



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3694

by Rep. Katherine Cloonen

SYNOPSIS AS INTRODUCED:

| | |
|---------------|---------------------------|
| 35 ILCS 105/2 | from Ch. 120, par. 439.2 |
| 35 ILCS 110/2 | from Ch. 120, par. 439.32 |
| 35 ILCS 120/1 | from Ch. 120, par. 440 |

Amends the Use Tax Act, the Service Use Tax Act, and the Retailers' Occupation Tax Act. Provides that the term "selling price" does not include any fee charged by the retailer for the disposal of tires if that fee is a separately stated charge on the customer's invoice.

LRB099 10493 HLH 30720 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section 2
5 as follows:

6 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

7 Sec. 2. Definitions.

8 "Use" means the exercise by any person of any right or
9 power over tangible personal property incident to the ownership
10 of that property, except that it does not include the sale of
11 such property in any form as tangible personal property in the
12 regular course of business to the extent that such property is
13 not first subjected to a use for which it was purchased, and
14 does not include the use of such property by its owner for
15 demonstration purposes: Provided that the property purchased
16 is deemed to be purchased for the purpose of resale, despite
17 first being used, to the extent to which it is resold as an
18 ingredient of an intentionally produced product or by-product
19 of manufacturing. "Use" does not mean the demonstration use or
20 interim use of tangible personal property by a retailer before
21 he sells that tangible personal property. For watercraft or
22 aircraft, if the period of demonstration use or interim use by
23 the retailer exceeds 18 months, the retailer shall pay on the

1 retailers' original cost price the tax imposed by this Act, and
2 no credit for that tax is permitted if the watercraft or
3 aircraft is subsequently sold by the retailer. "Use" does not
4 mean the physical incorporation of tangible personal property,
5 to the extent not first subjected to a use for which it was
6 purchased, as an ingredient or constituent, into other tangible
7 personal property (a) which is sold in the regular course of
8 business or (b) which the person incorporating such ingredient
9 or constituent therein has undertaken at the time of such
10 purchase to cause to be transported in interstate commerce to
11 destinations outside the State of Illinois: Provided that the
12 property purchased is deemed to be purchased for the purpose of
13 resale, despite first being used, to the extent to which it is
14 resold as an ingredient of an intentionally produced product or
15 by-product of manufacturing.

16 "Watercraft" means a Class 2, Class 3, or Class 4
17 watercraft as defined in Section 3-2 of the Boat Registration
18 and Safety Act, a personal watercraft, or any boat equipped
19 with an inboard motor.

20 "Purchase at retail" means the acquisition of the ownership
21 of or title to tangible personal property through a sale at
22 retail.

23 "Purchaser" means anyone who, through a sale at retail,
24 acquires the ownership of tangible personal property for a
25 valuable consideration.

26 "Sale at retail" means any transfer of the ownership of or

1 title to tangible personal property to a purchaser, for the
2 purpose of use, and not for the purpose of resale in any form
3 as tangible personal property to the extent not first subjected
4 to a use for which it was purchased, for a valuable
5 consideration: Provided that the property purchased is deemed
6 to be purchased for the purpose of resale, despite first being
7 used, to the extent to which it is resold as an ingredient of
8 an intentionally produced product or by-product of
9 manufacturing. For this purpose, slag produced as an incident
10 to manufacturing pig iron or steel and sold is considered to be
11 an intentionally produced by-product of manufacturing. "Sale
12 at retail" includes any such transfer made for resale unless
13 made in compliance with Section 2c of the Retailers' Occupation
14 Tax Act, as incorporated by reference into Section 12 of this
15 Act. Transactions whereby the possession of the property is
16 transferred but the seller retains the title as security for
17 payment of the selling price are sales.

18 "Sale at retail" shall also be construed to include any
19 Illinois florist's sales transaction in which the purchase
20 order is received in Illinois by a florist and the sale is for
21 use or consumption, but the Illinois florist has a florist in
22 another state deliver the property to the purchaser or the
23 purchaser's donee in such other state.

24 Nonreusable tangible personal property that is used by
25 persons engaged in the business of operating a restaurant,
26 cafeteria, or drive-in is a sale for resale when it is

1 transferred to customers in the ordinary course of business as
2 part of the sale of food or beverages and is used to deliver,
3 package, or consume food or beverages, regardless of where
4 consumption of the food or beverages occurs. Examples of those
5 items include, but are not limited to nonreusable, paper and
6 plastic cups, plates, baskets, boxes, sleeves, buckets or other
7 containers, utensils, straws, placemats, napkins, doggie bags,
8 and wrapping or packaging materials that are transferred to
9 customers as part of the sale of food or beverages in the
10 ordinary course of business.

11 The purchase, employment and transfer of such tangible
12 personal property as newsprint and ink for the primary purpose
13 of conveying news (with or without other information) is not a
14 purchase, use or sale of tangible personal property.

