstate commerce.

4 (d-1.1) On and after July 1, 2003, a sale or transfer of
5 a motor vehicle of the second division with a gross vehicle
6 weight in excess of 8,000 pounds as an incident to the
7 rendering of service if that motor vehicle is subject to the
8 commercial distribution fee imposed under Section 3-815.1 of
9 the Illinois Vehicle Code. This exemption applies to repair
10 and replacement parts added after the initial purchase of
11 such a motor vehicle if that motor vehicle is used in a
12 manner that would qualify for the rolling stock exemption
13 otherwise provided for in this Act.

14 (d-2) The repairing, reconditioning or remodeling, for a
15 common carrier by rail, of tangible personal property which
16 belongs to such carrier for hire, and as to which such
17 carrier receives the physical possession of the repaired,
18 reconditioned or remodeled item of tangible personal property
19 in Illinois, and which such carrier transports, or shares
20 with another common carrier in the transportation of such
21 property, out of Illinois on a standard uniform bill of
22 lading showing the person who repaired, reconditioned or
23 remodeled the property as the shipper or consignor of such
24 property to a destination outside Illinois, for use outside
25 Illinois.

26 (d-3) A sale or transfer of tangible personal property
27 which is produced by the seller thereof on special order in
28 such a way as to have made the applicable tax the Service
29 Occupation Tax or the Service Use Tax, rather than the
30 Retailers' Occupation Tax or the Use Tax, for an interstate
31 carrier by rail which receives the physical possession of
32 such property in Illinois, and which transports such
33 property, or shares with another common carrier in the
34 transportation of such property, out of Illinois on a

1 standard uniform bill of lading showing the seller of the
2 property as the shipper or consignor of such property to a
3 destination outside Illinois, for use outside Illinois.

4 (d-4) Until January 1, 1997, a sale, by a registered
5 serviceman paying tax under this Act to the Department, of
6 special order printed materials delivered outside Illinois
7 and which are not returned to this State, if delivery is made
8 by the seller or agent of the seller, including an agent who
9 causes the product to be delivered outside Illinois by a
10 common carrier or the U.S. postal service.

11 (e) A sale or transfer of machinery and equipment used
12 primarily in the process of the manufacturing or assembling,
13 either in an existing, an expanded or a new manufacturing
14 facility, of tangible personal property for wholesale or
15 retail sale or lease, whether such sale or lease is made
16 directly by the manufacturer or by some other person, whether
17 the materials used in the process are owned by the
18 manufacturer or some other person, or whether such sale or
19 lease is made apart from or as an incident to the seller's
20 engaging in a service occupation and the applicable tax is a
21 Service Occupation Tax or Service Use Tax, rather than
22 Retailers' Occupation Tax or Use Tax.

23 (f) The sale or transfer of distillation machinery and
24 equipment, sold as a unit or kit and assembled or installed
25 by the retailer, which machinery and equipment is certified
26 by the user to be used only for the production of ethyl
27 alcohol that will be used for consumption as motor fuel or as
28 a component of motor fuel for the personal use of such user
29 and not subject to sale or resale.

30 (g) At the election of any serviceman not required to be
31 otherwise registered as a retailer under Section 2a of the
32 Retailers' Occupation Tax Act, made for each fiscal year
33 sales of service in which the aggregate annual cost price of
34 tangible personal property transferred as an incident to the

1 sales of service is less than 35% (75% in the case of
2 servicemen transferring prescription drugs or servicemen
3 engaged in graphic arts production) of the aggregate annual
4 total gross receipts from all sales of service. The purchase
5 of such tangible personal property by the serviceman shall be
6 subject to tax under the Retailers' Occupation Tax Act and
7 the Use Tax Act. However, if a primary serviceman who has
8 made the election described in this paragraph subcontracts
9 service work to a secondary serviceman who has also made the
10 election described in this paragraph, the primary serviceman
11 does not incur a Use Tax liability if the secondary
12 serviceman (i) has paid or will pay Use Tax on his or her
13 cost price of any tangible personal property transferred to
14 the primary serviceman and (ii) certifies that fact in
15 writing to the primary serviceman.

