



Rep. Dan Ugaste

Filed: 4/2/2025

10400HB2109ham001

LRB104 11576 HLH 23628 a

1 AMENDMENT TO HOUSE BILL 2109

2 AMENDMENT NO. _____. Amend House Bill 2109 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Use Tax Act is amended by changing
5 Sections 2 and 3 as follows:

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

7 Sec. 2. Definitions. As used in this Act:

8 "Use" means the exercise by any person of any right or
9 power over tangible personal property incident to the
10 ownership of that property, or, on and after January 1, 2025,
11 incident to the possession or control of, the right to possess
12 or control, or a license to use that property through a lease,
13 except that it does not include the sale of such property in
14 any form as tangible personal property in the regular course
15 of business to the extent that such property is not first
16 subjected to a use for which it was purchased, and does not

1 include the use of such property by its owner for
2 demonstration purposes: Provided that the property purchased
3 is deemed to be purchased for the purpose of resale, despite
4 first being used, to the extent to which it is resold as an
5 ingredient of an intentionally produced product or by-product
6 of manufacturing. "Use" does not mean the demonstration use or
7 interim use of tangible personal property by a retailer before
8 he sells that tangible personal property. On and after January
9 1, 2025, the lease of tangible personal property to a lessee by
10 a retailer who is subject to tax on lease receipts under Public
11 Act 103-592 ~~this amendatory Act of the 103rd General Assembly~~
12 does not qualify as demonstration use or interim use of that
13 property. For watercraft or aircraft, if the period of
14 demonstration use or interim use by the retailer exceeds 18
15 months, the retailer shall pay on the retailers' original cost
16 price the tax imposed by this Act, and no credit for that tax
17 is permitted if the watercraft or aircraft is subsequently
18 sold by the retailer. "Use" does not mean the physical
19 incorporation of tangible personal property, to the extent not
20 first subjected to a use for which it was purchased, as an
21 ingredient or constituent, into other tangible personal
22 property (a) which is sold in the regular course of business or
23 (b) which the person incorporating such ingredient or
24 constituent therein has undertaken at the time of such
25 purchase to cause to be transported in interstate commerce to
26 destinations outside the State of Illinois: Provided that the

1 property purchased is deemed to be purchased for the purpose
2 of resale, despite first being used, to the extent to which it
3 is resold as an ingredient of an intentionally produced
4 product or by-product of manufacturing.

5 "Lease" means a transfer of the possession or control of,
6 the right to possess or control, or a license to use, but not
7 title to, tangible personal property for a fixed or
8 indeterminate term for consideration, regardless of the name
9 by which the transaction is called. "Lease" does not include a
10 lease entered into merely as a security agreement that does
11 not involve a transfer of possession or control from the
12 lessor to the lessee.

13 On and after January 1, 2025, the term "sale", when used in
14 this Act, includes a lease.

15 Beginning on January 1, 2026, the term "lease" does not
16 include the lease of sporting goods for a period of less than
17 10 days.

18 For the purposes of defining the term "lease", "sporting
19 goods" means tangible personal property that is used for
20 participation in a recreational health, fitness, or sporting
21 activity, including, but not limited to, golf, tennis,
22 basketball, baseball, softball, football, soccer, fishing,
23 pickleball, ice skating, hockey, skiing, paddle boating,
24 kayaking, canoeing, or yoga.

25 "Watercraft" means a Class 2, Class 3, or Class 4
26 watercraft as defined in Section 3-2 of the Boat Registration

1 and Safety Act, a personal watercraft, or any boat equipped
2 with an inboard motor.

3 "Purchase at retail" means the acquisition of the
4 ownership of, the title to, the possession or control of, the
5 right to possess or control, or a license to use, tangible
6 personal property through a sale at retail.

7 "Purchaser" means anyone who, through a sale at retail,
8 acquires the ownership of, the title to, the possession or
9 control of, the right to possess or control, or a license to
10 use, tangible personal property for a valuable consideration.

11 "Sale at retail" means any transfer of the ownership of or
12 title to tangible personal property to a purchaser, for the
13 purpose of use, and not for the purpose of resale in any form
14 as tangible personal property to the extent not first
15 subjected to a use for which it was purchased, for a valuable
16 consideration: Provided that the property purchased is deemed
17 to be purchased for the purpose of resale, despite first being
18 used, to the extent to which it is resold as an ingredient of
19 an intentionally produced product or by-product of
20 manufacturing. For this purpose, slag produced as an incident
21 to manufacturing pig iron or steel and sold is considered to be
22 an intentionally produced by-product of manufacturing. "Sale
23 at retail" includes any such transfer made for resale unless
24 made in compliance with Section 2c of the Retailers'
25 Occupation Tax Act, as incorporated by reference into Section
26 12 of this Act. Transactions whereby the possession of the

1 property is transferred but the seller retains the title as
2 security for payment of the selling price are sales.

3 "Sale at retail" shall also be construed to include any
4 Illinois florist's sales transaction in which the purchase
5 order is received in Illinois by a florist and the sale is for
6 use or consumption, but the Illinois florist has a florist in
7 another state deliver the property to the purchaser or the
8 purchaser's 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
18 other containers, utensils, straws, placemats, napkins, doggie
19 bags, and wrapping or packaging materials that are transferred
20 to 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 "Selling price" means the consideration for a sale valued

1 in money whether received in money or otherwise, including
2 cash, credits, property other than as hereinafter provided,
3 and services, but, prior to January 1, 2020 and beginning
4 again on January 1, 2022, not including the value of or credit
5 given for traded-in tangible personal property where the item
6 that is traded-in is of like kind and character as that which
7 is being sold; beginning January 1, 2020 and until January 1,
8 2022, "selling price" includes the portion of the value of or
9 credit given for traded-in motor vehicles of the First
10 Division as defined in Section 1-146 of the Illinois Vehicle
11 Code of like kind and character as that which is being sold
12 that exceeds \$10,000. "Selling price" shall be determined
13 without any deduction on account of the cost of the property
14 sold, the cost of materials used, labor or service cost, or any
15 other expense whatsoever, but does not include interest or
16 finance charges which appear as separate items on the bill of
17 sale or sales contract nor charges that are added to prices by
18 sellers on account of the seller's tax liability under the
19 Retailers' Occupation Tax Act, or on account of the seller's
20 duty to collect, from the purchaser, the tax that is imposed by
21 this Act, or, except as otherwise provided with respect to any
22 cigarette tax imposed by a home rule unit, on account of the
23 seller's tax liability under any local occupation tax
24 administered by the Department, or, except as otherwise
25 provided with respect to any cigarette tax imposed by a home
26 rule unit on account of the seller's duty to collect, from the

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

9 The provisions of this paragraph, which provides only for
10 an alternative meaning of "selling price" with respect to the
11 sale of certain motor vehicles incident to the contemporaneous
12 lease of those motor vehicles, continue in effect and are not
13 changed by the tax on leases implemented by Public Act 103-592

14 ~~this amendatory Act of the 103rd General Assembly.~~
15 Notwithstanding any law to the contrary, for any motor
16 vehicle, as defined in Section 1-146 of the Vehicle Code, that
17 is sold on or after January 1, 2015 for the purpose of leasing
18 the vehicle for a defined period that is longer than one year
19 and (1) is a motor vehicle of the second division that: (A) is
20 a self-contained motor vehicle designed or permanently
21 converted to provide living quarters for recreational,
22 camping, or travel use, with direct walk through access to the
23 living quarters from the driver's seat; (B) is of the van
24 configuration designed for the transportation of not less than
25 7 nor more than 16 passengers; or (C) has a gross vehicle
26 weight rating of 8,000 pounds or less or (2) is a motor vehicle

1 of the first division, "selling price" or "amount of sale"
2 means the consideration received by the lessor pursuant to the
3 lease contract, including amounts due at lease signing and all
4 monthly or other regular payments charged over the term of the
5 lease. Also included in the selling price is any amount
6 received by the lessor from the lessee for the leased vehicle
7 that is not calculated at the time the lease is executed,
8 including, but not limited to, excess mileage charges and
9 charges for excess wear and tear. For sales that occur in
10 Illinois, with respect to any amount received by the lessor
11 from the lessee for the leased vehicle that is not calculated
12 at the time the lease is executed, the lessor who purchased the
13 motor vehicle does not incur the tax imposed by the Use Tax Act
14 on those amounts, and the retailer who makes the retail sale of
15 the motor vehicle to the lessor is not required to collect the
16 tax imposed by this Act or to pay the tax imposed by the
17 Retailers' Occupation Tax Act on those amounts. However, the
18 lessor who purchased the motor vehicle assumes the liability
19 for reporting and paying the tax on those amounts directly to
20 the Department in the same form (Illinois Retailers'
21 Occupation Tax, and local retailers' occupation taxes, if
22 applicable) in which the retailer would have reported and paid
23 such tax if the retailer had accounted for the tax to the
24 Department. For amounts received by the lessor from the lessee
25 that are not calculated at the time the lease is executed, the
26 lessor must file the return and pay the tax to the Department

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

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

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

24 "Department" means the Department of Revenue.

