

1 AN ACT concerning revenue.

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

4 ARTICLE 3. KEEP ILLINOIS BUSINESS ACT

5 Section 3-1. Short title. This Act may be cited as the Keep  
6 Illinois Business Act.

7 Section 3-5. Purpose. The purpose of this Act is to  
8 encourage businesses with primary business operations in the  
9 State of Illinois to remain in this State by removing and  
10 recouping any economic development assistance or benefit  
11 provided to those businesses by the State should those  
12 businesses decide to relocate jobs out-of-State.

13 Section 3-10. Definitions. As used in this Act:

14 "Economic development assistance" means (1) tax credits  
15 and tax exemptions given as an incentive to a recipient  
16 business organization under an initial certification or an  
17 initial designation made by the Department of Commerce and  
18 Economic Opportunity under the Economic Development for a  
19 Growing Economy Tax Credit Act, River Edge Redevelopment Zone  
20 Act, and the Illinois Enterprise Zone Act, including the High  
21 Impact Business program; (2) grants or loans given to a

1 recipient as an incentive to a business organization under the  
2 River Edge Redevelopment Zone Act, Large Business Development  
3 Program, the Business Development Public Infrastructure  
4 Program, or the Industrial Training Program; (3) the State  
5 Treasurer's Economic Program Loans; (4) the Illinois  
6 Department of Transportation Economic Development Program; (5)  
7 all successor and subsequent programs and tax credits designed  
8 to promote business relocations and expansions; (6) any  
9 assistance provided by the Illinois Emergency Employment  
10 Program under the Illinois Emergency Development Act; and (7)  
11 any other economic incentive, benefit, assistance, credit,  
12 loan, or grant provided by a State granting agency to a  
13 recipient business with primary business operations in this  
14 State.

15 "Recipient business" means any corporation, limited  
16 liability company, partnership, joint venture, association,  
17 sole proprietorship, or other legally recognized entity with  
18 primary business operations in this State that receives  
19 economic development assistance.

20 "State agency" has the meaning provided in Section 1-7 of  
21 the Illinois State Auditing Act.

22 "State granting agency" means any State department or State  
23 agency that provides economic development assistance to a  
24 recipient business.

25 Section 3-15. Recovery of economic development assistance.

1           (a) Subject to the procedures outlined in this Section, any  
2 recipient business that chooses to move all or part of its  
3 business operations and the jobs created by its business  
4 out-of-State shall be deemed to no longer qualify for State  
5 economic development assistance, and shall be required to pay  
6 to the relevant State granting agency the full amount of any  
7 economic development assistance it received.

8           (b) Whenever a State granting agency believes that the  
9 economic development assistance it provided to a recipient  
10 business is subject to recovery, the State granting agency  
11 shall provide the recipient business the opportunity for at  
12 least one informal hearing to determine the facts and issues,  
13 and to resolve any conflicts as amicably as possible before  
14 taking any formal recovery actions.

15           (c) If a State granting agency determines that economic  
16 development assistance is to be recovered, then, prior to  
17 taking any action to recover, the State granting agency shall  
18 provide the recipient business with a written notice of the  
19 intended recovery. This notice shall identify the funds and the  
20 amount to be recovered and the specific facts which permit  
21 recovery.

22           (d) A recipient business shall have 35 days from the  
23 receipt of the notice required in subsection (c) of this  
24 Section to request a hearing to show why recovery is not  
25 justified or proper. If a recipient business requests a hearing  
26 under this subsection (d), then:

1           (1) the State granting agency shall hold a hearing  
2           before the Director of that agency, or his or her designee,  
3           at which a representative of the recipient business may  
4           present an argument for why recovery should not be  
5           permitted; and

6           (2) after the conclusion of the hearing, the Director  
7           of the State granting agency, or his or her designee, shall  
8           issue a written final recovery order and send a copy of the  
9           order to the recipient business.

10          (e) A recipient business may seek judicial review of any  
11          final recovery order under the provisions of the Administrative  
12          Review Law.

13          (f) If a recipient business requests a hearing under  
14          subsection (d) of this Section, then the State granting agency  
15          may not take any action of recovery until at least 35 days  
16          after the State granting agency has issued a final recovery  
17          order under the requirements of subsection (d) of this Section.  
18          If a recipient business does not request a hearing as permitted  
19          in subsection (d) of this Section, then the State granting  
20          agency may proceed with recovery of the economic development  
21          assistance amount specified in the notice issued under the  
22          requirements of subsection (c) of this Section, at any time  
23          after the expiration of the 35-day request period established  
24          in subsection (d) of this Section.

25          (g) Any notice or mailing required or permitted by this  
26          Section shall be deemed received 5 days after the notice or

1 mailing is deposited in the United States mail, properly  
2 addressed with the current business address of the recipient  
3 business and with sufficient U.S. postage affixed.

4 ARTICLE 4. NEW MARKETS DEVELOPMENT PROGRAM

5 Section 4-5. The New Markets Development Program Act is  
6 amended by changing Sections 5, 25, 40, and 50 and by adding  
7 Sections 43 and 55 as follows:

8 (20 ILCS 663/5)

9 Sec. 5. Definitions. As used in this Act:

10 "Applicable percentage" means 0% for each of the first 2  
11 credit allowance dates, 7% for the third credit allowance date,  
12 and 8% for the next 4 credit allowance dates.

13 "Credit allowance date" means with respect to any qualified  
14 equity investment:

15 (1) the date on which the investment is initially made;  
16 and

17 (2) each of the 6 anniversary dates of that date  
18 thereafter.

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

21 "Long-term debt security" means any debt instrument issued  
22 by a qualified community development entity, at par value or a  
23 premium, with an original maturity date of at least 7 years

1 from the date of its issuance, with no acceleration of  
2 repayment, amortization, or prepayment features prior to its  
3 original maturity date. Cumulative cash payments of interest on  
4 the qualified debt instrument during the period commencing with  
5 the issuance of the qualified debt instrument and ending with  
6 the seventh anniversary of its issuance shall not exceed the  
7 sum of such cash interest payments and the cumulative net  
8 income of the issuing community development entity for the same  
9 period. This definition in no way limits the holder's ability  
10 to accelerate payments on the debt instrument in situations  
11 where the issuer has defaulted on covenants designed to ensure  
12 compliance with this Act or Section 45D of the Internal Revenue  
13 Code of 1986, as amended.

14 "Purchase price" means the amount paid to the issuer of a  
15 qualified equity investment for that qualified equity  
16 investment.

17 "Qualified active low-income community business" has the  
18 meaning given to that term in Section 45D of the Internal  
19 Revenue Code of 1986, as amended; except that any business that  
20 derives or projects to derive 15% or more of its annual revenue  
21 from the rental or sale of real estate is not considered to be  
22 a qualified active low-income community business. This  
23 exception does not apply to a business that is controlled by or  
24 under common control with another business if the second  
25 business (i) does not derive or project to derive 15% or more  
26 of its annual revenue from the rental or sale of real estate

1 and (ii) is the primary tenant of the real estate leased from  
2 the initial business. A business shall be considered a  
3 qualified active low-income community business for the  
4 duration of the qualified community development entity's  
5 investment in or loan to the business if the entity reasonably  
6 expects, at the time it makes the investment or loan, that the  
7 business will continue to satisfy the requirements for being a  
8 qualified active low-income community business throughout the  
9 entire period of the investment or loan.

10 "Qualified community development entity" has the meaning  
11 given to that term in Section 45D of the Internal Revenue Code  
12 of 1986, as amended; provided that such entity has entered  
13 into, or is controlled by an entity that has entered into, an  
14 allocation agreement with the Community Development Financial  
15 Institutions Fund of the U.S. Treasury Department with respect  
16 to credits authorized by Section 45D of the Internal Revenue  
17 Code of 1986, as amended, that includes the State of Illinois  
18 within the service area set forth in that allocation agreement.

19 "Qualified equity investment" means any equity investment  
20 in, or long-term debt security issued by, a qualified community  
21 development entity that:

22 (1) is acquired after the effective date of this Act at  
23 its original issuance solely in exchange for cash;

24 (2) with respect to qualified equity investments made  
25 before January 1, 2017, has at least 85% of its cash  
26 purchase price used by the issuer to make qualified

1 low-income community investments in the State of Illinois,  
2 and, with respect to qualified equity investments made on  
3 or after January 1, 2017, has 100% of the cash purchase  
4 price used by the issuer to make qualified low-income  
5 community investments in the State of Illinois; and

6 (3) is designated by the issuer as a qualified equity  
7 investment under this Act; with respect to qualified equity  
8 investments made on or after January 1, 2017, is designated  
9 by the issuer as a qualified equity investment under  
10 Section 45D of the Internal Revenue Code of 1986, as  
11 amended; and is certified by the Department as not  
12 exceeding the limitation contained in Section 20.

13 This term includes any qualified equity investment that  
14 does not meet the provisions of item (1) of this definition if  
15 the investment was a qualified equity investment in the hands  
16 of a prior holder.

17 "Qualified low-income community investment" means any  
18 capital or equity investment in, or loan to, any qualified  
19 active low-income community business. With respect to any one  
20 qualified active low-income community business, the maximum  
21 amount of qualified low-income community investments made in  
22 that business, on a collective basis with all of its affiliates  
23 that may be counted towards the satisfaction of paragraph (2)  
24 of the definition of qualified equity investment, shall be  
25 \$10,000,000 whether issued to one or several qualified  
26 community development entities.



1 "Tax credit" means a credit against any income, franchise,  
2 or insurance premium taxes, including insurance retaliatory  
3 taxes, otherwise due under Illinois law.

4 "Taxpayer" means any individual or entity subject to any  
5 income, franchise, or insurance premium tax under Illinois law.  
6 (Source: P.A. 95-1024, eff. 12-31-08.)

7 (20 ILCS 663/25)

8 Sec. 25. Certification of qualified equity investments.

9 (a) A qualified community development entity that seeks to  
10 have an equity investment or long-term debt security designated  
11 as a qualified equity investment and eligible for tax credits  
12 under this Section shall apply to the Department. The qualified  
13 community development entity must submit an application on a  
14 form that the Department provides that includes:

15 (1) The name, address, tax identification number of the  
16 entity, and evidence of the entity's certification as a  
17 qualified community development entity.

18 (2) A copy of the allocation agreement executed by the  
19 entity, or its controlling entity, and the Community  
20 Development Financial Institutions Fund.

21 (3) A certificate executed by an executive officer of  
22 the entity attesting that the allocation agreement remains  
23 in effect and has not been revoked or cancelled by the  
24 Community Development Financial Institutions Fund.

25 (4) A description of the proposed amount, structure,

1 and purchaser of the equity investment or long-term debt  
2 security.

3 (5) The name and tax identification number of any  
4 taxpayer eligible to utilize tax credits earned as a result  
5 of the issuance of the qualified equity investment.

6 (6) Information regarding the proposed use of proceeds  
7 from the issuance of the qualified equity investment.

8 (7) A nonrefundable application fee of \$5,000. This fee  
9 shall be paid to the Department and shall be required of  
10 each application submitted.

11 (8) With respect to qualified equity investments made  
12 on or after January 1, 2017, the amount of qualified equity  
13 investment authority the applicant agrees to designate as a  
14 federal qualified equity investment under Section 45D of  
15 the Internal Revenue Code, including a copy of the screen  
16 shot from the Community Development Financial Institutions  
17 Fund's Allocation Tracking System of the applicant's  
18 remaining federal qualified equity investment authority.

19 (b) Within 30 days after receipt of a completed application  
20 containing the information necessary for the Department to  
21 certify a potential qualified equity investment, including the  
22 payment of the application fee, the Department shall grant or  
23 deny the application in full or in part. If the Department  
24 denies any part of the application, it shall inform the  
25 qualified community development entity of the grounds for the  
26 denial. If the qualified community development entity provides

1 any additional information required by the Department or  
2 otherwise completes its application within 15 days of the  
3 notice of denial, the application shall be considered completed  
4 as of the original date of submission. If the qualified  
5 community development entity fails to provide the information  
6 or complete its application within the 15-day period, the  
7 application remains denied and must be resubmitted in full with  
8 a new submission date.

9 (c) If the application is deemed complete, the Department  
10 shall certify the proposed equity investment or long-term debt  
11 security as a qualified equity investment that is eligible for  
12 tax credits under this Section, subject to the limitations  
13 contained in Section 20. The Department shall provide written  
14 notice of the certification to the qualified community  
15 development entity. The notice shall include the names of those  
16 taxpayers who are eligible to utilize the credits and their  
17 respective credit amounts. If the names of the taxpayers who  
18 are eligible to utilize the credits change due to a transfer of  
19 a qualified equity investment or a change in an allocation  
20 pursuant to Section 15, the qualified community development  
21 entity shall notify the Department of such change.