15 "Selling price" means the consideration for a sale valued
16 in money whether received in money or otherwise, including
17 cash, credits, property other than as hereinafter provided, and
18 services, but not including the value of or credit given for
19 traded-in tangible personal property where the item that is
20 traded-in is of like kind and character as that which is being
21 sold, and shall be determined without any deduction on account
22 of the cost of the property sold, the cost of materials used,
23 labor or service cost or any other expense whatsoever, but does
24 not include interest or finance charges which appear as
25 separate items on the bill of sale or sales contract nor
26 charges that are added to prices by sellers on account of the

1 seller's tax liability under the "Retailers' Occupation Tax
2 Act", or on account of the seller's duty to collect, from the
3 purchaser, the tax that is imposed by this Act, or, except as
4 otherwise provided with respect to any cigarette tax imposed by
5 a home rule unit, on account of the seller's tax liability
6 under any local occupation tax administered by the Department,
7 or, except as otherwise provided with respect to any cigarette
8 tax imposed by a home rule unit on account of the seller's duty
9 to collect, from the purchasers, the tax that is imposed under
10 any local use tax administered by the Department. Effective
11 December 1, 1985, "selling price" shall include charges that
12 are added to prices by sellers on account of the seller's tax
13 liability under the Cigarette Tax Act, on account of the
14 seller's duty to collect, from the purchaser, the tax imposed
15 under the Cigarette Use Tax Act, and on account of the seller's
16 duty to collect, from the purchaser, any cigarette tax imposed
17 by a home rule unit.

18 Notwithstanding any other provision of law, "selling
19 price" does not include any fee charged by the retailer for the
20 disposal of tires if that fee is a separately stated charge on
21 the customer's invoice.

22 Notwithstanding any law to the contrary, for any motor
23 vehicle, as defined in Section 1-146 of the Vehicle Code, that
24 is sold on or after January 1, 2015 for the purpose of leasing
25 the vehicle for a defined period that is longer than one year
26 and (1) is a motor vehicle of the second division that: (A) is

1 a self-contained motor vehicle designed or permanently
2 converted to provide living quarters for recreational,
3 camping, or travel use, with direct walk through access to the
4 living quarters from the driver's seat; (B) is of the van
5 configuration designed for the transportation of not less than
6 7 nor more than 16 passengers; or (C) has a gross vehicle
7 weight rating of 8,000 pounds or less or (2) is a motor vehicle
8 of the first division, "selling price" or "amount of sale"
9 means the consideration received by the lessor pursuant to the
10 lease contract, including amounts due at lease signing and all
11 monthly or other regular payments charged over the term of the
12 lease. Also included in the selling price is any amount
13 received by the lessor from the lessee for the leased vehicle
14 that is not calculated at the time the lease is executed,
15 including, but not limited to, excess mileage charges and
16 charges for excess wear and tear. For sales that occur in
17 Illinois, with respect to any amount received by the lessor
18 from the lessee for the leased vehicle that is not calculated
19 at the time the lease is executed, the lessor who purchased the
20 motor vehicle does not incur the tax imposed by the Use Tax Act
21 on those amounts, and the retailer who makes the retail sale of
22 the motor vehicle to the lessor is not required to collect the
23 tax imposed by this Act or to pay the tax imposed by the
24 Retailers' Occupation Tax Act on those amounts. However, the
25 lessor who purchased the motor vehicle assumes the liability
26 for reporting and paying the tax on those amounts directly to

1 the Department in the same form (Illinois Retailers' Occupation
2 Tax, and local retailers' occupation taxes, if applicable) in
3 which the retailer would have reported and paid such tax if the
4 retailer had accounted for the tax to the Department. For
5 amounts received by the lessor from the lessee that are not
6 calculated at the time the lease is executed, the lessor must
7 file the return and pay the tax to the Department by the due
8 date otherwise required by this Act for returns other than
9 transaction returns. If the retailer is entitled under this Act
10 to a discount for collecting and remitting the tax imposed
11 under this Act to the Department with respect to the sale of
12 the motor vehicle to the lessor, then the right to the discount
13 provided in this Act shall be transferred to the lessor with
14 respect to the tax paid by the lessor for any amount received
15 by the lessor from the lessee for the leased vehicle that is
16 not calculated at the time the lease is executed; provided that
17 the discount is only allowed if the return is timely filed and
18 for amounts timely paid. The "selling price" of a motor vehicle
19 that is sold on or after January 1, 2015 for the purpose of
20 leasing for a defined period of longer than one year shall not
21 be reduced by the value of or credit given for traded-in
22 tangible personal property owned by the lessor, nor shall it be
23 reduced by the value of or credit given for traded-in tangible
24 personal property owned by the lessee, regardless of whether
25 the trade-in value thereof is assigned by the lessee to the
26 lessor. In the case of a motor vehicle that is sold for the