25 "Person" means any natural individual, firm, partnership,
26 association, joint stock company, joint adventure, public or

1 private corporation, limited liability company, or a receiver,
2 executor, trustee, guardian, or other representative appointed
3 by order of any court.

4 "Retailer" means and includes every person engaged in the
5 business of making sales, including, on and after January 1,
6 2025, leases, at retail as defined in this Section. With
7 respect to leases, a "retailer" also means a "lessor", except
8 as otherwise provided in this Act.

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

20 A person whose activities are organized and conducted
21 primarily as a not-for-profit service enterprise, and who
22 engages in selling tangible personal property at retail
23 (whether to the public or merely to members and their guests)
24 is a retailer with respect to such transactions, excepting
25 only a person organized and operated exclusively for
26 charitable, religious or educational purposes either (1) to

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

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

21 Persons who engage in the business of transferring
22 tangible personal property upon the redemption of trading
23 stamps are retailers hereunder when engaged in such business.

24 The isolated or occasional sale of tangible personal
25 property at retail by a person who does not hold himself out as
26 being engaged (or who does not habitually engage) in selling

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

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

26 (1) A retailer having or maintaining within this

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

18 (1.1) A retailer having a contract with a person
19 located in this State under which the person, for a
20 commission or other consideration based upon the sale of
21 tangible personal property by the retailer, directly or
22 indirectly refers potential customers to the retailer by
23 providing to the potential customers a promotional code or
24 other mechanism that allows the retailer to track
25 purchases referred by such persons. Examples of mechanisms
26 that allow the retailer to track purchases referred by

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

19 (1.2) Beginning July 1, 2011, a retailer having a
20 contract with a person located in this State under which:

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

26 (B) the retailer provides a commission or other

1 consideration to the person located in this State
2 based upon the sale of tangible personal property by
3 the retailer.

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

10 (2) (Blank).

11 (3) (Blank).

12 (4) (Blank).

13 (5) (Blank).

14 (6) (Blank).

15 (7) (Blank).

16 (8) (Blank).

17 (9) Beginning October 1, 2018, a retailer making sales
18 of tangible personal property to purchasers in Illinois
19 from outside of Illinois if:

20 (A) the cumulative gross receipts from sales of
21 tangible personal property to purchasers in Illinois
22 are \$100,000 or more; or

23 (B) the retailer enters into 200 or more separate
24 transactions for the sale of tangible personal
25 property to purchasers in Illinois.

26 The retailer shall determine on a quarterly basis,

1 ending on the last day of March, June, September, and
2 December, whether he or she meets the criteria of either
3 subparagraph (A) or (B) of this paragraph (9) for the
4 preceding 12-month period. If the retailer meets the
5 threshold of either subparagraph (A) or (B) for a 12-month
6 period, he or she is considered a retailer maintaining a
7 place of business in this State and is required to collect
8 and remit the tax imposed under this Act and file returns
9 for one year. At the end of that one-year period, the
10 retailer shall determine whether he or she met the
11 threshold of either subparagraph (A) or (B) during the
12 preceding 12-month period. If the retailer met the
13 criteria in either subparagraph (A) or (B) for the
14 preceding 12-month period, he or she is considered a
15 retailer maintaining a place of business in this State and
16 is required to collect and remit the tax imposed under
17 this Act and file returns for the subsequent year. If at
18 the end of a one-year period a retailer that was required
19 to collect and remit the tax imposed under this Act
20 determines that he or she did not meet the threshold in
21 either subparagraph (A) or (B) during the preceding
22 12-month period, the retailer shall subsequently determine
23 on a quarterly basis, ending on the last day of March,
24 June, September, and December, whether he or she meets the
25 threshold of either subparagraph (A) or (B) for the
26 preceding 12-month period.

1 Beginning January 1, 2020, neither the gross receipts
2 from nor the number of separate transactions for sales of
3 tangible personal property to purchasers in Illinois that
4 a retailer makes through a marketplace facilitator and for
5 which the retailer has received a certification from the
6 marketplace facilitator pursuant to Section 2d of this Act
7 shall be included for purposes of determining whether he
8 or she has met the thresholds of this paragraph (9).

9 (10) Beginning January 1, 2020, a marketplace
10 facilitator that meets a threshold set forth in subsection
11 (b) of Section 2d of this Act.

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

18 (Source: P.A. 102-353, eff. 1-1-22; 103-592, eff. 1-1-25;
19 revised 11-22-24.)

20 (35 ILCS 105/3) (from Ch. 120, par. 439.3)

21 Sec. 3. Tax imposed. A tax is imposed upon the privilege of
22 using in this State tangible personal property purchased,
23 which, on and after January 1, 2025, includes leased, at
24 retail from a retailer, including computer software, and
25 including photographs, negatives, and positives that are the

1 product of photoprocessing, but not including products of
2 photoprocessing produced for use in motion pictures for
3 commercial exhibition. Beginning January 1, 2001, prepaid
4 telephone calling arrangements shall be considered tangible
5 personal property subject to the tax imposed under this Act
6 regardless of the form in which those arrangements may be
7 embodied, transmitted, or fixed by any method now known or
8 hereafter developed. Purchases of (1) electricity delivered to
9 customers by wire; (2) natural or artificial gas that is
10 delivered to customers through pipes, pipelines, or mains; and
11 (3) water that is delivered to customers through pipes,
12 pipelines, or mains are not subject to tax under this Act. The
13 provisions of this amendatory Act of the 98th General Assembly
14 are declaratory of existing law as to the meaning and scope of
15 this Act.

16 The imposition of the tax under this Act on the privilege
17 of using tangible personal property leased at retail applies
18 to leases of tangible personal property in effect, entered
19 into, or renewed on or after January 1, 2025. In the case of
20 leases, except as otherwise provided in this Act, the lessor,
21 in collecting the tax, may collect for each tax return period,
22 only the tax applicable to that part of the selling price
23 actually received during such tax return period.

24 The inclusion of leases in the tax imposed under this Act
25 by this amendatory Act of the 103rd General Assembly does not,
26 however, extend to motor vehicles, watercraft, aircraft, and

1 semitrailers, as defined in Section 1-187 of the Illinois
2 Vehicle Code, that are required to be registered with an
3 agency of this State. The taxation of these items shall
4 continue in effect as prior to the effective date of the
5 changes made to this Section by this amendatory Act of the
6 103rd General Assembly (i.e. dealers owe retailers' occupation
7 tax, lessors owe use tax, and lessees are not subject to
8 retailers' occupation or use tax).

9 On and after January 1, 2026, the inclusion of leases in
10 the tax imposed under this Act does not extend to sporting
11 goods that are leased for a period of less than 10 days.

12 (Source: P.A. 103-592, eff. 1-1-25.)

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

15 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

16 Sec. 2. Definitions. In this Act:

17 "Use" means the exercise by any person of any right or
18 power over tangible personal property incident to the
19 ownership of that property, or, on and after January 1, 2025,
20 incident to the possession or control of, the right to possess
21 or control, or a license to use that property through a lease,
22 but does not include the sale or use for demonstration by him
23 of that property in any form as tangible personal property in
24 the regular course of business. "Use" does not mean the

1 interim use of tangible personal property. On and after
2 January 1, 2025, the lease of tangible personal property to a
3 lessee by a serviceman who is subject to tax on lease receipts
4 under this amendatory Act of the 103rd General Assembly does
5 not qualify as demonstration use or interim use of that
6 property. "Use" does not mean the physical incorporation of
7 tangible personal property, as an ingredient or constituent,
8 into other tangible personal property, (a) which is sold in
9 the regular course of business or (b) which the person
10 incorporating such ingredient or constituent therein has
11 undertaken at the time of such purchase to cause to be
12 transported in interstate commerce to destinations outside the
13 State of Illinois.

14 "Lease" means a transfer of the possession or control of,
15 the right to possess or control, or a license to use, but not
16 title to, tangible personal property for a fixed or
17 indeterminate term for consideration, regardless of the name
18 by which the transaction is called. "Lease" does not include a
19 lease entered into merely as a security agreement that does
20 not involve a transfer of possession from the lessor to the
21 lessee.

22 On and after January 1, 2025, the term "sale", when used in
23 this Act with respect to tangible personal property, includes
24 a lease.

25 Beginning on January 1, 2026, the term "lease" does not
26 include the lease of sporting goods for a period of less than

1 10 days.