22 (d) With respect to applications received before January 1,  
23 2017, the ~~The~~ Department shall certify qualified equity  
24 investments in the order applications are received by the  
25 Department. Applications received on the same day shall be  
26 deemed to have been received simultaneously. For applications

1 received on the same day and deemed complete, the Department  
2 shall certify, consistent with remaining tax credit capacity,  
3 qualified equity investments in proportionate percentages  
4 based upon the ratio of the amount of qualified equity  
5 investment requested in an application to the total amount of  
6 qualified equity investments requested in all applications  
7 received on the same day.

8 (d-5) With respect to applications received on or after  
9 January 1, 2017, the Department shall certify applications by  
10 applicants that agree to designate qualified equity  
11 investments as federal qualified equity investments in  
12 accordance with item (8) of subsection (a) of this Section in  
13 proportionate percentages based upon the ratio of the amount of  
14 qualified equity investments requested in an application to be  
15 designated as federal qualified equity investments to the total  
16 amount of qualified equity investments to be designated as  
17 federal qualified equity investments requested in all  
18 applications received on the same day.

19 (d-10) With respect to applications received on or after  
20 January 1, 2017, after complying with subsection (d-5), the  
21 Department shall certify the qualified equity investments of  
22 all other applicants, including the remaining qualified equity  
23 investment authority requested by applicants not designated as  
24 federal qualified equity investments in accordance with item  
25 (8) of subsection (a) of this Section, in proportionate  
26 percentages based upon the ratio of the amount of qualified

1 equity investments requested in the applications to the total  
2 amount of qualified equity investments requested in all  
3 applications received on the same day.

4 (e) Once the Department has certified qualified equity  
5 investments that, on a cumulative basis, are eligible for  
6 \$20,000,000 in tax credits, the Department may not certify any  
7 more qualified equity investments. If a pending request cannot  
8 be fully certified, the Department shall certify the portion  
9 that may be certified unless the qualified community  
10 development entity elects to withdraw its request rather than  
11 receive partial credit.

12 (f) Within 30 days after receiving notice of certification,  
13 the qualified community development entity shall (i) issue the  
14 qualified equity investment and receive cash in the amount of  
15 the certified amount and (ii) with respect to qualified equity  
16 investments made on or after January 1, 2017, if applicable,  
17 designate the required amount of qualified equity investment  
18 authority as a federal qualified equity investment. The  
19 qualified community development entity must provide the  
20 Department with evidence of the receipt of the cash investment  
21 within 10 business days after receipt and, with respect to  
22 qualified equity investments made on or after January 1, 2017,  
23 if applicable, provide evidence that the required amount of  
24 qualified equity investment authority was designated as a  
25 federal qualified equity investment. If the qualified  
26 community development entity does not receive the cash

1 investment and issue the qualified equity investment within 30  
2 days following receipt of the certification notice, the  
3 certification shall lapse and the entity may not issue the  
4 qualified equity investment without reapplying to the  
5 Department for certification. A certification that lapses  
6 reverts back to the Department and may be reissued only in  
7 accordance with the application process outline in this Section  
8 25.

9 (g) Allocation rounds enabled by this Act shall be applied  
10 for according to the following schedule:

11 (1) on January 2, 2019, \$125,000,000 of qualified  
12 equity investments; and

13 (2) on January 2, 2020, \$125,000,000 of qualified  
14 equity investments.

15 (Source: P.A. 95-1024, eff. 12-31-08; 96-939, eff. 7-1-10.)

16 (20 ILCS 663/40)

17 Sec. 40. Recapture. The Department of Revenue shall  
18 recapture, from the taxpayer that claimed the credit on a  
19 return, the tax credit allowed under this Act if:

20 (1) any amount of the federal tax credit available with  
21 respect to a qualified equity investment that is eligible  
22 for a tax credit under this Act is recaptured under Section  
23 45D of the Internal Revenue Code of 1986, as amended. In  
24 that case, the Department of Revenue's recapture shall be  
25 proportionate to the federal recapture with respect to that

1 qualified equity investment;

2 (2) the issuer redeems or makes principal repayment  
3 with respect to a qualified equity investment prior to the  
4 7th anniversary of the issuance of the qualified equity  
5 investment. In that case, the Department of Revenue's  
6 recapture shall be proportionate to the amount of the  
7 redemption or repayment with respect to the qualified  
8 equity investment; ~~or~~

9 (3) the issuer fails to invest at least 85% of the cash  
10 purchase price of the qualified equity investment with  
11 respect to qualified equity investments made before  
12 January 1, 2017 and 100% of the cash purchase price of the  
13 qualified equity investment with respect to qualified  
14 equity investments made on or after January 1, 2017 in  
15 qualified low-income community investments in the State of  
16 Illinois within 12 months of the issuance of the qualified  
17 equity investment and maintain such level of investment in  
18 qualified low-income community investments in Illinois  
19 until the last credit allowance date for such qualified  
20 equity investment; or -

21 (4) with respect to qualified equity investments made  
22 on or after January 1, 2017, the issuer violates Section 43  
23 of this Act.

24 For purposes of this Section, an investment shall be  
25 considered held by an issuer even if the investment has been  
26 sold or repaid; provided that the issuer reinvests an amount

1 equal to the capital returned to or recovered by the issuer  
2 from the original investment, exclusive of any profits  
3 realized, in another qualified low-income community investment  
4 in this State within 12 months after the receipt of that  
5 capital. An issuer is not required to reinvest capital returned  
6 from qualified low-income community investments after the 6th  
7 anniversary of the issuance of the qualified equity investment,  
8 the proceeds of which were used to make the qualified  
9 low-income community investment, and the qualified low-income  
10 community investment shall be considered held by the issuer  
11 through the 7th anniversary of the qualified equity  
12 investment's issuance.

13 The Department of Revenue shall provide notice to the  
14 qualified community development entity of any proposed  
15 recapture of tax credits pursuant to this Section. The entity  
16 shall have 90 days to cure any deficiency indicated in the  
17 Department of Revenue's original recapture notice and avoid  
18 such recapture. If the entity fails or is unable to cure such  
19 deficiency with the 90-day period, the Department of Revenue  
20 shall provide the entity and the taxpayer from whom the credit  
21 is to be recaptured with a final order of recapture. Any tax  
22 credit for which a final recapture order has been issued shall  
23 be recaptured by the Department of Revenue from the taxpayer  
24 who claimed the tax credit on a tax return.

25 (Source: P.A. 95-1024, eff. 12-31-08.)



1 (20 ILCS 663/43 new)

2 Sec. 43. Prohibited activities and interests. For  
3 qualified equity investments made on or after January 1, 2017,  
4 no qualified active low-income community business that  
5 receives a qualified low-income community investment from a  
6 qualified community development entity that issues qualified  
7 equity investments under this Act, or any affiliates of such a  
8 qualified active low-income community business, may directly  
9 or indirectly (i) own or have the right to acquire an ownership  
10 interest in a qualified community development entity or member  
11 or affiliate of a qualified community development entity,  
12 including, but not limited to, a holder of a qualified equity  
13 investment issued by the qualified community development  
14 entity or (ii) loan to or invest in a qualified community  
15 development entity or member or affiliate of a qualified  
16 community development entity, including, but not limited to, a  
17 holder of a qualified equity investment issued by a qualified  
18 community development entity, where the proceeds of such loan  
19 or investment are directly or indirectly used to fund or  
20 refinance the purchase of a qualified equity investment under  
21 this Act. For purposes of this Section, "affiliate" means an  
22 entity that directly, or indirectly through one or more  
23 intermediaries, controls, is controlled by, or is under common  
24 control with another entity. For purposes of this Section, an  
25 entity is "controlled by" another entity if the controlling  
26 person holds, directly or indirectly, the majority voting or

1 ownership interest in the controlled person or has control over  
2 the day-to-day operations of the controlled person by contract  
3 or law, provided that a qualified community development entity  
4 shall not be considered an affiliate of a qualified active  
5 low-income community business solely as a result of its  
6 qualified low-income community investment in such business.  
7 This Section is not intended to affect ownership or affiliate  
8 interests that arise following the sixth anniversary of the  
9 issuance of the qualified equity investment.

10 (20 ILCS 663/50)

11 Sec. 50. Sunset. No qualified equity investment shall be  
12 certified on or after June 30, 2021. ~~For fiscal years following~~  
13 ~~fiscal year 2017, qualified equity investments shall not be~~  
14 ~~made under this Act unless reauthorization is made pursuant to~~  
15 ~~this Section. For all fiscal years following fiscal year 2017,~~  
16 ~~unless the General Assembly adopts a joint resolution granting~~  
17 ~~authority to the Department to approve qualified equity~~  
18 ~~investments for the Illinois new markets development program~~  
19 ~~and clearly describing the amount of tax credits available for~~  
20 ~~the next fiscal year, or otherwise complies with the provisions~~  
21 ~~of this Section, no qualified equity investments may be~~  
22 ~~permitted to be made under this Act. The amount of available~~  
23 ~~tax credits contained in such a resolution shall not exceed the~~  
24 ~~limitation provided under Section 20.~~ Nothing in this Section  
25 precludes a taxpayer who makes a qualified equity investment

1 prior to the expiration of authority to make qualified equity  
2 investments from claiming tax credits relating to that  
3 qualified equity investment for each applicable credit  
4 allowance date.

5 (Source: P.A. 97-636, eff. 6-1-12.)

6 (20 ILCS 663/55 new)

7 Sec. 55. Annual report. Each qualified community  
8 development entity shall submit an annual report to the  
9 Department within 45 days after the beginning of each calendar  
10 year during the compliance period. No annual report shall be  
11 due prior to the first anniversary of the initial credit  
12 allowance date. The report shall include, but is not limited  
13 to, the following:

14 (1) an attestation from an authorized officer of the  
15 qualified community development entity that the entity has  
16 not been the subject of any investigation by a government  
17 agency relating to tax credits or financial services during  
18 the preceding calendar year;

19 (2) information with respect to all qualified  
20 low-income community investments made by the qualified  
21 community development entity, including:

22 (A) the date and amount of, and bank statements or  
23 wire transfer reports documenting, such qualified  
24 low-income community investments;

25 (B) the name, address, and EIN of each qualified



1 Section 5-5. The Illinois Income Tax Act is amended by  
2 changing Sections 212, 218, 220, 221, 704A, and 901 and by  
3 adding Sections 224, 225, 226, and 227 as follows:

4 (35 ILCS 5/212)

5 Sec. 212. Earned income tax credit.

6 (a) With respect to the federal earned income tax credit  
7 allowed for the taxable year under Section 32 of the federal  
8 Internal Revenue Code, 26 U.S.C. 32, each individual taxpayer  
9 is entitled to a credit against the tax imposed by subsections  
10 (a) and (b) of Section 201 in an amount equal to (i) 5% of the  
11 federal tax credit for each taxable year beginning on or after  
12 January 1, 2000 and ending prior to December 31, 2012, (ii)  
13 7.5% of the federal tax credit for each taxable year beginning  
14 on or after January 1, 2012 and ending prior to December 31,  
15 2013, ~~and~~ (iii) 10% of the federal tax credit for each taxable  
16 year beginning on or after January 1, 2013 and beginning prior  
17 to January 1, 2017, (iv) 12.5% of the federal tax credit for  
18 each taxable year beginning on or after January 1, 2017 and  
19 beginning prior to January 1, 2018, and (v) 15% of the federal  
20 tax credit for each taxable year beginning on or after January  
21 1, 2018.

22 For a non-resident or part-year resident, the amount of the  
23 credit under this Section shall be in proportion to the amount  
24 of income attributable to this State.

25 (b) For taxable years beginning before January 1, 2003, in

1 no event shall a credit under this Section reduce the  
2 taxpayer's liability to less than zero. For each taxable year  
3 beginning on or after January 1, 2003, if the amount of the  
4 credit exceeds the income tax liability for the applicable tax  
5 year, then the excess credit shall be refunded to the taxpayer.  
6 The amount of a refund shall not be included in the taxpayer's  
7 income or resources for the purposes of determining eligibility  
8 or benefit level in any means-tested benefit program  
9 administered by a governmental entity unless required by  
10 federal law.

11 (c) This Section is exempt from the provisions of Section  
12 250.

13 (Source: P.A. 97-652, eff. 6-1-12.)

14 (35 ILCS 5/218)

15 Sec. 218. Credit for student-assistance contributions.

16 (a) For taxable years ending on or after December 31, 2009  
17 and on or before December 30, 2025 ~~December 30, 2020~~, each  
18 taxpayer who, during the taxable year, makes a contribution (i)  
19 to a specified individual College Savings Pool Account under  
20 Section 16.5 of the State Treasurer Act or (ii) to the Illinois  
21 Prepaid Tuition Trust Fund in an amount matching a contribution  
22 made in the same taxable year by an employee of the taxpayer to  
23 that Account or Fund is entitled to a credit against the tax  
24 imposed under subsections (a) and (b) of Section 201 in an  
25 amount equal to 25% of that matching contribution, but not to

1 exceed (i) \$500 per contributing employee per taxable year for  
2 taxable years ending prior to December 31, 2017 and (ii) \$1,000  
3 per contributing employee per taxable year for taxable years  
4 ending on or after December 31, 2017.

