



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4447

Introduced 4/29/2009, by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

| | |
|-----------------|------------------------------|
| 35 ILCS 105/3-5 | from Ch. 120, par. 439.3-5 |
| 35 ILCS 110/3-5 | from Ch. 120, par. 439.33-5 |
| 35 ILCS 115/3-5 | from Ch. 120, par. 439.103-5 |
| 35 ILCS 120/2-5 | from Ch. 120, par. 441-5 |

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that the farm machinery and equipment exemption also applies to subsurface tile drainage systems used primarily for agricultural purposes and any component parts for those systems.

LRB096 12479 HLH 25503 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

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

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

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

19 (3) Personal property purchased by a not-for-profit arts or
20 cultural organization that establishes, by proof required by
21 the Department by rule, that it has received an exemption under
22 Section 501(c)(3) of the Internal Revenue Code and that is
23 organized and operated primarily for the presentation or

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

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

25 (5) Until July 1, 2003, a passenger car that is a
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

2 (6) Until July 1, 2003 and beginning again on September 1,
3 2004, graphic arts machinery and equipment, including repair
4 and replacement parts, both new and used, and including that
5 manufactured on special order, certified by the purchaser to be
6 used primarily for graphic arts production, and including
7 machinery and equipment purchased for lease. Equipment
8 includes chemicals or chemicals acting as catalysts but only if
9 the chemicals or chemicals acting as catalysts effect a direct
10 and immediate change upon a graphic arts product.

11 (7) Farm chemicals.

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

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

19 (10) A motor vehicle of the first division, a motor vehicle
20 of the second division that is a self-contained motor vehicle
21 designed or permanently converted to provide living quarters
22 for recreational, camping, or travel use, with direct walk
23 through to the living quarters from the driver's seat, or a
24 motor vehicle of the second division that is of the van
25 configuration designed for the transportation of not less than
26 7 nor more than 16 passengers, as defined in Section 1-146 of

1 the Illinois Vehicle Code, that is used for automobile renting,
2 as defined in the Automobile Renting Occupation and Use Tax
3 Act.

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

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not
2 limited to, soil testing sensors, computers, monitors,
3 software, global positioning and mapping systems, and other
4 such equipment.

5 Farm machinery and equipment also includes subsurface tile
6 drainage systems used primarily for agricultural purposes and
7 any component parts for those systems.

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

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

23 (13) Proceeds of mandatory service charges separately
24 stated on customers' bills for the purchase and consumption of
25 food and beverages purchased at retail from a retailer, to the
26 extent that the proceeds of the service charge are in fact

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

5 (14) Until July 1, 2003, oil field exploration, drilling,
6 and production equipment, including (i) rigs and parts of rigs,
7 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
8 tubular goods, including casing and drill strings, (iii) pumps
9 and pump-jack units, (iv) storage tanks and flow lines, (v) any
10 individual replacement part for oil field exploration,
11 drilling, and production equipment, and (vi) machinery and
12 equipment purchased for lease; but excluding motor vehicles
13 required to be registered under the Illinois Vehicle Code.

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

19 (16) Until July 1, 2003, coal exploration, mining,
20 offhighway hauling, processing, maintenance, and reclamation
21 equipment, including replacement parts and equipment, and
22 including equipment purchased for lease, but excluding motor
23 vehicles required to be registered under the Illinois Vehicle
24 Code.

25 (17) Until July 1, 2003, distillation machinery and
26 equipment, sold as a unit or kit, assembled or installed by the

1 retailer, certified by the user to be used only for the
2 production of ethyl alcohol that will be used for consumption
3 as motor fuel or as a component of motor fuel for the personal
4 use of the user, and not subject to sale or resale.

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

16 (19) Personal property delivered to a purchaser or
17 purchaser's donee inside Illinois when the purchase order for
18 that personal property was received by a florist located
19 outside Illinois who has a florist located inside Illinois
20 deliver the personal property.

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

23 (21) Horses, or interests in horses, registered with and
24 meeting the requirements of any of the Arabian Horse Club
25 Registry of America, Appaloosa Horse Club, American Quarter
26 Horse Association, United States Trotting Association, or

1 Jockey Club, as appropriate, used for purposes of breeding or
2 racing for prizes. This item (21) is exempt from the provisions
3 of Section 3-90, and the exemption provided for under this item
4 (21) applies for all periods beginning May 30, 1995, but no
5 claim for credit or refund is allowed on or after January 1,
6 2008 for such taxes paid during the period beginning May 30,
7 2000 and ending on January 1, 2008.

