



Rep. John E. Bradley

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LRB098 04644 HLH 60486 a

1 AMENDMENT TO SENATE BILL 346

2 AMENDMENT NO. _____. Amend Senate Bill 346 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Economic Development for a Growing Economy
5 Tax Credit Act is amended by changing Sections 5-5, 5-15, 5-20,
6 and 5-50 and by adding Section 5-37 as follows:

7 (35 ILCS 10/5-5)

8 Sec. 5-5. Definitions. As used in this Act:

9 "Agreement" means the Agreement between a Taxpayer and the
10 Department under the provisions of Section 5-50 of this Act.

11 "Applicant" means a Taxpayer that is operating a business
12 located or that the Taxpayer plans to locate within the State
13 of Illinois and that is engaged in interstate or intrastate
14 commerce for the purpose of manufacturing, processing,
15 assembling, warehousing, or distributing products, conducting
16 research and development, providing tourism services, or

1 providing services in interstate commerce, office industries,
2 or agricultural processing, but excluding retail, retail food,
3 health, or professional services. "Applicant" does not include
4 a Taxpayer who closes or substantially reduces an operation at
5 one location in the State and relocates substantially the same
6 operation to another location in the State. This does not
7 prohibit a Taxpayer from expanding its operations at another
8 location in the State, provided that existing operations of a
9 similar nature located within the State are not closed or
10 substantially reduced. This also does not prohibit a Taxpayer
11 from moving its operations from one location in the State to
12 another location in the State for the purpose of expanding the
13 operation provided that the Department determines that
14 expansion cannot reasonably be accommodated within the
15 municipality in which the business is located, or in the case
16 of a business located in an incorporated area of the county,
17 within the county in which the business is located, after
18 conferring with the chief elected official of the municipality
19 or county and taking into consideration any evidence offered by
20 the municipality or county regarding the ability to accommodate
21 expansion within the municipality or county.

22 "Committee" means the Illinois Business Investment
23 Committee created under Section 5-25 of this Act within the
24 Illinois Economic Development Board.

25 "Credit" means the amount agreed to between the Department
26 and Applicant under this Act, but not to exceed the Incremental

1 Income Tax attributable to the Applicant's project. However,
2 for agreements entered into on or after the effective date of
3 this amendatory Act of the 98th General Assembly, if the
4 Applicant's project includes retained employees, then the
5 amount of the Credit may also include an amount agreed to
6 between the Department and the Applicant based on the severity
7 of the poverty or unemployment in the geographic area in which
8 the Applicant's project is located or the retained employees
9 reside. That amount may not be more than 40% of the total
10 amount withheld during the taxable year under Article 7 of the
11 Illinois Income Tax Act from the compensation of retained
12 employees. For the purposes of this definition, "retained
13 employee" means a full-time employee of the Applicant who is
14 employed at the project location and whose job is identified in
15 the application as being at risk of being relocated outside of
16 Illinois if the Applicant does not receive a credit under this
17 Act.

18 "Department" means the Department of Commerce and Economic
19 Opportunity.

20 "Director" means the Director of Commerce and Economic
21 Opportunity.

22 "Full-time Employee" means an individual who is employed
23 for consideration for at least 35 hours each week or who
24 renders any other standard of service generally accepted by
25 industry custom or practice as full-time employment. An
26 individual for whom a W-2 is issued by a Professional Employer

1 Organization (PEO) is a full-time employee if employed in the
2 service of the Applicant for consideration for at least 35
3 hours each week or who renders any other standard of service
4 generally accepted by industry custom or practice as full-time
5 employment to Applicant.

6 "Geographic area of high poverty or high unemployment"
7 means a census tract in which more than 20% of the residents
8 live below the poverty level, as determined by the most recent
9 data from the United States Census Bureau, or the average
10 unemployment rate for that census tract exceeds the average
11 unemployment rate for the State by 3% or more.

12 "Incremental Income Tax" means the total amount withheld
13 during the taxable year from the compensation of New Employees
14 under Article 7 of the Illinois Income Tax Act arising from
15 employment at a project that is the subject of an Agreement.

16 "New Employee" means:

17 (a) A Full-time Employee first employed by a Taxpayer
18 in the project that is the subject of an Agreement and who
19 is hired after the Taxpayer enters into the tax credit
20 Agreement.

21 (b) The term "New Employee" does not include:

22 (1) an employee of the Taxpayer who performs a job
23 that was previously performed by another employee, if
24 that job existed for at least 6 months before hiring
25 the employee;

26 (2) an employee of the Taxpayer who was previously

1 employed in Illinois by a Related Member of the
2 Taxpayer and whose employment was shifted to the
3 Taxpayer after the Taxpayer entered into the tax credit
4 Agreement; or

5 (3) a child, grandchild, parent, or spouse, other
6 than a spouse who is legally separated from the
7 individual, of any individual who has a direct or an
8 indirect ownership interest of at least 5% in the
9 profits, capital, or value of the Taxpayer.

10 (c) Notwithstanding paragraph (1) of subsection (b),
11 an employee may be considered a New Employee under the
12 Agreement if the employee performs a job that was
13 previously performed by an employee who was:

14 (1) treated under the Agreement as a New Employee;

15 and

16 (2) promoted by the Taxpayer to another job.

17 (d) Notwithstanding subsection (a), the Department may
18 award Credit to an Applicant with respect to an employee
19 hired prior to the date of the Agreement if:

20 (1) the Applicant is in receipt of a letter from
21 the Department stating an intent to enter into a credit
22 Agreement;

23 (2) the letter described in paragraph (1) is issued
24 by the Department not later than 15 days after the
25 effective date of this Act; and

26 (3) the employee was hired after the date the

1 letter described in paragraph (1) was issued.

2 "Noncompliance Date" means, in the case of a Taxpayer that
3 is not complying with the requirements of the Agreement or the
4 provisions of this Act, the day following the last date upon
5 which the Taxpayer was in compliance with the requirements of
6 the Agreement and the provisions of this Act, as determined by
7 the Director, pursuant to Section 5-65.

8 "Pass Through Entity" means an entity that is exempt from
9 the tax under subsection (b) or (c) of Section 205 of the
10 Illinois Income Tax Act.

11 "Professional Employer Organization" (PEO) means an
12 employee leasing company, as defined in Section 206.1(A)(2) of
13 the Illinois Unemployment Insurance Act.

14 "Related Member" means a person that, with respect to the
15 Taxpayer during any portion of the taxable year, is any one of
16 the following:

17 (1) An individual stockholder, if the stockholder and
18 the members of the stockholder's family (as defined in
19 Section 318 of the Internal Revenue Code) own directly,
20 indirectly, beneficially, or constructively, in the
21 aggregate, at least 50% of the value of the Taxpayer's
22 outstanding stock.

23 (2) A partnership, estate, or trust and any partner or
24 beneficiary, if the partnership, estate, or trust, and its
25 partners or beneficiaries own directly, indirectly,
26 beneficially, or constructively, in the aggregate, at

1 least 50% of the profits, capital, stock, or value of the
2 Taxpayer.

3 (3) A corporation, and any party related to the
4 corporation in a manner that would require an attribution
5 of stock from the corporation to the party or from the
6 party to the corporation under the attribution rules of
7 Section 318 of the Internal Revenue Code, if the Taxpayer
8 owns directly, indirectly, beneficially, or constructively
9 at least 50% of the value of the corporation's outstanding
10 stock.

11 (4) A corporation and any party related to that
12 corporation in a manner that would require an attribution
13 of stock from the corporation to the party or from the
14 party to the corporation under the attribution rules of
15 Section 318 of the Internal Revenue Code, if the
16 corporation and all such related parties own in the
17 aggregate at least 50% of the profits, capital, stock, or
18 value of the Taxpayer.

19 (5) A person to or from whom there is attribution of
20 stock ownership in accordance with Section 1563(e) of the
21 Internal Revenue Code, except, for purposes of determining
22 whether a person is a Related Member under this paragraph,
23 20% shall be substituted for 5% wherever 5% appears in
24 Section 1563(e) of the Internal Revenue Code.

25 "Taxpayer" means an individual, corporation, partnership,
26 or other entity that has any Illinois Income Tax liability.

1 (Source: P.A. 94-793, eff. 5-19-06; 95-375, eff. 8-23-07.)

2 (35 ILCS 10/5-15)

3 Sec. 5-15. Tax Credit Awards. Subject to the conditions set
4 forth in this Act, a Taxpayer is entitled to a Credit against
5 or, as described in subsection (g) of this Section, a payment
6 towards taxes imposed pursuant to subsections (a) and (b) of
7 Section 201 of the Illinois Income Tax Act that may be imposed
8 on the Taxpayer for a taxable year beginning on or after
9 January 1, 1999, if the Taxpayer is awarded a Credit by the
10 Department under this Act for that taxable year.

11 (a) The Department shall make Credit awards under this Act
12 to foster job creation and retention in Illinois.

13 (b) A person that proposes a project to create new jobs in
14 Illinois must enter into an Agreement with the Department for
15 the Credit under this Act.

16 (c) The Credit shall be claimed for the taxable years
17 specified in the Agreement.

18 (d) The Credit shall not exceed the Incremental Income Tax
19 attributable to the project that is the subject of the
20 Agreement.

21 (e) Nothing herein shall prohibit a Tax Credit Award to an
22 Applicant that uses a PEO if all other award criteria are
23 satisfied.

24 (f) Subject to the requirements of paragraph (5) of this
25 subsection (f), in ~~in~~ lieu of the Credit allowed under this Act

1 against the taxes imposed pursuant to subsections (a) and (b)
2 of Section 201 of the Illinois Income Tax Act for any taxable
3 year ending on or after December 31, 2009, the Taxpayer may
4 elect to claim the Credit against its obligation to pay over
5 withholding under Section 704A of the Illinois Income Tax Act.