16 Tangible personal property transferred incident to the
17 completion of a maintenance agreement is exempt from the tax
18 imposed pursuant to this Act.

19 Exemption (e) also includes machinery and equipment used
20 in the general maintenance or repair of such exempt machinery
21 and equipment or for in-house manufacture of exempt machinery
22 and equipment. For the purposes of exemption (e), each of
23 these terms shall have the following meanings: (1)
24 "manufacturing process" shall mean the production of any
25 article of tangible personal property, whether such article
26 is a finished product or an article for use in the process of
27 manufacturing or assembling a different article of tangible
28 personal property, by procedures commonly regarded as
29 manufacturing, processing, fabricating, or refining which
30 changes some existing material or materials into a material
31 with a different form, use or name. In relation to a
32 recognized integrated business composed of a series of
33 operations which collectively constitute manufacturing, or
34 individually constitute manufacturing operations, the

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

1 tools without an active resale registration number shall
2 furnish to the seller a certificate of exemption for each
3 transaction stating facts establishing the exemption for that
4 transaction, which certificate shall be available to the
5 Department for inspection or audit.

6 Except as provided in Section 2d of this Act, the rolling
7 stock exemption applies to rolling stock used by an
8 interstate carrier for hire, even just between points in
9 Illinois, if such rolling stock transports, for hire, persons
10 whose journeys or property whose shipments originate or
11 terminate outside Illinois.

12 Any informal rulings, opinions or letters issued by the
13 Department in response to an inquiry or request for any
14 opinion from any person regarding the coverage and
15 applicability of exemption (e) to specific devices shall be
16 published, maintained as a public record, and made available
17 for public inspection and copying. If the informal ruling,
18 opinion or letter contains trade secrets or other
19 confidential information, where possible the Department shall
20 delete such information prior to publication. Whenever such
21 informal rulings, opinions, or letters contain any policy of
22 general applicability, the Department shall formulate and
23 adopt such policy as a rule in accordance with the provisions
24 of the Illinois Administrative Procedure Act.

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

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

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

33 "Supplier" means any person who makes sales of tangible
34 personal property to servicemen for the purpose of resale as

1 an incident to a sale of service.

2 (Source: P.A. 91-51, eff. 6-30-99; 92-484, eff. 8-23-01;
3 revised 11-22-02.)

4 (35 ILCS 115/2d)

5 Sec. 2d. Motor vehicles; use as rolling stock definition.
6 Through June 30, 2003, "use as rolling stock moving in
7 interstate commerce" in subsections (d) and (d-1) of the
8 definition of "sale of service" in Section 2 means for motor
9 vehicles, as defined in Section 1-146 of the Illinois Vehicle
10 Code, and trailers, as defined in Section 1-209 of the
11 Illinois Vehicle Code, when on 15 or more occasions in a
12 12-month period the motor vehicle and trailer has carried
13 persons or property for hire in interstate commerce, even
14 just between points in Illinois, if the motor vehicle and
15 trailer transports persons whose journeys or property whose
16 shipments originate or terminate outside Illinois. This
17 definition applies to all property purchased for the purpose
18 of being attached to those motor vehicles or trailers as a
19 part thereof. On and after July 1, 2003, "use as rolling
20 stock moving in interstate commerce" in paragraphs (d) and
21 (d-1) of the definition of "sale of service" in Section 2
22 occurs for motor vehicles, as defined in Section 1-146 of the
23 Illinois Vehicle Code, when during a 12-month period the
24 rolling stock has carried persons or property for hire in
25 interstate commerce for 51% of its total trips and transports
26 persons whose journeys or property whose shipments originate
27 or terminate outside Illinois. Trips that are only between
28 points in Illinois will not be counted as interstate trips
29 when calculating whether the tangible personal property
30 qualifies for the exemption but such trips will be included
31 in total trips taken.

32 (Source: P.A. 91-587, eff. 8-14-99.)

1 Section 20. The Retailers' Occupation Tax Act is amended
2 by changing Sections 2-5, 2-50, and 2-51 as follows:

3 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

7 (1) Farm chemicals.

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

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

1 and other such equipment.