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

1 a legal right to claim a refund of that amount from the lessor.
2 If, however, that amount is not refunded to the lessee for any
3 reason, the lessor is liable to pay that amount to the
4 Department.

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

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

1 before December 31, 2004, personal property that is donated for
2 disaster relief to be used in a State or federally declared
3 disaster area in Illinois or bordering Illinois by a
4 manufacturer or retailer that is registered in this State to a
5 corporation, society, association, foundation, or institution
6 that has been issued a sales tax exemption identification
7 number by the Department that assists victims of the disaster
8 who reside within the declared disaster area.

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

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

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

19 (28) Beginning January 1, 2000, personal property,
20 including food, purchased through fundraising events for the
21 benefit of a public or private elementary or secondary school,
22 a group of those schools, or one or more school districts if
23 the events are sponsored by an entity recognized by the school
24 district that consists primarily of volunteers and includes
25 parents and teachers of the school children. This paragraph
26 does not apply to fundraising events (i) for the benefit of

1 private home instruction or (ii) for which the fundraising
2 entity purchases the personal property sold at the events from
3 another individual or entity that sold the property for the
4 purpose of resale by the fundraising entity and that profits
5 from the sale to the fundraising entity. This paragraph is
6 exempt from the provisions of Section 3-90.

7 (29) Beginning January 1, 2000 and through December 31,
8 2001, new or used automatic vending machines that prepare and
9 serve hot food and beverages, including coffee, soup, and other
10 items, and replacement parts for these machines. Beginning
11 January 1, 2002 and through June 30, 2003, machines and parts
12 for machines used in commercial, coin-operated amusement and
13 vending business if a use or occupation tax is paid on the
14 gross receipts derived from the use of the commercial,
15 coin-operated amusement and vending machines. This paragraph
16 is exempt from the provisions of Section 3-90.

17 (30) Beginning January 1, 2001 and through June 30, 2011,
18 food for human consumption that is to be consumed off the
19 premises where it is sold (other than alcoholic beverages, soft
20 drinks, and food that has been prepared for immediate
21 consumption) and prescription and nonprescription medicines,
22 drugs, medical appliances, and insulin, urine testing
23 materials, syringes, and needles used by diabetics, for human
24 use, when purchased for use by a person receiving medical
25 assistance under Article 5 of the Illinois Public Aid Code who
26 resides in a licensed long-term care facility, as defined in

1 the Nursing Home Care Act.

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

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

24 (33) On and after July 1, 2003 and through June 30, 2004,
25 the use in this State of motor vehicles of the second division
26 with a gross vehicle weight in excess of 8,000 pounds and that

1 are subject to the commercial distribution fee imposed under
2 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
3 1, 2004 and through June 30, 2005, the use in this State of
4 motor vehicles of the second division: (i) with a gross vehicle
5 weight rating in excess of 8,000 pounds; (ii) that are subject
6 to the commercial distribution fee imposed under Section
7 3-815.1 of the Illinois Vehicle Code; and (iii) that are
8 primarily used for commercial purposes. Through June 30, 2005,
9 this exemption applies to repair and replacement parts added
10 after the initial purchase of such a motor vehicle if that
11 motor vehicle is used in a manner that would qualify for the
12 rolling stock exemption otherwise provided for in this Act. For
13 purposes of this paragraph, the term "used for commercial
14 purposes" means the transportation of persons or property in
15 furtherance of any commercial or industrial enterprise,
16 whether for-hire or not.

17 (34) Beginning January 1, 2008, tangible personal property
18 used in the construction or maintenance of a community water
19 supply, as defined under Section 3.145 of the Environmental
20 Protection Act, that is operated by a not-for-profit
21 corporation that holds a valid water supply permit issued under
22 Title IV of the Environmental Protection Act. This paragraph is
23 exempt from the provisions of Section 3-90.

24 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
25 eff. 1-1-08; 95-876, eff. 8-21-08.)