6 (1) The election under this subsection (f) may be made
7 only by a Taxpayer that (i) is primarily engaged in one of
8 the following business activities: water purification and
9 treatment, motor vehicle metal stamping, automobile
10 manufacturing, automobile and light duty motor vehicle
11 manufacturing, motor vehicle manufacturing, light truck
12 and utility vehicle manufacturing, heavy duty truck
13 manufacturing, motor vehicle body manufacturing, cable
14 television infrastructure design or manufacturing, or
15 wireless telecommunication or computing terminal device
16 design or manufacturing for use on public networks and (ii)
17 meets the following criteria:

18 (A) the Taxpayer (i) had an Illinois net loss or an
19 Illinois net loss deduction under Section 207 of the
20 Illinois Income Tax Act for the taxable year in which
21 the Credit is awarded, (ii) employed a minimum of 1,000
22 full-time employees in this State during the taxable
23 year in which the Credit is awarded, (iii) has an
24 Agreement under this Act on December 14, 2009 (the
25 effective date of Public Act 96-834), and (iv) is in
26 compliance with all provisions of that Agreement;

1 (B) the Taxpayer (i) had an Illinois net loss or an
2 Illinois net loss deduction under Section 207 of the
3 Illinois Income Tax Act for the taxable year in which
4 the Credit is awarded, (ii) employed a minimum of 1,000
5 full-time employees in this State during the taxable
6 year in which the Credit is awarded, and (iii) has
7 applied for an Agreement within 365 days after December
8 14, 2009 (the effective date of Public Act 96-834);

9 (C) the Taxpayer (i) had an Illinois net operating
10 loss carryforward under Section 207 of the Illinois
11 Income Tax Act in a taxable year ending during calendar
12 year 2008, (ii) has applied for an Agreement within 150
13 days after the effective date of this amendatory Act of
14 the 96th General Assembly, (iii) creates at least 400
15 new jobs in Illinois, (iv) retains at least 2,000 jobs
16 in Illinois that would have been at risk of relocation
17 out of Illinois over a 10-year period, and (v) makes a
18 capital investment of at least \$75,000,000;

19 (D) the Taxpayer (i) had an Illinois net operating
20 loss carryforward under Section 207 of the Illinois
21 Income Tax Act in a taxable year ending during calendar
22 year 2009, (ii) has applied for an Agreement within 150
23 days after the effective date of this amendatory Act of
24 the 96th General Assembly, (iii) creates at least 150
25 new jobs, (iv) retains at least 1,000 jobs in Illinois
26 that would have been at risk of relocation out of

1 Illinois over a 10-year period, and (v) makes a capital
2 investment of at least \$57,000,000; or

3 (E) the Taxpayer (i) employed at least 2,500
4 full-time employees in the State during the year in
5 which the Credit is awarded, (ii) commits to make at
6 least \$500,000,000 in combined capital improvements
7 and project costs under the Agreement, (iii) applies
8 for an Agreement between January 1, 2011 and June 30,
9 2011, (iv) executes an Agreement for the Credit during
10 calendar year 2011, and (v) was incorporated no more
11 than 5 years before the filing of an application for an
12 Agreement.

13 (1.5) The election under this subsection (f) may also
14 be made by a Taxpayer for any Credit awarded pursuant to an
15 agreement that was executed between January 1, 2011 and
16 June 30, 2011, if the Taxpayer (i) is primarily engaged in
17 the manufacture of inner tubes or tires, or both, from
18 natural and synthetic rubber, (ii) employs a minimum of
19 2,400 full-time employees in Illinois at the time of
20 application, (iii) creates at least 350 full-time jobs and
21 retains at least 250 full-time jobs in Illinois that would
22 have been at risk of being created or retained outside of
23 Illinois, and (iv) makes a capital investment of at least
24 \$200,000,000 at the project location.

25 (1.6) The election under this subsection (f) may also
26 be made by a Taxpayer for any Credit awarded pursuant to an

1 agreement that was executed within 150 days after the
2 effective date of this amendatory Act of the 97th General
3 Assembly, if the Taxpayer (i) is primarily engaged in the
4 operation of a discount department store, (ii) maintains
5 its corporate headquarters in Illinois, (iii) employs a
6 minimum of 4,250 full-time employees at its corporate
7 headquarters in Illinois at the time of application, (iv)
8 retains at least 4,250 full-time jobs in Illinois that
9 would have been at risk of being relocated outside of
10 Illinois, (v) had a minimum of \$40,000,000,000 in total
11 revenue in 2010, and (vi) makes a capital investment of at
12 least \$300,000,000 at the project location.

13 (1.7) Notwithstanding any other provision of law, the
14 election under this subsection (f) may also be made by a
15 Taxpayer for any Credit awarded pursuant to an agreement
16 that was executed or applied for on or after July 1, 2011
17 and on or before March 31, 2012, if the Taxpayer is
18 primarily engaged in the manufacture of original and
19 aftermarket filtration parts and products for automobiles,
20 motor vehicles, light duty motor vehicles, light trucks and
21 utility vehicles, and heavy duty trucks, (ii) employs a
22 minimum of 1,000 full-time employees in Illinois at the
23 time of application, (iii) creates at least 250 full-time
24 jobs in Illinois, (iv) relocates its corporate
25 headquarters to Illinois from another state, and (v) makes
26 a capital investment of at least \$4,000,000 at the project

1 location.

2 (2) An election under this subsection shall allow the
3 credit to be taken against payments otherwise due under
4 Section 704A of the Illinois Income Tax Act during the
5 first calendar year beginning after the end of the taxable
6 year in which the credit is awarded under this Act.

7 (3) The election shall be made in the form and manner
8 required by the Illinois Department of Revenue and, once
9 made, shall be irrevocable.

10 (4) If a Taxpayer who meets the requirements of
11 subparagraph (A) of paragraph (1) of this subsection (f)
12 elects to claim the Credit against its withholdings as
13 provided in this subsection (f), then, on and after the
14 date of the election, the terms of the Agreement between
15 the Taxpayer and the Department may not be further amended
16 during the term of the Agreement.

17 (5) With respect to Agreements entered into on or after
18 the effective date of this amendatory Act of the 98th
19 General Assembly, no Taxpayer may make an election under
20 this subsection (f) unless all of the following conditions
21 are met:

22 (A) The General Assembly authorizes that election
23 by law.

24 (B) The Taxpayer applies with the Department for a
25 Credit prior to the date the General Assembly
26 authorizes the election.

1 (C) The Taxpayer (i) agrees to hire a specified
2 number of New Employees at a project location in a
3 geographic area of high poverty or high unemployment or
4 (ii) agrees to hire a specified number of New Employees
5 at least 65% of whom reside in a geographic area of
6 high poverty or high unemployment; the number of New
7 Employees hired under item (ii) shall be verified
8 annually by the Department through payroll information
9 submitted by the Taxpayer; for the purposes of this
10 subparagraph (C), an employee who is retained by the
11 Taxpayer is not considered a New Employee.

12 (D) The Taxpayer files a statement with the
13 Department at the time of the application for the
14 Credit containing the following information from the
15 Taxpayer's Illinois income tax return for the 2 years
16 immediately preceding the date of the application; in
17 addition, the Taxpayer shall file an additional
18 statement with the Department containing the same
19 information for the first taxable year with respect to
20 which an election is made under this subsection (f) and
21 for each subsequent tax year covered by the Agreement:

22 (i) the Taxpayer's base income, as calculated
23 under Section 203 of the Illinois Income Tax Act;

24 (ii) the apportionment factor to the State for
25 the Taxpayer;

26 (iii) the total business income of the

1 Taxpayer apportioned to the State;

2 (iv) the Illinois net operating loss deduction
3 for the Taxpayer, if any;

4 (v) the total non-business income of the
5 Taxpayer and the amount of the Taxpayer's
6 non-business income allocated to the State;

7 (vi) the net income of the Taxpayer;

8 (vii) the Taxpayer's total State income tax
9 liability before credits;

10 (viii) the Taxpayer's net income tax
11 liability;

12 (ix) the Taxpayer's total personal property
13 tax replacement tax liability before credits;

14 (x) the Taxpayer's net personal property tax
15 replacement tax liability; and

16 (xi) tax credits claimed by the Taxpayer, with
17 each credit individually enumerated.

18 Each additional statement required under this
19 subparagraph (D) for a taxable year shall be filed no
20 later than the earlier of 30 days after (i) the
21 Taxpayer files its Illinois income tax return for that
22 taxable year, (ii) the due date (including extensions)
23 for the filing of that return, or (iii) in the case of
24 the additional statement covering the taxable year in
25 which an election is made, the date the election is
26 made under this subsection (f).

1 (E) The Taxpayer files a statement with the
2 Department reporting any changes to the information
3 required to be reported under subparagraph (D) that
4 were reported by the Taxpayer on an amended return for
5 the taxable year or that were made by the Department of
6 Revenue; the report required under this subparagraph
7 (E) must be filed within 30 days after the Taxpayer
8 files the amended return or within 30 days after the
9 date on which all proceedings in court for review of
10 the changes made by the Department of Revenue have
11 terminated or the time for taking thereof has expired
12 without such proceedings being instituted.

13 (F) The Agreement includes a consent by the
14 Taxpayer to allow the Department to confirm with the
15 Department of Revenue the accuracy of the information
16 required to be reported under subparagraphs (D) and
17 (E).

18 (g) A pass-through entity that has been awarded a credit
19 under this Act, its shareholders, or its partners may treat
20 some or all of the credit awarded pursuant to this Act as a tax
21 payment for purposes of the Illinois Income Tax Act. The term
22 "tax payment" means a payment as described in Article 6 or
23 Article 8 of the Illinois Income Tax Act or a composite payment
24 made by a pass-through entity on behalf of any of its
25 shareholders or partners to satisfy such shareholders' or
26 partners' taxes imposed pursuant to subsections (a) and (b) of

1 Section 201 of the Illinois Income Tax Act. In no event shall
2 the amount of the award credited pursuant to this Act exceed
3 the Illinois income tax liability of the pass-through entity or
4 its shareholders or partners for the taxable year.

5 (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;
6 96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.
7 3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

8 (35 ILCS 10/5-20)

9 Sec. 5-20. Application for a project to create and retain
10 new jobs.

11 (a) Any Taxpayer proposing a project located or planned to
12 be located in Illinois may request consideration for
13 designation of its project, by formal written letter of request
14 or by formal application to the Department, in which the
15 Applicant states its intent to make at least a specified level
16 of investment and intends to hire or retain a specified number
17 of full-time employees at a designated location in Illinois. As
18 circumstances require, the Department may require a formal
19 application from an Applicant and a formal letter of request
20 for assistance. Each application must contain an affidavit
21 signed by the Taxpayer's chief executive officer or chief
22 financial officer, or an individual holding an equivalent
23 position in the organization, stating that, but for the Credit,
24 the Taxpayer would not locate the project in the State.