2 For the purposes of defining the term "lease", "sporting
3 goods" means tangible personal property that is used for
4 participation in a recreational health, fitness, or sporting
5 activity, including, but not limited to, golf, tennis,
6 basketball, baseball, softball, football, soccer, fishing,
7 pickleball, ice skating, hockey, skiing, paddle boating,
8 kayaking, canoeing, or yoga.

9 "Purchased from a serviceman" means the acquisition of the
10 ownership of, the title to, the possession or control of, the
11 right to possess or control, or a license to use, tangible
12 personal property through a sale of service.

13 "Purchaser" means any person who, through a sale of
14 service, acquires the ownership of, the title to, the
15 possession or control of, the right to possess or control, or a
16 license to use, any tangible personal property.

17 "Cost price" means the consideration paid by the
18 serviceman for a purchase, including, on and after January 1,
19 2025, a lease, valued in money, whether paid in money or
20 otherwise, including cash, credits and services, and shall be
21 determined without any deduction on account of the supplier's
22 cost of the property sold or on account of any other expense
23 incurred by the supplier. When a serviceman contracts out part
24 or all of the services required in his sale of service, it
25 shall be presumed that the cost price to the serviceman of the
26 property transferred to him or her by his or her subcontractor

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

4 "Selling price" means the consideration for a sale,
5 including, on and after January 1, 2025, a lease, valued in
6 money whether received in money or otherwise, including cash,
7 credits and service, and shall be determined without any
8 deduction on account of the serviceman's cost of the property
9 sold, the cost of materials used, labor or service cost or any
10 other expense whatsoever, but does not include interest or
11 finance charges which appear as separate items on the bill of
12 sale or sales contract nor charges that are added to prices by
13 sellers on account of the seller's duty to collect, from the
14 purchaser, the tax that is imposed by this Act.

15 "Department" means the Department of Revenue.

16 "Person" means any natural individual, firm, partnership,
17 association, joint stock company, joint venture, public or
18 private corporation, limited liability company, and any
19 receiver, executor, trustee, guardian or other representative
20 appointed by order of any court.

21 "Sale of service" means any transaction except:

22 (1) a retail sale of tangible personal property
23 taxable under the Retailers' Occupation Tax Act or under
24 the Use Tax Act.

25 (2) a sale of tangible personal property for the
26 purpose of resale made in compliance with Section 2c of

1 the Retailers' Occupation Tax Act.

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

16 (4) (blank).

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

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

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

1 lease is made directly by the manufacturer or by some
2 other person, whether the materials used in the process
3 are owned by the manufacturer or some other person, or
4 whether such sale or lease is made apart from or as an
5 incident to the seller's engaging in a service occupation
6 and the applicable tax is a Service Use Tax or Service
7 Occupation Tax, rather than Use Tax or Retailers'
8 Occupation Tax. The exemption provided by this paragraph
9 (5) includes production related tangible personal
10 property, as defined in Section 3-50 of the Use Tax Act,
11 purchased on or after July 1, 2019. The exemption provided
12 by this paragraph (5) does not include machinery and
13 equipment used in (i) the generation of electricity for
14 wholesale or retail sale; (ii) the generation or treatment
15 of natural or artificial gas for wholesale or retail sale
16 that is delivered to customers through pipes, pipelines,
17 or mains; or (iii) the treatment of water for wholesale or
18 retail sale that is delivered to customers through pipes,
19 pipelines, or mains. The provisions of Public Act 98-583
20 are declaratory of existing law as to the meaning and
21 scope of this exemption. The exemption under this
22 paragraph (5) is exempt from the provisions of Section
23 3-75.

24 (5a) the repairing, reconditioning or remodeling, for
25 a common carrier by rail, of tangible personal property
26 which belongs to such carrier for hire, and as to which

1 such carrier receives the physical possession of the
2 repaired, reconditioned or remodeled item of tangible
3 personal property in Illinois, and which such carrier
4 transports, or shares with another common carrier in the
5 transportation of such property, out of Illinois on a
6 standard uniform bill of lading showing the person who
7 repaired, reconditioned or remodeled the property to a
8 destination outside Illinois, for use outside Illinois.

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

22 (6) until July 1, 2003, a sale or transfer of
23 distillation machinery and equipment, sold as a unit or
24 kit and assembled or installed by the retailer, which
25 machinery and equipment is certified by the user to be
26 used only for the production of ethyl alcohol that will be

1 used for consumption as motor fuel or as a component of
2 motor fuel for the personal use of such user and not
3 subject to sale or resale.

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

25 Tangible personal property transferred incident to the
26 completion of a maintenance agreement is exempt from the tax

1 imposed pursuant to this Act.

2 Exemption (5) also includes machinery and equipment used
3 in the general maintenance or repair of such exempt machinery
4 and equipment or for in-house manufacture of exempt machinery
5 and equipment. On and after July 1, 2017, exemption (5) also
6 includes graphic arts machinery and equipment, as defined in
7 paragraph (5) of Section 3-5. The machinery and equipment
8 exemption does not include machinery and equipment used in (i)
9 the generation of electricity for wholesale or retail sale;
10 (ii) the generation or treatment of natural or artificial gas
11 for wholesale or retail sale that is delivered to customers
12 through pipes, pipelines, or mains; or (iii) the treatment of
13 water for wholesale or retail sale that is delivered to
14 customers through pipes, pipelines, or mains. The provisions
15 of Public Act 98-583 are declaratory of existing law as to the
16 meaning and scope of this exemption. For the purposes of
17 exemption (5), each of these terms shall have the following
18 meanings: (1) "manufacturing process" shall mean the
19 production of any article of tangible personal property,
20 whether such article is a finished product or an article for
21 use in the process of manufacturing or assembling a different
22 article of tangible personal property, by procedures commonly
23 regarded as manufacturing, processing, fabricating, or
24 refining which changes some existing material or materials
25 into a material with a different form, use or name. In relation
26 to a recognized integrated business composed of a series of

1 operations which collectively constitute manufacturing, or
2 individually constitute manufacturing operations, the
3 manufacturing process shall be deemed to commence with the
4 first operation or stage of production in the series, and
5 shall not be deemed to end until the completion of the final
6 product in the last operation or stage of production in the
7 series; and further, for purposes of exemption (5),
8 photoprocessing is deemed to be a manufacturing process of
9 tangible personal property for wholesale or retail sale; (2)
10 "assembling process" shall mean the production of any article
11 of tangible personal property, whether such article is a
12 finished product or an article for use in the process of
13 manufacturing or assembling a different article of tangible
14 personal property, by the combination of existing materials in
15 a manner commonly regarded as assembling which results in a
16 material of a different form, use or name; (3) "machinery"
17 shall mean major mechanical machines or major components of
18 such machines contributing to a manufacturing or assembling
19 process; and (4) "equipment" shall include any independent
20 device or tool separate from any machinery but essential to an
21 integrated manufacturing or assembly process; including
22 computers used primarily in a manufacturer's computer assisted
23 design, computer assisted manufacturing (CAD/CAM) system; or
24 any subunit or assembly comprising a component of any
25 machinery or auxiliary, adjunct or attachment parts of
26 machinery, such as tools, dies, jigs, fixtures, patterns and

1 molds; or any parts which require periodic replacement in the
2 course of normal operation; but shall not include hand tools.
3 Equipment includes chemicals or chemicals acting as catalysts
4 but only if the chemicals or chemicals acting as catalysts
5 effect a direct and immediate change upon a product being
6 manufactured or assembled for wholesale or retail sale or
7 lease. The purchaser of such machinery and equipment who has
8 an active resale registration number shall furnish such number
9 to the seller at the time of purchase. The purchaser of such
10 machinery and equipment and tools without an active resale
11 registration number shall prepare a certificate of exemption
12 stating facts establishing the exemption, which certificate
13 shall be available to the Department for inspection or audit.
14 The Department shall prescribe the form of the certificate.

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

1 Illinois Administrative Procedure Act.

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

6 The purchase, employment and transfer of such tangible
7 personal property as newsprint and ink for the primary purpose
8 of conveying news (with or without other information) is not a
9 purchase, use or sale of service or of tangible personal
10 property within the meaning of this Act.

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

13 "Sale at retail" means "sale at retail" as defined in the
14 Retailers' Occupation Tax Act, which, on and after January 1,
15 2025, is defined to include leases.

