

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Sections  
5 3, 3-5, 3-25, and 3-50 as follows:

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

7 Sec. 3. Tax imposed. A tax is imposed upon the privilege of  
8 using in this State tangible personal property purchased at  
9 retail from a retailer, including computer software, and  
10 including photographs, negatives, and positives that are the  
11 product of photoprocessing, but not including products of  
12 photoprocessing produced for use in motion pictures for  
13 commercial exhibition. Beginning January 1, 2001, prepaid  
14 telephone calling arrangements shall be considered tangible  
15 personal property subject to the tax imposed under this Act  
16 regardless of the form in which those arrangements may be  
17 embodied, transmitted, or fixed by any method now known or  
18 hereafter developed. Purchases of (1) electricity delivered to  
19 customers by wire; (2) natural or artificial gas that is  
20 delivered to customers through pipes, pipelines, or mains; and  
21 (3) water that is delivered to customers through pipes,  
22 pipelines, or mains are not subject to tax under this Act. The  
23 provisions of this amendatory Act of the 98th General Assembly

1 are declaratory of existing law as to the meaning and scope of  
2 this Act.

3 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

4 (35 ILCS 105/3-5)

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

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

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

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

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

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

21 (5) Until July 1, 2003, a passenger car that is a  
22 replacement vehicle to the extent that the purchase price of  
23 the car is subject to the Replacement Vehicle Tax.

24 (6) Until July 1, 2003 and beginning again on September 1,  
25 2004 through August 30, 2014, graphic arts machinery and  
26 equipment, including repair and replacement parts, both new and

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

8 (7) Farm chemicals.

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

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

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

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

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

1 such equipment.

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

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

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

25 (14) Until July 1, 2003, oil field exploration, drilling,  
26 and production equipment, including (i) rigs and parts of rigs,

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

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

13 (16) Until July 1, 2003, and beginning again on the  
14 effective date of this amendatory Act of the 97th General  
15 Assembly and thereafter, coal and aggregate exploration,  
16 mining, offhighway hauling, processing, maintenance, and  
17 reclamation equipment, including replacement parts and  
18 equipment, and including equipment purchased for lease, but  
19 excluding motor vehicles required to be registered under the  
20 Illinois Vehicle Code.

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

1           (18) Manufacturing and assembling machinery and equipment  
2 used primarily in the process of manufacturing or assembling  
3 tangible personal property for wholesale or retail sale or  
4 lease, whether that sale or lease is made directly by the  
5 manufacturer or by some other person, whether the materials  
6 used in the process are owned by the manufacturer or some other  
7 person, or whether that sale or lease is made apart from or as  
8 an incident to the seller's engaging in the service occupation  
9 of producing machines, tools, dies, jigs, patterns, gauges, or  
10 other similar items of no commercial value on special order for  
11 a particular purchaser. The exemption provided by this  
12 paragraph (18) does not include machinery and equipment used in  
13 (i) the generation of electricity for wholesale or retail sale;  
14 (ii) the generation or treatment of natural or artificial gas  
15 for wholesale or retail sale that is delivered to customers  
16 through pipes, pipelines, or mains; or (iii) the treatment of  
17 water for wholesale or retail sale that is delivered to  
18 customers through pipes, pipelines, or mains. The provisions of  
19 this amendatory Act of the 98th General Assembly are  
20 declaratory of existing law as to the meaning and scope of this  
21 exemption.

22           (19) Personal property delivered to a purchaser or  
23 purchaser's donee inside Illinois when the purchase order for  
24 that personal property was received by a florist located  
25 outside Illinois who has a florist located inside Illinois  
26 deliver the personal property.



1           (20) Semen used for artificial insemination of livestock  
2 for direct agricultural production.

3           (21) Horses, or interests in horses, registered with and  
4 meeting the requirements of any of the Arabian Horse Club  
5 Registry of America, Appaloosa Horse Club, American Quarter  
6 Horse Association, United States Trotting Association, or  
7 Jockey Club, as appropriate, used for purposes of breeding or  
8 racing for prizes. This item (21) is exempt from the provisions  
9 of Section 3-90, and the exemption provided for under this item  
10 (21) applies for all periods beginning May 30, 1995, but no  
11 claim for credit or refund is allowed on or after January 1,  
12 2008 for such taxes paid during the period beginning May 30,  
13 2000 and ending on January 1, 2008.

14           (22) Computers and communications equipment utilized for  
15 any hospital purpose and equipment used in the diagnosis,  
16 analysis, or treatment of hospital patients purchased by a  
17 lessor who leases the equipment, under a lease of one year or  
18 longer executed or in effect at the time the lessor would  
19 otherwise be subject to the tax imposed by this Act, to a  
20 hospital that has been issued an active tax exemption  
21 identification number by the Department under Section 1g of the  
22 Retailers' Occupation Tax Act. If the equipment is leased in a  
23 manner that does not qualify for this exemption or is used in  
24 any other non-exempt manner, the lessor shall be liable for the  
25 tax imposed under this Act or the Service Use Tax Act, as the  
26 case may be, based on the fair market value of the property at

1 the time the non-qualifying use occurs. No lessor shall collect  
2 or attempt to collect an amount (however designated) that  
3 purports to reimburse that lessor for the tax imposed by this  
4 Act or the Service Use Tax Act, as the case may be, if the tax  
5 has not been paid by the lessor. If a lessor improperly  
6 collects any such amount from the lessee, the lessee shall have  
7 a legal right to claim a refund of that amount from the lessor.  
8 If, however, that amount is not refunded to the lessee for any  
9 reason, the lessor is liable to pay that amount to the  
10 Department.

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

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

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

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

1           (26) Beginning July 1, 1999, game or game birds purchased  
2 at a "game breeding and hunting preserve area" as that term is  
3 used in the Wildlife Code. This paragraph is exempt from the  
4 provisions of Section 3-90.

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

23           (28) Beginning January 1, 2000, personal property,  
24 including food, purchased through fundraising events for the  
25 benefit of a public or private elementary or secondary school,  
26 a group of those schools, or one or more school districts if

1 the events are sponsored by an entity recognized by the school  
2 district that consists primarily of volunteers and includes  
3 parents and teachers of the school children. This paragraph  
4 does not apply to fundraising events (i) for the benefit of  
5 private home instruction or (ii) for which the fundraising  
6 entity purchases the personal property sold at the events from  
7 another individual or entity that sold the property for the  
8 purpose of resale by the fundraising entity and that profits  
9 from the sale to the fundraising entity. This paragraph is  
10 exempt from the provisions of Section 3-90.

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

21 (30) Beginning January 1, 2001 and through June 30, 2016,  
22 food for human consumption that is to be consumed off the  
23 premises where it is sold (other than alcoholic beverages, soft  
24 drinks, and food that has been prepared for immediate  
25 consumption) and prescription and nonprescription medicines,  
26 drugs, medical appliances, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human  
2 use, when purchased for use by a person receiving medical  
3 assistance under Article V of the Illinois Public Aid Code who  
4 resides in a licensed long-term care facility, as defined in  
5 the Nursing Home Care Act, or in a licensed facility as defined  
6 in the ID/DD Community Care Act or the Specialized Mental  
7 Health Rehabilitation Act.

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

1 collects any such amount from the lessee, the lessee shall have  
2 a legal right to claim a refund of that amount from the lessor.  
3 If, however, that amount is not refunded to the lessee for any  
4 reason, the lessor is liable to pay that amount to the  
5 Department. This paragraph is exempt from the provisions of  
6 Section 3-90.

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

1 refunded to the lessee for any reason, the lessor is liable to  
2 pay that amount to the Department. This paragraph is exempt  
3 from the provisions of Section 3-90.

4 (33) On and after July 1, 2003 and through June 30, 2004,  
5 the use in this State of motor vehicles of the second division  
6 with a gross vehicle weight in excess of 8,000 pounds and that  
7 are subject to the commercial distribution fee imposed under  
8 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
9 1, 2004 and through June 30, 2005, the use in this State of  
10 motor vehicles of the second division: (i) with a gross vehicle  
11 weight rating in excess of 8,000 pounds; (ii) that are subject  
12 to the commercial distribution fee imposed under Section  
13 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
14 primarily used for commercial purposes. Through June 30, 2005,  
15 this exemption applies to repair and replacement parts added  
16 after the initial purchase of such a motor vehicle if that  
17 motor vehicle is used in a manner that would qualify for the  
18 rolling stock exemption otherwise provided for in this Act. For  
19 purposes of this paragraph, the term "used for commercial  
20 purposes" means the transportation of persons or property in  
21 furtherance of any commercial or industrial enterprise,  
22 whether for-hire or not.

23 (34) Beginning January 1, 2008, tangible personal property  
24 used in the construction or maintenance of a community water  
25 supply, as defined under Section 3.145 of the Environmental  
26 Protection Act, that is operated by a not-for-profit



1 corporation that holds a valid water supply permit issued under  
2 Title IV of the Environmental Protection Act. This paragraph is  
3 exempt from the provisions of Section 3-90.

4 (35) Beginning January 1, 2010, materials, parts,  
5 equipment, components, and furnishings incorporated into or  
6 upon an aircraft as part of the modification, refurbishment,  
7 completion, replacement, repair, or maintenance of the  
8 aircraft. This exemption includes consumable supplies used in  
9 the modification, refurbishment, completion, replacement,  
10 repair, and maintenance of aircraft, but excludes any  
11 materials, parts, equipment, components, and consumable  
12 supplies used in the modification, replacement, repair, and  
13 maintenance of aircraft engines or power plants, whether such  
14 engines or power plants are installed or uninstalled upon any  
15 such aircraft. "Consumable supplies" include, but are not  
16 limited to, adhesive, tape, sandpaper, general purpose  
17 lubricants, cleaning solution, latex gloves, and protective  
18 films. This exemption applies only to those organizations that  
19 (i) hold an Air Agency Certificate and are empowered to operate  
20 an approved repair station by the Federal Aviation  
21 Administration, (ii) have a Class IV Rating, and (iii) conduct  
22 operations in accordance with Part 145 of the Federal Aviation  
23 Regulations. The exemption does not include aircraft operated  
24 by a commercial air carrier providing scheduled passenger air  
25 service pursuant to authority issued under Part 121 or Part 129  
26 of the Federal Aviation Regulations.

1           (36) Tangible personal property purchased by a  
2 public-facilities corporation, as described in Section  
3 11-65-10 of the Illinois Municipal Code, for purposes of  
4 constructing or furnishing a municipal convention hall, but  
5 only if the legal title to the municipal convention hall is  
6 transferred to the municipality without any further  
7 consideration by or on behalf of the municipality at the time  
8 of the completion of the municipal convention hall or upon the  
9 retirement or redemption of any bonds or other debt instruments  
10 issued by the public-facilities corporation in connection with  
11 the development of the municipal convention hall. This  
12 exemption includes existing public-facilities corporations as  
13 provided in Section 11-65-25 of the Illinois Municipal Code.  
14 This paragraph is exempt from the provisions of Section 3-90.