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

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

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

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

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

16 (3) Personal property purchased by a not-for-profit arts or
17 cultural organization that establishes, by proof required by
18 the Department by rule, that it has received an exemption under
19 Section 501(c)(3) of the Internal Revenue Code and that is
20 organized and operated primarily for the presentation or
21 support of arts or cultural programming, activities, or
22 services. These organizations include, but are not limited to,
23 music and dramatic arts organizations such as symphony
24 orchestras and theatrical groups, arts and cultural service
25 organizations, local arts councils, visual arts organizations,

1 and media arts organizations. On and after the effective date
2 of this amendatory Act of the 92nd General Assembly, however,
3 an entity otherwise eligible for this exemption shall not make
4 tax-free purchases unless it has an active identification
5 number issued by the Department.

6 (4) Legal tender, currency, medallions, or gold or silver
7 coinage issued by the State of Illinois, the government of the
8 United States of America, or the government of any foreign
9 country, and bullion.

10 (5) Until July 1, 2003 and beginning again on September 1,
11 2004, graphic arts machinery and equipment, including repair
12 and replacement parts, both new and used, and including that
13 manufactured on special order or purchased for lease, certified
14 by the purchaser to be used primarily for graphic arts
15 production. Equipment includes chemicals or chemicals acting
16 as catalysts but only if the chemicals or chemicals acting as
17 catalysts effect a direct and immediate change upon a graphic
18 arts product.

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

22 (7) Farm machinery and equipment, both new and used,
23 including that manufactured on special order, certified by the
24 purchaser to be used primarily for production agriculture or
25 State or federal agricultural programs, including individual
26 replacement parts for the machinery and equipment, including

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

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

23 Farm machinery and equipment also includes subsurface tile
24 drainage systems used primarily for agricultural purposes and
25 any component parts for those systems.

26 Farm machinery and equipment also includes computers,

1 sensors, software, and related equipment used primarily in the
2 computer-assisted operation of production agriculture
3 facilities, equipment, and activities such as, but not limited
4 to, the collection, monitoring, and correlation of animal and
5 crop data for the purpose of formulating animal diets and
6 agricultural chemicals. This item (7) is exempt from the
7 provisions of Section 3-75.

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

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

24 (10) Until July 1, 2003, oil field exploration, drilling,
25 and production equipment, including (i) rigs and parts of rigs,
26 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and

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

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

13 (12) Until July 1, 2003, coal exploration, mining,
14 offhighway hauling, processing, maintenance, and reclamation
15 equipment, including replacement parts and equipment, and
16 including equipment purchased for lease, but excluding motor
17 vehicles required to be registered under the Illinois Vehicle
18 Code.

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

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

1 of Section 3-75, and the exemption provided for under this item
2 (14) applies for all periods beginning May 30, 1995, but no
3 claim for credit or refund is allowed on or after the effective
4 date of this amendatory Act of the 95th General Assembly for
5 such taxes paid during the period beginning May 30, 2000 and
6 ending on the effective date of this amendatory Act of the 95th
7 General Assembly.

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

1 refund of that amount from the lessor. If, however, that amount
2 is not refunded to the lessee for any reason, the lessor is
3 liable to pay that amount to the Department.

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

24 (17) 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 for

1 disaster relief to be used in a State or federally declared
2 disaster area in Illinois or bordering Illinois by a
3 manufacturer or retailer that is registered in this State to a
4 corporation, society, association, foundation, or institution
5 that has been issued a sales tax exemption identification
6 number by the Department that assists victims of the disaster
7 who reside within the declared disaster area.

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

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

26 (20) A motor vehicle, as that term is defined in Section

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

18 (21) Beginning January 1, 2000, personal property,
19 including food, purchased through fundraising events for the
20 benefit of a public or private elementary or secondary school,
21 a group of those schools, or one or more school districts if
22 the events are sponsored by an entity recognized by the school
23 district that consists primarily of volunteers and includes
24 parents and teachers of the school children. This paragraph
25 does not apply to fundraising events (i) for the benefit of
26 private home instruction or (ii) for which the fundraising

1 entity purchases the personal property sold at the events from
2 another individual or entity that sold the property for the
3 purpose of resale by the fundraising entity and that profits
4 from the sale to the fundraising entity. This paragraph is
5 exempt from the provisions of Section 3-75.