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

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

21 (1) having or maintaining within this State, directly
22 or by a subsidiary, an office, distribution house, sales
23 house, warehouse or other place of business, or any agent
24 or other representative operating within this State under
25 the authority of the serviceman or its subsidiary,
26 irrespective of whether such place of business or agent or

1 other representative is located here permanently or
2 temporarily, or whether such serviceman or subsidiary is
3 licensed to do business in this State;

4 (1.1) having a contract with a person located in this
5 State under which the person, for a commission or other
6 consideration based on the sale of service by the
7 serviceman, directly or indirectly refers potential
8 customers to the serviceman by providing to the potential
9 customers a promotional code or other mechanism that
10 allows the serviceman to track purchases referred by such
11 persons. Examples of mechanisms that allow the serviceman
12 to track purchases referred by such persons include but
13 are not limited to the use of a link on the person's
14 Internet website, promotional codes distributed through
15 the person's hand-delivered or mailed material, and
16 promotional codes distributed by the person through radio
17 or other broadcast media. The provisions of this paragraph
18 (1.1) shall apply only if the cumulative gross receipts
19 from sales of service by the serviceman to customers who
20 are referred to the serviceman by all persons in this
21 State under such contracts exceed \$10,000 during the
22 preceding 4 quarterly periods ending on the last day of
23 March, June, September, and December; a serviceman meeting
24 the requirements of this paragraph (1.1) shall be presumed
25 to be maintaining a place of business in this State but may
26 rebut this presumption by submitting proof that the

1 referrals or other activities pursued within this State by
2 such persons were not sufficient to meet the nexus
3 standards of the United States Constitution during the
4 preceding 4 quarterly periods;

5 (1.2) beginning July 1, 2011, having a contract with a
6 person located in this State under which:

7 (A) the serviceman sells the same or substantially
8 similar line of services as the person located in this
9 State and does so using an identical or substantially
10 similar name, trade name, or trademark as the person
11 located in this State; and

12 (B) the serviceman provides a commission or other
13 consideration to the person located in this State
14 based upon the sale of services by the serviceman.

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

21 (2) soliciting orders for tangible personal property
22 by means of a telecommunication or television shopping
23 system (which utilizes toll free numbers) which is
24 intended by the retailer to be broadcast by cable
25 television or other means of broadcasting, to consumers
26 located in this State;

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

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

13 (5) being owned or controlled by the same interests
14 which own or control any retailer engaging in business in
15 the same or similar line of business in this State;

16 (6) having a franchisee or licensee operating under
17 its trade name if the franchisee or licensee is required
18 to collect the tax under this Section;

19 (7) pursuant to a contract with a cable television
20 operator located in this State, soliciting orders for
21 tangible personal property by means of advertising which
22 is transmitted or distributed over a cable television
23 system in this State;

24 (8) engaging in activities in Illinois, which
25 activities in the state in which the supply business
26 engaging in such activities is located would constitute

1 maintaining a place of business in that state; or

2 (9) beginning October 1, 2018, making sales of service
3 to purchasers in Illinois from outside of Illinois if:

4 (A) the cumulative gross receipts from sales of
5 service to purchasers in Illinois are \$100,000 or
6 more; or

7 (B) the serviceman enters into 200 or more
8 separate transactions for sales of service to
9 purchasers in Illinois.

10 The serviceman shall determine on a quarterly basis,
11 ending on the last day of March, June, September, and
12 December, whether he or she meets the criteria of either
13 subparagraph (A) or (B) of this paragraph (9) for the
14 preceding 12-month period. If the serviceman meets the
15 criteria of either subparagraph (A) or (B) for a 12-month
16 period, he or she is considered a serviceman maintaining a
17 place of business in this State and is required to collect
18 and remit the tax imposed under this Act and file returns
19 for one year. At the end of that one-year period, the
20 serviceman shall determine whether the serviceman met the
21 criteria of either subparagraph (A) or (B) during the
22 preceding 12-month period. If the serviceman met the
23 criteria in either subparagraph (A) or (B) for the
24 preceding 12-month period, he or she is considered a
25 serviceman maintaining a place of business in this State
26 and is required to collect and remit the tax imposed under

1 this Act and file returns for the subsequent year. If at
2 the end of a one-year period a serviceman that was
3 required to collect and remit the tax imposed under this
4 Act determines that he or she did not meet the criteria in
5 either subparagraph (A) or (B) during the preceding
6 12-month period, the serviceman subsequently shall
7 determine on a quarterly basis, ending on the last day of
8 March, June, September, and December, whether he or she
9 meets the criteria of either subparagraph (A) or (B) for
10 the preceding 12-month period.

11 Beginning January 1, 2020, neither the gross receipts
12 from nor the number of separate transactions for sales of
13 service to purchasers in Illinois that a serviceman makes
14 through a marketplace facilitator and for which the
15 serviceman has received a certification from the
16 marketplace facilitator pursuant to Section 2d of this Act
17 shall be included for purposes of determining whether he
18 or she has met the thresholds of this paragraph (9).

19 (10) Beginning January 1, 2020, a marketplace
20 facilitator, as defined in Section 2d of this Act.

21 (Source: P.A. 103-592, eff. 1-1-25.)

22 Section 15. The Service Occupation Tax Act is amended by
23 changing Section 2 as follows:

24 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

1 Sec. 2. In this Act:

2 "Transfer" means any transfer of the title to property or
3 of the ownership of property whether or not the transferor
4 retains title as security for the payment of amounts due him
5 from the transferee. On and after January 1, 2025, "transfer"
6 also means any transfer of the possession or control of, the
7 right to possess or control, or a license to use, but not title
8 to, tangible personal property.

9 "Lease" means a transfer of the possession or control of,
10 the right to possess or control, or a license to use, but not
11 title to, tangible personal property for a fixed or
12 indeterminate term for consideration, regardless of the name
13 by which the transaction is called. "Lease" does not include a
14 lease entered into merely as a security agreement that does
15 not involve a transfer of possession or control from the
16 lessor to the lessee.

17 On and after January 1, 2025, the term "sale", when used in
18 this Act with respect to tangible personal property, includes
19 a lease.

20 Beginning on January 1, 2026, the term "lease" does not
21 include the lease of sporting goods for a period of less than
22 10 days.

23 For the purposes of defining the term "lease", "sporting
24 goods" means tangible personal property that is used for
25 participation in a recreational health, fitness, or sporting
26 activity, including, but not limited to, golf, tennis,

1 basketball, baseball, softball, football, soccer, fishing,
2 pickleball, ice skating, hockey, skiing, paddle boating,
3 kayaking, canoeing, or yoga.

4 "Cost Price" means the consideration paid by the
5 serviceman for a purchase, including, on and after January 1,
6 2025, a lease, valued in money, whether paid in money or
7 otherwise, including cash, credits and services, and shall be
8 determined without any deduction on account of the supplier's
9 cost of the property sold or on account of any other expense
10 incurred by the supplier. When a serviceman contracts out part
11 or all of the services required in his sale of service, it
12 shall be presumed that the cost price to the serviceman of the
13 property transferred to him by his or her subcontractor is
14 equal to 50% of the subcontractor's charges to the serviceman
15 in the absence of proof of the consideration paid by the
16 subcontractor for the purchase of such property.

17 "Department" means the Department of Revenue.

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

23 "Sale of Service" means any transaction except:

24 (a) A retail sale of tangible personal property taxable
25 under the Retailers' Occupation Tax Act or under the Use Tax
26 Act.

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

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

17 (d) (Blank).

18 (d-1) A sale or transfer of tangible personal property as
19 an incident to the rendering of service for owners or lessors,
20 lessees, 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, and equipment operated by
23 a telecommunications provider, licensed as a common carrier by
24 the Federal Communications Commission, which is permanently
25 installed in or affixed to aircraft moving in interstate
26 commerce.

1 (d-1.1) On and after July 1, 2003 and through June 30,
2 2004, a sale or transfer of a motor vehicle of the second
3 division with a gross vehicle weight in excess of 8,000 pounds
4 as an incident to the rendering of service if that motor
5 vehicle is subject to the commercial distribution fee imposed
6 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
7 on July 1, 2004 and through June 30, 2005, the use in this
8 State of motor vehicles of the second division: (i) with a
9 gross vehicle weight rating in excess of 8,000 pounds; (ii)
10 that are subject to the commercial distribution fee imposed
11 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
12 that are primarily used for commercial purposes. Through June
13 30, 2005, this exemption applies to repair and replacement
14 parts added after the initial purchase of such a motor vehicle
15 if that motor vehicle is used in a manner that would qualify
16 for the rolling stock exemption otherwise provided for in this
17 Act. For purposes of this paragraph, "used for commercial
18 purposes" means the transportation of persons or property in
19 furtherance of any commercial or industrial enterprise whether
20 for-hire or not.