15           (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
16 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
17 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431, eff.  
18 8-16-11; 97-636, eff. 6-1-12; 97-767, eff. 7-9-12.)

19           (35 ILCS 105/3-25) (from Ch. 120, par. 439.3-25)

20           Sec. 3-25. Computer software. For the purposes of this Act,  
21 "computer software" means a set of statements, data, or  
22 instructions to be used directly or indirectly in a computer in  
23 order to bring about a certain result in any form in which  
24 those statements, data, or instructions may be embodied,  
25 transmitted, or fixed, by any method now known or hereafter

1 developed, regardless of whether the statements, data, or  
2 instructions are capable of being perceived by or communicated  
3 to humans, and includes prewritten or canned software that is  
4 held for repeated sale or lease, and all associated  
5 documentation and materials, if any, whether contained on  
6 magnetic tapes, discs, cards, or other devices or media, but  
7 does not include software that is adapted to specific  
8 individualized requirements of a purchaser, custom-made and  
9 modified software designed for a particular or limited use by a  
10 purchaser, or software used to operate exempt machinery and  
11 equipment used in the process of manufacturing or assembling  
12 tangible personal property for wholesale or retail sale or  
13 lease. Software used to operate machinery and equipment used in  
14 (i) the generation of electricity for wholesale or retail sale;  
15 (ii) the generation or treatment of natural or artificial gas  
16 for wholesale or retail sale that is delivered to customers  
17 through pipes, pipelines, or mains; or (iii) the treatment of  
18 water for wholesale or retail sale that is delivered to  
19 customers through pipes, pipelines, or mains is considered  
20 "computer software". The provisions of this amendatory Act of  
21 the 98th General Assembly are declaratory of existing law as to  
22 the meaning and scope of this exemption.

23 For the purposes of this Act, computer software shall be  
24 considered to be tangible personal property.

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

1 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

2 Sec. 3-50. Manufacturing and assembly exemption. The  
3 manufacturing and assembling machinery and equipment exemption  
4 includes machinery and equipment that replaces machinery and  
5 equipment in an existing manufacturing facility as well as  
6 machinery and equipment that are for use in an expanded or new  
7 manufacturing facility. The machinery and equipment exemption  
8 also includes machinery and equipment used in the general  
9 maintenance or repair of exempt machinery and equipment or for  
10 in-house manufacture of exempt machinery and equipment. The  
11 machinery and equipment exemption does not include machinery  
12 and equipment used in (i) the generation of electricity for  
13 wholesale or retail sale; (ii) the generation or treatment of  
14 natural or artificial gas for wholesale or retail sale that is  
15 delivered to customers through pipes, pipelines, or mains; or  
16 (iii) the treatment of water for wholesale or retail sale that  
17 is delivered to customers through pipes, pipelines, or mains.  
18 The provisions of this amendatory Act of the 98th General  
19 Assembly are declaratory of existing law as to the meaning and  
20 scope of this exemption. For the purposes of this exemption,  
21 terms have the following meanings:

22 (1) "Manufacturing process" means the production of an  
23 article of tangible personal property, whether the article  
24 is a finished product or an article for use in the process  
25 of manufacturing or assembling a different article of  
26 tangible personal property, by a procedure commonly

1       regarded as manufacturing, processing, fabricating, or  
2       refining that changes some existing material into a  
3       material with a different form, use, or name. In relation  
4       to a recognized integrated business composed of a series of  
5       operations that collectively constitute manufacturing, or  
6       individually constitute manufacturing operations, the  
7       manufacturing process commences with the first operation  
8       or stage of production in the series and does not end until  
9       the completion of the final product in the last operation  
10      or stage of production in the series. For purposes of this  
11      exemption, photoprocessing is a manufacturing process of  
12      tangible personal property for wholesale or retail sale.

13           (2) "Assembling process" means the production of an  
14      article of tangible personal property, whether the article  
15      is a finished product or an article for use in the process  
16      of manufacturing or assembling a different article of  
17      tangible personal property, by the combination of existing  
18      materials in a manner commonly regarded as assembling that  
19      results in an article or material of a different form, use,  
20      or name.

21           (3) "Machinery" means major mechanical machines or  
22      major components of those machines contributing to a  
23      manufacturing or assembling process.

24           (4) "Equipment" includes an independent device or tool  
25      separate from machinery but essential to an integrated  
26      manufacturing or assembly process; including computers

1 used primarily in a manufacturer's computer assisted  
2 design, computer assisted manufacturing (CAD/CAM) system;  
3 any subunit or assembly comprising a component of any  
4 machinery or auxiliary, adjunct, or attachment parts of  
5 machinery, such as tools, dies, jigs, fixtures, patterns,  
6 and molds; and any parts that require periodic replacement  
7 in the course of normal operation; but does not include  
8 hand tools. Equipment includes chemicals or chemicals  
9 acting as catalysts but only if the chemicals or chemicals  
10 acting as catalysts effect a direct and immediate change  
11 upon a product being manufactured or assembled for  
12 wholesale or retail sale or lease.

13 (5) "Production related tangible personal property"  
14 means all tangible personal property that is used or  
15 consumed by the purchaser in a manufacturing facility in  
16 which a manufacturing process takes place and includes,  
17 without limitation, tangible personal property that is  
18 purchased for incorporation into real estate within a  
19 manufacturing facility and tangible personal property that  
20 is used or consumed in activities such as research and  
21 development, preproduction material handling, receiving,  
22 quality control, inventory control, storage, staging, and  
23 packaging for shipping and transportation purposes.  
24 "Production related tangible personal property" does not  
25 include (i) tangible personal property that is used, within  
26 or without a manufacturing facility, in sales, purchasing,

1 accounting, fiscal management, marketing, personnel  
2 recruitment or selection, or landscaping or (ii) tangible  
3 personal property that is required to be titled or  
4 registered with a department, agency, or unit of federal,  
5 State, or local government.

6 The manufacturing and assembling machinery and equipment  
7 exemption includes production related tangible personal  
8 property that is purchased on or after July 1, 2007 and on or  
9 before June 30, 2008. The exemption for production related  
10 tangible personal property is subject to both of the following  
11 limitations:

12 (1) The maximum amount of the exemption for any one  
13 taxpayer may not exceed 5% of the purchase price of  
14 production related tangible personal property that is  
15 purchased on or after July 1, 2007 and on or before June  
16 30, 2008. A credit under Section 3-85 of this Act may not  
17 be earned by the purchase of production related tangible  
18 personal property for which an exemption is received under  
19 this Section.

20 (2) The maximum aggregate amount of the exemptions for  
21 production related tangible personal property awarded  
22 under this Act and the Retailers' Occupation Tax Act to all  
23 taxpayers may not exceed \$10,000,000. If the claims for the  
24 exemption exceed \$10,000,000, then the Department shall  
25 reduce the amount of the exemption to each taxpayer on a  
26 pro rata basis.

1 The Department may adopt rules to implement and administer the  
2 exemption for production related tangible personal property.

3 The manufacturing and assembling machinery and equipment  
4 exemption includes the sale of materials to a purchaser who  
5 produces exempted types of machinery, equipment, or tools and  
6 who rents or leases that machinery, equipment, or tools to a  
7 manufacturer of tangible personal property. This exemption  
8 also includes the sale of materials to a purchaser who  
9 manufactures those materials into an exempted type of  
10 machinery, equipment, or tools that the purchaser uses himself  
11 or herself in the manufacturing of tangible personal property.  
12 This exemption includes the sale of exempted types of machinery  
13 or equipment to a purchaser who is not the manufacturer, but  
14 who rents or leases the use of the property to a manufacturer.  
15 The purchaser of the machinery and equipment who has an active  
16 resale registration number shall furnish that number to the  
17 seller at the time of purchase. A user of the machinery,  
18 equipment, or tools without an active resale registration  
19 number shall prepare a certificate of exemption for each  
20 transaction stating facts establishing the exemption for that  
21 transaction, and that certificate shall be available to the  
22 Department for inspection or audit. The Department shall  
23 prescribe the form of the certificate. Informal rulings,  
24 opinions, or letters issued by the Department in response to an  
25 inquiry or request for an opinion from any person regarding the  
26 coverage and applicability of this exemption to specific



1 devices shall be published, maintained as a public record, and  
2 made available for public inspection and copying. If the  
3 informal ruling, opinion, or letter contains trade secrets or  
4 other confidential information, where possible, the Department  
5 shall delete that information before publication. Whenever  
6 informal rulings, opinions, or letters contain a policy of  
7 general applicability, the Department shall formulate and  
8 adopt that policy as a rule in accordance with the Illinois  
9 Administrative Procedure Act.

10 (Source: P.A. 95-707, eff. 1-11-08.)

11 Section 10. The Service Use Tax Act is amended by changing  
12 Sections 2, 3, and 3-25 as follows:

13 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

14 Sec. 2. "Use" means the exercise by any person of any right  
15 or power over tangible personal property incident to the  
16 ownership of that property, but does not include the sale or  
17 use for demonstration by him of that property in any form as  
18 tangible personal property in the regular course of business.  
19 "Use" does not mean the interim use of tangible personal  
20 property nor the physical incorporation of tangible personal  
21 property, as an ingredient or constituent, into other tangible  
22 personal property, (a) which is sold in the regular course of  
23 business or (b) which the person incorporating such ingredient  
24 or constituent therein has undertaken at the time of such

1 purchase to cause to be transported in interstate commerce to  
2 destinations outside the State of Illinois.

3 "Purchased from a serviceman" means the acquisition of the  
4 ownership of, or title to, tangible personal property through a  
5 sale of service.

6 "Purchaser" means any person who, through a sale of  
7 service, acquires the ownership of, or title to, any tangible  
8 personal property.

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

21 "Selling price" means the consideration for a sale valued  
22 in money whether received in money or otherwise, including  
23 cash, credits and service, and shall be determined without any  
24 deduction on account of the serviceman's cost of the property  
25 sold, the cost of materials used, labor or service cost or any  
26 other expense whatsoever, but does not include interest or

1 finance charges which appear as separate items on the bill of  
2 sale or sales contract nor charges that are added to prices by  
3 sellers on account of the seller's duty to collect, from the  
4 purchaser, the tax that is imposed by this Act.

5 "Department" means the Department of Revenue.

6 "Person" means any natural individual, firm, partnership,  
7 association, joint stock company, joint venture, public or  
8 private corporation, limited liability company, and any  
9 receiver, executor, trustee, guardian or other representative  
10 appointed by order of any court.

11 "Sale of service" means any transaction except:

12 (1) a retail sale of tangible personal property taxable  
13 under the Retailers' Occupation Tax Act or under the Use  
14 Tax Act.