6 (22) Beginning January 1, 2000 and through December 31,
7 2001, new or used automatic vending machines that prepare and
8 serve hot food and beverages, including coffee, soup, and other
9 items, and replacement parts for these machines. Beginning
10 January 1, 2002 and through June 30, 2003, machines and parts
11 for machines used in commercial, coin-operated amusement and
12 vending business if a use or occupation tax is paid on the
13 gross receipts derived from the use of the commercial,
14 coin-operated amusement and vending machines. This paragraph
15 is exempt from the provisions of Section 3-75.

16 (23) Beginning August 23, 2001 and through June 30, 2011,
17 food for human consumption that is to be consumed off the
18 premises where it is sold (other than alcoholic beverages, soft
19 drinks, and food that has been prepared for immediate
20 consumption) and prescription and nonprescription medicines,
21 drugs, medical appliances, and insulin, urine testing
22 materials, syringes, and needles used by diabetics, for human
23 use, when purchased for use by a person receiving medical
24 assistance under Article 5 of the Illinois Public Aid Code who
25 resides in a licensed long-term care facility, as defined in
26 the Nursing Home Care Act.

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

25 (25) Beginning on the effective date of this amendatory Act
26 of the 92nd General Assembly, personal property purchased by a

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

21 (26) Beginning January 1, 2008, tangible personal property
22 used in the construction or maintenance of a community water
23 supply, as defined under Section 3.145 of the Environmental
24 Protection Act, that is operated by a not-for-profit
25 corporation that holds a valid water supply permit issued under
26 Title IV of the Environmental Protection Act. This paragraph is

1 exempt from the provisions of Section 3-75.

2 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
3 eff. 1-1-08; 95-876, eff. 8-21-08.)

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

6 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

19 (3) Personal property purchased by any not-for-profit arts
20 or cultural organization that establishes, by proof required by
21 the Department by rule, that it has received an exemption under
22 Section 501(c)(3) of the Internal Revenue Code and that is
23 organized and operated primarily for the presentation or
24 support of arts or cultural programming, activities, or

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

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

14 (5) Until July 1, 2003 and beginning again on September 1,
15 2004, graphic arts machinery and equipment, including repair
16 and replacement parts, both new and used, and including that
17 manufactured on special order or purchased for lease, certified
18 by the purchaser to be used primarily for graphic arts
19 production. Equipment includes chemicals or chemicals acting
20 as catalysts but only if the chemicals or chemicals acting as
21 catalysts effect a direct and immediate change upon a graphic
22 arts product.

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

26 (7) Farm machinery and equipment, both new and used,

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

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

1 Farm machinery and equipment also includes subsurface tile
2 drainage systems used primarily for agricultural purposes and
3 any component parts for those systems.

4 Farm machinery and equipment also includes computers,
5 sensors, software, and related equipment used primarily in the
6 computer-assisted operation of production agriculture
7 facilities, equipment, and activities such as, but not limited
8 to, the collection, monitoring, and correlation of animal and
9 crop data for the purpose of formulating animal diets and
10 agricultural chemicals. This item (7) is exempt from the
11 provisions of Section 3-55.

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

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

1 (10) Until July 1, 2003, oil field exploration, drilling,
2 and production equipment, including (i) rigs and parts of rigs,
3 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
4 tubular goods, including casing and drill strings, (iii) pumps
5 and pump-jack units, (iv) storage tanks and flow lines, (v) any
6 individual replacement part for oil field exploration,
7 drilling, and production equipment, and (vi) machinery and
8 equipment purchased for lease; but excluding motor vehicles
9 required to be registered under the Illinois Vehicle Code.

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

15 (12) Until July 1, 2003, coal exploration, mining,
16 offhighway hauling, processing, maintenance, and reclamation
17 equipment, including replacement parts and equipment, and
18 including equipment purchased for lease, but excluding motor
19 vehicles required to be registered under the Illinois Vehicle
20 Code.

21 (13) Beginning January 1, 1992 and through June 30, 2011,
22 food for human consumption that is to be consumed off the
23 premises where it is sold (other than alcoholic beverages, soft
24 drinks and food that has been prepared for immediate
25 consumption) and prescription and non-prescription medicines,
26 drugs, medical appliances, and insulin, urine testing

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

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

8 (15) 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. This item (15) is exempt from the provisions
14 of Section 3-55, and the exemption provided for under this item
15 (15) applies for all periods beginning May 30, 1995, but no
16 claim for credit or refund is allowed on or after January 1,
17 2008 (the effective date of Public Act 95-88) for such taxes
18 paid during the period beginning May 30, 2000 and ending on
19 January 1, 2008 (the effective date of Public Act 95-88).