21 (d-2) The repairing, reconditioning or remodeling, for a
22 common carrier by rail, of tangible personal property which
23 belongs to such carrier for hire, and as to which such carrier
24 receives the physical possession of the repaired,
25 reconditioned or remodeled item of tangible personal property
26 in Illinois, and which such carrier transports, or shares with

1 another common carrier in the transportation of such property,
2 out of Illinois on a standard uniform bill of lading showing
3 the person who repaired, reconditioned or remodeled the
4 property as the shipper or consignor of such property to a
5 destination outside Illinois, for use outside Illinois.

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

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

25 (e) A sale or transfer of machinery and equipment used
26 primarily in the process of the manufacturing or assembling,

1 either in an existing, an expanded or a new manufacturing
2 facility, of tangible personal property for wholesale or
3 retail sale or lease, whether such sale or lease is made
4 directly by the manufacturer or by some other person, whether
5 the materials used in the process are owned by the
6 manufacturer or some other person, or whether such sale or
7 lease is made apart from or as an incident to the seller's
8 engaging in a service occupation and the applicable tax is a
9 Service Occupation Tax or Service Use Tax, rather than
10 Retailers' Occupation Tax or Use Tax. The exemption provided
11 by this paragraph (e) includes production related tangible
12 personal property, as defined in Section 3-50 of the Use Tax
13 Act, purchased on or after July 1, 2019. The exemption
14 provided by this paragraph (e) does not include machinery and
15 equipment used in (i) the generation of electricity for
16 wholesale or retail sale; (ii) the generation or treatment of
17 natural or artificial gas for wholesale or retail sale that is
18 delivered to customers through pipes, pipelines, or mains; or
19 (iii) the treatment of water for wholesale or retail sale that
20 is delivered to customers through pipes, pipelines, or mains.
21 The provisions of Public Act 98-583 are declaratory of
22 existing law as to the meaning and scope of this exemption. The
23 exemption under this subsection (e) is exempt from the
24 provisions of Section 3-75.

25 (f) Until July 1, 2003, the sale or transfer of
26 distillation machinery and equipment, sold as a unit or kit

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

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

26 Tangible personal property transferred incident to the

1 completion of a maintenance agreement is exempt from the tax
2 imposed pursuant to this Act.

3 Exemption (e) also includes machinery and equipment used
4 in the general maintenance or repair of such exempt machinery
5 and equipment or for in-house manufacture of exempt machinery
6 and equipment. On and after July 1, 2017, exemption (e) also
7 includes graphic arts machinery and equipment, as defined in
8 paragraph (5) of Section 3-5. The machinery and equipment
9 exemption does not include machinery and equipment used in (i)
10 the generation of electricity for wholesale or retail sale;
11 (ii) the generation or treatment of natural or artificial gas
12 for wholesale or retail sale that is delivered to customers
13 through pipes, pipelines, or mains; or (iii) the treatment of
14 water for wholesale or retail sale that is delivered to
15 customers through pipes, pipelines, or mains. The provisions
16 of Public Act 98-583 are declaratory of existing law as to the
17 meaning and scope of this exemption. For the purposes of
18 exemption (e), each of these terms shall have the following
19 meanings: (1) "manufacturing process" shall mean the
20 production of any article of tangible personal property,
21 whether such article is a finished product or an article for
22 use in the process of manufacturing or assembling a different
23 article of tangible personal property, by procedures commonly
24 regarded as manufacturing, processing, fabricating, or
25 refining which changes some existing material or materials
26 into a material with a different form, use or name. In relation

1 to a recognized integrated business composed of a series of
2 operations which collectively constitute manufacturing, or
3 individually constitute manufacturing operations, the
4 manufacturing process shall be deemed to commence with the
5 first operation or stage of production in the series, and
6 shall not be deemed to end until the completion of the final
7 product in the last operation or stage of production in the
8 series; and further for purposes of exemption (e),
9 photoprocessing is deemed to be a manufacturing process of
10 tangible personal property for wholesale or retail sale; (2)
11 "assembling process" shall mean the production of any article
12 of tangible personal property, whether such article is a
13 finished product or an article for use in the process of
14 manufacturing or assembling a different article of tangible
15 personal property, by the combination of existing materials in
16 a manner commonly regarded as assembling which results in a
17 material of a different form, use or name; (3) "machinery"
18 shall mean major mechanical machines or major components of
19 such machines contributing to a manufacturing or assembling
20 process; and (4) "equipment" shall include any independent
21 device or tool separate from any machinery but essential to an
22 integrated manufacturing or assembly process; including
23 computers used primarily in a manufacturer's computer assisted
24 design, computer assisted manufacturing (CAD/CAM) system; or
25 any subunit or assembly comprising a component of any
26 machinery or auxiliary, adjunct or attachment parts of

1 machinery, such as tools, dies, jigs, fixtures, patterns and
2 molds; or any parts which require periodic replacement in the
3 course of normal operation; but shall not include hand tools.
4 Equipment includes chemicals or chemicals acting as catalysts
5 but only if the chemicals or chemicals acting as catalysts
6 effect a direct and immediate change upon a product being
7 manufactured or assembled for wholesale or retail sale or
8 lease. The purchaser of such machinery and equipment who has
9 an active resale registration number shall furnish such number
10 to the seller at the time of purchase. The purchaser of such
11 machinery and equipment and tools without an active resale
12 registration number shall furnish to the seller a certificate
13 of exemption stating facts establishing the exemption, which
14 certificate shall be available to the Department for
15 inspection or audit.

16 Except as provided in Section 2d of this Act, the rolling
17 stock exemption applies to rolling stock used by an interstate
18 carrier for hire, even just between points in Illinois, if
19 such rolling stock transports, for hire, persons whose
20 journeys or property whose shipments originate or terminate
21 outside Illinois.

22 Any informal rulings, opinions or letters issued by the
23 Department in response to an inquiry or request for any
24 opinion from any person regarding the coverage and
25 applicability of exemption (e) to specific devices shall be
26 published, maintained as a public record, and made available

1 for public inspection and copying. If the informal ruling,
2 opinion or letter contains trade secrets or other confidential
3 information, where possible the Department shall delete such
4 information prior to publication. Whenever such informal
5 rulings, opinions, or letters contain any policy of general
6 applicability, the Department shall formulate and adopt such
7 policy as a rule in accordance with the provisions of the
8 Illinois Administrative Procedure Act.

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

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

15 "Sale at Retail" means "sale at retail" as defined in the
16 Retailers' Occupation Tax Act, which, on and after January 1,
17 2025, is defined to include leases.

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

21 (Source: P.A. 103-592, eff. 1-1-25.)

22 Section 20. The Retailers' Occupation Tax Act is amended
23 by changing Sections 1 and 2 as follows:

24 (35 ILCS 120/1)

1 Sec. 1. Definitions. As used in this Act:

2 "Sale at retail" means any transfer of the ownership of,
3 the title to, the possession or control of, the right to
4 possess or control, or a license to use tangible personal
5 property to a purchaser, for the purpose of use or
6 consumption, and not for the purpose of resale in any form as
7 tangible personal property to the extent not first subjected
8 to a use for which it was purchased, for a valuable
9 consideration: Provided that the property purchased is deemed
10 to be purchased for the purpose of resale, despite first being
11 used, to the extent to which it is resold as an ingredient of
12 an intentionally produced product or byproduct of
13 manufacturing. For this purpose, slag produced as an incident
14 to manufacturing pig iron or steel and sold is considered to be
15 an intentionally produced byproduct of manufacturing.
16 Transactions whereby the possession of the property is
17 transferred but the seller retains the title as security for
18 payment of the selling price shall be deemed to be sales.

19 "Sale at retail" shall be construed to include any
20 transfer of the ownership of, the title to, the possession or
21 control of, the right to possess or control, or a license to
22 use tangible personal property to a purchaser, for use or
23 consumption by any other person to whom such purchaser may
24 transfer the tangible personal property without a valuable
25 consideration, and to include any transfer, whether made for
26 or without a valuable consideration, for resale in any form as

1 tangible personal property unless made in compliance with
2 Section 2c of this Act.

3 Sales of tangible personal property, which property, to
4 the extent not first subjected to a use for which it was
5 purchased, as an ingredient or constituent, goes into and
6 forms a part of tangible personal property subsequently the
7 subject of a "Sale at retail", are not sales at retail as
8 defined in this Act: Provided that the property purchased is
9 deemed to be purchased for the purpose of resale, despite
10 first being used, to the extent to which it is resold as an
11 ingredient of an intentionally produced product or byproduct
12 of manufacturing.

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

19 Nonreusable tangible personal property that is used by
20 persons engaged in the business of operating a restaurant,
21 cafeteria, or drive-in is a sale for resale when it is
22 transferred to customers in the ordinary course of business as
23 part of the sale of food or beverages and is used to deliver,
24 package, or consume food or beverages, regardless of where
25 consumption of the food or beverages occurs. Examples of those
26 items include, but are not limited to nonreusable, paper and

1 plastic cups, plates, baskets, boxes, sleeves, buckets or
2 other containers, utensils, straws, placemats, napkins, doggie
3 bags, and wrapping or packaging materials that are transferred
4 to customers as part of the sale of food or beverages in the
5 ordinary course of business.