1 purpose of leasing for a defined period of longer than one
2 year, the sale occurs at the time of the delivery of the
3 vehicle, regardless of the due date of any lease payments. A
4 lessor who incurs a Retailers' Occupation Tax liability on the
5 sale of a motor vehicle coming off lease may not take a credit
6 against that liability for the Use Tax the lessor paid upon the
7 purchase of the motor vehicle (or for any tax the lessor paid
8 with respect to any amount received by the lessor from the
9 lessee for the leased vehicle that was not calculated at the
10 time the lease was executed) if the selling price of the motor
11 vehicle at the time of purchase was calculated using the
12 definition of "selling price" as defined in this paragraph.
13 Notwithstanding any other provision of this Act to the
14 contrary, lessors shall file all returns and make all payments
15 required under this paragraph to the Department by electronic
16 means in the manner and form as required by the Department.
17 This paragraph does not apply to leases of motor vehicles for
18 which, at the time the lease is entered into, the term of the
19 lease is not a defined period, including leases with a defined
20 initial period with the option to continue the lease on a
21 month-to-month or other basis beyond the initial defined
22 period.

23 The phrase "like kind and character" shall be liberally
24 construed (including but not limited to any form of motor
25 vehicle for any form of motor vehicle, or any kind of farm or
26 agricultural implement for any other kind of farm or

1 agricultural implement), while not including a kind of item
2 which, if sold at retail by that retailer, would be exempt from
3 retailers' occupation tax and use tax as an isolated or
4 occasional sale.

5 "Department" means the Department of Revenue.

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

11 "Retailer" means and includes every person engaged in the
12 business of making sales at retail as defined in this Section.

13 A person who holds himself or herself out as being engaged
14 (or who habitually engages) in selling tangible personal
15 property at retail is a retailer hereunder with respect to such
16 sales (and not primarily in a service occupation)
17 notwithstanding the fact that such person designs and produces
18 such tangible personal property on special order for the
19 purchaser and in such a way as to render the property of value
20 only to such purchaser, if such tangible personal property so
21 produced on special order serves substantially the same
22 function as stock or standard items of tangible personal
23 property that are sold at retail.

24 A person whose activities are organized and conducted
25 primarily as a not-for-profit service enterprise, and who
26 engages in selling tangible personal property at retail

1 (whether to the public or merely to members and their guests)
2 is a retailer with respect to such transactions, excepting only
3 a person organized and operated exclusively for charitable,
4 religious or educational purposes either (1), to the extent of
5 sales by such person to its members, students, patients or
6 inmates of tangible personal property to be used primarily for
7 the purposes of such person, or (2), to the extent of sales by
8 such person of tangible personal property which is not sold or
9 offered for sale by persons organized for profit. The selling
10 of school books and school supplies by schools at retail to
11 students is not "primarily for the purposes of" the school
12 which does such selling. This paragraph does not apply to nor
13 subject to taxation occasional dinners, social or similar
14 activities of a person organized and operated exclusively for
15 charitable, religious or educational purposes, whether or not
16 such activities are open to the public.

17 A person who is the recipient of a grant or contract under
18 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
19 serves meals to participants in the federal Nutrition Program
20 for the Elderly in return for contributions established in
21 amount by the individual participant pursuant to a schedule of
22 suggested fees as provided for in the federal Act is not a
23 retailer under this Act with respect to such transactions.

24 Persons who engage in the business of transferring tangible
25 personal property upon the redemption of trading stamps are
26 retailers hereunder when engaged in such business.

1 The isolated or occasional sale of tangible personal
2 property at retail by a person who does not hold himself out as
3 being engaged (or who does not habitually engage) in selling
4 such tangible personal property at retail or a sale through a
5 bulk vending machine does not make such person a retailer
6 hereunder. However, any person who is engaged in a business
7 which is not subject to the tax imposed by the "Retailers'
8 Occupation Tax Act" because of involving the sale of or a
9 contract to sell real estate or a construction contract to
10 improve real estate, but who, in the course of conducting such
11 business, transfers tangible personal property to users or
12 consumers in the finished form in which it was purchased, and
13 which does not become real estate, under any provision of a
14 construction contract or real estate sale or real estate sales
15 agreement entered into with some other person arising out of or
16 because of such nontaxable business, is a retailer to the
17 extent of the value of the tangible personal property so
18 transferred. If, in such transaction, a separate charge is made
19 for the tangible personal property so transferred, the value of
20 such property, for the purposes of this Act, is the amount so
21 separately charged, but not less than the cost of such property
22 to the transferor; if no separate charge is made, the value of
23 such property, for the purposes of this Act, is the cost to the
24 transferor of such tangible personal property.

25 "Retailer maintaining a place of business in this State",
26 or any like term, means and includes any of the following

1 retailers:

2 1. A retailer having or maintaining within this State,
3 directly or by a subsidiary, an office, distribution house,
4 sales house, warehouse or other place of business, or any
5 agent or other representative operating within this State
6 under the authority of the retailer or its subsidiary,
7 irrespective of whether such place of business or agent or
8 other representative is located here permanently or
9 temporarily, or whether such retailer or subsidiary is
10 licensed to do business in this State. However, the
11 ownership of property that is located at the premises of a
12 printer with which the retailer has contracted for printing
13 and that consists of the final printed product, property
14 that becomes a part of the final printed product, or copy
15 from which the printed product is produced shall not result
16 in the retailer being deemed to have or maintain an office,
17 distribution house, sales house, warehouse, or other place
18 of business within this State.