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

18 (3) except as hereinafter provided, a sale or transfer  
19 of tangible personal property as an incident to the  
20 rendering of service for or by any governmental body, or  
21 for or by any corporation, society, association,  
22 foundation or institution organized and operated  
23 exclusively for charitable, religious or educational  
24 purposes or any not-for-profit corporation, society,  
25 association, foundation, institution or organization which  
26 has no compensated officers or employees and which is

1 organized and operated primarily for the recreation of  
2 persons 55 years of age or older. A limited liability  
3 company may qualify for the exemption under this paragraph  
4 only if the limited liability company is organized and  
5 operated exclusively for educational purposes.

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

18 (4a) a sale or transfer of tangible personal property  
19 as an incident to the rendering of service for owners,  
20 lessors, or shippers of tangible personal property which is  
21 utilized by interstate carriers for hire for use as rolling  
22 stock moving in interstate commerce so long as so used by  
23 interstate carriers for hire, and equipment operated by a  
24 telecommunications provider, licensed as a common carrier  
25 by the Federal Communications Commission, which is  
26 permanently installed in or affixed to aircraft moving in

1 interstate commerce.

2 (4a-5) on and after July 1, 2003 and through June 30,  
3 2004, a sale or transfer of a motor vehicle of the second  
4 division with a gross vehicle weight in excess of 8,000  
5 pounds as an incident to the rendering of service if that  
6 motor vehicle is subject to the commercial distribution fee  
7 imposed under Section 3-815.1 of the Illinois Vehicle Code.  
8 Beginning on July 1, 2004 and through June 30, 2005, the  
9 use in this State of motor vehicles of the second division:  
10 (i) with a gross vehicle weight rating in excess of 8,000  
11 pounds; (ii) that are subject to the commercial  
12 distribution fee imposed under Section 3-815.1 of the  
13 Illinois Vehicle Code; and (iii) that are primarily used  
14 for commercial purposes. Through June 30, 2005, this  
15 exemption applies to repair and replacement parts added  
16 after the initial purchase of such a motor vehicle if that  
17 motor vehicle is used in a manner that would qualify for  
18 the rolling stock exemption otherwise provided for in this  
19 Act. For purposes of this paragraph, "used for commercial  
20 purposes" means the transportation of persons or property  
21 in furtherance of any commercial or industrial enterprise  
22 whether for-hire or not.

23 (5) a sale or transfer of machinery and equipment used  
24 primarily in the process of the manufacturing or  
25 assembling, either in an existing, an expanded or a new  
26 manufacturing facility, of tangible personal property for

1 wholesale or retail sale or lease, whether such sale or  
2 lease is made directly by the manufacturer or by some other  
3 person, whether the materials used in the process are owned  
4 by the manufacturer or some other person, or whether such  
5 sale or lease is made apart from or as an incident to the  
6 seller's engaging in a service occupation and the  
7 applicable tax is a Service Use Tax or Service Occupation  
8 Tax, rather than Use Tax or Retailers' Occupation Tax. The  
9 exemption provided by this paragraph (5) does not include  
10 machinery and equipment used in (i) the generation of  
11 electricity for wholesale or retail sale; (ii) the  
12 generation or treatment of natural or artificial gas for  
13 wholesale or retail sale that is delivered to customers  
14 through pipes, pipelines, or mains; or (iii) the treatment  
15 of water for wholesale or retail sale that is delivered to  
16 customers through pipes, pipelines, or mains. The  
17 provisions of this amendatory Act of the 98th General  
18 Assembly are declaratory of existing law as to the meaning  
19 and scope of this exemption.

20 (5a) the repairing, reconditioning or remodeling, for  
21 a common carrier by rail, of tangible personal property  
22 which belongs to such carrier for hire, and as to which  
23 such carrier receives the physical possession of the  
24 repaired, reconditioned or remodeled item of tangible  
25 personal property in Illinois, and which such carrier  
26 transports, or shares with another common carrier in the

1 transportation of such property, out of Illinois on a  
2 standard uniform bill of lading showing the person who  
3 repaired, reconditioned or remodeled the property to a  
4 destination outside Illinois, for use outside Illinois.

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

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

25 (7) at the election of any serviceman not required to  
26 be otherwise registered as a retailer under Section 2a of

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

20 Tangible personal property transferred incident to the  
21 completion of a maintenance agreement is exempt from the tax  
22 imposed pursuant to this Act.

23 Exemption (5) also includes machinery and equipment used in  
24 the general maintenance or repair of such exempt machinery and  
25 equipment or for in-house manufacture of exempt machinery and  
26 equipment. The machinery and equipment exemption does not



1 include machinery and equipment used in (i) the generation of  
2 electricity for wholesale or retail sale; (ii) the generation  
3 or treatment of natural or artificial gas for wholesale or  
4 retail sale that is delivered to customers through pipes,  
5 pipelines, or mains; or (iii) the treatment of water for  
6 wholesale or retail sale that is delivered to customers through  
7 pipes, pipelines, or mains. The provisions of this amendatory  
8 Act of the 98th General Assembly are declaratory of existing  
9 law as to the meaning and scope of this exemption. For the  
10 purposes of exemption (5), each of these terms shall have the  
11 following meanings: (1) "manufacturing process" shall mean the  
12 production of any article of tangible personal property,  
13 whether such article is a finished product or an article for  
14 use in the process of manufacturing or assembling a different  
15 article of tangible personal property, by procedures commonly  
16 regarded as manufacturing, processing, fabricating, or  
17 refining which changes some existing material or materials into  
18 a material with a different form, use or name. In relation to a  
19 recognized integrated business composed of a series of  
20 operations which collectively constitute manufacturing, or  
21 individually constitute manufacturing operations, the  
22 manufacturing process shall be deemed to commence with the  
23 first operation or stage of production in the series, and shall  
24 not be deemed to end until the completion of the final product  
25 in the last operation or stage of production in the series; and  
26 further, for purposes of exemption (5), photoprocessing is

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

1 number shall furnish such number to the seller at the time of  
2 purchase. The user of such machinery and equipment and tools  
3 without an active resale registration number shall prepare a  
4 certificate of exemption for each transaction stating facts  
5 establishing the exemption for that transaction, which  
6 certificate shall be available to the Department for inspection  
7 or audit. The Department shall prescribe the form of the  
8 certificate.

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

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

26 The purchase, employment and transfer of such tangible

1 personal property as newsprint and ink for the primary purpose  
2 of conveying news (with or without other information) is not a  
3 purchase, use or sale of service or of tangible personal  
4 property within the meaning of this Act.

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

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

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

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

14 1. having or maintaining within this State, directly or  
15 by a subsidiary, an office, distribution house, sales  
16 house, warehouse or other place of business, or any agent  
17 or other representative operating within this State under  
18 the authority of the serviceman or its subsidiary,  
19 irrespective of whether such place of business or agent or  
20 other representative is located here permanently or  
21 temporarily, or whether such serviceman or subsidiary is  
22 licensed to do business in this State;

23 1.1. beginning July 1, 2011, having a contract with a  
24 person located in this State under which the person, for a  
25 commission or other consideration based on the sale of  
26 service by the serviceman, directly or indirectly refers

1 potential customers to the serviceman by a link on the  
2 person's Internet website. The provisions of this  
3 paragraph 1.1 shall apply only if the cumulative gross  
4 receipts from sales of service by the serviceman to  
5 customers who are referred to the serviceman by all persons  
6 in this State under such contracts exceed \$10,000 during  
7 the preceding 4 quarterly periods ending on the last day of  
8 March, June, September, and December;

9 1.2. beginning July 1, 2011, having a contract with a  
10 person located in this State under which:

11 A. the serviceman sells the same or substantially  
12 similar line of services as the person located in this  
13 State and does so using an identical or substantially  
14 similar name, trade name, or trademark as the person  
15 located in this State; and

16 B. the serviceman provides a commission or other  
17 consideration to the person located in this State based  
18 upon the sale of services by the serviceman.

19 The provisions of this paragraph 1.2 shall apply only if  
20 the cumulative gross receipts from sales of service by the  
21 serviceman to customers in this State under all such  
22 contracts exceed \$10,000 during the preceding 4 quarterly  
23 periods ending on the last day of March, June, September,  
24 and December;

25 2. soliciting orders for tangible personal property by  
26 means of a telecommunication or television shopping system

1 (which utilizes toll free numbers) which is intended by the  
2 retailer to be broadcast by cable television or other means  
3 of broadcasting, to consumers located in this State;

4 3. pursuant to a contract with a broadcaster or  
5 publisher located in this State, soliciting orders for  
6 tangible personal property by means of advertising which is  
7 disseminated primarily to consumers located in this State  
8 and only secondarily to bordering jurisdictions;

9 4. soliciting orders for tangible personal property by  
10 mail if the solicitations are substantial and recurring and  
11 if the retailer benefits from any banking, financing, debt  
12 collection, telecommunication, or marketing activities  
13 occurring in this State or benefits from the location in  
14 this State of authorized installation, servicing, or  
15 repair facilities;

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

19 6. having a franchisee or licensee operating under its  
20 trade name if the franchisee or licensee is required to  
21 collect the tax under this Section;

22 7. pursuant to a contract with a cable television  
23 operator located in this State, soliciting orders for  
24 tangible personal property by means of advertising which is  
25 transmitted or distributed over a cable television system  
26 in this State; or

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

5           (Source: P.A. 96-1544, eff. 3-10-11.)

6           (35 ILCS 110/3) (from Ch. 120, par. 439.33)

7           Sec. 3. Tax imposed. A tax is imposed upon the privilege of  
8           using in this State real or tangible personal property acquired  
9           as an incident to the purchase of a service from a serviceman,  
10          including computer software, and including photographs,  
11          negatives, and positives that are the product of  
12          photoprocessing, but not including products of photoprocessing  
13          produced for use in motion pictures for public commercial  
14          exhibition. Beginning January 1, 2001, prepaid telephone  
15          calling arrangements shall be considered tangible personal  
16          property subject to the tax imposed under this Act regardless  
17          of the form in which those arrangements may be embodied,  
18          transmitted, or fixed by any method now known or hereafter  
19          developed. Purchases of (1) electricity delivered to customers  
20          by wire; (2) natural or artificial gas that is delivered to  
21          customers through pipes, pipelines, or mains; and (3) water  
22          that is delivered to customers through pipes, pipelines, or  
23          mains are not subject to tax under this Act. The provisions of  
24          this amendatory Act of the 98th General Assembly are  
25          declaratory of existing law as to the meaning and scope of this

1 Act.

2 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

3 (35 ILCS 110/3-25) (from Ch. 120, par. 439.33-25)

4 Sec. 3-25. Computer software. For the purposes of this Act,  
5 "computer software" means a set of statements, data, or  
6 instructions to be used directly or indirectly in a computer in  
7 order to bring about a certain result in any form in which  
8 those statements, data, or instructions may be embodied,  
9 transmitted, or fixed, by any method now known or hereafter  
10 developed, regardless of whether the statements, data, or  
11 instructions are capable of being perceived by or communicated  
12 to humans, and includes prewritten or canned software that is  
13 held for repeated sale or lease, and all associated  
14 documentation and materials, if any, whether contained on  
15 magnetic tapes, discs, cards, or other devices or media, but  
16 does not include software that is adapted to specific  
17 individualized requirements of a purchaser, custom-made and  
18 modified software designed for a particular or limited use by a  
19 purchaser, or software used to operate exempt machinery and  
20 equipment used in the process of manufacturing or assembling  
21 tangible personal property for wholesale or retail sale or  
22 lease. Software used to operate machinery and equipment used in  
23 (i) the generation of electricity for wholesale or retail sale;  
24 (ii) the generation or treatment of natural or artificial gas  
25 for wholesale or retail sale that is delivered to customers



1 through pipes, pipelines, or mains; or (iii) the treatment of  
2 water for wholesale or retail sale that is delivered to  
3 customers through pipes, pipelines, or mains is considered  
4 "computer software". The provisions of this amendatory Act of  
5 the 98th General Assembly are declaratory of existing law as to  
6 the meaning and scope of this exemption.