20 (16) Computers and communications equipment utilized for
21 any hospital purpose and equipment used in the diagnosis,
22 analysis, or treatment of hospital patients sold to a lessor
23 who leases the equipment, under a lease of one year or longer
24 executed or in effect at the time of the purchase, to a
25 hospital that has been issued an active tax exemption
26 identification number by the Department under Section 1g of the

1 Retailers' Occupation Tax Act.

2 (17) 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 that
5 has been issued an active tax exemption identification number
6 by the Department under Section 1g of the Retailers' Occupation
7 Tax Act.

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

18 (19) Beginning with taxable years ending on or after
19 December 31, 1995 and ending with taxable years ending on or
20 before December 31, 2004, personal property that is used in the
21 performance of infrastructure repairs in this State, including
22 but not limited to municipal roads and streets, access roads,
23 bridges, sidewalks, waste disposal systems, water and sewer
24 line extensions, water distribution and purification
25 facilities, storm water drainage and retention facilities, and
26 sewage treatment facilities, resulting from a State or

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

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

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

1 industrial, business, or commercial occupation.

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

16 (23) Beginning January 1, 2000 and through December 31,
17 2001, new or used automatic vending machines that prepare and
18 serve hot food and beverages, including coffee, soup, and other
19 items, and replacement parts for these machines. Beginning
20 January 1, 2002 and through June 30, 2003, machines and parts
21 for machines used in commercial, coin-operated amusement and
22 vending business if a use or occupation tax is paid on the
23 gross receipts derived from the use of the commercial,
24 coin-operated amusement and vending machines. This paragraph
25 is exempt from the provisions of Section 3-55.

26 (24) Beginning on the effective date of this amendatory Act

1 of the 92nd General Assembly, computers and communications
2 equipment utilized for any hospital purpose and equipment used
3 in the diagnosis, analysis, or treatment of hospital patients
4 sold to a lessor who leases the equipment, under a lease of one
5 year or longer executed or in effect at the time of the
6 purchase, to a hospital that has been issued an active tax
7 exemption identification number by the Department under
8 Section 1g of the Retailers' Occupation Tax Act. This paragraph
9 is exempt from the provisions of Section 3-55.

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

18 (26) Beginning on January 1, 2002 and through June 30,
19 2011, tangible personal property purchased from an Illinois
20 retailer by a taxpayer engaged in centralized purchasing
21 activities in Illinois who will, upon receipt of the property
22 in Illinois, temporarily store the property in Illinois (i) for
23 the purpose of subsequently transporting it outside this State
24 for use or consumption thereafter solely outside this State or
25 (ii) for the purpose of being processed, fabricated, or
26 manufactured into, attached to, or incorporated into other

1 tangible personal property to be transported outside this State
2 and thereafter used or consumed solely outside this State. The
3 Director of Revenue shall, pursuant to rules adopted in
4 accordance with the Illinois Administrative Procedure Act,
5 issue a permit to any taxpayer in good standing with the
6 Department who is eligible for the exemption under this
7 paragraph (26). The permit issued under this paragraph (26)
8 shall authorize the holder, to the extent and in the manner
9 specified in the rules adopted under this Act, to purchase
10 tangible personal property from a retailer exempt from the
11 taxes imposed by this Act. Taxpayers shall maintain all
12 necessary books and records to substantiate the use and
13 consumption of all such tangible personal property outside of
14 the State of Illinois.

15 (27) Beginning January 1, 2008, tangible personal property
16 used in the construction or maintenance of a community water
17 supply, as defined under Section 3.145 of the Environmental
18 Protection Act, that is operated by a not-for-profit
19 corporation that holds a valid water supply permit issued under
20 Title IV of the Environmental Protection Act. This paragraph is
21 exempt from the provisions of Section 3-55.

22 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
23 eff. 1-1-08; 95-876, eff. 8-21-08.)

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

1 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

5 (1) Farm chemicals.

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

25 Farm machinery and equipment shall include precision

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

8 Farm machinery and equipment also includes subsurface tile
9 drainage systems used primarily for agricultural purposes and
10 any component parts for those systems.