19 1.1. A retailer having a contract with a person located
20 in this State under which the person, for a commission or
21 other consideration based upon the sale of tangible
22 personal property by the retailer, directly or indirectly
23 refers potential customers to the retailer by providing to
24 the potential customers a promotional code or other
25 mechanism that allows the retailer to track purchases
26 referred by such persons. Examples of mechanisms that allow

1 the retailer to track purchases referred by such persons
2 include but are not limited to the use of a link on the
3 person's Internet website, promotional codes distributed
4 through the person's hand-delivered or mailed material,
5 and promotional codes distributed by the person through
6 radio or other broadcast media. The provisions of this
7 paragraph 1.1 shall apply only if the cumulative gross
8 receipts from sales of tangible personal property by the
9 retailer to customers who are referred to the retailer by
10 all persons in this State under such contracts exceed
11 \$10,000 during the preceding 4 quarterly periods ending on
12 the last day of March, June, September, and December. A
13 retailer meeting the requirements of this paragraph 1.1
14 shall be presumed to be maintaining a place of business in
15 this State but may rebut this presumption by submitting
16 proof that the referrals or other activities pursued within
17 this State by such persons were not sufficient to meet the
18 nexus standards of the United States Constitution during
19 the preceding 4 quarterly periods.

20 1.2. Beginning July 1, 2011, a retailer having a
21 contract with a person located in this State under which:

22 A. the retailer sells the same or substantially
23 similar line of products as the person located in this
24 State and does so using an identical or substantially
25 similar name, trade name, or trademark as the person
26 located in this State; and

1 B. the retailer provides a commission or other
2 consideration to the person located in this State based
3 upon the sale of tangible personal property by the
4 retailer.

5 The provisions of this paragraph 1.2 shall apply only if
6 the cumulative gross receipts from sales of tangible
7 personal property by the retailer to customers in this
8 State under all such contracts exceed \$10,000 during the
9 preceding 4 quarterly periods ending on the last day of
10 March, June, September, and December.

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

17 3. A retailer, pursuant to a contract with a
18 broadcaster or publisher located in this State, soliciting
19 orders for tangible personal property by means of
20 advertising which is disseminated primarily to consumers
21 located in this State and only secondarily to bordering
22 jurisdictions.

23 4. A retailer soliciting orders for tangible personal
24 property by mail if the solicitations are substantial and
25 recurring and if the retailer benefits from any banking,
26 financing, debt collection, telecommunication, or

1 marketing activities occurring in this State or benefits
2 from the location in this State of authorized installation,
3 servicing, or repair facilities.

4 5. A retailer that is owned or controlled by the same
5 interests that own or control any retailer engaging in
6 business in the same or similar line of business in this
7 State.

8 6. A retailer having a franchisee or licensee operating
9 under its trade name if the franchisee or licensee is
10 required to collect the tax under this Section.

11 7. A retailer, pursuant to a contract with a cable
12 television operator located in this State, soliciting
13 orders for tangible personal property by means of
14 advertising which is transmitted or distributed over a
15 cable television system in this State.

16 8. A retailer engaging in activities in Illinois, which
17 activities in the state in which the retail business
18 engaging in such activities is located would constitute
19 maintaining a place of business in that state.

20 "Bulk vending machine" means a vending machine, containing
21 unsorted confections, nuts, toys, or other items designed
22 primarily to be used or played with by children which, when a
23 coin or coins of a denomination not larger than \$0.50 are
24 inserted, are dispensed in equal portions, at random and
25 without selection by the customer.

26 (Source: P.A. 98-628, eff. 1-1-15; 98-1080, eff. 8-26-14;

1 98-1089, eff. 1-1-15; revised 10-1-14.)

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

4 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

5 Sec. 2. Definitions.

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

19 "Purchased from a serviceman" means the acquisition of the
20 ownership of, or title to, tangible personal property through a
21 sale of service.

22 "Purchaser" means any person who, through a sale of
23 service, acquires the ownership of, or title to, any tangible
24 personal property.

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

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

23 Notwithstanding any other provision of law, "selling
24 price" does not include any fee charged by the retailer for the
25 disposal of tires if that fee is a separately stated charge on
26 the customer's invoice.

1 "Department" means the Department of Revenue.

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

7 "Sale of service" means any transaction except:

8 (1) a retail sale of tangible personal property taxable
9 under the Retailers' Occupation Tax Act or under the Use
10 Tax Act.

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

14 (3) except as hereinafter provided, a sale or transfer
15 of tangible personal property as an incident to the
16 rendering of service for or by any governmental body, or
17 for or by any corporation, society, association,
18 foundation or institution organized and operated
19 exclusively for charitable, religious or educational
20 purposes or any not-for-profit corporation, society,
21 association, foundation, institution or organization which
22 has no compensated officers or employees and which is
23 organized and operated primarily for the recreation of
24 persons 55 years of age or older. A limited liability
25 company may qualify for the exemption under this paragraph
26 only if the limited liability company is organized and

1 operated exclusively for educational purposes.