5 (b) For partners, shareholders of Subchapter S  
6 corporations, and owners of limited liability companies, if the  
7 liability company is treated as a partnership for purposes of  
8 federal and State income taxation, there is allowed a credit  
9 under this Section to be determined in accordance with the  
10 determination of income and distributive share of income under  
11 Sections 702 and 704 and Subchapter S of the Internal Revenue  
12 Code.

13 (c) The credit may not be carried back. If the amount of  
14 the credit exceeds the tax liability for the year, the excess  
15 may be carried forward and applied to the tax liability of the  
16 5 taxable years following the excess credit year. The tax  
17 credit shall be applied to the earliest year for which there is  
18 a tax liability. If there are credits for more than one year  
19 that are available to offset a liability, the earlier credit  
20 shall be applied first.

21 (d) A taxpayer claiming the credit under this Section must  
22 maintain and record any information that the Illinois Student  
23 Assistance Commission, the Office of the State Treasurer, or  
24 the Department may require regarding the matching contribution  
25 for which the credit is claimed.

26 (Source: P.A. 96-198, eff. 8-10-09.)

1 (35 ILCS 5/220)

2 Sec. 220. Angel investment credit.

3 (a) As used in this Section:

4 "Applicant" means a corporation, partnership, limited  
5 liability company, or a natural person that makes an investment  
6 in a qualified new business venture. The term "applicant" does  
7 not include a corporation, partnership, limited liability  
8 company, or a natural person who has a direct or indirect  
9 ownership interest of at least 51% in the profits, capital, or  
10 value of the investment or a related member.

11 "Claimant" means an applicant certified by the Department  
12 who files a claim for a credit under this Section.

13 "Department" means the Department of Commerce and Economic  
14 Opportunity.

15 "Investment" means money (or its equivalent) given to a  
16 qualified new business venture, at a risk of loss, in  
17 consideration for an equity interest of the qualified new  
18 business venture. The Department may adopt rules to permit  
19 certain forms of contingent equity investments to be considered  
20 eligible for a tax credit under this Section.

21 "Qualified new business venture" means a business that is  
22 registered with the Department under this Section.

23 "Related member" means a person that, with respect to the  
24 applicant investment, is any one of the following:

25 (1) An individual, if the individual and the members of



1 the individual's family (as defined in Section 318 of the  
2 Internal Revenue Code) own directly, indirectly,  
3 beneficially, or constructively, in the aggregate, at  
4 least 50% of the value of the outstanding profits, capital,  
5 stock, or other ownership interest in the applicant.

6 (2) A partnership, estate, or trust and any partner or  
7 beneficiary, if the partnership, estate, or trust and its  
8 partners or beneficiaries own directly, indirectly,  
9 beneficially, or constructively, in the aggregate, at  
10 least 50% of the profits, capital, stock, or other  
11 ownership interest in the applicant.

12 (3) A corporation, and any party related to the  
13 corporation in a manner that would require an attribution  
14 of stock from the corporation under the attribution rules  
15 of Section 318 of the Internal Revenue Code, if the  
16 applicant and any other related member own, in the  
17 aggregate, directly, indirectly, beneficially, or  
18 constructively, at least 50% of the value of the  
19 corporation's outstanding stock.

20 (4) A corporation and any party related to that  
21 corporation in a manner that would require an attribution  
22 of stock from the corporation to the party or from the  
23 party to the corporation under the attribution rules of  
24 Section 318 of the Internal Revenue Code, if the  
25 corporation and all such related parties own, in the  
26 aggregate, at least 50% of the profits, capital, stock, or

1 other ownership interest in the applicant.

2 (5) A person to or from whom there is attribution of  
3 stock ownership in accordance with Section 1563(e) of the  
4 Internal Revenue Code, except that for purposes of  
5 determining whether a person is a related member under this  
6 paragraph, "20%" shall be substituted for "5%" whenever  
7 "5%" appears in Section 1563(e) of the Internal Revenue  
8 Code.

9 (b) For taxable years beginning after December 31, 2010,  
10 and ending on or before December 31, 2021 ~~December 31, 2016~~,  
11 subject to the limitations provided in this Section, a claimant  
12 may claim, as a credit against the tax imposed under  
13 subsections (a) and (b) of Section 201 of this Act, an amount  
14 equal to 25% of the claimant's investment made directly in a  
15 qualified new business venture. In order for an investment in a  
16 qualified new business venture to be eligible for tax credits,  
17 the business must have applied for and received certification  
18 under subsection (e) for the taxable year in which the  
19 investment was made prior to the date on which the investment  
20 was made. The credit under this Section may not exceed the  
21 taxpayer's Illinois income tax liability for the taxable year.  
22 If the amount of the credit exceeds the tax liability for the  
23 year, the excess may be carried forward and applied to the tax  
24 liability of the 5 taxable years following the excess credit  
25 year. The credit shall be applied to the earliest year for  
26 which there is a tax liability. If there are credits from more

1 than one tax year that are available to offset a liability, the  
2 earlier credit shall be applied first. In the case of a  
3 partnership or Subchapter S Corporation, the credit is allowed  
4 to the partners or shareholders in accordance with the  
5 determination of income and distributive share of income under  
6 Sections 702 and 704 and Subchapter S of the Internal Revenue  
7 Code.

8 (c) The minimum amount an applicant must invest in any  
9 single qualified new business venture in order to be eligible  
10 for a credit under this Section is \$10,000. The maximum amount  
11 of an applicant's total investment made in any single qualified  
12 new business venture that may be used as the basis for a credit  
13 under this Section is \$2,000,000 ~~for each investment made~~  
14 ~~directly in a qualified new business venture.~~

15 (d) The Department shall implement a program to certify an  
16 applicant for an angel investment credit. Upon satisfactory  
17 review, the Department shall issue a tax credit certificate  
18 stating the amount of the tax credit to which the applicant is  
19 entitled. The Department shall annually certify that: (i) each  
20 qualified new business venture that receives an angel  
21 investment under this Section has maintained a minimum  
22 employment threshold, as defined by rule, in the State (and  
23 continues to maintain a minimum employment threshold in the  
24 State for a period of no less than 3 years from the issue date  
25 of the last tax credit certificate issued by the Department  
26 with respect to such business pursuant to this Section); and

1 (ii) the claimant's investment has been made and remains,  
2 except in the event of a qualifying liquidity event, in the  
3 qualified new business venture for no less than 3 years.

4 If an investment for which a claimant is allowed a credit  
5 under subsection (b) is held by the claimant for less than 3  
6 years, other than as a result of a permitted sale of the  
7 investment to person who is not a related member, ~~or, if within~~  
8 ~~that period of time the qualified new business venture is moved~~  
9 ~~from the State of Illinois,~~ the claimant shall pay to the  
10 Department of Revenue, in the manner prescribed by the  
11 Department of Revenue, the aggregate amount of the disqualified  
12 credits ~~credit~~ that the claimant received related to the  
13 subject investment.

14 If the Department determines that a qualified new business  
15 venture failed to maintain a minimum employment threshold in  
16 the State through the date which is 3 years from the issue date  
17 of the last tax credit certificate issued by the Department  
18 with respect to the subject business pursuant to this Section,  
19 the claimant or claimants shall pay to the Department of  
20 Revenue, in the manner prescribed by the Department of Revenue,  
21 the aggregate amount of the disqualified credits that claimant  
22 or claimants received related to investments in that business.

23 (e) The Department shall implement a program to register  
24 qualified new business ventures for purposes of this Section. A  
25 business desiring registration under this Section shall be  
26 required to submit a full and complete ~~an~~ application to the

1 Department ~~in each taxable year for which the business desires~~  
2 ~~registration.~~ A submitted application shall be effective only  
3 for the taxable year in which it is submitted, and a business  
4 desiring registration under this Section shall be required to  
5 submit a separate application in and for each taxable year for  
6 which the business desires registration. Further, if at any  
7 time prior to the acceptance of an application for registration  
8 under this Section by the Department one or more events occurs  
9 which makes the information provided in that application  
10 materially false or incomplete (in whole or in part), the  
11 business shall promptly notify the Department of the same. Any  
12 failure of a business to promptly provide the foregoing  
13 information to the Department may, at the discretion of the  
14 Department, result in a revocation of a previously approved  
15 application for that business, or disqualification of the  
16 business from future registration under this Section, or both.  
17 The Department may register the business only if ~~the business~~  
18 ~~satisfies~~ all of the following conditions are satisfied:

19 (1) it has its principal place of business ~~headquarters~~  
20 in this State;

21 (2) at least 51% of the employees employed by the  
22 business are employed in this State;

23 (3) the business ~~it~~ has the potential for increasing  
24 jobs in this State, increasing capital investment in this  
25 State, or both, as determined by the Department, and either  
26 of the following apply:

1 (A) it is principally engaged in innovation in any  
2 of the following: manufacturing; biotechnology;  
3 nanotechnology; communications; agricultural sciences;  
4 clean energy creation or storage technology;  
5 processing or assembling products, including medical  
6 devices, pharmaceuticals, computer software, computer  
7 hardware, semiconductors, other innovative technology  
8 products, or other products that are produced using  
9 manufacturing methods that are enabled by applying  
10 proprietary technology; or providing services that are  
11 enabled by applying proprietary technology; or

12 (B) it is undertaking pre-commercialization  
13 activity related to proprietary technology that  
14 includes conducting research, developing a new product  
15 or business process, or developing a service that is  
16 principally reliant on applying proprietary  
17 technology;

18 (4) it is not principally engaged in real estate  
19 development (except for development projects anticipated  
20 to take more than 3 years to complete), insurance, banking,  
21 lending, lobbying, political consulting, professional  
22 services provided by attorneys, accountants, business  
23 consultants, physicians, or health care consultants,  
24 wholesale or retail trade, leisure, hospitality,  
25 transportation, or construction, except construction of  
26 power production plants that derive energy from a renewable

1 energy resource, as defined in Section 1 of the Illinois  
2 Power Agency Act;

3 (5) at the time it is first certified:

4 (A) it has fewer than 100 employees;

5 (B) it has been in operation in Illinois for not  
6 more than 10 consecutive years prior to the year of  
7 certification; and

8 (C) it has received not more than \$10,000,000 in  
9 aggregate investments ~~private equity investment in~~  
10 ~~cash;~~

11 (5.1) it agrees to maintain a minimum employment  
12 threshold in the State of Illinois prior to the date which  
13 is 3 years from the issue date of the last tax credit  
14 certificate issued by the Department with respect to that  
15 business pursuant to this Section;

16 (6) it agrees not to move its operations from the State  
17 of Illinois prior to the date which is 3 years from the  
18 issue date of the last tax credit certificate issued by the  
19 Department with respect to such business ~~(blank)~~; and

20 (7) it has received not more than \$4,000,000 in  
21 investments that qualified for tax credits under this  
22 Section.

23 (f) The Department, in consultation with the Department of  
24 Revenue, shall adopt rules to administer this Section. The  
25 aggregate amount of the tax credits that may be claimed under  
26 this Section for investments made in qualified new business

1 ventures shall be limited at \$10,000,000 per calendar year, of  
2 which \$500,000 shall be reserved for investments made in  
3 qualified new business ventures which are "minority owned  
4 businesses", "female owned businesses", or "businesses owned  
5 by a person with a disability" (as those terms are used and  
6 defined in the Business Enterprise for Minorities, Females, and  
7 Persons with Disabilities Act), and an additional \$500,000  
8 shall be reserved for investments made in qualified new  
9 business ventures with their principal place of business in  
10 counties with a population of not more than 250,000. The  
11 foregoing annual allowable amounts shall be allocated by the  
12 Department, on a per calendar quarter basis and prior to the  
13 commencement of each calendar year, in such proportion as  
14 determined by the Department, provided that: (i) the amount  
15 initially allocated by the Department for any one calendar  
16 quarter shall not exceed 35% of the total allowable amount; and  
17 (ii) any portion of the allocated allowable amount remaining  
18 unused as of the end of any of the first 2 calendar quarters of  
19 a given calendar year shall be rolled into, and added to, the  
20 total allocated amount for the next available calendar quarter.

21 (g) A claimant may not sell or otherwise transfer a credit  
22 awarded under this Section to another person.

23 (h) On or before March 1 of each year, the Department shall  
24 report to the Governor and to the General Assembly on the tax  
25 credit certificates awarded under this Section for the prior  
26 calendar year.