2 Farm machinery and equipment also includes computers,
3 sensors, software, and related equipment used primarily in
4 the computer-assisted operation of production agriculture
5 facilities, equipment, and activities such as, but not
6 limited to, the collection, monitoring, and correlation of
7 animal and crop data for the purpose of formulating animal
8 diets and agricultural chemicals. This item (7) is exempt
9 from the provisions of Section 2-70.

10 (3) Distillation machinery and equipment, sold as a unit
11 or kit, assembled or installed by the retailer, certified by
12 the user to be used only for the production of ethyl alcohol
13 that will be used for consumption as motor fuel or as a
14 component of motor fuel for the personal use of the user, and
15 not subject to sale or resale.

16 (4) 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 (5) A motor vehicle of the first division, a motor
25 vehicle of the second division that is a self-contained motor
26 vehicle designed or permanently converted to provide living
27 quarters for recreational, camping, or travel use, with
28 direct walk through access to the living quarters from the
29 driver's seat, or a motor vehicle of the second division that
30 is of the van configuration designed for the transportation
31 of not less than 7 nor more than 16 passengers, as defined in
32 Section 1-146 of the Illinois Vehicle Code, that is used for
33 automobile renting, as defined in the Automobile Renting
34 Occupation and Use Tax Act.

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

4 (7) Proceeds of that portion of the selling price of a
5 passenger car the sale of which is subject to the Replacement
6 Vehicle Tax.

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

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

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

32 (11) Personal property sold to a governmental body, to a
33 corporation, society, association, foundation, or institution
34 organized and operated exclusively for charitable, religious,

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

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

22 (12-5) On and after July 1, 2003, motor vehicles of the
23 second division with a gross vehicle weight in excess of
24 8,000 pounds that are subject to the commercial distribution
25 fee imposed under Section 3-815.1 of the Illinois Vehicle
26 Code. This exemption applies to repair and replacement parts
27 added after the initial purchase of such a motor vehicle if
28 that motor vehicle is used in a manner that would qualify for
29 the rolling stock exemption otherwise provided for in this
30 Act.

31 (13) Proceeds from sales to owners, lessors, or shippers
32 of tangible personal property that is utilized by interstate
33 carriers for hire for use as rolling stock moving in
34 interstate commerce and equipment operated by a

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

5 (14) Machinery and equipment that will be used by the
6 purchaser, or a lessee of the purchaser, primarily in the
7 process of manufacturing or assembling tangible personal
8 property for wholesale or retail sale or lease, whether the
9 sale or lease is made directly by the manufacturer or by some
10 other person, whether the materials used in the process are
11 owned by the manufacturer or some other person, or whether
12 the sale or lease is made apart from or as an incident to the
13 seller's engaging in the service occupation of producing
14 machines, tools, dies, jigs, patterns, gauges, or other
15 similar items of no commercial value on special order for a
16 particular purchaser.

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

25 (16) Petroleum products sold to a purchaser if the
26 seller is prohibited by federal law from charging tax to the
27 purchaser.

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

1 for use outside Illinois.

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

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

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

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

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

33 (23) A transaction in which the purchase order is
34 received by a florist who is located outside Illinois, but

1 who has a florist located in Illinois deliver the property to
2 the purchaser or the purchaser's donee in Illinois.

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

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

20 (26) Semen used for artificial insemination of livestock
21 for direct agricultural production.

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

28 (28) Computers and communications equipment utilized for
29 any hospital purpose and equipment used in the diagnosis,
30 analysis, or treatment of hospital patients sold to a lessor
31 who leases the equipment, under a lease of one year or longer
32 executed or in effect at the time of the purchase, to a
33 hospital that has been issued an active tax exemption
34 identification number by the Department under Section 1g of

1 this Act.

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

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

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

30 (32) Beginning July 1, 1999, game or game birds sold at
31 a "game breeding and hunting preserve area" or an "exotic
32 game hunting area" as those terms are used in the Wildlife
33 Code or at a hunting enclosure approved through rules adopted
34 by the Department of Natural Resources. This paragraph is

1 exempt from the provisions of Section 2-70.