25 (b) In order to qualify for Credits under this Act, an

1 Applicant's project must:

2 (1) except as provided in paragraphs (2) and (3),
3 involve an investment of at least \$5,000,000 in capital
4 improvements to be placed in service and ~~to~~ employ at least
5 25 New Employees within the State as a direct result of the
6 project;

7 (2) involve an investment of at least an amount (to be
8 expressly specified by the Department and the Committee) in
9 capital improvements to be placed in service and will
10 employ at least an amount (to be expressly specified by the
11 Department and the Committee) of New Employees within the
12 State, provided that the Department and the Committee have
13 determined that the project will provide a substantial
14 economic benefit to the State; or

15 (3) if the applicant has 100 or fewer employees, then
16 the applicant is not subject to the capital improvement
17 requirements set forth in paragraph (1) of this subsection,
18 but the applicant's project must ~~involve an investment of~~
19 ~~at least \$1,000,000 in capital improvements to be placed in~~
20 ~~service and to~~ employ at least 5 New Employees within the
21 State as a direct result of the project.

22 (c) After receipt of an application, the Department may
23 enter into an Agreement with the Applicant if the application
24 is accepted in accordance with Section 5-25.

25 (Source: P.A. 93-882, eff. 1-1-05.)

1 (35 ILCS 10/5-37 new)

2 Sec. 5-37. Chief Executive Officer; Board of Directors;
3 fiduciary duty. Notwithstanding any provision of law to the
4 contrary, neither the Taxpayer's Chief Executive Officer nor
5 any member of the Taxpayer's Board of Directors may be deemed
6 to have breached any fiduciary or other duty and are immune
7 from any liability for breach of fiduciary duty related to the
8 Taxpayer's actions in (i) keeping its corporate headquarters or
9 any office, plant, factory, or worksite of the corporation in
10 Illinois pursuant to an agreement under this Act or (ii)
11 relocating the Taxpayer's corporate headquarters or any
12 office, plant, factory, or worksite of the corporation to
13 Illinois pursuant to an agreement under this Act, if the Chief
14 Executive Officer or member acts in good faith and is under the
15 belief that he or she is serving the best interests of the
16 corporation and is considering the welfare and interests of the
17 corporation and its workforce in taking those actions.

18 (35 ILCS 10/5-50)

19 Sec. 5-50. Contents of Agreements with Applicants. The
20 Department shall enter into an Agreement with an Applicant that
21 is awarded a Credit under this Act. The Agreement must include
22 all of the following:

23 (1) A detailed description of the project that is the
24 subject of the Agreement, including the location and amount
25 of the investment and jobs created or retained.

1 (2) The duration of the Credit and the first taxable
2 year for which the Credit may be claimed.

3 (3) The Credit amount that will be allowed for each
4 taxable year.

5 (4) A requirement that the Taxpayer shall maintain
6 operations at the project location that shall be stated as
7 a minimum number of years not to exceed 10.

8 (5) A specific method for determining the number of New
9 Employees employed during a taxable year.

10 (6) A requirement that the Taxpayer shall annually
11 report to the Department the number of New Employees, the
12 home addresses of any retained employees, the Incremental
13 Income Tax withheld in connection with the New Employees
14 and retained employees, and any other information the
15 Director needs to perform the Director's duties under this
16 Act.

17 (7) A requirement that the Director is authorized to
18 verify with the appropriate State agencies the amounts
19 reported under paragraph (6), and after doing so shall
20 issue a certificate to the Taxpayer stating that the
21 amounts have been verified.

22 (8) A requirement that the Taxpayer shall provide
23 written notification to the Director not more than 30 days
24 after the Taxpayer makes or receives a proposal that would
25 transfer the Taxpayer's State tax liability obligations to
26 a successor Taxpayer.

1 (9) A detailed description of the number of New
2 Employees to be hired, and the occupation and payroll of
3 the full-time jobs to be created or retained as a result of
4 the project.

5 (10) The minimum investment the business enterprise
6 will make in capital improvements, the time period for
7 placing the property in service, and the designated
8 location in Illinois for the investment.

9 (11) A requirement that the Taxpayer shall provide
10 written notification to the Director and the Committee not
11 more than 30 days after the Taxpayer determines that the
12 minimum job creation or retention, employment payroll, or
13 investment no longer is being or will be achieved or
14 maintained as set forth in the terms and conditions of the
15 Agreement.

16 (12) A provision that, if the total number of New
17 Employees falls below a specified level, the allowance of
18 Credit shall be suspended until the number of New Employees
19 equals or exceeds the Agreement amount.

20 (13) A detailed description of the items for which the
21 costs incurred by the Taxpayer will be included in the
22 limitation on the Credit provided in Section 5-30.

23 (13.5) A provision that, if the Taxpayer never meets
24 either the investment or job creation and retention
25 requirements specified in the Agreement during the entire
26 5-year period beginning on the first day of the first

1 taxable year in which the Agreement is executed and ending
2 on the last day of the fifth taxable year after the
3 Agreement is executed, then the Agreement is automatically
4 terminated on the last day of the fifth taxable year after
5 the Agreement is executed and the Taxpayer is not entitled
6 to the award of any credits for any of that 5-year period.

7 (14) Any other performance conditions or contract
8 provisions as the Department determines are appropriate.

9 The Department shall post on its website (i) the terms of
10 each Agreement entered into under this Act on or after the
11 effective date of this amendatory Act of the 97th General
12 Assembly and (ii) the tax information provided to the
13 Department under subparagraphs (D) and (E) of paragraph (5) of
14 subsection (f).

15 (Source: P.A. 97-2, eff. 5-6-11; 97-749, eff. 7-6-12.)

16 Section 10. The Illinois Income Tax Act is amended by
17 changing Section 917 as follows:

18 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

19 Sec. 917. Confidentiality and information sharing.

20 (a) Confidentiality. Except as provided in this Section,
21 all information received by the Department from returns filed
22 under this Act, or from any investigation conducted under the
23 provisions of this Act, shall be confidential, except for
24 official purposes within the Department or pursuant to official

1 procedures for collection of any State tax or pursuant to an
2 investigation or audit by the Illinois State Scholarship
3 Commission of a delinquent student loan or monetary award or
4 enforcement of any civil or criminal penalty or sanction
5 imposed by this Act or by another statute imposing a State tax,
6 and any person who divulges any such information in any manner,
7 except for such purposes and pursuant to order of the Director
8 or in accordance with a proper judicial order, shall be guilty
9 of a Class A misdemeanor. However, the provisions of this
10 paragraph are not applicable to information furnished to (i)
11 the Department of Healthcare and Family Services (formerly
12 Department of Public Aid), State's Attorneys, and the Attorney
13 General for child support enforcement purposes and (ii) a
14 licensed attorney representing the taxpayer where an appeal or
15 a protest has been filed on behalf of the taxpayer. If it is
16 necessary to file information obtained pursuant to this Act in
17 a child support enforcement proceeding, the information shall
18 be filed under seal.

19 (b) Public information. Nothing contained in this Act shall
20 prevent the Director from publishing or making available to the
21 public the names and addresses of persons filing returns under
22 this Act, or from publishing or making available reasonable
23 statistics concerning the operation of the tax wherein the
24 contents of returns are grouped into aggregates in such a way
25 that the information contained in any individual return shall
26 not be disclosed.

1 (c) Governmental agencies. The Director may make available
2 to the Secretary of the Treasury of the United States or his
3 delegate, or the proper officer or his delegate of any other
4 state imposing a tax upon or measured by income, for
5 exclusively official purposes, information received by the
6 Department in the administration of this Act, but such
7 permission shall be granted only if the United States or such
8 other state, as the case may be, grants the Department
9 substantially similar privileges. The Director may exchange
10 information with the Department of Healthcare and Family
11 Services and the Department of Human Services (acting as
12 successor to the Department of Public Aid under the Department
13 of Human Services Act) for the purpose of verifying sources and
14 amounts of income and for other purposes directly connected
15 with the administration of this Act, the Illinois Public Aid
16 Code, and any other health benefit program administered by the
17 State. The Director may exchange information with the Director
18 of the Department of Employment Security for the purpose of
19 verifying sources and amounts of income and for other purposes
20 directly connected with the administration of this Act and Acts
21 administered by the Department of Employment Security. The
22 Director may make available to the Illinois Workers'
23 Compensation Commission information regarding employers for
24 the purpose of verifying the insurance coverage required under
25 the Workers' Compensation Act and Workers' Occupational
26 Diseases Act. The Director may exchange information with the

1 Illinois Department on Aging for the purpose of verifying
2 sources and amounts of income for purposes directly related to
3 confirming eligibility for participation in the programs of
4 benefits authorized by the Senior Citizens and Disabled Persons
5 Property Tax Relief and Pharmaceutical Assistance Act.

6 The Director may make available to any State agency,
7 including the Illinois Supreme Court, which licenses persons to
8 engage in any occupation, information that a person licensed by
9 such agency has failed to file returns under this Act or pay
10 the tax, penalty and interest shown therein, or has failed to
11 pay any final assessment of tax, penalty or interest due under
12 this Act. The Director may make available to any State agency,
13 including the Illinois Supreme Court, information regarding
14 whether a bidder, contractor, or an affiliate of a bidder or
15 contractor has failed to file returns under this Act or pay the
16 tax, penalty, and interest shown therein, or has failed to pay
17 any final assessment of tax, penalty, or interest due under
18 this Act, for the limited purpose of enforcing bidder and
19 contractor certifications. For purposes of this Section, the
20 term "affiliate" means any entity that (1) directly,
21 indirectly, or constructively controls another entity, (2) is
22 directly, indirectly, or constructively controlled by another
23 entity, or (3) is subject to the control of a common entity.
24 For purposes of this subsection (a), an entity controls another
25 entity if it owns, directly or individually, more than 10% of
26 the voting securities of that entity. As used in this

1 subsection (a), the term "voting security" means a security
2 that (1) confers upon the holder the right to vote for the
3 election of members of the board of directors or similar
4 governing body of the business or (2) is convertible into, or
5 entitles the holder to receive upon its exercise, a security
6 that confers such a right to vote. A general partnership
7 interest is a voting security.