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

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

1 taxation occasional dinners, socials or similar activities of
2 a person organized and operated exclusively for charitable,
3 religious or educational purposes, whether or not such
4 activities are open to the public.

5 A person who is the recipient of a grant or contract under
6 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
7 serves meals to participants in the federal Nutrition Program
8 for the Elderly in return for contributions established in
9 amount by the individual participant pursuant to a schedule of
10 suggested fees as provided for in the federal Act is not
11 engaged in the business of selling tangible personal property
12 at retail with respect to such transactions.

13 "Lease" means a transfer of the possession or control of,
14 the right to possess or control, or a license to use, but not
15 title to, tangible personal property for a fixed or
16 indeterminate term for consideration, regardless of the name
17 by which the transaction is called. "Lease" does not include a
18 lease entered into merely as a security agreement that does
19 not involve a transfer of possession or control from the
20 lessor to the lessee.

21 On and after January 1, 2025, the term "sale", when used in
22 this Act, includes a lease.

23 Beginning on January 1, 2026, the term "lease" does not
24 include the lease of sporting goods for a period of less than
25 10 days.

26 For the purposes of defining the term "lease", "sporting

1 goods" means tangible personal property that is used for
2 participation in a recreational health, fitness, or sporting
3 activity, including, but not limited to, golf, tennis,
4 basketball, baseball, softball, football, soccer, fishing,
5 pickleball, ice skating, hockey, skiing, paddle boating,
6 kayaking, canoeing, or yoga.

7 "Purchaser" means anyone who, through a sale at retail,
8 acquires the ownership of, the title to, the possession or
9 control of, the right to possess or control, or a license to
10 use tangible personal property for a valuable consideration.

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

17 "Selling price" or the "amount of sale" means the
18 consideration for a sale valued in money whether received in
19 money or otherwise, including cash, credits, property, other
20 than as hereinafter provided, and services, but, prior to
21 January 1, 2020 and beginning again on January 1, 2022, not
22 including the value of or credit given for traded-in tangible
23 personal property where the item that is traded-in is of like
24 kind and character as that which is being sold; beginning
25 January 1, 2020 and until January 1, 2022, "selling price"
26 includes the portion of the value of or credit given for

1 traded-in motor vehicles of the First Division as defined in
2 Section 1-146 of the Illinois Vehicle Code of like kind and
3 character as that which is being sold that exceeds \$10,000.
4 "Selling price" shall be determined without any deduction on
5 account of the cost of the property sold, the cost of materials
6 used, labor or service cost or any other expense whatsoever,
7 but does not include charges that are added to prices by
8 sellers on account of the seller's tax liability under this
9 Act, or on account of the seller's duty to collect, from the
10 purchaser, the tax that is imposed by the Use Tax Act, or,
11 except as otherwise provided with respect to any cigarette tax
12 imposed by a home rule unit, on account of the seller's tax
13 liability under any local occupation tax administered by the
14 Department, or, except as otherwise provided with respect to
15 any cigarette tax imposed by a home rule unit on account of the
16 seller's duty to collect, from the purchasers, the tax that is
17 imposed under any local use tax administered by the
18 Department. Effective December 1, 1985, "selling price" shall
19 include charges that are added to prices by sellers on account
20 of the seller's tax liability under the Cigarette Tax Act, on
21 account of the sellers' duty to collect, from the purchaser,
22 the tax imposed under the Cigarette Use Tax Act, and on account
23 of the seller's duty to collect, from the purchaser, any
24 cigarette tax imposed by a home rule unit.

25 The provisions of this paragraph, which provides only for
26 an alternative meaning of "selling price" with respect to the

1 sale of certain motor vehicles incident to the contemporaneous
2 lease of those motor vehicles, continue in effect and are not
3 changed by the tax on leases implemented by Public Act 103-592
4 ~~this amendatory Act of the 103rd General Assembly.~~

5 Notwithstanding any law to the contrary, for any motor
6 vehicle, as defined in Section 1-146 of the Illinois Vehicle
7 Code, that is sold on or after January 1, 2015 for the purpose
8 of leasing the vehicle for a defined period that is longer than
9 one year and (1) is a motor vehicle of the second division
10 that: (A) is a self-contained motor vehicle designed or
11 permanently converted to provide living quarters for
12 recreational, camping, or travel use, with direct walk through
13 access to the living quarters from the driver's seat; (B) is of
14 the van configuration designed for the transportation of not
15 less than 7 nor more than 16 passengers; or (C) has a gross
16 vehicle weight rating of 8,000 pounds or less or (2) is a motor
17 vehicle of the first division, "selling price" or "amount of
18 sale" means the consideration received by the lessor pursuant
19 to the lease contract, including amounts due at lease signing
20 and all monthly or other regular payments charged over the
21 term of the lease. Also included in the selling price is any
22 amount received by the lessor from the lessee for the leased
23 vehicle that is not calculated at the time the lease is
24 executed, including, but not limited to, excess mileage
25 charges and charges for excess wear and tear. For sales that
26 occur in Illinois, with respect to any amount received by the

1 lessor from the lessee for the leased vehicle that is not
2 calculated at the time the lease is executed, the lessor who
3 purchased the motor vehicle does not incur the tax imposed by
4 the Use Tax Act on those amounts, and the retailer who makes
5 the retail sale of the motor vehicle to the lessor is not
6 required to collect the tax imposed by the Use Tax Act or to
7 pay the tax imposed by this Act on those amounts. However, the
8 lessor who purchased the motor vehicle assumes the liability
9 for reporting and paying the tax on those amounts directly to
10 the Department in the same form (Illinois Retailers'
11 Occupation Tax, and local retailers' occupation taxes, if
12 applicable) in which the retailer would have reported and paid
13 such tax if the retailer had accounted for the tax to the
14 Department. For amounts received by the lessor from the lessee
15 that are not calculated at the time the lease is executed, the
16 lessor must file the return and pay the tax to the Department
17 by the due date otherwise required by this Act for returns
18 other than transaction returns. If the retailer is entitled
19 under this Act to a discount for collecting and remitting the
20 tax imposed under this Act to the Department with respect to
21 the sale of the motor vehicle to the lessor, then the right to
22 the discount provided in this Act shall be transferred to the
23 lessor with respect to the tax paid by the lessor for any
24 amount received by the lessor from the lessee for the leased
25 vehicle that is not calculated at the time the lease is
26 executed; provided that the discount is only allowed if the

1 return is timely filed and for amounts timely paid. The
2 "selling price" of a motor vehicle that is sold on or after
3 January 1, 2015 for the purpose of leasing for a defined period
4 of longer than one year shall not be reduced by the value of or
5 credit given for traded-in tangible personal property owned by
6 the lessor, nor shall it be reduced by the value of or credit
7 given for traded-in tangible personal property owned by the
8 lessee, regardless of whether the trade-in value thereof is
9 assigned by the lessee to the lessor. In the case of a motor
10 vehicle that is sold for the purpose of leasing for a defined
11 period of longer than one year, the sale occurs at the time of
12 the delivery of the vehicle, regardless of the due date of any
13 lease payments. A lessor who incurs a Retailers' Occupation
14 Tax liability on the sale of a motor vehicle coming off lease
15 may not take a credit against that liability for the Use Tax
16 the lessor paid upon the purchase of the motor vehicle (or for
17 any tax the lessor paid with respect to any amount received by
18 the lessor from the lessee for the leased vehicle that was not
19 calculated at the time the lease was executed) if the selling
20 price of the motor vehicle at the time of purchase was
21 calculated using the definition of "selling price" as defined
22 in this paragraph. Notwithstanding any other provision of this
23 Act to the contrary, lessors shall file all returns and make
24 all payments required under this paragraph to the Department
25 by electronic means in the manner and form as required by the
26 Department. This paragraph does not apply to leases of motor

1 vehicles for which, at the time the lease is entered into, the
2 term of the lease is not a defined period, including leases
3 with a defined initial period with the option to continue the
4 lease on a month-to-month or other basis beyond the initial
5 defined period.

6 The phrase "like kind and character" shall be liberally
7 construed (including but not limited to any form of motor
8 vehicle for any form of motor vehicle, or any kind of farm or
9 agricultural implement for any other kind of farm or
10 agricultural implement), while not including a kind of item
11 which, if sold at retail by that retailer, would be exempt from
12 retailers' occupation tax and use tax as an isolated or
13 occasional sale.