2 (33) A motor vehicle, as that term is defined in Section
3 1-146 of the Illinois Vehicle Code, that is donated to a
4 corporation, limited liability company, society, association,
5 foundation, or institution that is determined by the
6 Department to be organized and operated exclusively for
7 educational purposes. For purposes of this exemption, "a
8 corporation, limited liability company, society, association,
9 foundation, or institution organized and operated exclusively
10 for educational purposes" means all tax-supported public
11 schools, private schools that offer systematic instruction in
12 useful branches of learning by methods common to public
13 schools and that compare favorably in their scope and
14 intensity with the course of study presented in tax-supported
15 schools, and vocational or technical schools or institutes
16 organized and operated exclusively to provide a course of
17 study of not less than 6 weeks duration and designed to
18 prepare individuals to follow a trade or to pursue a manual,
19 technical, mechanical, industrial, business, or commercial
20 occupation.

21 (34) Beginning January 1, 2000, personal property,
22 including food, purchased through fundraising events for the
23 benefit of a public or private elementary or secondary
24 school, a group of those schools, or one or more school
25 districts if the events are sponsored by an entity recognized
26 by the school district that consists primarily of volunteers
27 and includes parents and teachers of the school children.
28 This paragraph does not apply to fundraising events (i) for
29 the benefit of private home instruction or (ii) for which the
30 fundraising entity purchases the personal property sold at
31 the events from another individual or entity that sold the
32 property for the purpose of resale by the fundraising entity
33 and that profits from the sale to the fundraising entity.
34 This paragraph is exempt from the provisions of Section 2-70.

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

11 ~~(35-5)~~ ~~(36)~~ Food for human consumption that is to be
 12 consumed off the premises where it is sold (other than
 13 alcoholic beverages, soft drinks, and food that has been
 14 prepared for immediate consumption) and prescription and
 15 nonprescription medicines, drugs, medical appliances, and
 16 insulin, urine testing materials, syringes, and needles used
 17 by diabetics, for human use, when purchased for use by a
 18 person receiving medical assistance under Article 5 of the
 19 Illinois Public Aid Code who resides in a licensed long-term
 20 care facility, as defined in the Nursing Home Care Act.

21 (36) Beginning August 2, 2001 ~~on-the-effective--date--of~~
 22 ~~this--amendatory--Act-of-the-92nd-General-Assembly~~, computers
 23 and communications equipment utilized for any hospital
 24 purpose and equipment used in the diagnosis, analysis, or
 25 treatment of hospital patients sold to a lessor who leases
 26 the equipment, under a lease of one year or longer executed
 27 or in effect at the time of the purchase, to a hospital that
 28 has been issued an active tax exemption identification number
 29 by the Department under Section 1g of this Act. This
 30 paragraph is exempt from the provisions of Section 2-70.

31 (37) Beginning August 2, 2001 ~~on-the-effective--date--of~~
 32 ~~this--amendatory--Act--of-the-92nd-General-Assembly~~, personal
 33 property sold to a lessor who leases the property, under a
 34 lease of one year or longer executed or in effect at the time

1 of the purchase, to a governmental body that has been issued
2 an active tax exemption identification number by the
3 Department under Section 1g of this Act. This paragraph is
4 exempt from the provisions of Section 2-70.

5 (38) Beginning on January 1, 2002, tangible personal
6 property purchased from an Illinois retailer by a taxpayer
7 engaged in centralized purchasing activities in Illinois who
8 will, upon receipt of the property in Illinois, temporarily
9 store the property in Illinois (i) for the purpose of
10 subsequently transporting it outside this State for use or
11 consumption thereafter solely outside this State or (ii) for
12 the purpose of being processed, fabricated, or manufactured
13 into, attached to, or incorporated into other tangible
14 personal property to be transported outside this State and
15 thereafter used or consumed solely outside this State. The
16 Director of Revenue shall, pursuant to rules adopted in
17 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 paragraph (38). The permit issued under this paragraph (38)
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
27 the State of Illinois.

28 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
29 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff.
30 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35,
31 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01;
32 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; 92-651, eff.
33 7-11-02; 92-680, eff. 7-16-02; revised 1-26-03.)