7 For the purposes of this Act, computer software shall be  
8 considered to be tangible personal property.

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

10 Section 15. The Service Occupation Tax Act is amended by  
11 changing Sections 2, 3, and 3-25 as follows:

12 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

13 Sec. 2. "Transfer" means any transfer of the title to  
14 property or of the ownership of property whether or not the  
15 transferor retains title as security for the payment of amounts  
16 due him from the transferee.

17 "Cost Price" means the consideration paid by the serviceman  
18 for a purchase valued in money, whether paid in money or  
19 otherwise, including cash, credits and services, and shall be  
20 determined without any deduction on account of the supplier's  
21 cost of the property sold or on account of any other expense  
22 incurred by the supplier. When a serviceman contracts out part  
23 or all of the services required in his sale of service, it  
24 shall be presumed that the cost price to the serviceman of the

1 property transferred to him by his or her subcontractor is  
2 equal to 50% of the subcontractor's charges to the serviceman  
3 in the absence of proof of the consideration paid by the  
4 subcontractor for the purchase of such property.

5 "Department" means the Department of Revenue.

6 "Person" means any natural individual, firm, partnership,  
7 association, joint stock company, joint venture, public or  
8 private corporation, limited liability company, and any  
9 receiver, executor, trustee, guardian or other representative  
10 appointed by order of any court.

11 "Sale of Service" means any transaction except:

12 (a) A retail sale of tangible personal property taxable  
13 under the Retailers' Occupation Tax Act or under the Use Tax  
14 Act.

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

18 (c) Except as hereinafter provided, a sale or transfer of  
19 tangible personal property as an incident to the rendering of  
20 service for or by any governmental body or for or by any  
21 corporation, society, association, foundation or institution  
22 organized and operated exclusively for charitable, religious  
23 or educational purposes or any not-for-profit corporation,  
24 society, association, foundation, institution or organization  
25 which has no compensated officers or employees and which is  
26 organized and operated primarily for the recreation of persons

1 55 years of age or older. A limited liability company may  
2 qualify for the exemption under this paragraph only if the  
3 limited liability company is organized and operated  
4 exclusively for educational purposes.

5 (d) A sale or transfer of tangible personal property as an  
6 incident to the rendering of service for interstate carriers  
7 for hire for use as rolling stock moving in interstate commerce  
8 or lessors under leases of one year or longer, executed or in  
9 effect at the time of purchase, to interstate carriers for hire  
10 for use as rolling stock moving in interstate commerce, and  
11 equipment operated by a telecommunications provider, licensed  
12 as a common carrier by the Federal Communications Commission,  
13 which is permanently installed in or affixed to aircraft moving  
14 in interstate commerce.

15 (d-1) A sale or transfer of tangible personal property as  
16 an incident to the rendering of service for owners, lessors or  
17 shippers of tangible personal property which is utilized by  
18 interstate carriers for hire for use as rolling stock moving in  
19 interstate commerce, and equipment operated by a  
20 telecommunications provider, licensed as a common carrier by  
21 the Federal Communications Commission, which is permanently  
22 installed in or affixed to aircraft moving in interstate  
23 commerce.

24 (d-1.1) On and after July 1, 2003 and through June 30,  
25 2004, a sale or transfer of a motor vehicle of the second  
26 division with a gross vehicle weight in excess of 8,000 pounds

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

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

1 property as the shipper or consignor of such property to a  
2 destination outside Illinois, for use outside Illinois.

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

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

22 (e) A sale or transfer of machinery and equipment used  
23 primarily in the process of the manufacturing or assembling,  
24 either in an existing, an expanded or a new manufacturing  
25 facility, of tangible personal property for wholesale or retail  
26 sale or lease, whether such sale or lease is made directly by

1 the manufacturer or by some other person, whether the materials  
2 used in the process are owned by the manufacturer or some other  
3 person, or whether such sale or lease is made apart from or as  
4 an incident to the seller's engaging in a service occupation  
5 and the applicable tax is a Service Occupation Tax or Service  
6 Use Tax, rather than Retailers' Occupation Tax or Use Tax. The  
7 exemption provided by this paragraph (e) does not include  
8 machinery and equipment used in (i) the generation of  
9 electricity for wholesale or retail sale; (ii) the generation  
10 or treatment of natural or artificial gas for wholesale or  
11 retail sale that is delivered to customers through pipes,  
12 pipelines, or mains; or (iii) the treatment of water for  
13 wholesale or retail sale that is delivered to customers through  
14 pipes, pipelines, or mains. The provisions of this amendatory  
15 Act of the 98th General Assembly are declaratory of existing  
16 law as to the meaning and scope of this exemption.

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

24 (g) At the election of any serviceman not required to be  
25 otherwise registered as a retailer under Section 2a of the  
26 Retailers' Occupation Tax Act, made for each fiscal year sales

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

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

20 Exemption (e) also includes machinery and equipment used in  
21 the general maintenance or repair of such exempt machinery and  
22 equipment or for in-house manufacture of exempt machinery and  
23 equipment. The machinery and equipment exemption does not  
24 include machinery and equipment used in (i) the generation of  
25 electricity for wholesale or retail sale; (ii) the generation  
26 or treatment of natural or artificial gas for wholesale or

1 retail sale that is delivered to customers through pipes,  
2 pipelines, or mains; or (iii) the treatment of water for  
3 wholesale or retail sale that is delivered to customers through  
4 pipes, pipelines, or mains. The provisions of this amendatory  
5 Act of the 98th General Assembly are declaratory of existing  
6 law as to the meaning and scope of this exemption. For the  
7 purposes of exemption (e), each of these terms shall have the  
8 following meanings: (1) "manufacturing process" shall mean the  
9 production of any article of tangible personal property,  
10 whether such article is a finished product or an article for  
11 use in the process of manufacturing or assembling a different  
12 article of tangible personal property, by procedures commonly  
13 regarded as manufacturing, processing, fabricating, or  
14 refining which changes some existing material or materials into  
15 a material with a different form, use or name. In relation to a  
16 recognized integrated business composed of a series of  
17 operations which collectively constitute manufacturing, or  
18 individually constitute manufacturing operations, the  
19 manufacturing process shall be deemed to commence with the  
20 first operation or stage of production in the series, and shall  
21 not be deemed to end until the completion of the final product  
22 in the last operation or stage of production in the series; and  
23 further for purposes of exemption (e), photoprocessing is  
24 deemed to be a manufacturing process of tangible personal  
25 property for wholesale or retail sale; (2) "assembling process"  
26 shall mean the production of any article of tangible personal



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

1 furnish to the seller a certificate of exemption for each  
2 transaction stating facts establishing the exemption for that  
3 transaction, which certificate shall be available to the  
4 Department for inspection or audit.

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

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

24 On and after July 1, 1987, no entity otherwise eligible  
25 under exemption (c) of this Section shall make tax free  
26 purchases unless it has an active exemption identification

1 number issued by the Department.

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

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

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

9 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,  
10 eff. 6-20-03; 93-1033, eff. 9-3-04.)

11 (35 ILCS 115/3) (from Ch. 120, par. 439.103)

12 Sec. 3. Tax imposed. A tax is imposed upon all persons  
13 engaged in the business of making sales of service (referred to  
14 as "servicemen") on all tangible personal property transferred  
15 as an incident of a sale of service, including computer  
16 software, and including photographs, negatives, and positives  
17 that are the product of photoprocessing, but not including  
18 products of photoprocessing produced for use in motion pictures  
19 for public commercial exhibition. Beginning January 1, 2001,  
20 prepaid telephone calling arrangements shall be considered  
21 tangible personal property subject to the tax imposed under  
22 this Act regardless of the form in which those arrangements may  
23 be embodied, transmitted, or fixed by any method now known or  
24 hereafter developed. Sales of (1) electricity delivered to  
25 customers by wire; (2) natural or artificial gas that is

1 delivered to customers through pipes, pipelines, or mains; and  
2 (3) water that is delivered to customers through pipes,  
3 pipelines, or mains are not subject to tax under this Act. The  
4 provisions of this amendatory Act of the 98th General Assembly  
5 are declaratory of existing law as to the meaning and scope of  
6 this Act.

7 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

8 (35 ILCS 115/3-25) (from Ch. 120, par. 439.103-25)

9 Sec. 3-25. Computer software. For the purposes of this Act,  
10 "computer software" means a set of statements, data, or  
11 instructions to be used directly or indirectly in a computer in  
12 order to bring about a certain result in any form in which  
13 those statements, data, or instructions may be embodied,  
14 transmitted, or fixed, by any method now known or hereafter  
15 developed, regardless of whether the statements, data, or  
16 instructions are capable of being perceived by or communicated  
17 to humans, and includes prewritten or canned software that is  
18 held for repeated sale or lease, and all associated  
19 documentation and materials, if any, whether contained on  
20 magnetic tapes, discs, cards, or other devices or media, but  
21 does not include software that is adapted to specific  
22 individualized requirements of a purchaser, custom-made and  
23 modified software designed for a particular or limited use by a  
24 purchaser, or software used to operate exempt machinery and  
25 equipment used in the process of manufacturing or assembling

1 tangible personal property for wholesale or retail sale or  
2 lease. Software used to operate machinery and equipment used in  
3 (i) the generation of electricity for wholesale or retail sale;  
4 (ii) the generation or treatment of natural or artificial gas  
5 for wholesale or retail sale that is delivered to customers  
6 through pipes, pipelines, or mains; or (iii) the treatment of  
7 water for wholesale or retail sale that is delivered to  
8 customers through pipes, pipelines, or mains is considered  
9 "computer software". The provisions of this amendatory Act of  
10 the 98th General Assembly are declaratory of existing law as to  
11 the meaning and scope of this exemption.