11 Farm machinery and equipment also includes computers,
12 sensors, software, and related equipment used primarily in the
13 computer-assisted operation of production agriculture
14 facilities, equipment, and activities such as, but not limited
15 to, the collection, monitoring, and correlation of animal and
16 crop data for the purpose of formulating animal diets and
17 agricultural chemicals. This item (7) is exempt from the
18 provisions of Section 2-70.

19 (3) Until July 1, 2003, distillation machinery and
20 equipment, sold as a unit or kit, assembled or installed by the
21 retailer, certified by the user to be used only for the
22 production of ethyl alcohol that will be used for consumption
23 as motor fuel or as a component of motor fuel for the personal
24 use of the user, and not subject to sale or resale.

25 (4) Until July 1, 2003 and beginning again September 1,
26 2004, graphic arts machinery and equipment, including repair

1 and replacement parts, both new and used, and including that
2 manufactured on special order or purchased for lease, certified
3 by the purchaser to be used primarily for graphic arts
4 production. Equipment includes chemicals or chemicals acting
5 as catalysts but only if the chemicals or chemicals acting as
6 catalysts effect a direct and immediate change upon a graphic
7 arts product.

8 (5) A motor vehicle of the first division, a motor vehicle
9 of the second division that is a self contained motor vehicle
10 designed or permanently converted to provide living quarters
11 for recreational, camping, or travel use, with direct walk
12 through access to the living quarters from the driver's seat,
13 or a motor vehicle of the second division that is of the van
14 configuration designed for the transportation of not less than
15 7 nor more than 16 passengers, as defined in Section 1-146 of
16 the Illinois Vehicle Code, that is used for automobile renting,
17 as defined in the Automobile Renting Occupation and Use Tax
18 Act. This paragraph is exempt from the provisions of Section
19 2-70.

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

23 (7) Until July 1, 2003, proceeds of that portion of the
24 selling price of a passenger car the sale of which is subject
25 to the Replacement Vehicle Tax.

26 (8) Personal property sold to an Illinois county fair

1 association for use in conducting, operating, or promoting the
2 county fair.

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

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

25 (11) Personal property sold to a governmental body, to a
26 corporation, society, association, foundation, or institution

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

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

22 (12-5) On and after July 1, 2003 and through June 30, 2004,
23 motor vehicles of the second division with a gross vehicle
24 weight in excess of 8,000 pounds that are subject to the
25 commercial distribution fee imposed under Section 3-815.1 of
26 the Illinois Vehicle Code. Beginning on July 1, 2004 and

1 through June 30, 2005, the use in this State of motor vehicles
2 of the second division: (i) with a gross vehicle weight rating
3 in excess of 8,000 pounds; (ii) that are subject to the
4 commercial distribution fee imposed under Section 3-815.1 of
5 the Illinois Vehicle Code; and (iii) that are primarily used
6 for commercial purposes. Through June 30, 2005, this exemption
7 applies to repair and replacement parts added after the initial
8 purchase of such a motor vehicle if that motor vehicle is used
9 in a manner that would qualify for the rolling stock exemption
10 otherwise provided for in this Act. For purposes of this
11 paragraph, "used for commercial purposes" means the
12 transportation of persons or property in furtherance of any
13 commercial or industrial enterprise whether for-hire or not.

14 (13) Proceeds from sales to owners, lessors, or shippers of
15 tangible personal property that is utilized by interstate
16 carriers for hire for use as rolling stock moving in interstate
17 commerce 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 (14) Machinery and equipment that will be used by the
22 purchaser, or a lessee of the purchaser, primarily in the
23 process of manufacturing or assembling tangible personal
24 property for wholesale or retail sale or lease, whether the
25 sale or lease is made directly by the manufacturer or by some
26 other person, whether the materials used in the process are

1 owned by the manufacturer or some other person, or whether the
2 sale or lease is made apart from or as an incident to the
3 seller's engaging in the service occupation of producing
4 machines, tools, dies, jigs, patterns, gauges, or other similar
5 items of no commercial value on special order for a particular
6 purchaser.