1 (35 ILCS 120/2-50) (from Ch. 120, par. 441-50)

2 Sec. 2-50. Rolling stock exemption. Except as provided
3 in Section 2-51 of this Act, the rolling stock exemption
4 applies to rolling stock used by an interstate carrier for
5 hire, even just between points in Illinois, if the rolling
6 stock transports, for hire, persons whose journeys or
7 property whose shipments originate or terminate outside
8 Illinois.

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

10 (35 ILCS 120/2-51)

11 Sec. 2-51. Motor vehicles; use as rolling stock
12 definition. Through June 30, 2003, "use as rolling stock
13 moving in interstate commerce" in paragraphs (12) and (13) of
14 Section 2-5 means for motor vehicles, as defined in Section
15 1-146 of the Illinois Vehicle Code, and trailers, as defined
16 in Section 1-209 of the Illinois Vehicle Code, when on 15 or
17 more occasions in a 12-month period the motor vehicle and
18 trailer has carried persons or property for hire in
19 interstate commerce, even just between points in Illinois, if
20 the motor vehicle and trailer transports persons whose
21 journeys or property whose shipments originate or terminate
22 outside Illinois. This definition applies to all property
23 purchased for the purpose of being attached to those motor
24 vehicles or trailers as a part thereof. On and after July 1,
25 2003, "use as rolling stock moving in interstate commerce" in
26 paragraphs (12) and (13) of Section 2-5 occurs for motor
27 vehicles, as defined in Section 1-146 of the Illinois Vehicle
28 Code, when during a 12-month period the rolling stock has
29 carried persons or property for hire in interstate commerce
30 for 51% of its total trips and transports persons whose
31 journeys or property whose shipments originate or terminate
32 outside Illinois. Trips that are only between points in
33 Illinois shall not be counted as interstate trips when

1 calculating whether the tangible personal property qualifies
2 for the exemption but such trips shall be included in total
3 trips taken.

4 (Source: P.A. 91-587, eff. 8-14-99.)

5 Section 25. The Illinois Vehicle Code is amended by
6 changing Sections 3-402.1 and 20-101 and by adding Section
7 3-815.1 as follows:

8 (625 ILCS 5/3-402.1) (from Ch. 95 1/2, par. 3-402.1)

9 Sec. 3-402.1. Proportional Registration. Any owner or
10 rental owner engaged in operating a fleet of apportionable
11 vehicles in this state and one or more other states may, in
12 lieu of registration of such vehicles under the general
13 provisions of sections 3-402, 3-815, 3-815.1, and 3-819,
14 register and license such fleet for operations in this state
15 by filing an application statement, signed under penalties of
16 perjury, with the Secretary of State which shall be in such
17 form and contain such information as the Secretary of State
18 shall require, declaring the total mileage operated in all
19 states by such fleet, the total mileage operated in this
20 state by such fleet during the preceding year, and describing
21 and identifying each apportionable vehicle to be operated in
22 this state during the ensuing year. If mileage data is not
23 available for the preceding year, the Secretary of State may
24 accept the latest 12-month period available. "Preceding year"
25 means the period of 12 consecutive months immediately prior
26 to July 1st of the year immediately preceding the
27 registration or license year for which proportional
28 registration is sought.

29 Such owner shall determine the proportion of in-state
30 miles to total fleet miles. Such percentage figure shall be
31 such owner's apportionment factor. In determining the total
32 fee payment, such owner shall first compute the license fee

1 or fees for each vehicle within the fleet which would
2 otherwise be required, and then multiply the said amount by
3 the Illinois apportionment factor adding the fees for each
4 vehicle to arrive at a total amount for the fleet.
5 Apportionable trailers and semitrailers will be registered in
6 accordance with the provisions of Section 3-813 of this Code.

7 Upon receipt of the appropriate fees from such owner as
8 computed under the provisions of this section, the Secretary
9 of State shall, when this state is the base jurisdiction,
10 issue to such owner number plates or other distinctive tags
11 or such evidence of registration as the Secretary of State
12 shall deem appropriate to identify each vehicle in the fleet
13 as a part of a proportionally registered interstate fleet.