12 For the purposes of this Act, computer software shall be  
13 considered to be tangible personal property.

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

15 Section 20. The Retailers' Occupation Tax Act is amended by  
16 changing Sections 1d, 2, 2-5, 2-25, 2-45, and 2a as follows:

17 (35 ILCS 120/1d) (from Ch. 120, par. 440d)

18 Sec. 1d. Subject to the provisions of Section 1f, all  
19 tangible personal property to be used or consumed within an  
20 enterprise zone established pursuant to the "Illinois  
21 Enterprise Zone Act", as amended, or subject to the provisions  
22 of Section 5.5 of the Illinois Enterprise Zone Act, all  
23 tangible personal property to be used or consumed by any High  
24 Impact Business, in the process of the manufacturing or

1 assembly of tangible personal property for wholesale or retail  
2 sale or lease or in the process of graphic arts production if  
3 used or consumed at a facility which is a Department of  
4 Commerce and Economic Opportunity certified business and  
5 located in a county of more than 4,000 persons and less than  
6 45,000 persons is exempt from the tax imposed by this Act. This  
7 exemption includes repair and replacement parts for machinery  
8 and equipment used primarily in the process of manufacturing or  
9 assembling tangible personal property or in the process of  
10 graphic arts production if used or consumed at a facility which  
11 is a Department of Commerce and Economic Opportunity certified  
12 business and located in a county of more than 4,000 persons and  
13 less than 45,000 persons for wholesale or retail sale, or  
14 lease, and equipment, manufacturing or graphic arts fuels,  
15 material and supplies for the maintenance, repair or operation  
16 of such manufacturing or assembling or graphic arts machinery  
17 or equipment. The exemption provided in this Section for  
18 tangible personal property to be used or consumed in the  
19 process of manufacturing or assembly of tangible personal  
20 property for wholesale or retail sale or lease, and the repair  
21 and replacement parts for that machinery and equipment, does  
22 not apply to such property used or consumed in (i) the  
23 generation of electricity for wholesale or retail sale; (ii)  
24 the generation or treatment of natural or artificial gas for  
25 wholesale or retail sale that is delivered to customers through  
26 pipes, pipelines, or mains; or (iii) the treatment of water for

1 wholesale or retail sale that is delivered to customers through  
2 pipes, pipelines, or mains. The provisions of this amendatory  
3 Act of the 98th General Assembly are declaratory of existing  
4 law as to the meaning and scope of this exemption.

5 (Source: P.A. 94-793, eff. 5-19-06.)

6 (35 ILCS 120/2) (from Ch. 120, par. 441)

7 Sec. 2. Tax imposed. A tax is imposed upon persons engaged  
8 in the business of selling at retail tangible personal  
9 property, including computer software, and including  
10 photographs, negatives, and positives that are the product of  
11 photoprocessing, but not including products of photoprocessing  
12 produced for use in motion pictures for public commercial  
13 exhibition. Beginning January 1, 2001, prepaid telephone  
14 calling arrangements shall be considered tangible personal  
15 property subject to the tax imposed under this Act regardless  
16 of the form in which those arrangements may be embodied,  
17 transmitted, or fixed by any method now known or hereafter  
18 developed. Sales of (1) electricity delivered to customers by  
19 wire; (2) natural or artificial gas that is delivered to  
20 customers through pipes, pipelines, or mains; and (3) water  
21 that is delivered to customers through pipes, pipelines, or  
22 mains are not subject to tax under this Act. The provisions of  
23 this amendatory Act of the 98th General Assembly are  
24 declaratory of existing law as to the meaning and scope of this  
25 Act.

1 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

2 (35 ILCS 120/2-5)

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

6 (1) Farm chemicals.

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



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

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

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

23 (4) Until July 1, 2003 and beginning again September 1,  
24 2004 through August 30, 2014, graphic arts machinery and  
25 equipment, including repair and replacement parts, both new and  
26 used, and including that manufactured on special order or

1 purchased for lease, certified by the purchaser to be used  
2 primarily for graphic arts production. Equipment includes  
3 chemicals or chemicals acting as catalysts but only if the  
4 chemicals or chemicals acting as catalysts effect a direct and  
5 immediate change upon a graphic arts product.

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

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

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

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

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

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

23           (11) Personal property sold to a governmental body, to a  
24 corporation, society, association, foundation, or institution  
25 organized and operated exclusively for charitable, religious,  
26 or educational purposes, or to a not-for-profit corporation,

1 society, association, foundation, institution, or organization  
2 that has no compensated officers or employees and that is  
3 organized and operated primarily for the recreation of persons  
4 55 years of age or older. A limited liability company may  
5 qualify for the exemption under this paragraph only if the  
6 limited liability company is organized and operated  
7 exclusively for educational purposes. On and after July 1,  
8 1987, however, no entity otherwise eligible for this exemption  
9 shall make tax-free purchases unless it has an active  
10 identification number issued by the Department.

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

20 (12-5) On and after July 1, 2003 and through June 30, 2004,  
21 motor vehicles of the second division with a gross vehicle  
22 weight in excess of 8,000 pounds that are subject to the  
23 commercial distribution fee imposed under Section 3-815.1 of  
24 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
25 through June 30, 2005, the use in this State of motor vehicles  
26 of the second division: (i) with a gross vehicle weight rating

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

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

19 (14) Machinery and equipment that will be used by the  
20 purchaser, or a lessee of the purchaser, primarily in the  
21 process of manufacturing or assembling tangible personal  
22 property for wholesale or retail sale or lease, whether the  
23 sale or lease is made directly by the manufacturer or by some  
24 other person, whether the materials used in the process are  
25 owned by the manufacturer or some other person, or whether the  
26 sale or lease is made apart from or as an incident to the

1 seller's engaging in the service occupation of producing  
2 machines, tools, dies, jigs, patterns, gauges, or other similar  
3 items of no commercial value on special order for a particular  
4 purchaser. The exemption provided by this paragraph (14) does  
5 not include machinery and equipment used in (i) the generation  
6 of electricity for wholesale or retail sale; (ii) the  
7 generation or treatment of natural or artificial gas for  
8 wholesale or retail sale that is delivered to customers through  
9 pipes, pipelines, or mains; or (iii) the treatment of water for  
10 wholesale or retail sale that is delivered to customers through  
11 pipes, pipelines, or mains. The provisions of this amendatory  
12 Act of the 98th General Assembly are declaratory of existing  
13 law as to the meaning and scope of this exemption.

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

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

24 (17) Tangible personal property sold to a common carrier by  
25 rail or motor that receives the physical possession of the  
26 property in Illinois and that transports the property, or

1 shares with another common carrier in the transportation of the  
2 property, out of Illinois on a standard uniform bill of lading  
3 showing the seller of the property as the shipper or consignor  
4 of the property to a destination outside Illinois, for use  
5 outside Illinois.

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

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

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

24 (21) Until July 1, 2003, and beginning again on the  
25 effective date of this amendatory Act of the 97th General  
26 Assembly and thereafter, coal and aggregate exploration,

1 mining, offhighway hauling, processing, maintenance, and  
2 reclamation equipment, including replacement parts and  
3 equipment, and including equipment purchased for lease, but  
4 excluding motor vehicles required to be registered under the  
5 Illinois Vehicle Code.

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

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

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

22 (25) Except as provided in item (25-5) of this Section, a  
23 motor vehicle sold in this State to a nonresident even though  
24 the motor vehicle is delivered to the nonresident in this  
25 State, if the motor vehicle is not to be titled in this State,  
26 and if a drive-away permit is issued to the motor vehicle as



1 provided in Section 3-603 of the Illinois Vehicle Code or if  
2 the nonresident purchaser has vehicle registration plates to  
3 transfer to the motor vehicle upon returning to his or her home  
4 state. The issuance of the drive-away permit or having the  
5 out-of-state registration plates to be transferred is prima  
6 facie evidence that the motor vehicle will not be titled in  
7 this State.

8 (25-5) The exemption under item (25) does not apply if the  
9 state in which the motor vehicle will be titled does not allow  
10 a reciprocal exemption for a motor vehicle sold and delivered  
11 in that state to an Illinois resident but titled in Illinois.  
12 The tax collected under this Act on the sale of a motor vehicle  
13 in this State to a resident of another state that does not  
14 allow a reciprocal exemption shall be imposed at a rate equal  
15 to the state's rate of tax on taxable property in the state in  
16 which the purchaser is a resident, except that the tax shall  
17 not exceed the tax that would otherwise be imposed under this  
18 Act. At the time of the sale, the purchaser shall execute a  
19 statement, signed under penalty of perjury, of his or her  
20 intent to title the vehicle in the state in which the purchaser  
21 is a resident within 30 days after the sale and of the fact of  
22 the payment to the State of Illinois of tax in an amount  
23 equivalent to the state's rate of tax on taxable property in  
24 his or her state of residence and shall submit the statement to  
25 the appropriate tax collection agency in his or her state of  
26 residence. In addition, the retailer must retain a signed copy

1 of the statement in his or her records. Nothing in this item  
2 shall be construed to require the removal of the vehicle from  
3 this state following the filing of an intent to title the  
4 vehicle in the purchaser's state of residence if the purchaser  
5 titles the vehicle in his or her state of residence within 30  
6 days after the date of sale. The tax collected under this Act  
7 in accordance with this item (25-5) shall be proportionately  
8 distributed as if the tax were collected at the 6.25% general  
9 rate imposed under this Act.

10 (25-7) Beginning on July 1, 2007, no tax is imposed under  
11 this Act on the sale of an aircraft, as defined in Section 3 of  
12 the Illinois Aeronautics Act, if all of the following  
13 conditions are met:

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

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

22 (3) the seller retains in his or her books and records  
23 and provides to the Department a signed and dated  
24 certification from the purchaser, on a form prescribed by  
25 the Department, certifying that the requirements of this  
26 item (25-7) are met. The certificate must also include the

1 name and address of the purchaser, the address of the  
2 location where the aircraft is to be titled or registered,  
3 the address of the primary physical location of the  
4 aircraft, and other information that the Department may  
5 reasonably require.

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

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

11 "Registered in this State" means an aircraft registered  
12 with the Department of Transportation, Aeronautics Division,  
13 or titled or registered with the Federal Aviation  
14 Administration to an address located in this State.

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

17 (26) Semen used for artificial insemination of livestock  
18 for direct agricultural production.