8 The Director may make available to any State agency,
9 including the Illinois Supreme Court, units of local
10 government, and school districts, information regarding
11 whether a bidder or contractor is an affiliate of a person who
12 is not collecting and remitting Illinois Use taxes, for the
13 limited purpose of enforcing bidder and contractor
14 certifications.

15 The Director may also make available to the Secretary of
16 State information that a corporation which has been issued a
17 certificate of incorporation by the Secretary of State has
18 failed to file returns under this Act or pay the tax, penalty
19 and interest shown therein, or has failed to pay any final
20 assessment of tax, penalty or interest due under this Act. An
21 assessment is final when all proceedings in court for review of
22 such assessment have terminated or the time for the taking
23 thereof has expired without such proceedings being instituted.
24 For taxable years ending on or after December 31, 1987, the
25 Director may make available to the Director or principal
26 officer of any Department of the State of Illinois, information

1 that a person employed by such Department has failed to file
2 returns under this Act or pay the tax, penalty and interest
3 shown therein. For purposes of this paragraph, the word
4 "Department" shall have the same meaning as provided in Section
5 3 of the State Employees Group Insurance Act of 1971.

6 The Director may provide information to the Department of
7 Commerce and Economic Opportunity for the purpose of confirming
8 information provided by a taxpayer under subparagraphs (D) and
9 (E) of item (5) of subsection (f) of Section 5-15 of the
10 Economic Development for a Growing Economy Tax Credit Act if
11 the taxpayer consents to that disclosure in the Agreement under
12 that Act.

13 (d) The Director shall make available for public inspection
14 in the Department's principal office and for publication, at
15 cost, administrative decisions issued on or after January 1,
16 1995. These decisions are to be made available in a manner so
17 that the following taxpayer information is not disclosed:

18 (1) The names, addresses, and identification numbers
19 of the taxpayer, related entities, and employees.

20 (2) At the sole discretion of the Director, trade
21 secrets or other confidential information identified as
22 such by the taxpayer, no later than 30 days after receipt
23 of an administrative decision, by such means as the
24 Department shall provide by rule.

25 The Director shall determine the appropriate extent of the
26 deletions allowed in paragraph (2). In the event the taxpayer

1 does not submit deletions, the Director shall make only the
2 deletions specified in paragraph (1).

3 The Director shall make available for public inspection and
4 publication an administrative decision within 180 days after
5 the issuance of the administrative decision. The term
6 "administrative decision" has the same meaning as defined in
7 Section 3-101 of Article III of the Code of Civil Procedure.
8 Costs collected under this Section shall be paid into the Tax
9 Compliance and Administration Fund.

10 (e) Nothing contained in this Act shall prevent the
11 Director from divulging information to any person pursuant to a
12 request or authorization made by the taxpayer, by an authorized
13 representative of the taxpayer, or, in the case of information
14 related to a joint return, by the spouse filing the joint
15 return with the taxpayer.

16 (Source: P.A. 95-331, eff. 8-21-07; 96-1501, eff. 1-25-11.)

17 Section 15. The Use Tax Act is amended by changing Section
18 3-85 as follows:

19 (35 ILCS 105/3-85)

20 Sec. 3-85. Manufacturer's Purchase Credit. For purchases
21 of machinery and equipment made on and after January 1, 1995
22 through June 30, 2003, and on and after September 1, 2004
23 through February 28, 2015 ~~August 30, 2014~~, a purchaser of
24 manufacturing machinery and equipment that qualifies for the

1 exemption provided by paragraph (18) of Section 3-5 of this Act
2 earns a credit in an amount equal to a fixed percentage of the
3 tax which would have been incurred under this Act on those
4 purchases. For purchases of graphic arts machinery and
5 equipment made on or after July 1, 1996 and through June 30,
6 2003, and on and after September 1, 2004 through February 28,
7 2015 ~~August 30, 2014~~, a purchaser of graphic arts machinery and
8 equipment that qualifies for the exemption provided by
9 paragraph (6) of Section 3-5 of this Act earns a credit in an
10 amount equal to a fixed percentage of the tax that would have
11 been incurred under this Act on those purchases. The credit
12 earned for purchases of manufacturing machinery and equipment
13 or graphic arts machinery and equipment shall be referred to as
14 the Manufacturer's Purchase Credit. A graphic arts producer is
15 a person engaged in graphic arts production as defined in
16 Section 2-30 of the Retailers' Occupation Tax Act. Beginning
17 July 1, 1996, all references in this Section to manufacturers
18 or manufacturing shall also be deemed to refer to graphic arts
19 producers or graphic arts production.

20 The amount of credit shall be a percentage of the tax that
21 would have been incurred on the purchase of manufacturing
22 machinery and equipment or graphic arts machinery and equipment
23 if the exemptions provided by paragraph (6) or paragraph (18)
24 of Section 3-5 of this Act had not been applicable. The
25 percentage shall be as follows:

- 26 (1) 15% for purchases made on or before June 30, 1995.

1 (2) 25% for purchases made after June 30, 1995, and on
2 or before June 30, 1996.

3 (3) 40% for purchases made after June 30, 1996, and on
4 or before June 30, 1997.

5 (4) 50% for purchases made on or after July 1, 1997.

6 (a) Manufacturer's Purchase Credit earned prior to July 1,
7 2003. This subsection (a) applies to Manufacturer's Purchase
8 Credit earned prior to July 1, 2003. A purchaser of production
9 related tangible personal property desiring to use the
10 Manufacturer's Purchase Credit shall certify to the seller
11 prior to October 1, 2003 that the purchaser is satisfying all
12 or part of the liability under the Use Tax Act or the Service
13 Use Tax Act that is due on the purchase of the production
14 related tangible personal property by use of Manufacturer's
15 Purchase Credit. The Manufacturer's Purchase Credit
16 certification must be dated and shall include the name and
17 address of the purchaser, the purchaser's registration number,
18 if registered, the credit being applied, and a statement that
19 the State Use Tax or Service Use Tax liability is being
20 satisfied with the manufacturer's or graphic arts producer's
21 accumulated purchase credit. Certification may be incorporated
22 into the manufacturer's or graphic arts producer's purchase
23 order. Manufacturer's Purchase Credit certification provided
24 by the manufacturer or graphic arts producer prior to October
25 1, 2003 may be used to satisfy the retailer's or serviceman's
26 liability under the Retailers' Occupation Tax Act or Service

1 Occupation Tax Act for the credit claimed, not to exceed 6.25%
2 of the receipts subject to tax from a qualifying purchase, but
3 only if the retailer or serviceman reports the Manufacturer's
4 Purchase Credit claimed as required by the Department. A
5 Manufacturer's Purchase Credit reported on any original or
6 amended return filed under this Act after October 20, 2003
7 shall be disallowed. The Manufacturer's Purchase Credit earned
8 by purchase of exempt manufacturing machinery and equipment or
9 graphic arts machinery and equipment is a non-transferable
10 credit. A manufacturer or graphic arts producer that enters
11 into a contract involving the installation of tangible personal
12 property into real estate within a manufacturing or graphic
13 arts production facility may, prior to October 1, 2003,
14 authorize a construction contractor to utilize credit
15 accumulated by the manufacturer or graphic arts producer to
16 purchase the tangible personal property. A manufacturer or
17 graphic arts producer intending to use accumulated credit to
18 purchase such tangible personal property shall execute a
19 written contract authorizing the contractor to utilize a
20 specified dollar amount of credit. The contractor shall
21 furnish, prior to October 1, 2003, the supplier with the
22 manufacturer's or graphic arts producer's name, registration
23 or resale number, and a statement that a specific amount of the
24 Use Tax or Service Use Tax liability, not to exceed 6.25% of
25 the selling price, is being satisfied with the credit. The
26 manufacturer or graphic arts producer shall remain liable to

1 timely report all information required by the annual Report of
2 Manufacturer's Purchase Credit Used for all credit utilized by
3 a construction contractor.

4 No Manufacturer's Purchase Credit earned prior to July 1,
5 2003 may be used after October 1, 2003. The Manufacturer's
6 Purchase Credit may be used to satisfy liability under the Use
7 Tax Act or the Service Use Tax Act due on the purchase of
8 production related tangible personal property (including
9 purchases by a manufacturer, by a graphic arts producer, or by
10 a lessor who rents or leases the use of the property to a
11 manufacturer or graphic arts producer) that does not otherwise
12 qualify for the manufacturing machinery and equipment
13 exemption or the graphic arts machinery and equipment
14 exemption. "Production related tangible personal property"
15 means (i) all tangible personal property used or consumed by
16 the purchaser in a manufacturing facility in which a
17 manufacturing process described in Section 2-45 of the
18 Retailers' Occupation Tax Act takes place, including tangible
19 personal property purchased for incorporation into real estate
20 within a manufacturing facility and including, but not limited
21 to, tangible personal property used or consumed in activities
22 such as preproduction material handling, receiving, quality
23 control, inventory control, storage, staging, and packaging
24 for shipping and transportation purposes; (ii) all tangible
25 personal property used or consumed by the purchaser in a
26 graphic arts facility in which graphic arts production as

1 described in Section 2-30 of the Retailers' Occupation Tax Act
2 takes place, including tangible personal property purchased
3 for incorporation into real estate within a graphic arts
4 facility and including, but not limited to, all tangible
5 personal property used or consumed in activities such as
6 graphic arts preliminary or pre-press production,
7 pre-production material handling, receiving, quality control,
8 inventory control, storage, staging, sorting, labeling,
9 mailing, tying, wrapping, and packaging; and (iii) all tangible
10 personal property used or consumed by the purchaser for
11 research and development. "Production related tangible
12 personal property" does not include (i) tangible personal
13 property used, within or without a manufacturing facility, in
14 sales, purchasing, accounting, fiscal management, marketing,
15 personnel recruitment or selection, or landscaping or (ii)
16 tangible personal property required to be titled or registered
17 with a department, agency, or unit of federal, state, or local
18 government. The Manufacturer's Purchase Credit may be used,
19 prior to October 1, 2003, to satisfy the tax arising either
20 from the purchase of machinery and equipment on or after
21 January 1, 1995 for which the exemption provided by paragraph
22 (18) of Section 3-5 of this Act was erroneously claimed, or the
23 purchase of machinery and equipment on or after July 1, 1996
24 for which the exemption provided by paragraph (6) of Section
25 3-5 of this Act was erroneously claimed, but not in
26 satisfaction of penalty, if any, and interest for failure to

1 pay the tax when due. A purchaser of production related
2 tangible personal property who is required to pay Illinois Use
3 Tax or Service Use Tax on the purchase directly to the
4 Department may, prior to October 1, 2003, utilize the
5 Manufacturer's Purchase Credit in satisfaction of the tax
6 arising from that purchase, but not in satisfaction of penalty
7 and interest. A purchaser who uses the Manufacturer's Purchase
8 Credit to purchase property which is later determined not to be
9 production related tangible personal property may be liable for
10 tax, penalty, and interest on the purchase of that property as
11 of the date of purchase but shall be entitled to use the
12 disallowed Manufacturer's Purchase Credit, so long as it has
13 not expired and is used prior to October 1, 2003, on qualifying
14 purchases of production related tangible personal property not
15 previously subject to credit usage. The Manufacturer's
16 Purchase Credit earned by a manufacturer or graphic arts
17 producer expires the last day of the second calendar year
18 following the calendar year in which the credit arose. No
19 Manufacturer's Purchase Credit may be used after September 30,
20 2003 regardless of when that credit was earned.