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

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

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

25 (18) Legal tender, currency, medallions, or gold or silver
26 coinage issued by the State of Illinois, the government of the

1 United States of America, or the government of any foreign
2 country, and bullion.

3 (19) Until July 1 2003, oil field exploration, drilling,
4 and production equipment, including (i) rigs and parts of rigs,
5 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
6 tubular goods, including casing and drill strings, (iii) pumps
7 and pump-jack units, (iv) storage tanks and flow lines, (v) any
8 individual replacement part for oil field exploration,
9 drilling, and production equipment, and (vi) machinery and
10 equipment purchased for lease; but excluding motor vehicles
11 required to be registered under the Illinois Vehicle Code.

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

17 (21) Until July 1, 2003, coal exploration, mining,
18 offhighway hauling, processing, maintenance, and reclamation
19 equipment, including replacement parts and equipment, and
20 including equipment purchased for lease, but excluding motor
21 vehicles required to be registered under the Illinois Vehicle
22 Code.

23 (22) Fuel and petroleum products sold to or used by an air
24 carrier, certified by the carrier to be used for consumption,
25 shipment, or storage in the conduct of its business as an air
26 common carrier, for a flight destined for or returning from a

1 location or locations outside the United States without regard
2 to previous or subsequent domestic stopovers.

3 (23) A transaction in which the purchase order is received
4 by a florist who is located outside Illinois, but who has a
5 florist located in Illinois deliver the property to the
6 purchaser or the purchaser's donee in Illinois.

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

13 (25) Except as provided in item (25-5) of this Section, a
14 motor vehicle sold in this State to a nonresident even though
15 the motor vehicle is delivered to the nonresident in this
16 State, if the motor vehicle is not to be titled in this State,
17 and if a drive-away permit is issued to the motor vehicle as
18 provided in Section 3-603 of the Illinois Vehicle Code or if
19 the nonresident purchaser has vehicle registration plates to
20 transfer to the motor vehicle upon returning to his or her home
21 state. The issuance of the drive-away permit or having the
22 out-of-state registration plates to be transferred is prima
23 facie evidence that the motor vehicle will not be titled in
24 this State.

25 (25-5) The exemption under item (25) does not apply if the
26 state in which the motor vehicle will be titled does not allow

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

1 (25-7) Beginning on July 1, 2007, no tax is imposed under
2 this Act on the sale of an aircraft, as defined in Section 3 of
3 the Illinois Aeronautics Act, if all of the following
4 conditions are met:

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

11 (2) the aircraft is not based or registered in this
12 State after the sale of the aircraft; and

13 (3) the seller retains in his or her books and records
14 and provides to the Department a signed and dated
15 certification from the purchaser, on a form prescribed by
16 the Department, certifying that the requirements of this
17 item (25-7) are met. The certificate must also include the
18 name and address of the purchaser, the address of the
19 location where the aircraft is to be titled or registered,
20 the address of the primary physical location of the
21 aircraft, and other information that the Department may
22 reasonably require.

23 For purposes of this item (25-7):

24 "Based in this State" means hangared, stored, or otherwise
25 used, excluding post-sale customizations as defined in this
26 Section, for 10 or more days in each 12-month period

1 immediately following the date of the sale of the aircraft.

2 "Registered in this State" means an aircraft registered
3 with the Department of Transportation, Aeronautics Division,
4 or titled or registered with the Federal Aviation
5 Administration to an address located in this State.

6 This paragraph (25-7) is exempt from the provisions of
7 Section 2-70.

8 (26) Semen used for artificial insemination of livestock
9 for direct agricultural production.

10 (27) Horses, or interests in horses, registered with and
11 meeting the requirements of any of the Arabian Horse Club
12 Registry of America, Appaloosa Horse Club, American Quarter
13 Horse Association, United States Trotting Association, or
14 Jockey Club, as appropriate, used for purposes of breeding or
15 racing for prizes. This item (27) is exempt from the provisions
16 of Section 2-70, and the exemption provided for under this item
17 (27) applies for all periods beginning May 30, 1995, but no
18 claim for credit or refund is allowed on or after January 1,
19 2008 (the effective date of Public Act 95-88) for such taxes
20 paid during the period beginning May 30, 2000 and ending on
21 January 1, 2008 (the effective date of Public Act 95-88) .

22 (28) Computers and communications equipment utilized for
23 any hospital purpose and equipment used in the diagnosis,
24 analysis, or treatment of hospital patients sold to a lessor
25 who leases the equipment, under a lease of one year or longer
26 executed or in effect at the time of the purchase, to a

1 hospital that has been issued an active tax exemption
2 identification number by the Department under Section 1g of
3 this Act.