19 (27) Horses, or interests in horses, registered with and  
20 meeting the requirements of any of the Arabian Horse Club  
21 Registry of America, Appaloosa Horse Club, American Quarter  
22 Horse Association, United States Trotting Association, or  
23 Jockey Club, as appropriate, used for purposes of breeding or  
24 racing for prizes. This item (27) is exempt from the provisions  
25 of Section 2-70, and the exemption provided for under this item  
26 (27) applies for all periods beginning May 30, 1995, but no

1 claim for credit or refund is allowed on or after January 1,  
2 2008 (the effective date of Public Act 95-88) for such taxes  
3 paid during the period beginning May 30, 2000 and ending on  
4 January 1, 2008 (the effective date of Public Act 95-88).

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

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

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

1 who reside within the declared disaster area.

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

14 (32) Beginning July 1, 1999, game or game birds sold at a  
15 "game breeding and hunting preserve area" as that term is used  
16 in the Wildlife Code. This paragraph is exempt from the  
17 provisions of Section 2-70.

18 (33) A motor vehicle, as that term is defined in Section  
19 1-146 of the Illinois Vehicle Code, that is donated to a  
20 corporation, limited liability company, society, association,  
21 foundation, or institution that is determined by the Department  
22 to be organized and operated exclusively for educational  
23 purposes. For purposes of this exemption, "a corporation,  
24 limited liability company, society, association, foundation,  
25 or institution organized and operated exclusively for  
26 educational purposes" means all tax-supported public schools,

1 private schools that offer systematic instruction in useful  
2 branches of learning by methods common to public schools and  
3 that compare favorably in their scope and intensity with the  
4 course of study presented in tax-supported schools, and  
5 vocational or technical schools or institutes organized and  
6 operated exclusively to provide a course of study of not less  
7 than 6 weeks duration and designed to prepare individuals to  
8 follow a trade or to pursue a manual, technical, mechanical,  
9 industrial, business, or commercial occupation.

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

24 (35) Beginning January 1, 2000 and through December 31,  
25 2001, new or used automatic vending machines that prepare and  
26 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning  
2 January 1, 2002 and through June 30, 2003, machines and parts  
3 for machines used in commercial, coin-operated amusement and  
4 vending business if a use or occupation tax is paid on the  
5 gross receipts derived from the use of the commercial,  
6 coin-operated amusement and vending machines. This paragraph  
7 is exempt from the provisions of Section 2-70.

8 (35-5) Beginning August 23, 2001 and through June 30, 2016,  
9 food for human consumption that is to be consumed off the  
10 premises where it is sold (other than alcoholic beverages, soft  
11 drinks, and food that has been prepared for immediate  
12 consumption) and prescription and nonprescription medicines,  
13 drugs, medical appliances, and insulin, urine testing  
14 materials, syringes, and needles used by diabetics, for human  
15 use, when purchased for use by a person receiving medical  
16 assistance under Article V of the Illinois Public Aid Code who  
17 resides in a licensed long-term care facility, as defined in  
18 the Nursing Home Care Act, or a licensed facility as defined in  
19 the ID/DD Community Care Act or the Specialized Mental Health  
20 Rehabilitation Act.

21 (36) Beginning August 2, 2001, computers and  
22 communications equipment utilized for any hospital purpose and  
23 equipment used in the diagnosis, analysis, or treatment of  
24 hospital patients sold to a lessor who leases the equipment,  
25 under a lease of one year or longer executed or in effect at  
26 the time of the purchase, to a hospital that has been issued an

1 active tax exemption identification number by the Department  
2 under Section 1g of this Act. This paragraph is exempt from the  
3 provisions of Section 2-70.

4 (37) Beginning August 2, 2001, personal property sold to a  
5 lessor who leases the property, under a lease of one year or  
6 longer executed or in effect at the time of the purchase, to a  
7 governmental body that has been issued an active tax exemption  
8 identification number by the Department under Section 1g of  
9 this Act. This paragraph is exempt from the provisions of  
10 Section 2-70.

11 (38) Beginning on January 1, 2002 and through June 30,  
12 2016, tangible personal property purchased from an Illinois  
13 retailer by a taxpayer engaged in centralized purchasing  
14 activities in Illinois who will, upon receipt of the property  
15 in Illinois, temporarily store the property in Illinois (i) for  
16 the purpose of subsequently transporting it outside this State  
17 for use or consumption thereafter solely outside this State or  
18 (ii) for the purpose of being processed, fabricated, or  
19 manufactured into, attached to, or incorporated into other  
20 tangible personal property to be transported outside this State  
21 and thereafter used or consumed solely outside this State. The  
22 Director of Revenue shall, pursuant to rules adopted in  
23 accordance with the Illinois Administrative Procedure Act,  
24 issue a permit to any taxpayer in good standing with the  
25 Department who is eligible for the exemption under this  
26 paragraph (38). The permit issued under this paragraph (38)



1 shall authorize the holder, to the extent and in the manner  
2 specified in the rules adopted under this Act, to purchase  
3 tangible personal property from a retailer exempt from the  
4 taxes imposed by this Act. Taxpayers shall maintain all  
5 necessary books and records to substantiate the use and  
6 consumption of all such tangible personal property outside of  
7 the State of Illinois.

8 (39) Beginning January 1, 2008, tangible personal property  
9 used in the construction or maintenance of a community water  
10 supply, as defined under Section 3.145 of the Environmental  
11 Protection Act, that is operated by a not-for-profit  
12 corporation that holds a valid water supply permit issued under  
13 Title IV of the Environmental Protection Act. This paragraph is  
14 exempt from the provisions of Section 2-70.

15 (40) Beginning January 1, 2010, materials, parts,  
16 equipment, components, and furnishings incorporated into or  
17 upon an aircraft as part of the modification, refurbishment,  
18 completion, replacement, repair, or maintenance of the  
19 aircraft. This exemption includes consumable supplies used in  
20 the modification, refurbishment, completion, replacement,  
21 repair, and maintenance of aircraft, but excludes any  
22 materials, parts, equipment, components, and consumable  
23 supplies used in the modification, replacement, repair, and  
24 maintenance of aircraft engines or power plants, whether such  
25 engines or power plants are installed or uninstalled upon any  
26 such aircraft. "Consumable supplies" include, but are not

1 limited to, adhesive, tape, sandpaper, general purpose  
2 lubricants, cleaning solution, latex gloves, and protective  
3 films. This exemption applies only to those organizations that  
4 (i) hold an Air Agency Certificate and are empowered to operate  
5 an approved repair station by the Federal Aviation  
6 Administration, (ii) have a Class IV Rating, and (iii) conduct  
7 operations in accordance with Part 145 of the Federal Aviation  
8 Regulations. The exemption does not include aircraft operated  
9 by a commercial air carrier providing scheduled passenger air  
10 service pursuant to authority issued under Part 121 or Part 129  
11 of the Federal Aviation Regulations.

12 (41) Tangible personal property sold to a  
13 public-facilities corporation, as described in Section  
14 11-65-10 of the Illinois Municipal Code, for purposes of  
15 constructing or furnishing a municipal convention hall, but  
16 only if the legal title to the municipal convention hall is  
17 transferred to the municipality without any further  
18 consideration by or on behalf of the municipality at the time  
19 of the completion of the municipal convention hall or upon the  
20 retirement or redemption of any bonds or other debt instruments  
21 issued by the public-facilities corporation in connection with  
22 the development of the municipal convention hall. This  
23 exemption includes existing public-facilities corporations as  
24 provided in Section 11-65-25 of the Illinois Municipal Code.  
25 This paragraph is exempt from the provisions of Section 2-70.

26 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;

1 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
2 7-2-10; 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227, eff.  
3 1-1-12; 97-431, eff. 8-16-11; 97-636, eff. 6-1-12; 97-767, eff.  
4 7-9-12.)

5 (35 ILCS 120/2-25) (from Ch. 120, par. 441-25)

6 Sec. 2-25. Computer software. For the purposes of this Act,  
7 "computer software" means a set of statements, data, or  
8 instructions to be used directly or indirectly in a computer in  
9 order to bring about a certain result in any form in which  
10 those statements, data, or instructions may be embodied,  
11 transmitted, or fixed, by any method now known or hereafter  
12 developed, regardless of whether the statements, data, or  
13 instructions are capable of being perceived by or communicated  
14 to humans, and includes prewritten or canned software that is  
15 held for repeated sale or lease, and all associated  
16 documentation and materials, if any, whether contained on  
17 magnetic tapes, discs, cards, or other devices or media, but  
18 does not include software that is adapted to specific  
19 individualized requirements of a purchaser, custom-made and  
20 modified software designed for a particular or limited use by a  
21 purchaser, or software used to operate exempt machinery and  
22 equipment used in the process of manufacturing or assembling  
23 tangible personal property for wholesale or retail sale or  
24 lease. Software used to operate machinery and equipment used in  
25 (i) the generation of electricity for wholesale or retail sale;

1 (ii) the generation or treatment of natural or artificial gas  
2 for wholesale or retail sale that is delivered to customers  
3 through pipes, pipelines, or mains; or (iii) the treatment of  
4 water for wholesale or retail sale that is delivered to  
5 customers through pipes, pipelines, or mains is considered  
6 "computer software". The provisions of this amendatory Act of  
7 the 98th General Assembly are declaratory of existing law as to  
8 the meaning and scope of this exemption.

9 For the purposes of this Act, computer software shall be  
10 considered to be tangible personal property.

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

12 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

13 Sec. 2-45. Manufacturing and assembly exemption. The  
14 manufacturing and assembly machinery and equipment exemption  
15 includes machinery and equipment that replaces machinery and  
16 equipment in an existing manufacturing facility as well as  
17 machinery and equipment that are for use in an expanded or new  
18 manufacturing facility.

19 The machinery and equipment exemption also includes  
20 machinery and equipment used in the general maintenance or  
21 repair of exempt machinery and equipment or for in-house  
22 manufacture of exempt machinery and equipment. The machinery  
23 and equipment exemption does not include machinery and  
24 equipment used in (i) the generation of electricity for  
25 wholesale or retail sale; (ii) the generation or treatment of

1 natural or artificial gas for wholesale or retail sale that is  
2 delivered to customers through pipes, pipelines, or mains; or  
3 (iii) the treatment of water for wholesale or retail sale that  
4 is delivered to customers through pipes, pipelines, or mains.  
5 The provisions of this amendatory Act of the 98th General  
6 Assembly are declaratory of existing law as to the meaning and  
7 scope of this exemption. For the purposes of this exemption,  
8 terms have the following meanings:

9 (1) "Manufacturing process" means the production of an  
10 article of tangible personal property, whether the article  
11 is a finished product or an article for use in the process  
12 of manufacturing or assembling a different article of  
13 tangible personal property, by a procedure commonly  
14 regarded as manufacturing, processing, fabricating, or  
15 refining that changes some existing material or materials  
16 into a material with a different form, use, or name. In  
17 relation to a recognized integrated business composed of a  
18 series of operations that collectively constitute  
19 manufacturing, or individually constitute manufacturing  
20 operations, the manufacturing process commences with the  
21 first operation or stage of production in the series and  
22 does not end until the completion of the final product in  
23 the last operation or stage of production in the series.  
24 For purposes of this exemption, photoprocessing is a  
25 manufacturing process of tangible personal property for  
26 wholesale or retail sale.