21 A purchaser earning Manufacturer's Purchase Credit shall
22 sign and file an annual Report of Manufacturer's Purchase
23 Credit Earned for each calendar year no later than the last day
24 of the sixth month following the calendar year in which a
25 Manufacturer's Purchase Credit is earned. A Report of
26 Manufacturer's Purchase Credit Earned shall be filed on forms

1 as prescribed or approved by the Department and shall state,
2 for each month of the calendar year: (i) the total purchase
3 price of all purchases of exempt manufacturing or graphic arts
4 machinery on which the credit was earned; (ii) the total State
5 Use Tax or Service Use Tax which would have been due on those
6 items; (iii) the percentage used to calculate the amount of
7 credit earned; (iv) the amount of credit earned; and (v) such
8 other information as the Department may reasonably require. A
9 purchaser earning Manufacturer's Purchase Credit shall
10 maintain records which identify, as to each purchase of
11 manufacturing or graphic arts machinery and equipment on which
12 the purchaser earned Manufacturer's Purchase Credit, the
13 vendor (including, if applicable, either the vendor's
14 registration number or Federal Employer Identification
15 Number), the purchase price, and the amount of Manufacturer's
16 Purchase Credit earned on each purchase.

17 A purchaser using Manufacturer's Purchase Credit shall
18 sign and file an annual Report of Manufacturer's Purchase
19 Credit Used for each calendar year no later than the last day
20 of the sixth month following the calendar year in which a
21 Manufacturer's Purchase Credit is used. A Report of
22 Manufacturer's Purchase Credit Used shall be filed on forms as
23 prescribed or approved by the Department and shall state, for
24 each month of the calendar year: (i) the total purchase price
25 of production related tangible personal property purchased
26 from Illinois suppliers; (ii) the total purchase price of

1 production related tangible personal property purchased from
2 out-of-state suppliers; (iii) the total amount of credit used
3 during such month; and (iv) such other information as the
4 Department may reasonably require. A purchaser using
5 Manufacturer's Purchase Credit shall maintain records that
6 identify, as to each purchase of production related tangible
7 personal property on which the purchaser used Manufacturer's
8 Purchase Credit, the vendor (including, if applicable, either
9 the vendor's registration number or Federal Employer
10 Identification Number), the purchase price, and the amount of
11 Manufacturer's Purchase Credit used on each purchase.

12 No annual report shall be filed before May 1, 1996 or after
13 June 30, 2004. A purchaser that fails to file an annual Report
14 of Manufacturer's Purchase Credit Earned or an annual Report of
15 Manufacturer's Purchase Credit Used by the last day of the
16 sixth month following the end of the calendar year shall
17 forfeit all Manufacturer's Purchase Credit for that calendar
18 year unless it establishes that its failure to file was due to
19 reasonable cause. Manufacturer's Purchase Credit reports may
20 be amended to report and claim credit on qualifying purchases
21 not previously reported at any time before the credit would
22 have expired, unless both the Department and the purchaser have
23 agreed to an extension of the statute of limitations for the
24 issuance of a notice of tax liability as provided in Section 4
25 of the Retailers' Occupation Tax Act. If the time for
26 assessment or refund has been extended, then amended reports

1 for a calendar year may be filed at any time prior to the date
2 to which the statute of limitations for the calendar year or
3 portion thereof has been extended. No Manufacturer's Purchase
4 Credit report filed with the Department for periods prior to
5 January 1, 1995 shall be approved. Manufacturer's Purchase
6 Credit claimed on an amended report may be used, until October
7 1, 2003, to satisfy tax liability under the Use Tax Act or the
8 Service Use Tax Act (i) on qualifying purchases of production
9 related tangible personal property made after the date the
10 amended report is filed or (ii) assessed by the Department on
11 qualifying purchases of production related tangible personal
12 property made in the case of manufacturers on or after January
13 1, 1995, or in the case of graphic arts producers on or after
14 July 1, 1996.

15 If the purchaser is not the manufacturer or a graphic arts
16 producer, but rents or leases the use of the property to a
17 manufacturer or graphic arts producer, the purchaser may earn,
18 report, and use Manufacturer's Purchase Credit in the same
19 manner as a manufacturer or graphic arts producer.

20 A purchaser shall not be entitled to any Manufacturer's
21 Purchase Credit for a purchase that is required to be reported
22 and is not timely reported as provided in this Section. A
23 purchaser remains liable for (i) any tax that was satisfied by
24 use of a Manufacturer's Purchase Credit, as of the date of
25 purchase, if that use is not timely reported as required in
26 this Section and (ii) for any applicable penalties and interest

1 for failing to pay the tax when due. No Manufacturer's Purchase
2 Credit may be used after September 30, 2003 to satisfy any tax
3 liability imposed under this Act, including any audit
4 liability.

5 (b) Manufacturer's Purchase Credit earned on and after
6 September 1, 2004. This subsection (b) applies to
7 Manufacturer's Purchase Credit earned on and after September 1,
8 2004. Manufacturer's Purchase Credit earned on or after
9 September 1, 2004 may only be used to satisfy the Use Tax or
10 Service Use Tax liability incurred on production related
11 tangible personal property purchased on or after September 1,
12 2004. A purchaser of production related tangible personal
13 property desiring to use the Manufacturer's Purchase Credit
14 shall certify to the seller that the purchaser is satisfying
15 all or part of the liability under the Use Tax Act or the
16 Service Use Tax Act that is due on the purchase of the
17 production related tangible personal property by use of
18 Manufacturer's Purchase Credit. The Manufacturer's Purchase
19 Credit certification must be dated and shall include the name
20 and address of the purchaser, the purchaser's registration
21 number, if registered, the credit being applied, and a
22 statement that the State Use Tax or Service Use Tax liability
23 is being satisfied with the manufacturer's or graphic arts
24 producer's accumulated purchase credit. Certification may be
25 incorporated into the manufacturer's or graphic arts
26 producer's purchase order. Manufacturer's Purchase Credit

1 certification provided by the manufacturer or graphic arts
2 producer may be used to satisfy the retailer's or serviceman's
3 liability under the Retailers' Occupation Tax Act or Service
4 Occupation Tax Act for the credit claimed, not to exceed 6.25%
5 of the receipts subject to tax from a qualifying purchase, but
6 only if the retailer or serviceman reports the Manufacturer's
7 Purchase Credit claimed as required by the Department. The
8 Manufacturer's Purchase Credit earned by purchase of exempt
9 manufacturing machinery and equipment or graphic arts
10 machinery and equipment is a non-transferable credit. A
11 manufacturer or graphic arts producer that enters into a
12 contract involving the installation of tangible personal
13 property into real estate within a manufacturing or graphic
14 arts production facility may, on or after September 1, 2004,
15 authorize a construction contractor to utilize credit
16 accumulated by the manufacturer or graphic arts producer to
17 purchase the tangible personal property. A manufacturer or
18 graphic arts producer intending to use accumulated credit to
19 purchase such tangible personal property shall execute a
20 written contract authorizing the contractor to utilize a
21 specified dollar amount of credit. The contractor shall furnish
22 the supplier with the manufacturer's or graphic arts producer's
23 name, registration or resale number, and a statement that a
24 specific amount of the Use Tax or Service Use Tax liability,
25 not to exceed 6.25% of the selling price, is being satisfied
26 with the credit. The manufacturer or graphic arts producer

1 shall remain liable to timely report all information required
2 by the annual Report of Manufacturer's Purchase Credit Used for
3 all credit utilized by a construction contractor.

4 The Manufacturer's Purchase Credit may be used to satisfy
5 liability under the Use Tax Act or the Service Use Tax Act due
6 on the purchase, made on or after September 1, 2004, of
7 production related tangible personal property (including
8 purchases by a manufacturer, by a graphic arts producer, or by
9 a lessor who rents or leases the use of the property to a
10 manufacturer or graphic arts producer) that does not otherwise
11 qualify for the manufacturing machinery and equipment
12 exemption or the graphic arts machinery and equipment
13 exemption. "Production related tangible personal property"
14 means (i) all tangible personal property used or consumed by
15 the purchaser in a manufacturing facility in which a
16 manufacturing process described in Section 2-45 of the
17 Retailers' Occupation Tax Act takes place, including tangible
18 personal property purchased for incorporation into real estate
19 within a manufacturing facility and including, but not limited
20 to, tangible personal property used or consumed in activities
21 such as preproduction material handling, receiving, quality
22 control, inventory control, storage, staging, and packaging
23 for shipping and transportation purposes; (ii) all tangible
24 personal property used or consumed by the purchaser in a
25 graphic arts facility in which graphic arts production as
26 described in Section 2-30 of the Retailers' Occupation Tax Act