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

14 (4a) a sale or transfer of tangible personal property
15 as an incident to the rendering of service for owners,
16 lessors, or shippers of tangible personal property which is
17 utilized by interstate carriers for hire for use as rolling
18 stock moving in interstate commerce so long as so used by
19 interstate carriers for hire, and equipment operated by a
20 telecommunications provider, licensed as a common carrier
21 by the Federal Communications Commission, which is
22 permanently installed in or affixed to aircraft moving in
23 interstate commerce.

24 (4a-5) 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

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

19 (5) a sale or transfer of machinery and equipment used
20 primarily in the process of the manufacturing or
21 assembling, either in an existing, an expanded or a new
22 manufacturing facility, of tangible personal property for
23 wholesale or retail sale or lease, whether such sale or
24 lease is made directly by the manufacturer or by some other
25 person, whether the materials used in the process are owned
26 by the manufacturer or some other person, or whether such

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

16 (5a) the repairing, reconditioning or remodeling, for
17 a common carrier by rail, of tangible personal property
18 which belongs to such carrier for hire, and as to which
19 such carrier receives the physical possession of the
20 repaired, reconditioned or remodeled item of tangible
21 personal property in Illinois, and which such carrier
22 transports, or shares with another common carrier in the
23 transportation of such property, out of Illinois on a
24 standard uniform bill of lading showing the person who
25 repaired, reconditioned or remodeled the property to a
26 destination outside Illinois, for use outside Illinois.

1 (5b) a sale or transfer of tangible personal property
2 which is produced by the seller thereof on special order in
3 such a way as to have made the applicable tax the Service
4 Occupation Tax or the Service Use Tax, rather than the
5 Retailers' Occupation Tax or the Use Tax, for an interstate
6 carrier by rail which receives the physical possession of
7 such property in Illinois, and which transports such
8 property, or shares with another common carrier in the
9 transportation of such property, out of Illinois on a
10 standard uniform bill of lading showing the seller of the
11 property as the shipper or consignor of such property to a
12 destination outside Illinois, for use outside Illinois.

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

21 (7) at the election of any serviceman not required to
22 be otherwise registered as a retailer under Section 2a of
23 the Retailers' Occupation Tax Act, made for each fiscal
24 year sales of service in which the aggregate annual cost
25 price of tangible personal property transferred as an
26 incident to the sales of service is less than 35%, or 75%

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

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

19 Exemption (5) also includes machinery and equipment used in
20 the general maintenance or repair of such exempt machinery and
21 equipment or for in-house manufacture of exempt machinery and
22 equipment. The machinery and equipment exemption does not
23 include machinery and equipment used in (i) the generation of
24 electricity for wholesale or retail sale; (ii) the generation
25 or treatment of natural or artificial gas for wholesale or
26 retail sale that is delivered to customers through pipes,

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

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

1 establishing the exemption for that transaction, which
2 certificate shall be available to the Department for inspection
3 or audit. The Department shall prescribe the form of the
4 certificate.

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

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

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

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

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

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

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

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

19 1.1. having a contract with a person located in this
20 State under which the person, for a commission or other
21 consideration based on the sale of service by the
22 serviceman, directly or indirectly refers potential
23 customers to the serviceman by providing to the potential
24 customers a promotional code or other mechanism that allows
25 the serviceman to track purchases referred by such persons.
26 Examples of mechanisms that allow the serviceman to track

1 purchases referred by such persons include but are not
2 limited to the use of a link on the person's Internet
3 website, promotional codes distributed through the
4 person's hand-delivered or mailed material, and
5 promotional codes distributed by the person through radio
6 or other broadcast media. The provisions of this paragraph
7 1.1 shall apply only if the cumulative gross receipts from
8 sales of service by the serviceman to customers who are
9 referred to the serviceman by all persons in this State
10 under such contracts exceed \$10,000 during the preceding 4
11 quarterly periods ending on the last day of March, June,
12 September, and December; a serviceman meeting the
13 requirements of this paragraph 1.1 shall be presumed to be
14 maintaining a place of business in this State but may rebut
15 this presumption by submitting proof that the referrals or
16 other activities pursued within this State by such persons
17 were not sufficient to meet the nexus standards of the
18 United States Constitution during the preceding 4
19 quarterly periods;

20 1.2. beginning July 1, 2011, having a contract with a
21 person located in this State under which:

22 A. the serviceman sells the same or substantially
23 similar line of services as the person located in this
24 State and does so using an identical or substantially
25 similar name, trade name, or trademark as the person
26 located in this State; and

1 B. the serviceman provides a commission or other
2 consideration to the person located in this State based
3 upon the sale of services by the serviceman.