1           (2) "Assembling process" means the production of an  
2 article of tangible personal property, whether the article  
3 is a finished product or an article for use in the process  
4 of manufacturing or assembling a different article of  
5 tangible personal property, by the combination of existing  
6 materials in a manner commonly regarded as assembling that  
7 results in a material of a different form, use, or name.

8           (3) "Machinery" means major mechanical machines or  
9 major components of those machines contributing to a  
10 manufacturing or assembling process.

11           (4) "Equipment" includes an independent device or tool  
12 separate from machinery but essential to an integrated  
13 manufacturing or assembly process; including computers  
14 used primarily in a manufacturer's computer assisted  
15 design, computer assisted manufacturing (CAD/CAM) system;  
16 any subunit or assembly comprising a component of any  
17 machinery or auxiliary, adjunct, or attachment parts of  
18 machinery, such as tools, dies, jigs, fixtures, patterns,  
19 and molds; and any parts that require periodic replacement  
20 in the course of normal operation; but does not include  
21 hand tools. Equipment includes chemicals or chemicals  
22 acting as catalysts but only if the chemicals or chemicals  
23 acting as catalysts effect a direct and immediate change  
24 upon a product being manufactured or assembled for  
25 wholesale or retail sale or lease.

26           (5) "Production related tangible personal property"

1 means all tangible personal property that is used or  
2 consumed by the purchaser in a manufacturing facility in  
3 which a manufacturing process takes place and includes,  
4 without limitation, tangible personal property that is  
5 purchased for incorporation into real estate within a  
6 manufacturing facility and tangible personal property that  
7 is used or consumed in activities such as research and  
8 development, preproduction material handling, receiving,  
9 quality control, inventory control, storage, staging, and  
10 packaging for shipping and transportation purposes.

11 "Production related tangible personal property" does not  
12 include (i) tangible personal property that is used, within  
13 or without a manufacturing facility, in sales, purchasing,  
14 accounting, fiscal management, marketing, personnel  
15 recruitment or selection, or landscaping or (ii) tangible  
16 personal property that is required to be titled or  
17 registered with a department, agency, or unit of federal,  
18 State, or local government.

19 The manufacturing and assembling machinery and equipment  
20 exemption includes production related tangible personal  
21 property that is purchased on or after July 1, 2007 and on or  
22 before June 30, 2008. The exemption for production related  
23 tangible personal property is subject to both of the following  
24 limitations:

25 (1) The maximum amount of the exemption for any one  
26 taxpayer may not exceed 5% of the purchase price of

1 production related tangible personal property that is  
2 purchased on or after July 1, 2007 and on or before June  
3 30, 2008. A credit under Section 3-85 of this Act may not  
4 be earned by the purchase of production related tangible  
5 personal property for which an exemption is received under  
6 this Section.

7 (2) The maximum aggregate amount of the exemptions for  
8 production related tangible personal property awarded  
9 under this Act and the Use Tax Act to all taxpayers may not  
10 exceed \$10,000,000. If the claims for the exemption exceed  
11 \$10,000,000, then the Department shall reduce the amount of  
12 the exemption to each taxpayer on a pro rata basis.

13 The Department may adopt rules to implement and administer the  
14 exemption for production related tangible personal property.

15 The manufacturing and assembling machinery and equipment  
16 exemption includes the sale of materials to a purchaser who  
17 produces exempted types of machinery, equipment, or tools and  
18 who rents or leases that machinery, equipment, or tools to a  
19 manufacturer of tangible personal property. This exemption  
20 also includes the sale of materials to a purchaser who  
21 manufactures those materials into an exempted type of  
22 machinery, equipment, or tools that the purchaser uses himself  
23 or herself in the manufacturing of tangible personal property.  
24 The purchaser of the machinery and equipment who has an active  
25 resale registration number shall furnish that number to the  
26 seller at the time of purchase. A purchaser of the machinery,



1 equipment, and tools without an active resale registration  
2 number shall furnish to the seller a certificate of exemption  
3 for each transaction stating facts establishing the exemption  
4 for that transaction, and that certificate shall be available  
5 to the Department for inspection or audit. Informal rulings,  
6 opinions, or letters issued by the Department in response to an  
7 inquiry or request for an opinion from any person regarding the  
8 coverage and applicability of this exemption to specific  
9 devices shall be published, maintained as a public record, and  
10 made available for public inspection and copying. If the  
11 informal ruling, opinion, or letter contains trade secrets or  
12 other confidential information, where possible, the Department  
13 shall delete that information before publication. Whenever  
14 informal rulings, opinions, or letters contain a policy of  
15 general applicability, the Department shall formulate and  
16 adopt that policy as a rule in accordance with the Illinois  
17 Administrative Procedure Act.

18 (Source: P.A. 95-707, eff. 1-11-08; 96-328, eff. 8-11-09.)

19 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

20 Sec. 2a. It is unlawful for any person to engage in the  
21 business of selling tangible personal property at retail in  
22 this State without a certificate of registration from the  
23 Department. Application for a certificate of registration  
24 shall be made to the Department upon forms furnished by it.  
25 Each such application shall be signed and verified and shall

1 state: (1) the name and social security number of the  
2 applicant; (2) the address of his principal place of business;  
3 (3) the address of the principal place of business from which  
4 he engages in the business of selling tangible personal  
5 property at retail in this State and the addresses of all other  
6 places of business, if any (enumerating such addresses, if any,  
7 in a separate list attached to and made a part of the  
8 application), from which he engages in the business of selling  
9 tangible personal property at retail in this State; (4) the  
10 name and address of the person or persons who will be  
11 responsible for filing returns and payment of taxes due under  
12 this Act; (5) in the case of a publicly traded corporation, the  
13 name and title of the Chief Financial Officer, Chief Operating  
14 Officer, and any other officer or employee with responsibility  
15 for preparing tax returns under this Act, along with the last 4  
16 digits of each of their social security numbers, and in the  
17 case of all other corporations ~~a corporation~~, the name, title,  
18 and social security number of each corporate officer; (6) in  
19 the case of a limited liability company, the name, social  
20 security number, and FEIN number of each manager and member;  
21 and (7) such other information as the Department may reasonably  
22 require. The application shall contain an acceptance of  
23 responsibility signed by the person or persons who will be  
24 responsible for filing returns and payment of the taxes due  
25 under this Act. If the applicant will sell tangible personal  
26 property at retail through vending machines, his application to

1 register shall indicate the number of vending machines to be so  
2 operated. If requested by the Department at any time, that  
3 person shall verify the total number of vending machines he or  
4 she uses in his or her business of selling tangible personal  
5 property at retail.

6 The Department may deny a certificate of registration to  
7 any applicant if the owner, any partner, any manager or member  
8 of a limited liability company, or a corporate officer of the  
9 applicant, is or has been the owner, a partner, a manager or  
10 member of a limited liability company, or a corporate officer,  
11 of another retailer that is in default for moneys due under  
12 this Act.

13 The Department may require an applicant for a certificate  
14 of registration hereunder to, at the time of filing such  
15 application, furnish a bond from a surety company authorized to  
16 do business in the State of Illinois, or an irrevocable bank  
17 letter of credit or a bond signed by 2 personal sureties who  
18 have filed, with the Department, sworn statements disclosing  
19 net assets equal to at least 3 times the amount of the bond to  
20 be required of such applicant, or a bond secured by an  
21 assignment of a bank account or certificate of deposit, stocks  
22 or bonds, conditioned upon the applicant paying to the State of  
23 Illinois all moneys becoming due under this Act and under any  
24 other State tax law or municipal or county tax ordinance or  
25 resolution under which the certificate of registration that is  
26 issued to the applicant under this Act will permit the

1 applicant to engage in business without registering separately  
2 under such other law, ordinance or resolution. In making a  
3 determination as to whether to require a bond or other  
4 security, the Department shall take into consideration whether  
5 the owner, any partner, any manager or member of a limited  
6 liability company, or a corporate officer of the applicant is  
7 or has been the owner, a partner, a manager or member of a  
8 limited liability company, or a corporate officer of another  
9 retailer that is in default for moneys due under this Act or  
10 any other tax or fee Act administered by the Department; and  
11 whether the owner, any partner, any manager or member of a  
12 limited liability company, or a corporate officer of the  
13 applicant is or has been the owner, a partner, a manager or  
14 member of a limited liability company, or a corporate officer  
15 of another retailer whose certificate of registration has been  
16 revoked within the previous 5 years under this Act or any other  
17 tax or fee Act administered by the Department. If a bond or  
18 other security is required, the Department shall fix the amount  
19 of the bond or other security, taking into consideration the  
20 amount of money expected to become due from the applicant under  
21 this Act and under any other State tax law or municipal or  
22 county tax ordinance or resolution under which the certificate  
23 of registration that is issued to the applicant under this Act  
24 will permit the applicant to engage in business without  
25 registering separately under such other law, ordinance, or  
26 resolution. The amount of security required by the Department

1 shall be such as, in its opinion, will protect the State of  
2 Illinois against failure to pay the amount which may become due  
3 from the applicant under this Act and under any other State tax  
4 law or municipal or county tax ordinance or resolution under  
5 which the certificate of registration that is issued to the  
6 applicant under this Act will permit the applicant to engage in  
7 business without registering separately under such other law,  
8 ordinance or resolution, but the amount of the security  
9 required by the Department shall not exceed three times the  
10 amount of the applicant's average monthly tax liability, or  
11 \$50,000.00, whichever amount is lower.

12 No certificate of registration under this Act shall be  
13 issued by the Department until the applicant provides the  
14 Department with satisfactory security, if required, as herein  
15 provided for.

16 Upon receipt of the application for certificate of  
17 registration in proper form, and upon approval by the  
18 Department of the security furnished by the applicant, if  
19 required, the Department shall issue to such applicant a  
20 certificate of registration which shall permit the person to  
21 whom it is issued to engage in the business of selling tangible  
22 personal property at retail in this State. The certificate of  
23 registration shall be conspicuously displayed at the place of  
24 business which the person so registered states in his  
25 application to be the principal place of business from which he  
26 engages in the business of selling tangible personal property

1 at retail in this State.