1 takes place, including tangible personal property purchased
2 for incorporation into real estate within a graphic arts
3 facility and including, but not limited to, all tangible
4 personal property used or consumed in activities such as
5 graphic arts preliminary or pre-press production,
6 pre-production material handling, receiving, quality control,
7 inventory control, storage, staging, sorting, labeling,
8 mailing, tying, wrapping, and packaging; and (iii) all tangible
9 personal property used or consumed by the purchaser for
10 research and development. "Production related tangible
11 personal property" does not include (i) tangible personal
12 property used, within or without a manufacturing facility, in
13 sales, purchasing, accounting, fiscal management, marketing,
14 personnel recruitment or selection, or landscaping or (ii)
15 tangible personal property required to be titled or registered
16 with a department, agency, or unit of federal, state, or local
17 government. The Manufacturer's Purchase Credit may be used to
18 satisfy the tax arising either from the purchase of machinery
19 and equipment on or after September 1, 2004 for which the
20 exemption provided by paragraph (18) of Section 3-5 of this Act
21 was erroneously claimed, or the purchase of machinery and
22 equipment on or after September 1, 2004 for which the exemption
23 provided by paragraph (6) of Section 3-5 of this Act was
24 erroneously claimed, but not in satisfaction of penalty, if
25 any, and interest for failure to pay the tax when due. A
26 purchaser of production related tangible personal property

1 that is purchased on or after September 1, 2004 who is required
2 to pay Illinois Use Tax or Service Use Tax on the purchase
3 directly to the Department may utilize the Manufacturer's
4 Purchase Credit in satisfaction of the tax arising from that
5 purchase, but not in satisfaction of penalty and interest. A
6 purchaser who uses the Manufacturer's Purchase Credit to
7 purchase property on and after September 1, 2004 which is later
8 determined not to be production related tangible personal
9 property may be liable for tax, penalty, and interest on the
10 purchase of that property as of the date of purchase but shall
11 be entitled to use the disallowed Manufacturer's Purchase
12 Credit, so long as it has not expired and is used on qualifying
13 purchases of production related tangible personal property not
14 previously subject to credit usage. The Manufacturer's
15 Purchase Credit earned by a manufacturer or graphic arts
16 producer expires the last day of the second calendar year
17 following the calendar year in which the credit arose. A
18 purchaser earning Manufacturer's Purchase Credit shall sign
19 and file an annual Report of Manufacturer's Purchase Credit
20 Earned for each calendar year no later than the last day of the
21 sixth month following the calendar year in which a
22 Manufacturer's Purchase Credit is earned. A Report of
23 Manufacturer's Purchase Credit Earned shall be filed on forms
24 as prescribed or approved by the Department and shall state,
25 for each month of the calendar year: (i) the total purchase
26 price of all purchases of exempt manufacturing or graphic arts

1 machinery on which the credit was earned; (ii) the total State
2 Use Tax or Service Use Tax which would have been due on those
3 items; (iii) the percentage used to calculate the amount of
4 credit earned; (iv) the amount of credit earned; and (v) such
5 other information as the Department may reasonably require. A
6 purchaser earning Manufacturer's Purchase Credit shall
7 maintain records which identify, as to each purchase of
8 manufacturing or graphic arts machinery and equipment on which
9 the purchaser earned Manufacturer's Purchase Credit, the
10 vendor (including, if applicable, either the vendor's
11 registration number or Federal Employer Identification
12 Number), the purchase price, and the amount of Manufacturer's
13 Purchase Credit earned on each purchase. A purchaser using
14 Manufacturer's Purchase Credit shall sign and file an annual
15 Report of Manufacturer's Purchase Credit Used for each calendar
16 year no later than the last day of the sixth month following
17 the calendar year in which a Manufacturer's Purchase Credit is
18 used. A Report of Manufacturer's Purchase Credit Used shall be
19 filed on forms as prescribed or approved by the Department and
20 shall state, for each month of the calendar year: (i) the total
21 purchase price of production related tangible personal
22 property purchased from Illinois suppliers; (ii) the total
23 purchase price of production related tangible personal
24 property purchased from out-of-state suppliers; (iii) the
25 total amount of credit used during such month; and (iv) such
26 other information as the Department may reasonably require. A

1 purchaser using Manufacturer's Purchase Credit shall maintain
2 records that identify, as to each purchase of production
3 related tangible personal property on which the purchaser used
4 Manufacturer's Purchase Credit, the vendor (including, if
5 applicable, either the vendor's registration number or Federal
6 Employer Identification Number), the purchase price, and the
7 amount of Manufacturer's Purchase Credit used on each purchase.

8 A purchaser that fails to file an annual Report of
9 Manufacturer's Purchase Credit Earned or an annual Report of
10 Manufacturer's Purchase Credit Used by the last day of the
11 sixth month following the end of the calendar year shall
12 forfeit all Manufacturer's Purchase Credit for that calendar
13 year unless it establishes that its failure to file was due to
14 reasonable cause. Manufacturer's Purchase Credit reports may
15 be amended to report and claim credit on qualifying purchases
16 not previously reported at any time before the credit would
17 have expired, unless both the Department and the purchaser have
18 agreed to an extension of the statute of limitations for the
19 issuance of a notice of tax liability as provided in Section 4
20 of the Retailers' Occupation Tax Act. If the time for
21 assessment or refund has been extended, then amended reports
22 for a calendar year may be filed at any time prior to the date
23 to which the statute of limitations for the calendar year or
24 portion thereof has been extended. Manufacturer's Purchase
25 Credit claimed on an amended report may be used to satisfy tax
26 liability under the Use Tax Act or the Service Use Tax Act (i)

1 on qualifying purchases of production related tangible
2 personal property made after the date the amended report is
3 filed or (ii) assessed by the Department on qualifying
4 production related tangible personal property purchased on or
5 after September 1, 2004. If the purchaser is not the
6 manufacturer or a graphic arts producer, but rents or leases
7 the use of the property to a manufacturer or graphic arts
8 producer, the purchaser may earn, report, and use
9 Manufacturer's Purchase Credit in the same manner as a
10 manufacturer or graphic arts producer. A purchaser shall not be
11 entitled to any Manufacturer's Purchase Credit for a purchase
12 that is required to be reported and is not timely reported as
13 provided in this Section. A purchaser remains liable for (i)
14 any tax that was satisfied by use of a Manufacturer's Purchase
15 Credit, as of the date of purchase, if that use is not timely
16 reported as required in this Section and (ii) for any
17 applicable penalties and interest for failing to pay the tax
18 when due.

19 (Source: P.A. 96-116, eff. 7-31-09.)

20 Section 20. The Service Use Tax Act is amended by changing
21 Section 3-70 as follows:

22 (35 ILCS 110/3-70)

23 Sec. 3-70. Manufacturer's Purchase Credit. For purchases
24 of machinery and equipment made on and after January 1, 1995

1 and through June 30, 2003, and on and after September 1, 2004
2 through February 28, 2015 ~~August 30, 2014~~, a purchaser of
3 manufacturing machinery and equipment that qualifies for the
4 exemption provided by Section 2 of this Act earns a credit in
5 an amount equal to a fixed percentage of the tax which would
6 have been incurred under this Act on those purchases. For
7 purchases of graphic arts machinery and equipment made on or
8 after July 1, 1996 through June 30, 2003, and on and after
9 September 1, 2004 through February 28, 2015 ~~August 30, 2014~~, a
10 purchase of graphic arts machinery and equipment that qualifies
11 for the exemption provided by paragraph (5) of Section 3-5 of
12 this Act earns a credit in an amount equal to a fixed
13 percentage of the tax that would have been incurred under this
14 Act on those purchases. The credit earned for the purchase of
15 manufacturing machinery and equipment and graphic arts
16 machinery and equipment shall be referred to as the
17 Manufacturer's Purchase Credit. A graphic arts producer is a
18 person engaged in graphic arts production as defined in Section
19 3-30 of the Service Occupation Tax Act. Beginning July 1, 1996,
20 all references in this Section to manufacturers or
21 manufacturing shall also refer to graphic arts producers or
22 graphic arts production.

23 The amount of credit shall be a percentage of the tax that
24 would have been incurred on the purchase of the manufacturing
25 machinery and equipment or graphic arts machinery and equipment
26 if the exemptions provided by Section 2 or paragraph (5) of

1 Section 3-5 of this Act had not been applicable.

2 All purchases prior to October 1, 2003 and on and after
3 September 1, 2004 and through February 28, 2015, of
4 manufacturing machinery and equipment and graphic arts
5 machinery and equipment that qualify for the exemptions
6 provided by paragraph (5) of Section 2 or paragraph (5) of
7 Section 3-5 of this Act qualify for the credit without regard
8 to whether the serviceman elected, or could have elected, under
9 paragraph (7) of Section 2 of this Act to exclude the
10 transaction from this Act. If the serviceman's billing to the
11 service customer separately states a selling price for the
12 exempt manufacturing machinery or equipment or the exempt
13 graphic arts machinery and equipment, the credit shall be
14 calculated, as otherwise provided herein, based on that selling
15 price. If the serviceman's billing does not separately state a
16 selling price for the exempt manufacturing machinery and
17 equipment or the exempt graphic arts machinery and equipment,
18 the credit shall be calculated, as otherwise provided herein,
19 based on 50% of the entire billing. If the serviceman contracts
20 to design, develop, and produce special order manufacturing
21 machinery and equipment or special order graphic arts machinery
22 and equipment, and the billing does not separately state a
23 selling price for such special order machinery and equipment,
24 the credit shall be calculated, as otherwise provided herein,
25 based on 50% of the entire billing. The provisions of this
26 paragraph are effective for purchases made on or after January

1 1, 1995.

2 The percentage shall be as follows:

3 (1) 15% for purchases made on or before June 30, 1995.

4 (2) 25% for purchases made after June 30, 1995, and on
5 or before June 30, 1996.

6 (3) 40% for purchases made after June 30, 1996, and on
7 or before June 30, 1997.

8 (4) 50% for purchases made on or after July 1, 1997.