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

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

19 (31) Beginning with taxable years ending on or after
20 December 31, 1995 and ending with taxable years ending on or
21 before December 31, 2004, personal property that is used in the
22 performance of infrastructure repairs in this State, including
23 but not limited to municipal roads and streets, access roads,
24 bridges, sidewalks, waste disposal systems, water and sewer
25 line extensions, water distribution and purification
26 facilities, storm water drainage and retention facilities, and

1 sewage treatment facilities, resulting from a State or
2 federally declared disaster in Illinois or bordering Illinois
3 when such repairs are initiated on facilities located in the
4 declared disaster area within 6 months after the disaster.

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

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

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

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

17 (35) Beginning January 1, 2000 and through December 31,
18 2001, new or used automatic vending machines that prepare and
19 serve hot food and beverages, including coffee, soup, and other
20 items, and replacement parts for these machines. Beginning
21 January 1, 2002 and through June 30, 2003, machines and parts
22 for machines used in commercial, coin-operated amusement and
23 vending business if a use or occupation tax is paid on the
24 gross receipts derived from the use of the commercial,
25 coin-operated amusement and vending machines. This paragraph
26 is exempt from the provisions of Section 2-70.

1 (35-5) Beginning August 23, 2001 and through June 30, 2011,
2 food for human consumption that is to be consumed off the
3 premises where it is sold (other than alcoholic beverages, soft
4 drinks, and food that has been prepared for immediate
5 consumption) and prescription and nonprescription medicines,
6 drugs, medical appliances, and insulin, urine testing
7 materials, syringes, and needles used by diabetics, for human
8 use, when purchased for use by a person receiving medical
9 assistance under Article 5 of the Illinois Public Aid Code who
10 resides in a licensed long-term care facility, as defined in
11 the Nursing Home Care Act.

12 (36) Beginning August 2, 2001, computers and
13 communications equipment utilized for any hospital purpose and
14 equipment used in the diagnosis, analysis, or treatment of
15 hospital patients sold to a lessor who leases the equipment,
16 under a lease of one year or longer executed or in effect at
17 the time of the purchase, to a hospital that has been issued an
18 active tax exemption identification number by the Department
19 under Section 1g of this Act. This paragraph is exempt from the
20 provisions of Section 2-70.

21 (37) Beginning August 2, 2001, personal property sold to a
22 lessor who leases the property, under a lease of one year or
23 longer executed or in effect at the time of the purchase, to a
24 governmental body that has been issued an active tax exemption
25 identification number by the Department under Section 1g of
26 this Act. This paragraph is exempt from the provisions of

1 Section 2-70.

2 (38) Beginning on January 1, 2002 and through June 30,
3 2011, tangible personal property purchased from an Illinois
4 retailer by a taxpayer engaged in centralized purchasing
5 activities in Illinois who will, upon receipt of the property
6 in Illinois, temporarily store the property in Illinois (i) for
7 the purpose of subsequently transporting it outside this State
8 for use or consumption thereafter solely outside this State or
9 (ii) for the purpose of being processed, fabricated, or
10 manufactured into, attached to, or incorporated into other
11 tangible personal property to be transported outside this State
12 and thereafter used or consumed solely outside this State. The
13 Director of Revenue shall, pursuant to rules adopted in
14 accordance with the Illinois Administrative Procedure Act,
15 issue a permit to any taxpayer in good standing with the
16 Department who is eligible for the exemption under this
17 paragraph (38). The permit issued under this paragraph (38)
18 shall authorize the holder, to the extent and in the manner
19 specified in the rules adopted under this Act, to purchase
20 tangible personal property from a retailer exempt from the
21 taxes imposed by this Act. Taxpayers shall maintain all
22 necessary books and records to substantiate the use and
23 consumption of all such tangible personal property outside of
24 the State of Illinois.

25 (39) Beginning January 1, 2008, tangible personal property
26 used in the construction or maintenance of a community water

1 supply, as defined under Section 3.145 of the Environmental
2 Protection Act, that is operated by a not-for-profit
3 corporation that holds a valid water supply permit issued under
4 Title IV of the Environmental Protection Act. This paragraph is
5 exempt from the provisions of Section 2-70.

6 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233,
7 eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08;
8 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)