2 No certificate of registration issued to a taxpayer who  
3 files returns required by this Act on a monthly basis shall be  
4 valid after the expiration of 5 years from the date of its  
5 issuance or last renewal. The expiration date of a  
6 sub-certificate of registration shall be that of the  
7 certificate of registration to which the sub-certificate  
8 relates. A certificate of registration shall automatically be  
9 renewed, subject to revocation as provided by this Act, for an  
10 additional 5 years from the date of its expiration unless  
11 otherwise notified by the Department as provided by this  
12 paragraph. Where a taxpayer to whom a certificate of  
13 registration is issued under this Act is in default to the  
14 State of Illinois for delinquent returns or for moneys due  
15 under this Act or any other State tax law or municipal or  
16 county ordinance administered or enforced by the Department,  
17 the Department shall, not less than 120 days before the  
18 expiration date of such certificate of registration, give  
19 notice to the taxpayer to whom the certificate was issued of  
20 the account period of the delinquent returns, the amount of  
21 tax, penalty and interest due and owing from the taxpayer, and  
22 that the certificate of registration shall not be automatically  
23 renewed upon its expiration date unless the taxpayer, on or  
24 before the date of expiration, has filed and paid the  
25 delinquent returns or paid the defaulted amount in full. A  
26 taxpayer to whom such a notice is issued shall be deemed an

1 applicant for renewal. The Department shall promulgate  
2 regulations establishing procedures for taxpayers who file  
3 returns on a monthly basis but desire and qualify to change to  
4 a quarterly or yearly filing basis and will no longer be  
5 subject to renewal under this Section, and for taxpayers who  
6 file returns on a yearly or quarterly basis but who desire or  
7 are required to change to a monthly filing basis and will be  
8 subject to renewal under this Section.

9 The Department may in its discretion approve renewal by an  
10 applicant who is in default if, at the time of application for  
11 renewal, the applicant files all of the delinquent returns or  
12 pays to the Department such percentage of the defaulted amount  
13 as may be determined by the Department and agrees in writing to  
14 waive all limitations upon the Department for collection of the  
15 remaining defaulted amount to the Department over a period not  
16 to exceed 5 years from the date of renewal of the certificate;  
17 however, no renewal application submitted by an applicant who  
18 is in default shall be approved if the immediately preceding  
19 renewal by the applicant was conditioned upon the installment  
20 payment agreement described in this Section. The payment  
21 agreement herein provided for shall be in addition to and not  
22 in lieu of the security that may be required by this Section of  
23 a taxpayer who is no longer considered a prior continuous  
24 compliance taxpayer. The execution of the payment agreement as  
25 provided in this Act shall not toll the accrual of interest at  
26 the statutory rate.

1           The Department may suspend a certificate of registration if  
2 the Department finds that the person to whom the certificate of  
3 registration has been issued knowingly sold contraband  
4 cigarettes.

5           A certificate of registration issued under this Act more  
6 than 5 years before the effective date of this amendatory Act  
7 of 1989 shall expire and be subject to the renewal provisions  
8 of this Section on the next anniversary of the date of issuance  
9 of such certificate which occurs more than 6 months after the  
10 effective date of this amendatory Act of 1989. A certificate of  
11 registration issued less than 5 years before the effective date  
12 of this amendatory Act of 1989 shall expire and be subject to  
13 the renewal provisions of this Section on the 5th anniversary  
14 of the issuance of the certificate.

15           If the person so registered states that he operates other  
16 places of business from which he engages in the business of  
17 selling tangible personal property at retail in this State, the  
18 Department shall furnish him with a sub-certificate of  
19 registration for each such place of business, and the applicant  
20 shall display the appropriate sub-certificate of registration  
21 at each such place of business. All sub-certificates of  
22 registration shall bear the same registration number as that  
23 appearing upon the certificate of registration to which such  
24 sub-certificates relate.

25           If the applicant will sell tangible personal property at  
26 retail through vending machines, the Department shall furnish



1 him with a sub-certificate of registration for each such  
2 vending machine, and the applicant shall display the  
3 appropriate sub-certificate of registration on each such  
4 vending machine by attaching the sub-certificate of  
5 registration to a conspicuous part of such vending machine. If  
6 a person who is registered to sell tangible personal property  
7 at retail through vending machines adds an additional vending  
8 machine or additional vending machines to the number of vending  
9 machines he or she uses in his or her business of selling  
10 tangible personal property at retail, he or she shall notify  
11 the Department, on a form prescribed by the Department, to  
12 request an additional sub-certificate or additional  
13 sub-certificates of registration, as applicable. With each  
14 such request, the applicant shall report the number of  
15 sub-certificates of registration he or she is requesting as  
16 well as the total number of vending machines from which he or  
17 she makes retail sales.

18 Where the same person engages in 2 or more businesses of  
19 selling tangible personal property at retail in this State,  
20 which businesses are substantially different in character or  
21 engaged in under different trade names or engaged in under  
22 other substantially dissimilar circumstances (so that it is  
23 more practicable, from an accounting, auditing or bookkeeping  
24 standpoint, for such businesses to be separately registered),  
25 the Department may require or permit such person (subject to  
26 the same requirements concerning the furnishing of security as

1 those that are provided for hereinbefore in this Section as to  
2 each application for a certificate of registration) to apply  
3 for and obtain a separate certificate of registration for each  
4 such business or for any of such businesses, under a single  
5 certificate of registration supplemented by related  
6 sub-certificates of registration.

7 Any person who is registered under the "Retailers'  
8 Occupation Tax Act" as of March 8, 1963, and who, during the  
9 3-year period immediately prior to March 8, 1963, or during a  
10 continuous 3-year period part of which passed immediately  
11 before and the remainder of which passes immediately after  
12 March 8, 1963, has been so registered continuously and who is  
13 determined by the Department not to have been either delinquent  
14 or deficient in the payment of tax liability during that period  
15 under this Act or under any other State tax law or municipal or  
16 county tax ordinance or resolution under which the certificate  
17 of registration that is issued to the registrant under this Act  
18 will permit the registrant to engage in business without  
19 registering separately under such other law, ordinance or  
20 resolution, shall be considered to be a Prior Continuous  
21 Compliance taxpayer. Also any taxpayer who has, as verified by  
22 the Department, faithfully and continuously complied with the  
23 condition of his bond or other security under the provisions of  
24 this Act for a period of 3 consecutive years shall be  
25 considered to be a Prior Continuous Compliance taxpayer.

26 Every Prior Continuous Compliance taxpayer shall be exempt

1 from all requirements under this Act concerning the furnishing  
2 of a bond or other security as a condition precedent to his  
3 being authorized to engage in the business of selling tangible  
4 personal property at retail in this State. This exemption shall  
5 continue for each such taxpayer until such time as he may be  
6 determined by the Department to be delinquent in the filing of  
7 any returns, or is determined by the Department (either through  
8 the Department's issuance of a final assessment which has  
9 become final under the Act, or by the taxpayer's filing of a  
10 return which admits tax that is not paid to be due) to be  
11 delinquent or deficient in the paying of any tax under this Act  
12 or under any other State tax law or municipal or county tax  
13 ordinance or resolution under which the certificate of  
14 registration that is issued to the registrant under this Act  
15 will permit the registrant to engage in business without  
16 registering separately under such other law, ordinance or  
17 resolution, at which time that taxpayer shall become subject to  
18 all the financial responsibility requirements of this Act and,  
19 as a condition of being allowed to continue to engage in the  
20 business of selling tangible personal property at retail, may  
21 be required to post bond or other acceptable security with the  
22 Department covering liability which such taxpayer may  
23 thereafter incur. Any taxpayer who fails to pay an admitted or  
24 established liability under this Act may also be required to  
25 post bond or other acceptable security with this Department  
26 guaranteeing the payment of such admitted or established

1 liability.

2 No certificate of registration shall be issued to any  
3 person who is in default to the State of Illinois for moneys  
4 due under this Act or under any other State tax law or  
5 municipal or county tax ordinance or resolution under which the  
6 certificate of registration that is issued to the applicant  
7 under this Act will permit the applicant to engage in business  
8 without registering separately under such other law, ordinance  
9 or resolution.

10 Any person aggrieved by any decision of the Department  
11 under this Section may, within 20 days after notice of such  
12 decision, protest and request a hearing, whereupon the  
13 Department shall give notice to such person of the time and  
14 place fixed for such hearing and shall hold a hearing in  
15 conformity with the provisions of this Act and then issue its  
16 final administrative decision in the matter to such person. In  
17 the absence of such a protest within 20 days, the Department's  
18 decision shall become final without any further determination  
19 being made or notice given.

20 With respect to security other than bonds (upon which the  
21 Department may sue in the event of a forfeiture), if the  
22 taxpayer fails to pay, when due, any amount whose payment such  
23 security guarantees, the Department shall, after such  
24 liability is admitted by the taxpayer or established by the  
25 Department through the issuance of a final assessment that has  
26 become final under the law, convert the security which that

1 taxpayer has furnished into money for the State, after first  
2 giving the taxpayer at least 10 days' written notice, by  
3 registered or certified mail, to pay the liability or forfeit  
4 such security to the Department. If the security consists of  
5 stocks or bonds or other securities which are listed on a  
6 public exchange, the Department shall sell such securities  
7 through such public exchange. If the security consists of an  
8 irrevocable bank letter of credit, the Department shall convert  
9 the security in the manner provided for in the Uniform  
10 Commercial Code. If the security consists of a bank certificate  
11 of deposit, the Department shall convert the security into  
12 money by demanding and collecting the amount of such bank  
13 certificate of deposit from the bank which issued such  
14 certificate. If the security consists of a type of stocks or  
15 other securities which are not listed on a public exchange, the  
16 Department shall sell such security to the highest and best  
17 bidder after giving at least 10 days' notice of the date, time  
18 and place of the intended sale by publication in the "State  
19 Official Newspaper". If the Department realizes more than the  
20 amount of such liability from the security, plus the expenses  
21 incurred by the Department in converting the security into  
22 money, the Department shall pay such excess to the taxpayer who  
23 furnished such security, and the balance shall be paid into the  
24 State Treasury.

25 The Department shall discharge any surety and shall release  
26 and return any security deposited, assigned, pledged or

1 otherwise provided to it by a taxpayer under this Section  
2 within 30 days after:

3 (1) such taxpayer becomes a Prior Continuous  
4 Compliance taxpayer; or

5 (2) such taxpayer has ceased to collect receipts on  
6 which he is required to remit tax to the Department, has  
7 filed a final tax return, and has paid to the Department an  
8 amount sufficient to discharge his remaining tax  
9 liability, as determined by the Department, under this Act  
10 and under every other State tax law or municipal or county  
11 tax ordinance or resolution under which the certificate of  
12 registration issued under this Act permits the registrant  
13 to engage in business without registering separately under  
14 such other law, ordinance or resolution. The Department  
15 shall make a final determination of the taxpayer's  
16 outstanding tax liability as expeditiously as possible  
17 after his final tax return has been filed; if the  
18 Department cannot make such final determination within 45  
19 days after receiving the final tax return, within such  
20 period it shall so notify the taxpayer, stating its reasons  
21 therefor.

22 (Source: P.A. 96-1355, eff. 7-28-10; 97-335, eff. 1-1-12.)