9 (a) Manufacturer's Purchase Credit earned prior to July 1,
10 2003. This subsection (a) applies to Manufacturer's Purchase
11 Credit earned prior to July 1, 2003. A purchaser of production
12 related tangible personal property desiring to use the
13 Manufacturer's Purchase Credit shall certify to the seller
14 prior to October 1, 2003 that the purchaser is satisfying all
15 or part of the liability under the Use Tax Act or the Service
16 Use Tax Act that is due on the purchase of the production
17 related tangible personal property by use of a Manufacturer's
18 Purchase Credit. The Manufacturer's Purchase Credit
19 certification must be dated and shall include the name and
20 address of the purchaser, the purchaser's registration number,
21 if registered, the credit being applied, and a statement that
22 the State Use Tax or Service Use Tax liability is being
23 satisfied with the manufacturer's or graphic arts producer's
24 accumulated purchase credit. Certification may be incorporated
25 into the manufacturer's or graphic arts producer's purchase
26 order. Manufacturer's Purchase Credit certification provided

1 by the manufacturer or graphic arts producer prior to October
2 1, 2003 may be used to satisfy the retailer's or serviceman's
3 liability under the Retailers' Occupation Tax Act or Service
4 Occupation Tax Act for the credit claimed, not to exceed 6.25%
5 of the receipts subject to tax from a qualifying purchase, but
6 only if the retailer or serviceman reports the Manufacturer's
7 Purchase Credit claimed as required by the Department. A
8 Manufacturer's Purchase Credit reported on any original or
9 amended return filed under this Act after October 20, 2003
10 shall be disallowed. The Manufacturer's Purchase Credit earned
11 by purchase of exempt manufacturing machinery and equipment or
12 graphic arts machinery and equipment is a non-transferable
13 credit. A manufacturer or graphic arts producer that enters
14 into a contract involving the installation of tangible personal
15 property into real estate within a manufacturing or graphic
16 arts production facility, prior to October 1, 2003, may
17 authorize a construction contractor to utilize credit
18 accumulated by the manufacturer or graphic arts producer to
19 purchase the tangible personal property. A manufacturer or
20 graphic arts producer intending to use accumulated credit to
21 purchase such tangible personal property shall execute a
22 written contract authorizing the contractor to utilize a
23 specified dollar amount of credit. The contractor shall
24 furnish, prior to October 1, 2003, the supplier with the
25 manufacturer's or graphic arts producer's name, registration
26 or resale number, and a statement that a specific amount of the

1 Use Tax or Service Use Tax liability, not to exceed 6.25% of
2 the selling price, is being satisfied with the credit. The
3 manufacturer or graphic arts producer shall remain liable to
4 timely report all information required by the annual Report of
5 Manufacturer's Purchase Credit Used for credit utilized by a
6 construction contractor.

7 No Manufacturer's Purchase Credit earned prior to July 1,
8 2003 may be used after October 1, 2003. The Manufacturer's
9 Purchase Credit may be used to satisfy liability under the Use
10 Tax Act or the Service Use Tax Act due on the purchase of
11 production related tangible personal property (including
12 purchases by a manufacturer, by a graphic arts producer, or a
13 lessor who rents or leases the use of the property to a
14 manufacturer or graphic arts producer) that does not otherwise
15 qualify for the manufacturing machinery and equipment
16 exemption or the graphic arts machinery and equipment
17 exemption. "Production related tangible personal property"
18 means (i) all tangible personal property used or consumed by
19 the purchaser in a manufacturing facility in which a
20 manufacturing process described in Section 2-45 of the
21 Retailers' Occupation Tax Act takes place, including tangible
22 personal property purchased for incorporation into real estate
23 within a manufacturing facility and including, but not limited
24 to, tangible personal property used or consumed in activities
25 such as pre-production material handling, receiving, quality
26 control, inventory control, storage, staging, and packaging

1 for shipping and transportation purposes; (ii) all tangible
2 personal property used or consumed by the purchaser in a
3 graphic arts facility in which graphic arts production as
4 described in Section 2-30 of the Retailers' Occupation Tax Act
5 takes place, including tangible personal property purchased
6 for incorporation into real estate within a graphic arts
7 facility and including, but not limited to, all tangible
8 personal property used or consumed in activities such as
9 graphic arts preliminary or pre-press production,
10 pre-production material handling, receiving, quality control,
11 inventory control, storage, staging, sorting, labeling,
12 mailing, tying, wrapping, and packaging; and (iii) all tangible
13 personal property used or consumed by the purchaser for
14 research and development. "Production related tangible
15 personal property" does not include (i) tangible personal
16 property used, within or without a manufacturing or graphic
17 arts facility, in sales, purchasing, accounting, fiscal
18 management, marketing, personnel recruitment or selection, or
19 landscaping or (ii) tangible personal property required to be
20 titled or registered with a department, agency, or unit of
21 federal, state, or local government. The Manufacturer's
22 Purchase Credit may be used, prior to October 1, 2003, to
23 satisfy the tax arising either from the purchase of machinery
24 and equipment on or after January 1, 1995 for which the
25 manufacturing machinery and equipment exemption provided by
26 Section 2 of this Act was erroneously claimed, or the purchase

1 of machinery and equipment on or after July 1, 1996 for which
2 the exemption provided by paragraph (5) of Section 3-5 of this
3 Act was erroneously claimed, but not in satisfaction of
4 penalty, if any, and interest for failure to pay the tax when
5 due. A purchaser of production related tangible personal
6 property who is required to pay Illinois Use Tax or Service Use
7 Tax on the purchase directly to the Department may, prior to
8 October 1, 2003, utilize the Manufacturer's Purchase Credit in
9 satisfaction of the tax arising from that purchase, but not in
10 satisfaction of penalty and interest. A purchaser who uses the
11 Manufacturer's Purchase Credit to purchase property which is
12 later determined not to be production related tangible personal
13 property may be liable for tax, penalty, and interest on the
14 purchase of that property as of the date of purchase but shall
15 be entitled to use the disallowed Manufacturer's Purchase
16 Credit, so long as it has not expired and is used prior to
17 October 1, 2003, on qualifying purchases of production related
18 tangible personal property not previously subject to credit
19 usage. The Manufacturer's Purchase Credit earned by a
20 manufacturer or graphic arts producer expires the last day of
21 the second calendar year following the calendar year in which
22 the credit arose. No Manufacturer's Purchase Credit may be used
23 after September 30, 2003 regardless of when that credit was
24 earned.

25 A purchaser earning Manufacturer's Purchase Credit shall
26 sign and file an annual Report of Manufacturer's Purchase

1 Credit Earned for each calendar year no later than the last day
2 of the sixth month following the calendar year in which a
3 Manufacturer's Purchase Credit is earned. A Report of
4 Manufacturer's Purchase Credit Earned shall be filed on forms
5 as prescribed or approved by the Department and shall state,
6 for each month of the calendar year: (i) the total purchase
7 price of all purchases of exempt manufacturing or graphic arts
8 machinery on which the credit was earned; (ii) the total State
9 Use Tax or Service Use Tax which would have been due on those
10 items; (iii) the percentage used to calculate the amount of
11 credit earned; (iv) the amount of credit earned; and (v) such
12 other information as the Department may reasonably require. A
13 purchaser earning Manufacturer's Purchase Credit shall
14 maintain records which identify, as to each purchase of
15 manufacturing or graphic arts machinery and equipment on which
16 the purchaser earned Manufacturer's Purchase Credit, the
17 vendor (including, if applicable, either the vendor's
18 registration number or Federal Employer Identification
19 Number), the purchase price, and the amount of Manufacturer's
20 Purchase Credit earned on each purchase.

21 A purchaser using Manufacturer's Purchase Credit shall
22 sign and file an annual Report of Manufacturer's Purchase
23 Credit Used for each calendar year no later than the last day
24 of the sixth month following the calendar year in which a
25 Manufacturer's Purchase Credit is used. A Report of
26 Manufacturer's Purchase Credit Used shall be filed on forms as

1 prescribed or approved by the Department and shall state, for
2 each month of the calendar year: (i) the total purchase price
3 of production related tangible personal property purchased
4 from Illinois suppliers; (ii) the total purchase price of
5 production related tangible personal property purchased from
6 out-of-state suppliers; (iii) the total amount of credit used
7 during such month; and (iv) such other information as the
8 Department may reasonably require. A purchaser using
9 Manufacturer's Purchase Credit shall maintain records that
10 identify, as to each purchase of production related tangible
11 personal property on which the purchaser used Manufacturer's
12 Purchase Credit, the vendor (including, if applicable, either
13 the vendor's registration number or Federal Employer
14 Identification Number), the purchase price, and the amount of
15 Manufacturer's Purchase Credit used on each purchase.

16 No annual report shall be filed before May 1, 1996 or after
17 June 30, 2004. A purchaser that fails to file an annual Report
18 of Manufacturer's Purchase Credit Earned or an annual Report of
19 Manufacturer's Purchase Credit Used by the last day of the
20 sixth month following the end of the calendar year shall
21 forfeit all Manufacturer's Purchase Credit for that calendar
22 year unless it establishes that its failure to file was due to
23 reasonable cause. Manufacturer's Purchase Credit reports may
24 be amended to report and claim credit on qualifying purchases
25 not previously reported at any time before the credit would
26 have expired, unless both the Department and the purchaser have

1 agreed to an extension of the statute of limitations for the
2 issuance of a notice of tax liability as provided in Section 4
3 of the Retailers' Occupation Tax Act. If the time for
4 assessment or refund has been extended, then amended reports
5 for a calendar year may be filed at any time prior to the date
6 to which the statute of limitations for the calendar year or
7 portion thereof has been extended. No Manufacturer's Purchase
8 Credit report filed with the Department for periods prior to
9 January 1, 1995 shall be approved. Manufacturer's Purchase
10 Credit claimed on an amended report may be used, prior to
11 October 1, 2003, to satisfy tax liability under the Use Tax Act
12 or the Service Use Tax Act (i) on qualifying purchases of
13 production related tangible personal property made after the
14 date the amended report is filed or (ii) assessed by the
15 Department on qualifying purchases of production related
16 tangible personal property made in the case of manufacturers on
17 or after January 1, 1995, or in the case of graphic arts
18 producers on or after July 1, 1996.

19 If the purchaser is not the manufacturer or a graphic arts
20 producer, but rents or leases the use of the property to a
21 manufacturer or a graphic arts producer, the purchaser may
22 earn, report, and use Manufacturer's Purchase Credit in the
23 same manner as a manufacturer or graphic arts producer.

24 A purchaser shall not be entitled to any Manufacturer's
25 Purchase Credit for a purchase that is required to be reported
26 and is not timely reported as provided in this Section. A

1 purchaser remains liable for (i) any tax that was satisfied by
2 use of a Manufacturer's Purchase Credit, as of the date of
3 purchase, if that use is not timely reported as required in
4 this Section and (ii) for any applicable penalties and interest
5 for failing to pay the tax when due. No Manufacturer's Purchase
6 Credit may be used after September 30, 2003 to satisfy any tax
7 liability imposed under this Act, including any audit
8 liability.