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

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

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

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

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

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

7 7. pursuant to a contract with a cable television
8 operator located in this State, soliciting orders for
9 tangible personal property by means of advertising which is
10 transmitted or distributed over a cable television system
11 in this State; or

12 8. engaging in activities in Illinois, which
13 activities in the state in which the supply business
14 engaging in such activities is located would constitute
15 maintaining a place of business in that state.

16 (Source: P.A. 98-583, eff. 1-1-14; 98-1089, eff. 1-1-15.)

17 Section 15. The Retailers' Occupation Tax Act is amended by
18 changing Section 1 as follows:

19 (35 ILCS 120/1) (from Ch. 120, par. 440)

20 Sec. 1. Definitions. "Sale at retail" means any transfer of
21 the ownership of or title to tangible personal property to a
22 purchaser, for the purpose of use or consumption, and not for
23 the purpose of resale in any form as tangible personal property
24 to the extent not first subjected to a use for which it was

1 purchased, for a valuable consideration: Provided that the
2 property purchased is deemed to be purchased for the purpose of
3 resale, despite first being used, to the extent to which it is
4 resold as an ingredient of an intentionally produced product or
5 byproduct of manufacturing. For this purpose, slag produced as
6 an incident to manufacturing pig iron or steel and sold is
7 considered to be an intentionally produced byproduct of
8 manufacturing. Transactions whereby the possession of the
9 property is transferred but the seller retains the title as
10 security for payment of the selling price shall be deemed to be
11 sales.

12 "Sale at retail" shall be construed to include any transfer
13 of the ownership of or title to tangible personal property to a
14 purchaser, for use or consumption by any other person to whom
15 such purchaser may transfer the tangible personal property
16 without a valuable consideration, and to include any transfer,
17 whether made for or without a valuable consideration, for
18 resale in any form as tangible personal property unless made in
19 compliance with Section 2c of this Act.

20 Sales of tangible personal property, which property, to the
21 extent not first subjected to a use for which it was purchased,
22 as an ingredient or constituent, goes into and forms a part of
23 tangible personal property subsequently the subject of a "Sale
24 at retail", are not sales at retail as defined in this Act:
25 Provided that the property purchased is deemed to be purchased
26 for the purpose of resale, despite first being used, to the

1 extent to which it is resold as an ingredient of an
2 intentionally produced product or byproduct of manufacturing.

3 "Sale at retail" shall be construed to include any Illinois
4 florist's sales transaction in which the purchase order is
5 received in Illinois by a florist and the sale is for use or
6 consumption, but the Illinois florist has a florist in another
7 state deliver the property to the purchaser or the purchaser's
8 donee in such other state.

9 Nonreusable tangible personal property that is used by
10 persons engaged in the business of operating a restaurant,
11 cafeteria, or drive-in is a sale for resale when it is
12 transferred to customers in the ordinary course of business as
13 part of the sale of food or beverages and is used to deliver,
14 package, or consume food or beverages, regardless of where
15 consumption of the food or beverages occurs. Examples of those
16 items include, but are not limited to nonreusable, paper and
17 plastic cups, plates, baskets, boxes, sleeves, buckets or other
18 containers, utensils, straws, placemats, napkins, doggie bags,
19 and wrapping or packaging materials that are transferred to
20 customers as part of the sale of food or beverages in the
21 ordinary course of business.

22 The purchase, employment and transfer of such tangible
23 personal property as newsprint and ink for the primary purpose
24 of conveying news (with or without other information) is not a
25 purchase, use or sale of tangible personal property.

26 A person whose activities are organized and conducted

1 primarily as a not-for-profit service enterprise, and who
2 engages in selling tangible personal property at retail
3 (whether to the public or merely to members and their guests)
4 is engaged in the business of selling tangible personal
5 property at retail with respect to such transactions, excepting
6 only a person organized and operated exclusively for
7 charitable, religious or educational purposes either (1), to
8 the extent of sales by such person to its members, students,
9 patients or inmates of tangible personal property to be used
10 primarily for the purposes of such person, or (2), to the
11 extent of sales by such person of tangible personal property
12 which is not sold or offered for sale by persons organized for
13 profit. The selling of school books and school supplies by
14 schools at retail to students is not "primarily for the
15 purposes of" the school which does such selling. The provisions
16 of this paragraph shall not apply to nor subject to taxation
17 occasional dinners, socials or similar activities of a person
18 organized and operated exclusively for charitable, religious
19 or educational purposes, whether or not such activities are
20 open to the public.

21 A person who is the recipient of a grant or contract under
22 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
23 serves meals to participants in the federal Nutrition Program
24 for the Elderly in return for contributions established in
25 amount by the individual participant pursuant to a schedule of
26 suggested fees as provided for in the federal Act is not

1 engaged in the business of selling tangible personal property
2 at retail with respect to such transactions.

3 "Purchaser" means anyone who, through a sale at retail,
4 acquires the ownership of or title to tangible personal
5 property for a valuable consideration.