1           (1) This report must include, for each tax credit  
2 certificate awarded:

3           (A) the name of the claimant, ~~and~~ the amount of  
4 credit awarded or allocated to that claimant, and the  
5 name of the recipient qualified new business venture  
6 that received the investment;

7           (B) the name and address (including the county) of  
8 the qualified new business venture that received the  
9 investment giving rise to the credit, the North  
10 American Industry Classification System (NAICS) code  
11 applicable to that qualified new business venture, and  
12 the number of employees of the ~~the~~ qualified new  
13 business venture ~~that received the investment giving~~  
14 ~~rise to the credit and the county in which the~~  
15 ~~qualified new business venture is located;~~ and

16           (C) the date of approval by the Department of each  
17 claimant's ~~the applications for the~~ tax credit  
18 certificate.

19           (2) The report must also include:

20           (A) the total number of applicants and the total  
21 number of claimants, including the amount of each tax  
22 credit certificate ~~and amount for tax credit~~  
23 ~~certificates~~ awarded to a claimant under this Section  
24 in the prior calendar year;

25           (B) the total number of applications from  
26 businesses seeking registration under this Section,

1           the total number of new qualified business ventures  
2           registered by the Department, and the aggregate amount  
3           of investment upon which tax credit certificates were  
4           issued in the prior calendar year ~~the total number of~~  
5           ~~applications and amount for which tax credit~~  
6           ~~certificates were issued in the prior calendar year;~~  
7           and

8           (C) the total amount of tax credit certificates  
9           sought by applicants, the amount of each tax credit  
10           certificate issued to a claimant, the aggregate amount  
11           of all tax credit certificates issued in the prior  
12           calendar year and the aggregate amount of tax credit  
13           certificates issued as authorized under this Section  
14           for all calendar years ~~the total tax credit~~  
15           ~~certificates and amount authorized under this Section~~  
16           ~~for all calendar years.~~

17           (3) On and after the effective date of this amendatory  
18           Act of the 100th General Assembly, the Department shall  
19           require a business seeking registration as a qualified new  
20           business venture to include in its application the North  
21           American Industry Classification System (NAICS) code  
22           associated with the business and the number of employees at  
23           the time of application. Each business registered by the  
24           Department as a qualified new business venture that  
25           receives an investment giving rise to the issuance of a tax  
26           credit certificate shall, for each of the 3 subsequent

1 years, report to the Department the following:

2 (A) the number of employees at the end of each  
3 year;

4 (B) the amount of additional new capital  
5 investment raised within each year; and

6 (C) any liquidity event transpiring within the  
7 3-year period; for purposes of this paragraph (C), a  
8 liquidity event shall mean an event that allows some or  
9 all investors in a company to cash out some or all of  
10 their ownership shares or that is considered an exit  
11 strategy for an illiquid investment.

12 (i) For each business seeking registration under this  
13 Section after December 31, 2016, the Department shall require  
14 the business to include in its application the North American  
15 Industry Classification System (NAICS) code applicable to the  
16 business and the number of employees of the business at the  
17 time of application. Each business registered by the Department  
18 as a qualified new business venture that receives an investment  
19 giving rise to the issuance of a tax credit certificate  
20 pursuant to this Section shall, for each of the 3 years  
21 following the issue date of the last tax credit certificate  
22 issued by the Department with respect to such business pursuant  
23 to this Section, report to the Department the following:

24 (1) the number of employees and the location at which  
25 those employees are employed, both as of the end of each  
26 year;

1           (2) the amount of additional new capital investment  
2           raised as of the end of each year, if any; and

3           (3) the terms of any liquidity event occurring during  
4           such year; for the purposes of this Section, a "liquidity  
5           event" means any event that would be considered an exit for  
6           an illiquid investment, including any event that allows the  
7           equity holders of the business (or any material portion  
8           thereof) to cash out some or all of their respective equity  
9           interests.

10        (Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11;  
11        97-1097, eff. 8-24-12.)

12           (35 ILCS 5/221)

13           Sec. 221. Rehabilitation costs; qualified historic  
14        properties; River Edge Redevelopment Zone.

15           (a) For taxable years beginning on or after January 1, 2012  
16        and ending prior to January 1, 2023 ~~January 1, 2018~~, there  
17        shall be allowed a tax credit against the tax imposed by  
18        subsections (a) and (b) of Section 201 in an amount equal to  
19        25% of qualified expenditures incurred by a qualified taxpayer  
20        during the taxable year in the restoration and preservation of  
21        a qualified historic structure located in a River Edge  
22        Redevelopment Zone pursuant to a qualified rehabilitation  
23        plan, provided that the total amount of such expenditures (i)  
24        must equal \$5,000 or more and (ii) must exceed 50% of the  
25        purchase price of the property.

1           (b) To obtain a tax credit pursuant to this Section, the  
2 taxpayer must apply with the Department of Commerce and  
3 Economic Opportunity. The Department of Commerce and Economic  
4 Opportunity, in consultation with the Historic Preservation  
5 Agency, shall determine the amount of eligible rehabilitation  
6 costs and expenses. The Historic Preservation Agency shall  
7 determine whether the rehabilitation is consistent with the  
8 standards of the Secretary of the United States Department of  
9 the Interior for rehabilitation. Upon completion and review of  
10 the project, the Department of Commerce and Economic  
11 Opportunity shall issue a certificate in the amount of the  
12 eligible credits. At the time the certificate is issued, an  
13 issuance fee up to the maximum amount of 2% of the amount of  
14 the credits issued by the certificate may be collected from the  
15 applicant to administer the provisions of this Section. If  
16 collected, this issuance fee shall be deposited into the  
17 Historic Property Administrative Fund, a special fund created  
18 in the State treasury. Subject to appropriation, moneys in the  
19 Historic Property Administrative Fund shall be evenly divided  
20 between the Department of Commerce and Economic Opportunity and  
21 the Historic Preservation Agency to reimburse the Department of  
22 Commerce and Economic Opportunity and the Historic  
23 Preservation Agency for the costs associated with  
24 administering this Section. The taxpayer must attach the  
25 certificate to the tax return on which the credits are to be  
26 claimed. The Department of Commerce and Economic Opportunity

1 may adopt rules to implement this Section.

2 (c) The tax credit under this Section may not reduce the  
3 taxpayer's liability to less than zero.

4 (d) As used in this Section, the following terms have the  
5 following meanings.

6 "Qualified expenditure" means all the costs and expenses  
7 defined as qualified rehabilitation expenditures under Section  
8 47 of the federal Internal Revenue Code that were incurred in  
9 connection with a qualified historic structure.

10 "Qualified historic structure" means a certified historic  
11 structure as defined under Section 47 (c)(3) of the federal  
12 Internal Revenue Code.

13 "Qualified rehabilitation plan" means a project that is  
14 approved by the Historic Preservation Agency as being  
15 consistent with the standards in effect on the effective date  
16 of this amendatory Act of the 97th General Assembly for  
17 rehabilitation as adopted by the federal Secretary of the  
18 Interior.

19 "Qualified taxpayer" means the owner of the qualified  
20 historic structure or any other person who qualifies for the  
21 federal rehabilitation credit allowed by Section 47 of the  
22 federal Internal Revenue Code with respect to that qualified  
23 historic structure. Partners, shareholders of subchapter S  
24 corporations, and owners of limited liability companies (if the  
25 limited liability company is treated as a partnership for  
26 purposes of federal and State income taxation) are entitled to

1 a credit under this Section to be determined in accordance with  
2 the determination of income and distributive share of income  
3 under Sections 702 and 703 and subchapter S of the Internal  
4 Revenue Code, provided that credits granted to a partnership, a  
5 limited liability company taxed as a partnership, or other  
6 multiple owners of property shall be passed through to the  
7 partners, members, or owners respectively on a pro rata basis  
8 or pursuant to an executed agreement among the partners,  
9 members, or owners documenting any alternate distribution  
10 method.

11 (Source: P.A. 99-914, eff. 12-20-16.)

12 (35 ILCS 5/224 new)

13 Sec. 224. Business Occupation Assessment credit. For tax  
14 years ending on or after December 31, 2017, a taxpayer is  
15 entitled to a credit against the taxes imposed under  
16 subsections (a) and (b) of Section 201 of this Act in an amount  
17 equal to the amount paid by the taxpayer pursuant to the  
18 Business Occupation Assessment Act during the tax year. If the  
19 amount of the credit exceeds the tax liability for the year,  
20 such excess shall not reduce the tax liability to less than  
21 zero, and it shall not be carried forward to any subsequent  
22 taxable year.

23 (35 ILCS 5/225 new)

24 Sec. 225. Internship credit.

1       (a) For each taxable year ending on or after December 31,  
2       2017, each taxpayer is entitled to a credit against the tax  
3       imposed by subsections (a) and (b) of Section 201 of this Act  
4       in an amount equal to 10% of the stipend or salary paid by the  
5       taxpayer during the taxable year to (i) up to 5 qualified  
6       college interns and (ii) up to 5 full-time employees, provided  
7       that the full-time employee had been a qualified college intern  
8       during either of the 2 taxable years immediately preceding the  
9       taxable year for which the credit is claimed. For partners,  
10       shareholders of Subchapter S corporations, and owners of  
11       limited liability companies, if the liability company is  
12       treated as a partnership for purposes of federal and State  
13       income taxation, there shall be allowed a credit under this  
14       Section to be determined in accordance with the determination  
15       of income and distributive share of income under Sections 702  
16       and 704 and Subchapter S of the Internal Revenue Code.

17       (b) For the purposes of this Section, "qualified college  
18       intern" means an Illinois resident (i) who is an enrolled  
19       student in an institution of higher education or vocational  
20       technical education program located in Illinois, (ii) who is  
21       seeking a degree or certification of completion in a major  
22       field of study closely related to the work experience performed  
23       for the taxpayer, (iii) whose internship is taken for academic  
24       credit or counts toward the completion of a vocational  
25       technical education program, (iv) who is supervised and  
26       evaluated by the taxpayer, and (v) whose position is located in



1 Illinois. For purposes of this Section, "full-time employee"  
2 means an Illinois resident (i) who is employed by the taxpayer  
3 for consideration for at least 35 hours each week or who  
4 renders any other standard of service generally accepted by  
5 industry custom or practice as full-time employment, and (ii)  
6 whose position is located in Illinois.

7 (c) In no event shall a credit under this Section reduce  
8 the taxpayer's liability to less than zero. If the amount of  
9 the credit exceeds the tax liability for the year, the excess  
10 may not be carried forward or carried back.

11 (35 ILCS 5/226 new)

12 Sec. 226. Federal child tax credit. For taxable years  
13 beginning on or after January 1, 2017 and beginning prior to  
14 January 1, 2022, with respect to the federal child tax credit  
15 allowed for the taxable year under Section 24 of the federal  
16 Internal Revenue Code, 26 U.S.C. 24, each individual taxpayer  
17 is entitled to a credit against the tax imposed by subsections  
18 (a) and (b) of Section 201 in an amount equal to 20% of the  
19 federal tax credit.

20 For a non-resident or part-year resident, the amount of the  
21 credit under this Section shall be in proportion to the amount  
22 of income attributable to this State.

23 If the amount of the credit exceeds the income tax  
24 liability for the applicable tax year, then the excess credit  
25 shall be refunded to the taxpayer. The amount of a refund shall

1 not be included in the taxpayer's income or resources for the  
2 purposes of determining eligibility or benefit level in any  
3 means-tested benefit program administered by a governmental  
4 entity unless required by federal law.

5 (35 ILCS 5/227 new)

6 Sec. 227. Apprenticeship training credit.

7 (a) For tax years beginning on or after January 1, 2017 and  
8 ending prior to January 1, 2022, a taxpayer shall be allowed a  
9 credit against the tax imposed by subsections (a) and (b) of  
10 Section 201 for certain amounts paid by the taxpayer as wages  
11 pursuant to a qualified apprenticeship program. The credit may  
12 not exceed the lesser of (i) 50% of the wages paid by the  
13 taxpayer to each apprentice during the taxable year or (ii)  
14 \$4,800 per apprentice. The taxpayer shall apply with the  
15 Department of Commerce and Economic Opportunity annually for  
16 certification as a "qualified apprenticeship program". The  
17 application shall be in the form and manner prescribed by the  
18 Department of Commerce and Economic Opportunity.

19 (b) For partners, shareholders of Subchapter S  
20 corporations, and owners of limited liability companies, if the  
21 liability company is treated as a partnership for purposes of  
22 federal and State income taxation, the credit under this  
23 Section shall be determined in accordance with the  
24 determination of income and distributive share of income under  
25 Sections 702 and 704 and Subchapter S of the Internal Revenue

1 Code.

2 (c) In no event shall a credit under this Section reduce  
3 the taxpayer's liability to less than zero. If the amount of  
4 the credit exceeds the tax liability for the year, the excess  
5 may be carried forward and applied to the tax liability of the  
6 5 taxable years following the excess credit year. The tax  
7 credit shall be applied to the earliest year for which there is  
8 a tax liability. If there are credits for more than one year  
9 that are available to offset a liability, the earlier credit  
10 shall be applied first.