9 (b) Manufacturer's Purchase Credit earned on and after
10 September 1, 2004. This subsection (b) applies to
11 Manufacturer's Purchase Credit earned on or after September 1,
12 2004. Manufacturer's Purchase Credit earned on or after
13 September 1, 2004 may only be used to satisfy the Use Tax or
14 Service Use Tax liability incurred on production related
15 tangible personal property purchased on or after September 1,
16 2004. A purchaser of production related tangible personal
17 property desiring to use the Manufacturer's Purchase Credit
18 shall certify to the seller that the purchaser is satisfying
19 all or part of the liability under the Use Tax Act or the
20 Service Use Tax Act that is due on the purchase of the
21 production related tangible personal property by use of a
22 Manufacturer's Purchase Credit. The Manufacturer's Purchase
23 Credit certification must be dated and shall include the name
24 and address of the purchaser, the purchaser's registration
25 number, if registered, the credit being applied, and a
26 statement that the State Use Tax or Service Use Tax liability

1 is being satisfied with the manufacturer's or graphic arts
2 producer's accumulated purchase credit. Certification may be
3 incorporated into the manufacturer's or graphic arts
4 producer's purchase order. Manufacturer's Purchase Credit
5 certification provided by the manufacturer or graphic arts
6 producer may be used to satisfy the retailer's or serviceman's
7 liability under the Retailers' Occupation Tax Act or Service
8 Occupation Tax Act for the credit claimed, not to exceed 6.25%
9 of the receipts subject to tax from a qualifying purchase, but
10 only if the retailer or serviceman reports the Manufacturer's
11 Purchase Credit claimed as required by the Department. The
12 Manufacturer's Purchase Credit earned by purchase of exempt
13 manufacturing machinery and equipment or graphic arts
14 machinery and equipment is a non-transferable credit. A
15 manufacturer or graphic arts producer that enters into a
16 contract involving the installation of tangible personal
17 property into real estate within a manufacturing or graphic
18 arts production facility may, on or after September 1, 2004,
19 authorize a construction contractor to utilize credit
20 accumulated by the manufacturer or graphic arts producer to
21 purchase the tangible personal property. A manufacturer or
22 graphic arts producer intending to use accumulated credit to
23 purchase such tangible personal property shall execute a
24 written contract authorizing the contractor to utilize a
25 specified dollar amount of credit. The contractor shall furnish
26 the supplier with the manufacturer's or graphic arts producer's

1 name, registration or resale number, and a statement that a
2 specific amount of the Use Tax or Service Use Tax liability,
3 not to exceed 6.25% of the selling price, is being satisfied
4 with the credit. The manufacturer or graphic arts producer
5 shall remain liable to timely report all information required
6 by the annual Report of Manufacturer's Purchase Credit Used for
7 credit utilized by a construction contractor.

8 The Manufacturer's Purchase Credit may be used to satisfy
9 liability under the Use Tax Act or the Service Use Tax Act due
10 on the purchase, made on or after September 1, 2004, of
11 production related tangible personal property (including
12 purchases by a manufacturer, by a graphic arts producer, or a
13 lessor who rents or leases the use of the property to a
14 manufacturer or graphic arts producer) that does not otherwise
15 qualify for the manufacturing machinery and equipment
16 exemption or the graphic arts machinery and equipment
17 exemption. "Production related tangible personal property"
18 means (i) all tangible personal property used or consumed by
19 the purchaser in a manufacturing facility in which a
20 manufacturing process described in Section 2-45 of the
21 Retailers' Occupation Tax Act takes place, including tangible
22 personal property purchased for incorporation into real estate
23 within a manufacturing facility and including, but not limited
24 to, tangible personal property used or consumed in activities
25 such as pre-production material handling, receiving, quality
26 control, inventory control, storage, staging, and packaging

1 for shipping and transportation purposes; (ii) all tangible
2 personal property used or consumed by the purchaser in a
3 graphic arts facility in which graphic arts production as
4 described in Section 2-30 of the Retailers' Occupation Tax Act
5 takes place, including tangible personal property purchased
6 for incorporation into real estate within a graphic arts
7 facility and including, but not limited to, all tangible
8 personal property used or consumed in activities such as
9 graphic arts preliminary or pre-press production,
10 pre-production material handling, receiving, quality control,
11 inventory control, storage, staging, sorting, labeling,
12 mailing, tying, wrapping, and packaging; and (iii) all tangible
13 personal property used or consumed by the purchaser for
14 research and development. "Production related tangible
15 personal property" does not include (i) tangible personal
16 property used, within or without a manufacturing or graphic
17 arts facility, in sales, purchasing, accounting, fiscal
18 management, marketing, personnel recruitment or selection, or
19 landscaping or (ii) tangible personal property required to be
20 titled or registered with a department, agency, or unit of
21 federal, state, or local government. The Manufacturer's
22 Purchase Credit may be used to satisfy the tax arising either
23 from the purchase of machinery and equipment on or after
24 September 1, 2004 for which the manufacturing machinery and
25 equipment exemption provided by Section 2 of this Act was
26 erroneously claimed, or the purchase of machinery and equipment

1 on or after September 1, 2004 for which the exemption provided
2 by paragraph (5) of Section 3-5 of this Act was erroneously
3 claimed, but not in satisfaction of penalty, if any, and
4 interest for failure to pay the tax when due. A purchaser of
5 production related tangible personal property that is
6 purchased on or after September 1, 2004 who is required to pay
7 Illinois Use Tax or Service Use Tax on the purchase directly to
8 the Department may utilize the Manufacturer's Purchase Credit
9 in satisfaction of the tax arising from that purchase, but not
10 in satisfaction of penalty and interest. A purchaser who uses
11 the Manufacturer's Purchase Credit to purchase property on and
12 after September 1, 2004 which is later determined not to be
13 production related tangible personal property may be liable for
14 tax, penalty, and interest on the purchase of that property as
15 of the date of purchase but shall be entitled to use the
16 disallowed Manufacturer's Purchase Credit, so long as it has
17 not expired, on qualifying purchases of production related
18 tangible personal property not previously subject to credit
19 usage. The Manufacturer's Purchase Credit earned by a
20 manufacturer or graphic arts producer expires the last day of
21 the second calendar year following the calendar year in which
22 the credit arose.

23 A purchaser earning Manufacturer's Purchase Credit shall
24 sign and file an annual Report of Manufacturer's Purchase
25 Credit Earned for each calendar year no later than the last day
26 of the sixth month following the calendar year in which a

1 Manufacturer's Purchase Credit is earned. A Report of
2 Manufacturer's Purchase Credit Earned shall be filed on forms
3 as prescribed or approved by the Department and shall state,
4 for each month of the calendar year: (i) the total purchase
5 price of all purchases of exempt manufacturing or graphic arts
6 machinery on which the credit was earned; (ii) the total State
7 Use Tax or Service Use Tax which would have been due on those
8 items; (iii) the percentage used to calculate the amount of
9 credit earned; (iv) the amount of credit earned; and (v) such
10 other information as the Department may reasonably require. A
11 purchaser earning Manufacturer's Purchase Credit shall
12 maintain records which identify, as to each purchase of
13 manufacturing or graphic arts machinery and equipment on which
14 the purchaser earned Manufacturer's Purchase Credit, the
15 vendor (including, if applicable, either the vendor's
16 registration number or Federal Employer Identification
17 Number), the purchase price, and the amount of Manufacturer's
18 Purchase Credit earned on each purchase.

19 A purchaser using Manufacturer's Purchase Credit shall
20 sign and file an annual Report of Manufacturer's Purchase
21 Credit Used for each calendar year no later than the last day
22 of the sixth month following the calendar year in which a
23 Manufacturer's Purchase Credit is used. A Report of
24 Manufacturer's Purchase Credit Used shall be filed on forms as
25 prescribed or approved by the Department and shall state, for
26 each month of the calendar year: (i) the total purchase price

1 of production related tangible personal property purchased
2 from Illinois suppliers; (ii) the total purchase price of
3 production related tangible personal property purchased from
4 out-of-state suppliers; (iii) the total amount of credit used
5 during such month; and (iv) such other information as the
6 Department may reasonably require. A purchaser using
7 Manufacturer's Purchase Credit shall maintain records that
8 identify, as to each purchase of production related tangible
9 personal property on which the purchaser used Manufacturer's
10 Purchase Credit, the vendor (including, if applicable, either
11 the vendor's registration number or Federal Employer
12 Identification Number), the purchase price, and the amount of
13 Manufacturer's Purchase Credit used on each purchase.

14 A purchaser that fails to file an annual Report of
15 Manufacturer's Purchase Credit Earned or an annual Report of
16 Manufacturer's Purchase Credit Used by the last day of the
17 sixth month following the end of the calendar year shall
18 forfeit all Manufacturer's Purchase Credit for that calendar
19 year unless it establishes that its failure to file was due to
20 reasonable cause. Manufacturer's Purchase Credit reports may
21 be amended to report and claim credit on qualifying purchases
22 not previously reported at any time before the credit would
23 have expired, unless both the Department and the purchaser have
24 agreed to an extension of the statute of limitations for the
25 issuance of a notice of tax liability as provided in Section 4
26 of the Retailers' Occupation Tax Act. If the time for

1 assessment or refund has been extended, then amended reports
2 for a calendar year may be filed at any time prior to the date
3 to which the statute of limitations for the calendar year or
4 portion thereof has been extended. Manufacturer's Purchase
5 Credit claimed on an amended report may be used to satisfy tax
6 liability under the Use Tax Act or the Service Use Tax Act (i)
7 on qualifying purchases of production related tangible
8 personal property made after the date the amended report is
9 filed or (ii) assessed by the Department on qualifying
10 production related tangible personal property purchased on or
11 after September 1, 2004.

12 If the purchaser is not the manufacturer or a graphic arts
13 producer, but rents or leases the use of the property to a
14 manufacturer or a graphic arts producer, the purchaser may
15 earn, report, and use Manufacturer's Purchase Credit in the
16 same manner as a manufacturer or graphic arts producer. A
17 purchaser shall not be entitled to any Manufacturer's Purchase
18 Credit for a purchase that is required to be reported and is
19 not timely reported as provided in this Section. A purchaser
20 remains liable for (i) any tax that was satisfied by use of a
21 Manufacturer's Purchase Credit, as of the date of purchase, if
22 that use is not timely reported as required in this Section and
23 (ii) for any applicable penalties and interest for failing to
24 pay the tax when due.

25 (Source: P.A. 96-116, eff. 7-31-09.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".