6 "Reseller of motor fuel" means any person engaged in the
7 business of selling or delivering or transferring title of
8 motor fuel to another person other than for use or consumption.
9 No person shall act as a reseller of motor fuel within this
10 State without first being registered as a reseller pursuant to
11 Section 2c or a retailer pursuant to Section 2a.

12 "Selling price" or the "amount of sale" means the
13 consideration for a sale valued in money whether received in
14 money or otherwise, including cash, credits, property, other
15 than as hereinafter provided, and services, but not including
16 the value of or credit given for traded-in tangible personal
17 property where the item that is traded-in is of like kind and
18 character as that which is being sold, and shall be determined
19 without any deduction on account of the cost of the property
20 sold, the cost of materials used, labor or service cost or any
21 other expense whatsoever, but does not include charges that are
22 added to prices by sellers on account of the seller's tax
23 liability under this Act, or on account of the seller's duty to
24 collect, from the purchaser, the tax that is imposed by the Use
25 Tax Act, or, except as otherwise provided with respect to any
26 cigarette tax imposed by a home rule unit, on account of the

1 seller's tax liability under any local occupation tax
2 administered by the Department, or, except as otherwise
3 provided with respect to any cigarette tax imposed by a home
4 rule unit on account of the seller's duty to collect, from the
5 purchasers, the tax that is imposed under any local use tax
6 administered by the Department. Effective December 1, 1985,
7 "selling price" shall include charges that are added to prices
8 by sellers on account of the seller's tax liability under the
9 Cigarette Tax Act, on account of the sellers' duty to collect,
10 from the purchaser, the tax imposed under the Cigarette Use Tax
11 Act, and on account of the seller's duty to collect, from the
12 purchaser, any cigarette tax imposed by a home rule unit.

13 Notwithstanding any other provision of law, "selling
14 price" does not include any fee charged by the retailer for the
15 disposal of tires if that fee is a separately stated charge on
16 the customer's invoice.

17 Notwithstanding any law to the contrary, for any motor
18 vehicle, as defined in Section 1-146 of the Vehicle Code, that
19 is sold on or after January 1, 2015 for the purpose of leasing
20 the vehicle for a defined period that is longer than one year
21 and (1) is a motor vehicle of the second division that: (A) is
22 a self-contained motor vehicle designed or permanently
23 converted to provide living quarters for recreational,
24 camping, or travel use, with direct walk through access to the
25 living quarters from the driver's seat; (B) is of the van
26 configuration designed for the transportation of not less than

1 7 nor more than 16 passengers; or (C) has a gross vehicle
2 weight rating of 8,000 pounds or less or (2) is a motor vehicle
3 of the first division, "selling price" or "amount of sale"
4 means the consideration received by the lessor pursuant to the
5 lease contract, including amounts due at lease signing and all
6 monthly or other regular payments charged over the term of the
7 lease. Also included in the selling price is any amount
8 received by the lessor from the lessee for the leased vehicle
9 that is not calculated at the time the lease is executed,
10 including, but not limited to, excess mileage charges and
11 charges for excess wear and tear. For sales that occur in
12 Illinois, with respect to any amount received by the lessor
13 from the lessee for the leased vehicle that is not calculated
14 at the time the lease is executed, the lessor who purchased the
15 motor vehicle does not incur the tax imposed by the Use Tax Act
16 on those amounts, and the retailer who makes the retail sale of
17 the motor vehicle to the lessor is not required to collect the
18 tax imposed by the Use Tax Act or to pay the tax imposed by this
19 Act on those amounts. However, the lessor who purchased the
20 motor vehicle assumes the liability for reporting and paying
21 the tax on those amounts directly to the Department in the same
22 form (Illinois Retailers' Occupation Tax, and local retailers'
23 occupation taxes, if applicable) in which the retailer would
24 have reported and paid such tax if the retailer had accounted
25 for the tax to the Department. For amounts received by the
26 lessor from the lessee that are not calculated at the time the

1 lease is executed, the lessor must file the return and pay the
2 tax to the Department by the due date otherwise required by
3 this Act for returns other than transaction returns. If the
4 retailer is entitled under this Act to a discount for
5 collecting and remitting the tax imposed under this Act to the
6 Department with respect to the sale of the motor vehicle to the
7 lessor, then the right to the discount provided in this Act
8 shall be transferred to the lessor with respect to the tax paid
9 by the lessor for any amount received by the lessor from the
10 lessee for the leased vehicle that is not calculated at the
11 time the lease is executed; provided that the discount is only
12 allowed if the return is timely filed and for amounts timely
13 paid. The "selling price" of a motor vehicle that is sold on or
14 after January 1, 2015 for the purpose of leasing for a defined
15 period of longer than one year shall not be reduced by the
16 value of or credit given for traded-in tangible personal
17 property owned by the lessor, nor shall it be reduced by the
18 value of or credit given for traded-in tangible personal
19 property owned by the lessee, regardless of whether the
20 trade-in value thereof is assigned by the lessee to the lessor.
21 In the case of a motor vehicle that is sold for the purpose of
22 leasing for a defined period of longer than one year, the sale
23 occurs at the time of the delivery of the vehicle, regardless
24 of the due date of any lease payments. A lessor who incurs a
25 Retailers' Occupation Tax liability on the sale of a motor
26 vehicle coming off lease may not take a credit against that