11 (d) For the purposes of this Section, "qualified  
12 apprenticeship program" means an apprenticeship program in  
13 manufacturing, plastics, or construction trades that is  
14 certified by the Department of Commerce and Economic  
15 Opportunity under this Section and at least 3 years in  
16 duration.

17 (35 ILCS 5/704A)

18 Sec. 704A. Employer's return and payment of tax withheld.

19 (a) In general, every employer who deducts and withholds or  
20 is required to deduct and withhold tax under this Act on or  
21 after January 1, 2008 shall make those payments and returns as  
22 provided in this Section.

23 (b) Returns. Every employer shall, in the form and manner  
24 required by the Department, make returns with respect to taxes  
25 withheld or required to be withheld under this Article 7 for

1 each quarter beginning on or after January 1, 2008, on or  
2 before the last day of the first month following the close of  
3 that quarter. On and after January 1, 2017, an employer with an  
4 average employee head count of fewer than 25 employees during  
5 the previous calendar year shall make returns with respect to  
6 taxes withheld or required to be withheld under this Article 7  
7 annually.

8 (c) Payments. With respect to amounts withheld or required  
9 to be withheld on or after January 1, 2008:

10 (1) Semi-weekly payments. For each calendar year, each  
11 employer who withheld or was required to withhold more than  
12 \$12,000 during the one-year period ending on June 30 of the  
13 immediately preceding calendar year, payment must be made:

14 (A) on or before each Friday of the calendar year,  
15 for taxes withheld or required to be withheld on the  
16 immediately preceding Saturday, Sunday, Monday, or  
17 Tuesday;

18 (B) on or before each Wednesday of the calendar  
19 year, for taxes withheld or required to be withheld on  
20 the immediately preceding Wednesday, Thursday, or  
21 Friday.

22 Beginning with calendar year 2011, payments made under  
23 this paragraph (1) of subsection (c) must be made by  
24 electronic funds transfer.

25 (2) Semi-weekly payments. Any employer who withholds  
26 or is required to withhold more than \$12,000 in any quarter

1 of a calendar year is required to make payments on the  
2 dates set forth under item (1) of this subsection (c) for  
3 each remaining quarter of that calendar year and for the  
4 subsequent calendar year.

5 (3) Monthly payments. Each employer, other than an  
6 employer described in items (1) or (2) of this subsection,  
7 shall pay to the Department, on or before the 15th day of  
8 each month the taxes withheld or required to be withheld  
9 during the immediately preceding month.

10 (4) Payments with returns. Each employer shall pay to  
11 the Department, on or before the due date for each return  
12 required to be filed under this Section, any tax withheld  
13 or required to be withheld during the period for which the  
14 return is due and not previously paid to the Department.

15 (d) Regulatory authority. The Department may, by rule:

16 (1) Permit employers, in lieu of the requirements of  
17 subsections (b) and (c), to file annual returns due on or  
18 before January 31 of the year for taxes withheld or  
19 required to be withheld during the previous calendar year  
20 and, if the aggregate amounts required to be withheld by  
21 the employer under this Article 7 (other than amounts  
22 required to be withheld under Section 709.5) do not exceed  
23 \$1,000 for the previous calendar year, to pay the taxes  
24 required to be shown on each such return no later than the  
25 due date for such return.

26 (2) Provide that any payment required to be made under

1 subsection (c) (1) or (c) (2) is deemed to be timely to the  
2 extent paid by electronic funds transfer on or before the  
3 due date for deposit of federal income taxes withheld from,  
4 or federal employment taxes due with respect to, the wages  
5 from which the Illinois taxes were withheld.

6 (3) Designate one or more depositories to which payment  
7 of taxes required to be withheld under this Article 7 must  
8 be paid by some or all employers.

9 (4) Increase the threshold dollar amounts at which  
10 employers are required to make semi-weekly payments under  
11 subsection (c) (1) or (c) (2).

12 (e) Annual return and payment. Every employer who deducts  
13 and withholds or is required to deduct and withhold tax from a  
14 person engaged in domestic service employment, as that term is  
15 defined in Section 3510 of the Internal Revenue Code, may  
16 comply with the requirements of this Section with respect to  
17 such employees by filing an annual return and paying the taxes  
18 required to be deducted and withheld on or before the 15th day  
19 of the fourth month following the close of the employer's  
20 taxable year. The Department may allow the employer's return to  
21 be submitted with the employer's individual income tax return  
22 or to be submitted with a return due from the employer under  
23 Section 1400.2 of the Unemployment Insurance Act.

24 (f) Magnetic media and electronic filing. Any W-2 Form  
25 that, under the Internal Revenue Code and regulations  
26 promulgated thereunder, is required to be submitted to the

1 Internal Revenue Service on magnetic media or electronically  
2 must also be submitted to the Department on magnetic media or  
3 electronically for Illinois purposes, if required by the  
4 Department.

5 (g) For amounts deducted or withheld after December 31,  
6 2009, a taxpayer who makes an election under subsection (f) of  
7 Section 5-15 of the Economic Development for a Growing Economy  
8 Tax Credit Act for a taxable year shall be allowed a credit  
9 against payments due under this Section for amounts withheld  
10 during the first calendar year beginning after the end of that  
11 taxable year equal to the amount of the credit for the  
12 incremental income tax attributable to full-time employees of  
13 the taxpayer awarded to the taxpayer by the Department of  
14 Commerce and Economic Opportunity under the Economic  
15 Development for a Growing Economy Tax Credit Act for the  
16 taxable year and credits not previously claimed and allowed to  
17 be carried forward under Section 211(4) of this Act as provided  
18 in subsection (f) of Section 5-15 of the Economic Development  
19 for a Growing Economy Tax Credit Act. The credit or credits may  
20 not reduce the taxpayer's obligation for any payment due under  
21 this Section to less than zero. If the amount of the credit or  
22 credits exceeds the total payments due under this Section with  
23 respect to amounts withheld during the calendar year, the  
24 excess may be carried forward and applied against the  
25 taxpayer's liability under this Section in the succeeding  
26 calendar years as allowed to be carried forward under paragraph

1 (4) of Section 211 of this Act. The credit or credits shall be  
2 applied to the earliest year for which there is a tax  
3 liability. If there are credits from more than one taxable year  
4 that are available to offset a liability, the earlier credit  
5 shall be applied first. Each employer who deducts and withholds  
6 or is required to deduct and withhold tax under this Act and  
7 who retains income tax withholdings under subsection (f) of  
8 Section 5-15 of the Economic Development for a Growing Economy  
9 Tax Credit Act must make a return with respect to such taxes  
10 and retained amounts in the form and manner that the  
11 Department, by rule, requires and pay to the Department or to a  
12 depository designated by the Department those withheld taxes  
13 not retained by the taxpayer. For purposes of this subsection  
14 (g), the term taxpayer shall include taxpayer and members of  
15 the taxpayer's unitary business group as defined under  
16 paragraph (27) of subsection (a) of Section 1501 of this Act.  
17 This Section is exempt from the provisions of Section 250 of  
18 this Act. No credit awarded under the Economic Development for  
19 a Growing Economy Tax Credit Act for agreements entered into on  
20 or after January 1, 2015 may be credited against payments due  
21 under this Section.

22 (h) An employer may claim a credit against payments due  
23 under this Section for amounts withheld during the first  
24 calendar year ending after the date on which a tax credit  
25 certificate was issued under Section 35 of the Small Business  
26 Job Creation Tax Credit Act. The credit shall be equal to the



1 amount shown on the certificate, but may not reduce the  
2 taxpayer's obligation for any payment due under this Section to  
3 less than zero. If the amount of the credit exceeds the total  
4 payments due under this Section with respect to amounts  
5 withheld during the calendar year, the excess may be carried  
6 forward and applied against the taxpayer's liability under this  
7 Section in the 5 succeeding calendar years. The credit shall be  
8 applied to the earliest year for which there is a tax  
9 liability. If there are credits from more than one calendar  
10 year that are available to offset a liability, the earlier  
11 credit shall be applied first. This Section is exempt from the  
12 provisions of Section 250 of this Act.

13 (Source: P.A. 96-834, eff. 12-14-09; 96-888, eff. 4-13-10;  
14 96-905, eff. 6-4-10; 96-1027, eff. 7-12-10; 97-333, eff.  
15 8-12-11; 97-507, eff. 8-23-11.)

16 (35 ILCS 5/901) (from Ch. 120, par. 9-901)

17 Sec. 901. Collection authority.

18 (a) In general.

19 The Department shall collect the taxes imposed by this Act.  
20 The Department shall collect certified past due child support  
21 amounts under Section 2505-650 of the Department of Revenue Law  
22 (20 ILCS 2505/2505-650). Except as provided in subsections (c),  
23 (e), (f), (g), and (h) of this Section, money collected  
24 pursuant to subsections (a) and (b) of Section 201 of this Act  
25 shall be paid into the General Revenue Fund in the State

1 treasury; money collected pursuant to subsections (c) and (d)  
2 of Section 201 of this Act shall be paid into the Personal  
3 Property Tax Replacement Fund, a special fund in the State  
4 Treasury; and money collected under Section 2505-650 of the  
5 Department of Revenue Law (20 ILCS 2505/2505-650) shall be paid  
6 into the Child Support Enforcement Trust Fund, a special fund  
7 outside the State Treasury, or to the State Disbursement Unit  
8 established under Section 10-26 of the Illinois Public Aid  
9 Code, as directed by the Department of Healthcare and Family  
10 Services.

11 (b) Local Government Distributive Fund.

12 Beginning August 1, 1969, and continuing through June 30,  
13 1994, the Treasurer shall transfer each month from the General  
14 Revenue Fund to a special fund in the State treasury, to be  
15 known as the "Local Government Distributive Fund", an amount  
16 equal to 1/12 of the net revenue realized from the tax imposed  
17 by subsections (a) and (b) of Section 201 of this Act during  
18 the preceding month. Beginning July 1, 1994, and continuing  
19 through June 30, 1995, the Treasurer shall transfer each month  
20 from the General Revenue Fund to the Local Government  
21 Distributive Fund an amount equal to 1/11 of the net revenue  
22 realized from the tax imposed by subsections (a) and (b) of  
23 Section 201 of this Act during the preceding month. Beginning  
24 July 1, 1995 and continuing through January 31, 2011, the  
25 Treasurer shall transfer each month from the General Revenue  
26 Fund to the Local Government Distributive Fund an amount equal

1 to the net of (i) 1/10 of the net revenue realized from the tax  
2 imposed by subsections (a) and (b) of Section 201 of the  
3 Illinois Income Tax Act during the preceding month (ii) minus,  
4 beginning July 1, 2003 and ending June 30, 2004, \$6,666,666,  
5 and beginning July 1, 2004, zero. Beginning February 1, 2011,  
6 and continuing through January 31, 2015, the Treasurer shall  
7 transfer each month from the General Revenue Fund to the Local  
8 Government Distributive Fund an amount equal to the sum of (i)  
9 6% (10% of the ratio of the 3% individual income tax rate prior  
10 to 2011 to the 5% individual income tax rate after 2010) of the  
11 net revenue realized from the tax imposed by subsections (a)  
12 and (b) of Section 201 of this Act upon individuals, trusts,  
13 and estates during the preceding month and (ii) 6.86% (10% of  
14 the ratio of the 4.8% corporate income tax rate prior to 2011  
15 to the 7% corporate income tax rate after 2010) of the net  
16 revenue realized from the tax imposed by subsections (a) and  
17 (b) of Section 201 of this Act upon corporations during the  
18 preceding month. Beginning February 1, 2015 and continuing  
19 through January 31, 2025, the Treasurer shall transfer each  
20 month from the General Revenue Fund to the Local Government  
21 Distributive Fund an amount equal to the sum of (i) 8% (10% of  
22 the ratio of the 3% individual income tax rate prior to 2011 to  
23 the 3.75% individual income tax rate after 2014) of the net  
24 revenue realized from the tax imposed by subsections (a) and  
25 (b) of Section 201 of this Act upon individuals, trusts, and  
26 estates during the preceding month and (ii) 9.14% (10% of the

1 ratio of the 4.8% corporate income tax rate prior to 2011 to  
2 the 5.25% corporate income tax rate after 2014) of the net  
3 revenue realized from the tax imposed by subsections (a) and  
4 (b) of Section 201 of this Act upon corporations during the  
5 preceding month. Beginning February 1, 2025, the Treasurer  
6 shall transfer each month from the General Revenue Fund to the  
7 Local Government Distributive Fund an amount equal to the sum  
8 of (i) 9.23% (10% of the ratio of the 3% individual income tax  
9 rate prior to 2011 to the 3.25% individual income tax rate  
10 after 2024) of the net revenue realized from the tax imposed by  
11 subsections (a) and (b) of Section 201 of this Act upon  
12 individuals, trusts, and estates during the preceding month and  
13 (ii) 10% of the net revenue realized from the tax imposed by  
14 subsections (a) and (b) of Section 201 of this Act upon  
15 corporations during the preceding month. Net revenue realized  
16 for a month shall be defined as the revenue from the tax  
17 imposed by subsections (a) and (b) of Section 201 of this Act  
18 which is deposited in the General Revenue Fund, the Education  
19 Assistance Fund, the Income Tax Surcharge Local Government  
20 Distributive Fund, the Fund for the Advancement of Education,  
21 and the Commitment to Human Services Fund during the month  
22 minus the amount paid out of the General Revenue Fund in State  
23 warrants during that same month as refunds to taxpayers for  
24 overpayment of liability under the tax imposed by subsections  
25 (a) and (b) of Section 201 of this Act.