14 "Gross receipts" from the sales of tangible personal
15 property at retail means the total selling price or the amount
16 of such sales, as hereinbefore defined. In the case of charge
17 and time sales, the amount thereof shall be included only as
18 and when payments are received by the seller. In the case of
19 leases, except as otherwise provided in this Act, the amount
20 thereof shall be included only as and when gross receipts are
21 received by the lessor. Receipts or other consideration
22 derived by a seller from the sale, transfer or assignment of
23 accounts receivable to a wholly owned subsidiary will not be
24 deemed payments prior to the time the purchaser makes payment
25 on such accounts.

26 "Department" means the Department of Revenue.

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

6 The isolated or occasional sale of tangible personal
7 property at retail by a person who does not hold himself out as
8 being engaged (or who does not habitually engage) in selling
9 such tangible personal property at retail, or a sale through a
10 bulk vending machine, does not constitute engaging in a
11 business of selling such tangible personal property at retail
12 within the meaning of this Act; provided that any person who is
13 engaged in a business which is not subject to the tax imposed
14 by this Act because of involving the sale of or a contract to
15 sell real estate or a construction contract to improve real
16 estate or a construction contract to engineer, install, and
17 maintain an integrated system of products, but who, in the
18 course of conducting such business, transfers tangible
19 personal property to users or consumers in the finished form
20 in which it was purchased, and which does not become real
21 estate or was not engineered and installed, under any
22 provision of a construction contract or real estate sale or
23 real estate sales agreement entered into with some other
24 person arising out of or because of such nontaxable business,
25 is engaged in the business of selling tangible personal
26 property at retail to the extent of the value of the tangible

1 personal property so transferred. If, in such a transaction, a
2 separate charge is made for the tangible personal property so
3 transferred, the value of such property, for the purpose of
4 this Act, shall be the amount so separately charged, but not
5 less than the cost of such property to the transferor; if no
6 separate charge is made, the value of such property, for the
7 purposes of this Act, is the cost to the transferor of such
8 tangible personal property. Construction contracts for the
9 improvement of real estate consisting of engineering,
10 installation, and maintenance of voice, data, video, security,
11 and all telecommunication systems do not constitute engaging
12 in a business of selling tangible personal property at retail
13 within the meaning of this Act if they are sold at one
14 specified contract price.

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

1 Persons who engage in the business of transferring
2 tangible personal property upon the redemption of trading
3 stamps are engaged in the business of selling such property at
4 retail and shall be liable for and shall pay the tax imposed by
5 this Act on the basis of the retail value of the property
6 transferred upon redemption of such stamps.

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

13 "Remote retailer" means a retailer that does not maintain
14 within this State, directly or by a subsidiary, an office,
15 distribution house, sales house, warehouse or other place of
16 business, or any agent or other representative operating
17 within this State under the authority of the retailer or its
18 subsidiary, irrespective of whether such place of business or
19 agent is located here permanently or temporarily or whether
20 such retailer or subsidiary is licensed to do business in this
21 State.

22 "Retailer maintaining a place of business in this State"
23 has the meaning given to that term in Section 2 of the Use Tax
24 Act.

25 "Marketplace" means a physical or electronic place, forum,
26 platform, application, or other method by which a marketplace

1 seller sells or offers to sell items.

2 "Marketplace facilitator" means a person who, pursuant to
3 an agreement with an unrelated third-party marketplace seller,
4 directly or indirectly through one or more affiliates
5 facilitates a retail sale by an unrelated third-party ~~third~~
6 ~~party~~ marketplace seller by:

7 (1) listing or advertising for sale by the marketplace
8 seller in a marketplace, tangible personal property that
9 is subject to tax under this Act; and

10 (2) either directly or indirectly, through agreements
11 or arrangements with third parties, collecting payment
12 from the customer and transmitting that payment to the
13 marketplace seller regardless of whether the marketplace
14 facilitator receives compensation or other consideration
15 in exchange for its services.

16 A person who provides advertising services, including
17 listing products for sale, is not considered a marketplace
18 facilitator, so long as the advertising service platform or
19 forum does not engage, directly or indirectly through one or
20 more affiliated persons, in the activities described in
21 paragraph (2) of this definition of "marketplace facilitator".

22 "Marketplace facilitator" does not include any person
23 licensed under the Auction License Act. This exemption does
24 not apply to any person who is an Internet auction listing
25 service, as defined by the Auction License Act.

26 "Marketplace seller" means a person who ~~that~~ makes sales

1 through a marketplace operated by an unrelated third-party
2 ~~third party~~ marketplace facilitator.

3 (Source: P.A. 102-353, eff. 1-1-22; 102-634, eff. 8-27-21;
4 102-813, eff. 5-13-22; 103-592, eff. 1-1-25; 103-983, eff.
5 1-1-25; revised 11-26-24.)

6 (35 ILCS 120/2)

7 Sec. 2. Tax imposed.

8 (a) A tax is imposed upon persons engaged in the business
9 of selling at retail, which, on and after January 1, 2025,
10 includes leasing, tangible personal property, including
11 computer software, and including photographs, negatives, and
12 positives that are the product of photoprocessing, but not
13 including products of photoprocessing produced for use in
14 motion pictures for public commercial exhibition. Beginning
15 January 1, 2001, prepaid telephone calling arrangements shall
16 be considered tangible personal property subject to the tax
17 imposed under this Act regardless of the form in which those
18 arrangements may be embodied, transmitted, or fixed by any
19 method now known or hereafter developed.

20 The imposition of the tax under this Act on persons
21 engaged in the business of leasing tangible personal property
22 applies to leases in effect, entered into, or renewed on or
23 after January 1, 2025. In the case of leases, except as
24 otherwise provided in this Act, the lessor must remit, for
25 each tax return period, only the tax applicable to that part of

1 the selling price actually received during such tax return
2 period.

3 The inclusion of leases in the tax imposed under this Act
4 by Public Act 103-592 ~~this amendatory Act of the 103rd General~~
5 ~~Assembly~~ does not, however, extend to motor vehicles,
6 watercraft, aircraft, and semitrailers, as defined in Section
7 1-187 of the Illinois Vehicle Code, that are required to be
8 registered with an agency of this State. The taxation of these
9 items shall continue in effect as prior to the effective date
10 of the changes made to this Section by Public Act 103-592 ~~this~~
11 ~~amendatory Act of the 103rd General Assembly~~ (i.e., dealers
12 owe retailers' occupation tax, lessors owe use tax, and
13 lessees are not subject to retailers' occupation or use tax).

14 Sales of (1) electricity delivered to customers by wire;
15 (2) natural or artificial gas that is delivered to customers
16 through pipes, pipelines, or mains; and (3) water that is
17 delivered to customers through pipes, pipelines, or mains are
18 not subject to tax under this Act. The provisions of Public Act
19 98-583 ~~this amendatory Act of the 98th General Assembly~~ are
20 declaratory of existing law as to the meaning and scope of this
21 Act.

22 On and after January 1, 2026, the inclusion of leases in
23 the tax imposed under this Act does not extend to sporting
24 goods that are leased for a period of less than 10 days.

25 (b) Beginning on January 1, 2021, a remote retailer is
26 engaged in the occupation of selling at retail in Illinois for

1 purposes of this Act, if:

2 (1) the cumulative gross receipts from sales of
3 tangible personal property to purchasers in Illinois are
4 \$100,000 or more; or

5 (2) the retailer enters into 200 or more separate
6 transactions for the sale of tangible personal property to
7 purchasers in Illinois.

8 Remote retailers that meet or exceed the threshold in
9 either paragraph (1) or (2) above shall be liable for all
10 applicable State retailers' and locally imposed retailers'
11 occupation taxes administered by the Department on all retail
12 sales to Illinois purchasers.

13 The remote retailer shall determine on a quarterly basis,
14 ending on the last day of March, June, September, and
15 December, whether he or she meets the criteria of either
16 paragraph (1) or (2) of this subsection for the preceding
17 12-month period. If the retailer meets the criteria of either
18 paragraph (1) or (2) for a 12-month period, he or she is
19 considered a retailer maintaining a place of business in this
20 State and is required to collect and remit the tax imposed
21 under this Act and all retailers' occupation tax imposed by
22 local taxing jurisdictions in Illinois, provided such local
23 taxes are administered by the Department, and to file all
24 applicable returns for one year. At the end of that one-year
25 period, the retailer shall determine whether the retailer met
26 the criteria of either paragraph (1) or (2) for the preceding

1 12-month period. If the retailer met the criteria in either
2 paragraph (1) or (2) for the preceding 12-month period, he or
3 she is considered a retailer maintaining a place of business
4 in this State and is required to collect and remit all
5 applicable State and local retailers' occupation taxes and
6 file returns for the subsequent year. If, at the end of a
7 one-year period, a retailer that was required to collect and
8 remit the tax imposed under this Act determines that he or she
9 did not meet the criteria in either paragraph (1) or (2) during
10 the preceding 12-month period, then the retailer shall
11 subsequently determine on a quarterly basis, ending on the
12 last day of March, June, September, and December, whether he
13 or she meets the criteria of either paragraph (1) or (2) for
14 the preceding 12-month period.