1 liability for the Use Tax the lessor paid upon the purchase of
2 the motor vehicle (or for any tax the lessor paid with respect
3 to any amount received by the lessor from the lessee for the
4 leased vehicle that was not calculated at the time the lease
5 was executed) if the selling price of the motor vehicle at the
6 time of purchase was calculated using the definition of
7 "selling price" as defined in this paragraph. Notwithstanding
8 any other provision of this Act to the contrary, lessors shall
9 file all returns and make all payments required under this
10 paragraph to the Department by electronic means in the manner
11 and form as required by the Department. This paragraph does not
12 apply to leases of motor vehicles for which, at the time the
13 lease is entered into, the term of the lease is not a defined
14 period, including leases with a defined initial period with the
15 option to continue the lease on a month-to-month or other basis
16 beyond the initial defined period.

17 The phrase "like kind and character" shall be liberally
18 construed (including but not limited to any form of motor
19 vehicle for any form of motor vehicle, or any kind of farm or
20 agricultural implement for any other kind of farm or
21 agricultural implement), while not including a kind of item
22 which, if sold at retail by that retailer, would be exempt from
23 retailers' occupation tax and use tax as an isolated or
24 occasional sale.

25 "Gross receipts" from the sales of tangible personal
26 property at retail means the total selling price or the amount

1 of such sales, as hereinbefore defined. In the case of charge
2 and time sales, the amount thereof shall be included only as
3 and when payments are received by the seller. Receipts or other
4 consideration derived by a seller from the sale, transfer or
5 assignment of accounts receivable to a wholly owned subsidiary
6 will not be deemed payments prior to the time the purchaser
7 makes payment on such accounts.

8 "Department" means the Department of Revenue.

9 "Person" means any natural individual, firm, partnership,
10 association, joint stock company, joint adventure, public or
11 private corporation, limited liability company, or a receiver,
12 executor, trustee, guardian or other representative appointed
13 by order of any court.

14 The isolated or occasional sale of tangible personal
15 property at retail by a person who does not hold himself out as
16 being engaged (or who does not habitually engage) in selling
17 such tangible personal property at retail, or a sale through a
18 bulk vending machine, does not constitute engaging in a
19 business of selling such tangible personal property at retail
20 within the meaning of this Act; provided that any person who is
21 engaged in a business which is not subject to the tax imposed
22 by this Act because of involving the sale of or a contract to
23 sell real estate or a construction contract to improve real
24 estate or a construction contract to engineer, install, and
25 maintain an integrated system of products, but who, in the
26 course of conducting such business, transfers tangible

1 personal property to users or consumers in the finished form in
2 which it was purchased, and which does not become real estate
3 or was not engineered and installed, under any provision of a
4 construction contract or real estate sale or real estate sales
5 agreement entered into with some other person arising out of or
6 because of such nontaxable business, is engaged in the business
7 of selling tangible personal property at retail to the extent
8 of the value of the tangible personal property so transferred.
9 If, in such a transaction, a separate charge is made for the
10 tangible personal property so transferred, the value of such
11 property, for the purpose of this Act, shall be the amount so
12 separately charged, but not less than the cost of such property
13 to the transferor; if no separate charge is made, the value of
14 such property, for the purposes of this Act, is the cost to the
15 transferor of such tangible personal property. Construction
16 contracts for the improvement of real estate consisting of
17 engineering, installation, and maintenance of voice, data,
18 video, security, and all telecommunication systems do not
19 constitute engaging in a business of selling tangible personal
20 property at retail within the meaning of this Act if they are
21 sold at one specified contract price.

22 A person who holds himself or herself out as being engaged
23 (or who habitually engages) in selling tangible personal
24 property at retail is a person engaged in the business of
25 selling tangible personal property at retail hereunder with
26 respect to such sales (and not primarily in a service

1 occupation) notwithstanding the fact that such person designs
2 and produces such tangible personal property on special order
3 for the purchaser and in such a way as to render the property
4 of value only to such purchaser, if such tangible personal
5 property so produced on special order serves substantially the
6 same function as stock or standard items of tangible personal
7 property that are sold at retail.

8 Persons who engage in the business of transferring tangible
9 personal property upon the redemption of trading stamps are
10 engaged in the business of selling such property at retail and
11 shall be liable for and shall pay the tax imposed by this Act
12 on the basis of the retail value of the property transferred
13 upon redemption of such stamps.

14 "Bulk vending machine" means a vending machine, containing
15 unsorted confections, nuts, toys, or other items designed
16 primarily to be used or played with by children which, when a
17 coin or coins of a denomination not larger than \$0.50 are
18 inserted, are dispensed in equal portions, at random and
19 without selection by the customer.

20 (Source: P.A. 98-628, eff. 1-1-15; 98-1080, eff. 8-26-14.)