26 Beginning on August 26, 2014 (the effective date of Public

1 Act 98-1052), the Comptroller shall perform the transfers  
2 required by this subsection (b) no later than 60 days after he  
3 or she receives the certification from the Treasurer as  
4 provided in Section 1 of the State Revenue Sharing Act.

5 (c) Deposits Into Income Tax Refund Fund.

6 (1) Beginning on January 1, 1989 and thereafter, the  
7 Department shall deposit a percentage of the amounts  
8 collected pursuant to subsections (a) and (b) (1), (2), ~~and~~  
9 (3), (4), (5), (5.1), (5.2), (5.3), and (5.4) of Section  
10 201 of this Act into a fund in the State treasury known as  
11 the Income Tax Refund Fund. The Department shall deposit 6%  
12 of such amounts during the period beginning January 1, 1989  
13 and ending on June 30, 1989. Beginning with State fiscal  
14 year 1990 and for each fiscal year thereafter, the  
15 percentage deposited into the Income Tax Refund Fund during  
16 a fiscal year shall be the Annual Percentage. For fiscal  
17 years 1999 through 2001, the Annual Percentage shall be  
18 7.1%. For fiscal year 2003, the Annual Percentage shall be  
19 8%. For fiscal year 2004, the Annual Percentage shall be  
20 11.7%. Upon the effective date of this amendatory Act of  
21 the 93rd General Assembly, the Annual Percentage shall be  
22 10% for fiscal year 2005. For fiscal year 2006, the Annual  
23 Percentage shall be 9.75%. For fiscal year 2007, the Annual  
24 Percentage shall be 9.75%. For fiscal year 2008, the Annual  
25 Percentage shall be 7.75%. For fiscal year 2009, the Annual  
26 Percentage shall be 9.75%. For fiscal year 2010, the Annual

1 Percentage shall be 9.75%. For fiscal year 2011, the Annual  
2 Percentage shall be 8.75%. For fiscal year 2012, the Annual  
3 Percentage shall be 8.75%. For fiscal year 2013, the Annual  
4 Percentage shall be 9.75%. For fiscal year 2014, the Annual  
5 Percentage shall be 9.5%. For fiscal year 2015, the Annual  
6 Percentage shall be 10%. For all other fiscal years, the  
7 Annual Percentage shall be calculated as a fraction, the  
8 numerator of which shall be the amount of refunds approved  
9 for payment by the Department during the preceding fiscal  
10 year as a result of overpayment of tax liability under  
11 subsections (a) and (b) (1), (2), ~~and (3)~~, (4), (5), (5.1),  
12 (5.2), (5.3), and (5.4) of Section 201 of this Act plus the  
13 amount of such refunds remaining approved but unpaid at the  
14 end of the preceding fiscal year, minus the amounts  
15 transferred into the Income Tax Refund Fund from the  
16 Tobacco Settlement Recovery Fund, and the denominator of  
17 which shall be the amounts which will be collected pursuant  
18 to subsections (a) and (b) (1), (2), ~~and (3)~~, (4), (5),  
19 (5.1), (5.2), (5.3), and (5.4) of Section 201 of this Act  
20 during the preceding fiscal year; except that in State  
21 fiscal year 2002, the Annual Percentage shall in no event  
22 exceed 7.6%. The Director of Revenue shall certify the  
23 Annual Percentage to the Comptroller on the last business  
24 day of the fiscal year immediately preceding the fiscal  
25 year for which it is to be effective.

26 (2) Beginning on January 1, 1989 and thereafter, the

1 Department shall deposit a percentage of the amounts  
2 collected pursuant to subsections (a), ~~and~~ (b) (6), (7), ~~and~~  
3 (8), (9), (10), (11), (12), (13), and (14), (c), ~~and~~ (d) of  
4 Section 201 of this Act and pursuant to the Business  
5 Occupation Assessment Act into a fund in the State treasury  
6 known as the Income Tax Refund Fund. The Department shall  
7 deposit 18% of such amounts during the period beginning  
8 January 1, 1989 and ending on June 30, 1989. Beginning with  
9 State fiscal year 1990 and for each fiscal year thereafter,  
10 the percentage deposited into the Income Tax Refund Fund  
11 during a fiscal year shall be the Annual Percentage. For  
12 fiscal years 1999, 2000, and 2001, the Annual Percentage  
13 shall be 19%. For fiscal year 2003, the Annual Percentage  
14 shall be 27%. For fiscal year 2004, the Annual Percentage  
15 shall be 32%. Upon the effective date of this amendatory  
16 Act of the 93rd General Assembly, the Annual Percentage  
17 shall be 24% for fiscal year 2005. For fiscal year 2006,  
18 the Annual Percentage shall be 20%. For fiscal year 2007,  
19 the Annual Percentage shall be 17.5%. For fiscal year 2008,  
20 the Annual Percentage shall be 15.5%. For fiscal year 2009,  
21 the Annual Percentage shall be 17.5%. For fiscal year 2010,  
22 the Annual Percentage shall be 17.5%. For fiscal year 2011,  
23 the Annual Percentage shall be 17.5%. For fiscal year 2012,  
24 the Annual Percentage shall be 17.5%. For fiscal year 2013,  
25 the Annual Percentage shall be 14%. For fiscal year 2014,  
26 the Annual Percentage shall be 13.4%. For fiscal year 2015,

1 the Annual Percentage shall be 14%. For all other fiscal  
2 years, the Annual Percentage shall be calculated as a  
3 fraction, the numerator of which shall be the amount of  
4 refunds approved for payment by the Department during the  
5 preceding fiscal year as a result of overpayment of tax  
6 liability under subsections (a), ~~and~~ (b) (6), (7), ~~and~~ (8),  
7 (9), (10), (11), (12), (13), and (14), (c), ~~and~~ (d) of  
8 Section 201 of this Act and pursuant to the Business  
9 Occupation Assessment Act plus the amount of such refunds  
10 remaining approved but unpaid at the end of the preceding  
11 fiscal year, and the denominator of which shall be the  
12 amounts which will be collected pursuant to subsections  
13 (a), ~~and~~ (b) (6), (7), ~~and~~ (8), (9), (10), (11), (12), (13),  
14 and (14), (c), ~~and~~ (d) of Section 201 of this Act and  
15 pursuant to the Business Occupation Assessment Act during  
16 the preceding fiscal year; except that in State fiscal year  
17 2002, the Annual Percentage shall in no event exceed 23%.  
18 The Director of Revenue shall certify the Annual Percentage  
19 to the Comptroller on the last business day of the fiscal  
20 year immediately preceding the fiscal year for which it is  
21 to be effective.

22 (3) The Comptroller shall order transferred and the  
23 Treasurer shall transfer from the Tobacco Settlement  
24 Recovery Fund to the Income Tax Refund Fund (i) \$35,000,000  
25 in January, 2001, (ii) \$35,000,000 in January, 2002, and  
26 (iii) \$35,000,000 in January, 2003.



1 (d) Expenditures from Income Tax Refund Fund.

2 (1) Beginning January 1, 1989, money in the Income Tax  
3 Refund Fund shall be expended exclusively for the purpose  
4 of paying refunds resulting from overpayment of tax  
5 liability under Section 201 of this Act or an overpayment  
6 of the assessment under the Business Occupation Assessment  
7 Act, for paying rebates under Section 208.1 in the event  
8 that the amounts in the Homeowners' Tax Relief Fund are  
9 insufficient for that purpose, and for making transfers  
10 pursuant to this subsection (d).

11 (2) The Director shall order payment of refunds  
12 resulting from overpayment of tax liability under Section  
13 201 of this Act or an overpayment of the assessment under  
14 the Business Occupation Assessment Act from the Income Tax  
15 Refund Fund only to the extent that amounts collected  
16 pursuant to Section 201 of this Act and transfers pursuant  
17 to this subsection (d) and item (3) of subsection (c) have  
18 been deposited and retained in the Fund.

19 (3) As soon as possible after the end of each fiscal  
20 year, the Director shall order transferred and the State  
21 Treasurer and State Comptroller shall transfer from the  
22 Income Tax Refund Fund to the Personal Property Tax  
23 Replacement Fund an amount, certified by the Director to  
24 the Comptroller, equal to the excess of the amount  
25 collected pursuant to subsections (c) and (d) of Section  
26 201 of this Act deposited into the Income Tax Refund Fund

1 during the fiscal year over the amount of refunds resulting  
2 from overpayment of tax liability under subsections (c) and  
3 (d) of Section 201 of this Act paid from the Income Tax  
4 Refund Fund during the fiscal year.

5 (4) As soon as possible after the end of each fiscal  
6 year, the Director shall order transferred and the State  
7 Treasurer and State Comptroller shall transfer from the  
8 Personal Property Tax Replacement Fund to the Income Tax  
9 Refund Fund an amount, certified by the Director to the  
10 Comptroller, equal to the excess of the amount of refunds  
11 resulting from overpayment of tax liability under  
12 subsections (c) and (d) of Section 201 of this Act paid  
13 from the Income Tax Refund Fund during the fiscal year over  
14 the amount collected pursuant to subsections (c) and (d) of  
15 Section 201 of this Act deposited into the Income Tax  
16 Refund Fund during the fiscal year.

17 (4.5) As soon as possible after the end of fiscal year  
18 1999 and of each fiscal year thereafter, the Director shall  
19 order transferred and the State Treasurer and State  
20 Comptroller shall transfer from the Income Tax Refund Fund  
21 to the General Revenue Fund any surplus remaining in the  
22 Income Tax Refund Fund as of the end of such fiscal year;  
23 excluding for fiscal years 2000, 2001, and 2002 amounts  
24 attributable to transfers under item (3) of subsection (c)  
25 less refunds resulting from the earned income tax credit.

26 (5) This Act shall constitute an irrevocable and

1 continuing appropriation from the Income Tax Refund Fund  
2 for the purpose of paying refunds upon the order of the  
3 Director in accordance with the provisions of this Section.

4 (e) Deposits into the Education Assistance Fund and the  
5 Income Tax Surcharge Local Government Distributive Fund.

6 On July 1, 1991, and thereafter, of the amounts collected  
7 pursuant to subsections (a) and (b) of Section 201 of this Act,  
8 minus deposits into the Income Tax Refund Fund, the Department  
9 shall deposit 7.3% into the Education Assistance Fund in the  
10 State Treasury. Beginning July 1, 1991, and continuing through  
11 January 31, 1993, of the amounts collected pursuant to  
12 subsections (a) and (b) of Section 201 of the Illinois Income  
13 Tax Act, minus deposits into the Income Tax Refund Fund, the  
14 Department shall deposit 3.0% into the Income Tax Surcharge  
15 Local Government Distributive Fund in the State Treasury.  
16 Beginning February 1, 1993 and continuing through June 30,  
17 1993, of the amounts collected pursuant to subsections (a) and  
18 (b) of Section 201 of the Illinois Income Tax Act, minus  
19 deposits into the Income Tax Refund Fund, the Department shall  
20 deposit 4.4% into the Income Tax Surcharge Local Government  
21 Distributive Fund in the State Treasury. Beginning July 1,  
22 1993, and continuing through June 30, 1994, of the amounts  
23 collected under subsections (a) and (b) of Section 201 of this  
24 Act, minus deposits into the Income Tax Refund Fund, the  
25 Department shall deposit 1.475% into the Income Tax Surcharge  
26 Local Government Distributive Fund in the State Treasury.

1           (f) Deposits into the Fund for the Advancement of  
2 Education. Beginning February 1, 2015, the Department shall  
3 deposit the following portions of the revenue realized from the  
4 tax imposed upon individuals, trusts, and estates by  
5 subsections (a) and (b) of Section 201 of this Act during the  
6 preceding month, minus deposits into the Income Tax Refund  
7 Fund, into the Fund for the Advancement of Education:

8           (1) beginning February 1, 2015, and prior to February  
9 1, 2025, 1/30; and

10           (2) beginning February 1, 2025, 1/26.