15 (b-2) Beginning on January 1, 2025, a retailer maintaining
16 a place of business in this State that makes retail sales of
17 tangible personal property to Illinois customers from a
18 location or locations outside of Illinois is engaged in the
19 occupation of selling at retail in Illinois for the purposes
20 of this Act. Those retailers are liable for all applicable
21 State and locally imposed retailers' occupation taxes
22 administered by the Department on retail sales made by those
23 retailers to Illinois customers from locations outside of
24 Illinois.

25 (b-5) For the purposes of this Section, neither the gross
26 receipts from nor the number of separate transactions for

1 sales of tangible personal property to purchasers in Illinois
2 that a remote retailer makes through a marketplace facilitator
3 shall be included for the purposes of determining whether he
4 or she has met the thresholds of subsection (b) of this Section
5 so long as the remote retailer has received certification from
6 the marketplace facilitator that the marketplace facilitator
7 is legally responsible for payment of tax on such sales.

8 (b-10) A remote retailer that is required to collect taxes
9 imposed under the Use Tax Act on retail sales made to Illinois
10 purchasers or a retailer maintaining a place of business in
11 this State that is required to collect taxes imposed under the
12 Use Tax Act on retail sales made to Illinois purchasers shall
13 be liable to the Department for such taxes, except when the
14 remote retailer or retailer maintaining a place of business in
15 this State is relieved of the duty to remit such taxes by
16 virtue of having paid to the Department taxes imposed by this
17 Act in accordance with this Section upon his or her gross
18 receipts from such sales.

19 (c) Marketplace facilitators engaged in the business of
20 selling at retail tangible personal property in Illinois.
21 Beginning January 1, 2021, a marketplace facilitator is
22 engaged in the occupation of selling at retail tangible
23 personal property in Illinois for purposes of this Act if,
24 during the previous 12-month period:

25 (1) the cumulative gross receipts from sales of
26 tangible personal property on its own behalf or on behalf

1 of marketplace sellers to purchasers in Illinois equals
2 \$100,000 or more; or

3 (2) the marketplace facilitator enters into 200 or
4 more separate transactions on its own behalf or on behalf
5 of marketplace sellers for the sale of tangible personal
6 property to purchasers in Illinois, regardless of whether
7 the marketplace facilitator or marketplace sellers for
8 whom such sales are facilitated are registered as
9 retailers in this State.

10 A marketplace facilitator who meets either paragraph (1)
11 or (2) of this subsection is required to remit the applicable
12 State retailers' occupation taxes under this Act and local
13 retailers' occupation taxes administered by the Department on
14 all taxable sales of tangible personal property made by the
15 marketplace facilitator or facilitated for marketplace sellers
16 to customers in this State. A marketplace facilitator selling
17 or facilitating the sale of tangible personal property to
18 customers in this State is subject to all applicable
19 procedures and requirements of this Act.

20 The marketplace facilitator shall determine on a quarterly
21 basis, ending on the last day of March, June, September, and
22 December, whether he or she meets the criteria of either
23 paragraph (1) or (2) of this subsection for the preceding
24 12-month period. If the marketplace facilitator meets the
25 criteria of either paragraph (1) or (2) for a 12-month period,
26 he or she is considered a retailer maintaining a place of

1 business in this State and is required to remit the tax imposed
2 under this Act and all retailers' occupation tax imposed by
3 local taxing jurisdictions in Illinois, provided such local
4 taxes are administered by the Department, and to file all
5 applicable returns for one year. At the end of that one-year
6 period, the marketplace facilitator shall determine whether it
7 met the criteria of either paragraph (1) or (2) for the
8 preceding 12-month period. If the marketplace facilitator met
9 the criteria in either paragraph (1) or (2) for the preceding
10 12-month period, it is considered a retailer maintaining a
11 place of business in this State and is required to collect and
12 remit all applicable State and local retailers' occupation
13 taxes and file returns for the subsequent year. If at the end
14 of a one-year period a marketplace facilitator that was
15 required to collect and remit the tax imposed under this Act
16 determines that he or she did not meet the criteria in either
17 paragraph (1) or (2) during the preceding 12-month period, the
18 marketplace facilitator shall subsequently determine on a
19 quarterly basis, ending on the last day of March, June,
20 September, and December, whether he or she meets the criteria
21 of either paragraph (1) or (2) for the preceding 12-month
22 period.

23 A marketplace facilitator shall be entitled to any
24 credits, deductions, or adjustments to the sales price
25 otherwise provided to the marketplace seller, in addition to
26 any such adjustments provided directly to the marketplace

1 facilitator. This Section pertains to, but is not limited to,
2 adjustments such as discounts, coupons, and rebates. In
3 addition, a marketplace facilitator shall be entitled to the
4 retailers' discount provided in Section 3 of the Retailers'
5 Occupation Tax Act on all marketplace sales, and the
6 marketplace seller shall not include sales made through a
7 marketplace facilitator when computing any retailers' discount
8 on remaining sales. Marketplace facilitators shall report and
9 remit the applicable State and local retailers' occupation
10 taxes on sales facilitated for marketplace sellers separately
11 from any sales or use tax collected on taxable retail sales
12 made directly by the marketplace facilitator or its
13 affiliates.

14 The marketplace facilitator is liable for the remittance
15 of all applicable State retailers' occupation taxes under this
16 Act and local retailers' occupation taxes administered by the
17 Department on sales through the marketplace and is subject to
18 audit on all such sales. The Department shall not audit
19 marketplace sellers for their marketplace sales where a
20 marketplace facilitator remitted the applicable State and
21 local retailers' occupation taxes unless the marketplace
22 facilitator seeks relief as a result of incorrect information
23 provided to the marketplace facilitator by a marketplace
24 seller as set forth in this Section. The marketplace
25 facilitator shall not be held liable for tax on any sales made
26 by a marketplace seller that take place outside of the

1 marketplace and which are not a part of any agreement between a
2 marketplace facilitator and a marketplace seller. In addition,
3 marketplace facilitators shall not be held liable to State and
4 local governments of Illinois for having charged and remitted
5 an incorrect amount of State and local retailers' occupation
6 tax if, at the time of the sale, the tax is computed based on
7 erroneous data provided by the State in database files on tax
8 rates, boundaries, or taxing jurisdictions or incorrect
9 information provided to the marketplace facilitator by the
10 marketplace seller.

11 (d) A marketplace facilitator shall:

12 (1) certify to each marketplace seller that the
13 marketplace facilitator assumes the rights and duties of a
14 retailer under this Act with respect to sales made by the
15 marketplace seller through the marketplace; and

16 (2) remit taxes imposed by this Act as required by
17 this Act for sales made through the marketplace.

18 (e) A marketplace seller shall retain books and records
19 for all sales made through a marketplace in accordance with
20 the requirements of this Act.

21 (f) A marketplace facilitator is subject to audit on all
22 marketplace sales for which it is considered to be the
23 retailer, but shall not be liable for tax or subject to audit
24 on sales made by marketplace sellers outside of the
25 marketplace.

26 (g) A marketplace facilitator required to collect taxes

1 imposed under the Use Tax Act on marketplace sales made to
2 Illinois purchasers shall be liable to the Department for such
3 taxes, except when the marketplace facilitator is relieved of
4 the duty to remit such taxes by virtue of having paid to the
5 Department taxes imposed by this Act in accordance with this
6 Section upon his or her gross receipts from such sales.

7 (h) Nothing in this Section shall allow the Department to
8 collect retailers' occupation taxes from both the marketplace
9 facilitator and marketplace seller on the same transaction.

10 (i) If, for any reason, the Department is prohibited from
11 enforcing the marketplace facilitator's duty under this Act to
12 remit taxes pursuant to this Section, the duty to remit such
13 taxes remains with the marketplace seller.

14 (j) Nothing in this Section affects the obligation of any
15 consumer to remit use tax for any taxable transaction for
16 which a certified service provider acting on behalf of a
17 remote retailer or a marketplace facilitator does not collect
18 and remit the appropriate tax.

19 (k) Nothing in this Section shall allow the Department to
20 collect the retailers' occupation tax from both the
21 marketplace facilitator and the marketplace seller.

22 (Source: P.A. 103-592, eff. 1-1-25; 103-983, eff. 1-1-25;
23 revised 11-26-24.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."