14 Vehicles registered under the provision of this section
15 shall be considered fully licensed and properly registered in
16 Illinois for any type of movement or operation. The
17 proportional registration and licensing provisions of this
18 section shall apply to vehicles added to fleets and operated
19 in this state during the registration year, applying the same
20 apportionment factor to such fees as would be payable for the
21 remainder of the registration year.

22 Apportionment factors for apportionable vehicles not
23 operated in this state during the preceding year shall be
24 determined by the Secretary of State on the basis of a full
25 statement of the proposed methods of operation and in
26 conformity with an estimated mileage chart as calculated by
27 the Secretary of State. An established fleet adding states
28 at the time of renewal shall estimate mileage for the added
29 states in conformity with a mileage chart developed by the
30 Secretary of State.

31 (Source: P.A. 90-89, eff. 1-1-98.)

32 (625 ILCS 5/3-815.1 new)

33 Sec. 3-815.1. Commercial distribution fee. Beginning

1 July 1, 2003, in addition to any tax or fee imposed under
2 this Code:

3 (a) vehicles of the second division with a gross vehicle
4 weight that exceeds 8,000 pounds and that incur any tax or
5 fee under subsection (a) of Section 3-815 of this Code or
6 subsection (a) of Section 3-818 of this Code, as applicable,
7 and shall pay to the Secretary of State a commercial
8 distribution fee, for each registration year, for the use of
9 the public highways, State infrastructure, and State
10 services, in an amount equal to 36% of the taxes and fees
11 incurred under subsection (a) of Section 3-815 of this Code,
12 or subsection (a) of Section 3-818 of this Code, as
13 applicable, rounded up to the nearest whole dollar.

14 (b) vehicles of the second division with a gross vehicle
15 weight of 8,000 pounds or less and that incur any tax or fee
16 under subsection (a) of Section 3-815 of this Code or
17 subsection (a) of Section 3-818 of this Code, as applicable,
18 and have claimed the rolling stock exemption under the
19 Retailers' Occupation Tax Act, Use Tax Act, Service
20 Occupation Tax Act, or Service Use Tax Act shall pay to the
21 Illinois Department of Revenue (or the Secretary of State
22 under an intergovernmental agreement) a commercial
23 distribution fee, for each registration year, for the use of
24 the public highways, State infrastructure, and State
25 services, in an amount equal to 36% of the taxes and fees
26 incurred under subsection (a) of Section 3-815 of this Code
27 or subsection (a) of Section 3-818 of this Code, as
28 applicable, rounded up to the nearest whole dollar.

29 The fees paid under this Section shall be deposited by
30 the Secretary of State into the General Revenue Fund.

31 (625 ILCS 5/20-101) (from Ch. 95 1/2, par. 20-101)

32 Sec. 20-101. Moneys derived from registration, operation
33 and use of automobiles and from fuel taxes - Use. From and

1 after the effective date of this Act, except as provided in
2 Section 3-815.1 of this Code, no public moneys derived from
3 fees, excises or license taxes relating to registration,
4 operation and use of vehicles on public highways or to fuels
5 used for the propulsion of such vehicles, shall be
6 appropriated or expended other than for costs of
7 administering the laws imposing such fees, excises and
8 license taxes, statutory refunds and adjustments allowed
9 thereunder, administrative costs of the Department of
10 Transportation, payment of debts and liabilities incurred in
11 construction and reconstruction of public highways and
12 bridges, acquisition of rights-of-way for, and the cost of
13 construction, reconstruction, maintenance, repair and
14 operation of public highways and bridges under the direction
15 and supervision of the State, political subdivision or
16 municipality collecting such moneys, and the costs for
17 patrolling and policing the public highways (by the State,
18 political subdivision or municipality collecting such money)
19 for enforcement of traffic laws; provided, that such moneys
20 may be used for the retirement of and interest on bonds
21 heretofore issued for purposes other than the construction of
22 public highways or bridges but not to a greater extent, nor a
23 greater length of time, than is provided in acts heretofore
24 adopted and now in force. Further the separation of grades of
25 such highways with railroads and costs associated with
26 protection of at-grade highway and railroad crossings shall
27 also be permissible.

28 (Source: P.A. 81-2nd S.S.-3.)

29 Section 99. Effective date. This Act takes effect upon
30 becoming law.