11           If the rate of tax imposed by subsection (a) and (b) of  
12 Section 201 is reduced pursuant to Section 201.5 of this Act,  
13 the Department shall not make the deposits required by this  
14 subsection (f) on or after the effective date of the reduction.

15           (g) Deposits into the Commitment to Human Services Fund.  
16 Beginning February 1, 2015, the Department shall deposit the  
17 following portions of the revenue realized from the tax imposed  
18 upon individuals, trusts, and estates by subsections (a) and  
19 (b) of Section 201 of this Act during the preceding month,  
20 minus deposits into the Income Tax Refund Fund, into the  
21 Commitment to Human Services Fund:

22           (1) beginning February 1, 2015, and prior to February  
23 1, 2025, 1/30; and

24           (2) beginning February 1, 2025, 1/26.

25           If the rate of tax imposed by subsection (a) and (b) of  
26 Section 201 is reduced pursuant to Section 201.5 of this Act,

1 the Department shall not make the deposits required by this  
2 subsection (g) on or after the effective date of the reduction.

3 (h) Deposits into the Tax Compliance and Administration  
4 Fund. Beginning on the first day of the first calendar month to  
5 occur on or after August 26, 2014 (the effective date of Public  
6 Act 98-1098), each month the Department shall pay into the Tax  
7 Compliance and Administration Fund, to be used, subject to  
8 appropriation, to fund additional auditors and compliance  
9 personnel at the Department, an amount equal to 1/12 of 5% of  
10 the cash receipts collected during the preceding fiscal year by  
11 the Audit Bureau of the Department from the tax imposed by  
12 subsections (a), (b), (c), and (d) of Section 201 of this Act,  
13 net of deposits into the Income Tax Refund Fund made from those  
14 cash receipts.

15 (Source: P.A. 98-24, eff. 6-19-13; 98-674, eff. 6-30-14;  
16 98-1052, eff. 8-26-14; 98-1098, eff. 8-26-14; 99-78, eff.  
17 7-20-15.)

18 ARTICLE 10. ECONOMIC DEVELOPMENT FOR A GROWING ECONOMY TAX

19 CREDIT ACT

20 Section 10-5. The Economic Development for a Growing  
21 Economy Tax Credit Act is amended by changing Sections 5-5,  
22 5-10, 5-15, 5-20, 5-25, 5-50, 5-65, 5-70 and 5-77 and by adding  
23 Section 5-57 as follows:

1 (35 ILCS 10/5-5)

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

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

5 "Applicant" means a Taxpayer that is operating a business  
6 located or that the Taxpayer plans to locate within the State  
7 of Illinois and that is engaged in interstate or intrastate  
8 commerce for the purpose of manufacturing, processing,  
9 assembling, warehousing, or distributing products, conducting  
10 research and development, providing tourism services, or  
11 providing services in interstate commerce, office industries,  
12 health services, professional services, or agricultural  
13 processing, but excluding retail and ~~7~~ retail food, ~~health, or~~  
14 ~~professional~~ services. "Applicant" does not include a Taxpayer  
15 who closes or substantially reduces an operation at one  
16 location in the State and relocates substantially the same  
17 operation to another location in the State. This does not  
18 prohibit a Taxpayer from expanding its operations at another  
19 location in the State, provided that existing operations of a  
20 similar nature located within the State are not closed or  
21 substantially reduced. This also does not prohibit a Taxpayer  
22 from moving its operations from one location in the State to  
23 another location in the State for the purpose of expanding the  
24 operation provided that the Department determines that  
25 expansion cannot reasonably be accommodated within the  
26 municipality in which the business is located, or in the case

1 of a business located in an incorporated area of the county,  
2 within the county in which the business is located, after  
3 conferring with the chief elected official of the municipality  
4 or county and taking into consideration any evidence offered by  
5 the municipality or county regarding the ability to accommodate  
6 expansion within the municipality or county.

7 "Committee" means the Illinois Business Investment  
8 Committee created under Section 5-25 of this Act within the  
9 Illinois Economic Development Board.

10 "Credit" means the amount agreed to between the Department  
11 and Applicant under this Act, but not to exceed the lesser of:  
12 (1) the sum of (i) 50% of the Incremental Income Tax  
13 attributable to the Applicant's project and (ii) 10% of the  
14 training costs of New Employees; or (2) 100% of the Incremental  
15 Income Tax attributable to the Applicant's project. However, if  
16 the project is located in an underserved area, then the amount  
17 of the Credit may not exceed the lesser of: (1) the sum of (i)  
18 75% of the Incremental Income Tax attributable to the  
19 Applicant's project and (ii) 10% of the training costs of New  
20 Employees; or (2) 100% of the Incremental Income Tax  
21 attributable to the Applicant's project.

22 "Department" means the Department of Commerce and Economic  
23 Opportunity.

24 "Director" means the Director of Commerce and Economic  
25 Opportunity.

26 "Full-time Employee" means an individual who is employed

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

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

14 "New Employee" means:

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

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

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

24 (2) an employee of the Taxpayer who was previously  
25 employed in Illinois by a Related Member of the  
26 Taxpayer and whose employment was shifted to the



1 Taxpayer after the Taxpayer entered into the tax credit  
2 Agreement; or

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

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

12 (1) treated under the Agreement as a New Employee;  
13 and

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

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

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

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

24 (3) the employee was hired after the date the  
25 letter described in paragraph (1) was issued.

26 "Noncompliance Date" means, in the case of a Taxpayer that

1 is not complying with the requirements of the Agreement or the  
2 provisions of this Act, the day following the last date upon  
3 which the Taxpayer was in compliance with the requirements of  
4 the Agreement and the provisions of this Act, as determined by  
5 the Director, pursuant to Section 5-65.

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

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

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

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

21 (2) A partnership, estate, or trust and any partner or  
22 beneficiary, if the partnership, estate, or trust, and its  
23 partners or beneficiaries own directly, indirectly,  
24 beneficially, or constructively, in the aggregate, at  
25 least 50% of the profits, capital, stock, or value of the  
26 Taxpayer.

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

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

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

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

25           "Underserved area" means a geographic area that meets one  
26 or more of the following conditions:

1           (1) the area has a poverty rate of at least 20%  
2           according to the latest federal decennial census;

3           (2) 50% or more of the children in the area participate  
4           in the federal free lunch program according to reported  
5           statistics from the State Board of Education;

6           (3) at least 20% of the households in the area receive  
7           assistance under the Supplemental Nutrition Assistance  
8           Program (SNAP); or

9           (4) the area has an average unemployment rate, as  
10           determined by the Illinois Department of Employment  
11           Security, that is more than 120% of the national  
12           unemployment average, as determined by the U.S. Department  
13           of Labor, for a period of at least 2 consecutive calendar  
14           years preceding the date of the application.

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

16           (35 ILCS 10/5-10)

17           Sec. 5-10. Powers of the Department. The Department, in  
18           addition to those powers granted under the Civil Administrative  
19           Code of Illinois, is granted and shall have all the powers  
20           necessary or convenient to carry out and effectuate the  
21           purposes and provisions of this Act, including, but not limited  
22           to, power and authority to:

23           (a) Promulgate procedures, rules, or regulations deemed  
24           necessary and appropriate for the administration of the  
25           programs; establish forms for applications, notifications,

1 contracts, or any other agreements; and accept applications at  
2 any time during the year.

3 (b) Provide and assist Taxpayers pursuant to the provisions  
4 of this Act, and cooperate with Taxpayers that are parties to  
5 Agreements to promote, foster, and support economic  
6 development, capital investment, and job creation ~~or retention~~  
7 within the State.

8 (c) Enter into agreements and memoranda of understanding  
9 for participation of and engage in cooperation with agencies of  
10 the federal government, local units of government,  
11 universities, research foundations or institutions, regional  
12 economic development corporations, or other organizations for  
13 the purposes of this Act.

14 (d) Gather information and conduct inquiries, in the manner  
15 and by the methods as it deems desirable, including without  
16 limitation, gathering information with respect to Applicants  
17 for the purpose of making any designations or certifications  
18 necessary or desirable or to gather information to assist the  
19 Committee with any recommendation or guidance in the  
20 furtherance of the purposes of this Act.

21 (e) Establish, negotiate and effectuate any term,  
22 agreement or other document with any person, necessary or  
23 appropriate to accomplish the purposes of this Act; and to  
24 consent, subject to the provisions of any Agreement with  
25 another party, to the modification or restructuring of any  
26 Agreement to which the Department is a party.

1 (f) Fix, determine, charge, and collect any premiums, fees,  
2 charges, costs, and expenses from Applicants, including,  
3 without limitation, any application fees, commitment fees,  
4 program fees, financing charges, or publication fees as deemed  
5 appropriate to pay expenses necessary or incident to the  
6 administration, staffing, or operation in connection with the  
7 Department's or Committee's activities under this Act, or for  
8 preparation, implementation, and enforcement of the terms of  
9 the Agreement, or for consultation, advisory and legal fees,  
10 and other costs; however, all fees and expenses incident  
11 thereto shall be the responsibility of the Applicant.

12 (g) Provide for sufficient personnel to permit  
13 administration, staffing, operation, and related support  
14 required to adequately discharge its duties and  
15 responsibilities described in this Act from funds made  
16 available through charges to Applicants or from funds as may be  
17 appropriated by the General Assembly for the administration of  
18 this Act.

19 (h) Require Applicants, upon written request, to issue any  
20 necessary authorization to the appropriate federal, state, or  
21 local authority for the release of information concerning a  
22 project being considered under the provisions of this Act, with  
23 the information requested to include, but not be limited to,  
24 financial reports, returns, or records relating to the  
25 Taxpayers' or its project.

26 (i) Require that a Taxpayer shall at all times keep proper

1 books of record and account in accordance with generally  
2 accepted accounting principles consistently applied, with the  
3 books, records, or papers related to the Agreement in the  
4 custody or control of the Taxpayer open for reasonable  
5 Department inspection and audits, and including, without  
6 limitation, the making of copies of the books, records, or  
7 papers, and the inspection or appraisal of any of the Taxpayer  
8 or project assets.

9 (j) Take whatever actions are necessary or appropriate to  
10 protect the State's interest in the event of bankruptcy,  
11 default, foreclosure, or noncompliance with the terms and  
12 conditions of financial assistance or participation required  
13 under this Act, including the power to sell, dispose, lease, or  
14 rent, upon terms and conditions determined by the Director to  
15 be appropriate, real or personal property that the Department  
16 may receive as a result of these actions.

17 (Source: P.A. 91-476, eff. 8-11-99.)

18 (35 ILCS 10/5-15)

19 Sec. 5-15. Tax Credit Awards. Subject to the conditions set  
20 forth in this Act, a Taxpayer is entitled to a Credit against  
21 or, as described in subsection (g) of this Section, a payment  
22 towards taxes imposed pursuant to subsections (a) and (b) of  
23 Section 201 of the Illinois Income Tax Act that may be imposed  
24 on the Taxpayer for a taxable year beginning on or after  
25 January 1, 1999, if the Taxpayer is awarded a Credit by the

1 Department under this Act for that taxable year.

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

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

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

9 (d) The Credit shall not exceed the Incremental Income Tax  
10 attributable to the project that is the subject of the  
11 Agreement.

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

15 (f) In lieu of the Credit allowed under this Act against  
16 the taxes imposed pursuant to subsections (a) and (b) of  
17 Section 201 of the Illinois Income Tax Act for any taxable year  
18 ending on or after December 31, 2009, for Taxpayers that  
19 entered into Agreements prior to January 1, 2015 and otherwise  
20 meet the criteria set forth in this subsection (f), the  
21 Taxpayer may elect to claim the Credit against its obligation  
22 to pay over withholding under Section 704A of the Illinois  
23 Income Tax Act.

24 (1) The election under this subsection (f) may be made  
25 only by a Taxpayer that (i) is primarily engaged in one of  
26 the following business activities: water purification and



1 treatment, motor vehicle metal stamping, automobile  
2 manufacturing, automobile and light duty motor vehicle  
3 manufacturing, motor vehicle manufacturing, light truck  
4 and utility vehicle manufacturing, heavy duty truck  
5 manufacturing, motor vehicle body manufacturing, cable  
6 television infrastructure design or manufacturing, or  
7 wireless telecommunication or computing terminal device  
8 design or manufacturing for use on public networks and (ii)  
9 meets the following criteria:

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

19 (B) the Taxpayer (i) had an Illinois net loss or an  
20 Illinois net loss deduction under Section 207 of the  
21 Illinois Income Tax Act for the taxable year in which  
22 the Credit is awarded, (ii) employed a minimum of 1,000  
23 full-time employees in this State during the taxable  
24 year in which the Credit is awarded, and (iii) has  
25 applied for an Agreement within 365 days after December  
26 14, 2009 (the effective date of Public Act 96-834);

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

11 (D) the Taxpayer (i) had an Illinois net operating  
12 loss carryforward under Section 207 of the Illinois  
13 Income Tax Act in a taxable year ending during calendar  
14 year 2009, (ii) has applied for an Agreement within 150  
15 days after the effective date of this amendatory Act of  
16 the 96th General Assembly, (iii) creates at least 150  
17 new jobs, (iv) retains at least 1,000 jobs in Illinois  
18 that would have been at risk of relocation out of  
19 Illinois over a 10-year period, and (v) makes a capital  
20 investment of at least \$57,000,000; or

21 (E) the Taxpayer (i) employed at least 2,500  
22 full-time employees in the State during the year in  
23 which the Credit is awarded, (ii) commits to make at  
24 least \$500,000,000 in combined capital improvements  
25 and project costs under the Agreement, (iii) applies  
26 for an Agreement between January 1, 2011 and June 30,

1           2011, (iv) executes an Agreement for the Credit during  
2           calendar year 2011, and (v) was incorporated no more  
3           than 5 years before the filing of an application for an  
4           Agreement.

5           (1.5) The election under this subsection (f) may also  
6           be made by a Taxpayer for any Credit awarded pursuant to an  
7           agreement that was executed between January 1, 2011 and  
8           June 30, 2011, if the Taxpayer (i) is primarily engaged in  
9           the manufacture of inner tubes or tires, or both, from  
10          natural and synthetic rubber, (ii) employs a minimum of  
11          2,400 full-time employees in Illinois at the time of  
12          application, (iii) creates at least 350 full-time jobs and  
13          retains at least 250 full-time jobs in Illinois that would  
14          have been at risk of being created or retained outside of  
15          Illinois, and (iv) makes a capital investment of at least  
16          \$200,000,000 at the project location.

17          (1.6) The election under this subsection (f) may also  
18          be made by a Taxpayer for any Credit awarded pursuant to an  
19          agreement that was executed within 150 days after the  
20          effective date of this amendatory Act of the 97th General  
21          Assembly, if the Taxpayer (i) is primarily engaged in the  
22          operation of a discount department store, (ii) maintains  
23          its corporate headquarters in Illinois, (iii) employs a  
24          minimum of 4,250 full-time employees at its corporate  
25          headquarters in Illinois at the time of application, (iv)  
26          retains at least 4,250 full-time jobs in Illinois that

1 would have been at risk of being relocated outside of  
2 Illinois, (v) had a minimum of \$40,000,000,000 in total  
3 revenue in 2010, and (vi) makes a capital investment of at  
4 least \$300,000,000 at the project location.

5 (1.7) Notwithstanding any other provision of law, the  
6 election under this subsection (f) may also be made by a  
7 Taxpayer for any Credit awarded pursuant to an agreement  
8 that was executed or applied for on or after July 1, 2011  
9 and on or before March 31, 2012, if the Taxpayer is  
10 primarily engaged in the manufacture of original and  
11 aftermarket filtration parts and products for automobiles,  
12 motor vehicles, light duty motor vehicles, light trucks and  
13 utility vehicles, and heavy duty trucks, (ii) employs a  
14 minimum of 1,000 full-time employees in Illinois at the  
15 time of application, (iii) creates at least 250 full-time  
16 jobs in Illinois, (iv) relocates its corporate  
17 headquarters to Illinois from another state, and (v) makes  
18 a capital investment of at least \$4,000,000 at the project  
19 location.

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

25 (3) The election shall be made in the form and manner  
26 required by the Illinois Department of Revenue and, once

1           made, shall be irrevocable.

2           (4) If a Taxpayer who meets the requirements of  
3           subparagraph (A) of paragraph (1) of this subsection (f)  
4           elects to claim the Credit against its withholdings as  
5           provided in this subsection (f), then, on and after the  
6           date of the election, the terms of the Agreement between  
7           the Taxpayer and the Department may not be further amended  
8           during the term of the Agreement.

9           (g) A pass-through entity that has been awarded a credit  
10          under this Act, its shareholders, or its partners may treat  
11          some or all of the credit awarded pursuant to this Act as a tax  
12          payment for purposes of the Illinois Income Tax Act. The term  
13          "tax payment" means a payment as described in Article 6 or  
14          Article 8 of the Illinois Income Tax Act or a composite payment  
15          made by a pass-through entity on behalf of any of its  
16          shareholders or partners to satisfy such shareholders' or  
17          partners' taxes imposed pursuant to subsections (a) and (b) of  
18          Section 201 of the Illinois Income Tax Act. In no event shall  
19          the amount of the award credited pursuant to this Act exceed  
20          the Illinois income tax liability of the pass-through entity or  
21          its shareholders or partners for the taxable year.

22          (Source: P.A. 96-834, eff. 12-14-09; 96-836, eff. 12-16-09;  
23          96-905, eff. 6-4-10; 96-1000, eff. 7-2-10; 96-1534, eff.  
24          3-4-11; 97-2, eff. 5-6-11; 97-636, eff. 6-1-12.)

25                   (35 ILCS 10/5-20)

1           Sec. 5-20. Application for a project to create and retain  
2 new jobs.

3           (a) Any Taxpayer proposing a project located or planned to  
4 be located in Illinois may request consideration for  
5 designation of its project, by formal written letter of request  
6 or by formal application to the Department, in which the  
7 Applicant states its intent to make at least a specified level  
8 of investment and intends to hire or retain a specified number  
9 of full-time employees at a designated location in Illinois. As  
10 circumstances require, the Department may require a formal  
11 application from an Applicant and a formal letter of request  
12 for assistance.

13           (b) In order to qualify for Credits under this Act, an  
14 Applicant's project must:

15           (1) if the Applicant has more than 100 employees,  
16 involve an investment of at least \$2,500,000 ~~\$5,000,000~~ in  
17 capital improvements to be placed in service ~~and to employ~~  
18 ~~at least 25 New Employees~~ within the State as a direct  
19 result of the project; if the Applicant has 100 or fewer  
20 employees, then there is no capital investment  
21 requirement; and

22           (1.5) if the Applicant has more than 100 employees,  
23 employ a number of new employees in the State equal to the  
24 lesser of (A) 10% of the number of full-time employees  
25 employed by the applicant world-wide on the date the  
26 application is filed with the Department or (B) 50 New

1 Employees; and, if the Applicant has 100 or fewer  
2 employees, employ a number of new employees in the State  
3 equal to the lesser of (A) 5% of the number of full-time  
4 employees employed by the applicant world-wide on the date  
5 the application is filed with the Department or (B) 50 New  
6 Employees;

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

15 (3) (blank). if the applicant has 100 or fewer  
16 employees, involve an investment of at least \$1,000,000 in  
17 capital improvements to be placed in service and to employ  
18 at least 5 New Employees within the State as a direct  
19 result of the project.

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

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

24 (35 ILCS 10/5-25)

25 Sec. 5-25. Review of Application.

1           (a) In addition to those duties granted under the Illinois  
2 Economic Development Board Act, the Illinois Economic  
3 Development Board shall form a Business Investment Committee  
4 for the purpose of making recommendations for applications. At  
5 the request of the Board, the Director of Commerce and Economic  
6 Opportunity or his or her designee, the Director of the  
7 Governor's Office of Management and Budget or his or her  
8 designee, the Director of Revenue or his or her designee, the  
9 Director of Employment Security or his or her designee, and an  
10 elected official of the affected locality, such as the chair of  
11 the county board or the mayor, may serve as members of the  
12 Committee to assist with its analysis and deliberations.

13           (b) At the Department's request, the Committee shall  
14 convene, make inquiries, and conduct studies in the manner and  
15 by the methods as it deems desirable, review information with  
16 respect to Applicants, and make recommendations for projects to  
17 benefit the State. In making its recommendation that an  
18 Applicant's application for Credit should or should not be  
19 accepted, which shall occur within a reasonable time frame as  
20 determined by the nature of the application, the Committee  
21 shall determine that all the following conditions exist:

22           (1) The Applicant's project intends, as required by  
23 subsection (b) of Section 5-20 to make the required  
24 investment in the State and intends to hire the required  
25 number of New Employees in Illinois as a result of that  
26 project.



1           (2) The Applicant's project is economically sound and  
2 will benefit the people of the State of Illinois by  
3 increasing opportunities for employment and strengthen the  
4 economy of Illinois.

5           (3) That, if not for the Credit, the project would not  
6 occur in Illinois, which may be demonstrated by evidence  
7 that receipt of the Credit is essential to the Applicant's  
8 decision to create new jobs in the State, such as the  
9 magnitude of the cost differential between Illinois and a  
10 competing State ~~any means including, but not limited to,~~  
11 ~~evidence the Applicant has multi-state location options~~  
12 ~~and could reasonably and efficiently locate outside of the~~  
13 ~~State, or demonstration that at least one other state is~~  
14 ~~being considered for the project, or evidence the receipt~~  
15 ~~of the Credit is a major factor in the Applicant's decision~~  
16 ~~and that without the Credit, the Applicant likely would not~~  
17 ~~create new jobs in Illinois, or demonstration that~~  
18 ~~receiving the Credit is essential to the Applicant's~~  
19 ~~decision to create or retain new jobs in the State.~~

20           (4) A cost differential is identified, using best  
21 available data, in the projected costs for the Applicant's  
22 project compared to the costs in the competing state,  
23 including the impact of the competing state's incentive  
24 programs. The competing state's incentive programs shall  
25 include state, local, private, and federal funds  
26 available.

1           (5) The political subdivisions affected by the project  
2           have committed local incentives with respect to the  
3           project, considering local ability to assist.

4           (6) Awarding the Credit will result in an overall  
5           positive fiscal impact to the State, as certified by the  
6           Committee using the best available data.

7           (7) The Credit is not prohibited by Section 5-35 of  
8           this Act.

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

10           (35 ILCS 10/5-50)

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

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

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

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

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

25           (5) A specific method for determining the number of New

1 Employees employed during a taxable year.

2 (6) A requirement that the Taxpayer shall annually  
3 report to the Department the number of New Employees, the  
4 Incremental Income Tax withheld in connection with the New  
5 Employees, and any other information the Director needs to  
6 perform the Director's duties under this Act.

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

12 (8) A requirement that the Taxpayer shall provide  
13 written notification to the Director not more than 30 days  
14 after the Taxpayer makes or receives a proposal that would  
15 transfer the Taxpayer's State tax liability obligations to  
16 a successor Taxpayer.

17 (9) A detailed description of the number of New  
18 Employees to be hired, and the occupation and payroll of  
19 the full-time jobs to be created or retained as a result of  
20 the project.

21 (10) The minimum investment the business enterprise  
22 will make in capital improvements, the time period for  
23 placing the property in service, and the designated  
24 location in Illinois for the investment.

25 (11) A requirement that the Taxpayer shall provide  
26 written notification to the Director and the Committee not

1 more than 30 days after the Taxpayer determines that the  
2 minimum job creation ~~or retention~~, employment payroll, or  
3 investment no longer is being or will be achieved or  
4 maintained as set forth in the terms and conditions of the  
5 Agreement.

6 (12) A provision that, if the total number of New  
7 Employees falls below a specified level, the allowance of  
8 Credit shall be suspended until the number of New Employees  
9 equals or exceeds the Agreement amount.

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

13 (13.5) A provision that, if the Taxpayer never meets  
14 either the investment or job creation ~~and retention~~  
15 requirements specified in the Agreement during the entire  
16 5-year period beginning on the first day of the first  
17 taxable year in which the Agreement is executed and ending  
18 on the last day of the fifth taxable year after the  
19 Agreement is executed, then the Agreement is automatically  
20 terminated on the last day of the fifth taxable year after  
21 the Agreement is executed and the Taxpayer is not entitled  
22 to the award of any credits for any of that 5-year period.

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

25 The Department shall post on its website the terms of each  
26 Agreement entered into under this Act on or after the effective

1 date of this amendatory Act of the 97th General Assembly. Such  
2 information shall be posted within 10 days after entering into  
3 the Agreement and must include the following:

4 (1) the name of the recipient business;

5 (2) the location of the project;

6 (3) the estimated value of the credit;

7 (4) the number of new jobs pledged as a result of the  
8 project; and

9 (5) whether or not the project is located in an  
10 underserved area.

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

12 (35 ILCS 10/5-57 new)

13 Sec. 5-57. Supplier diversity goals; reports. Each  
14 taxpayer claiming a credit under this Act shall, no later than  
15 April 15 of each taxable year for which the taxpayer claims a  
16 credit under this Act, submit to the Department of Commerce and  
17 Economic Opportunity an annual report containing the  
18 information described in subsections (b), (c), (d), and (e) of  
19 Section 5-117 of the Public Utilities Act. Those reports shall  
20 be submitted in the form and manner required by the Department  
21 of Commerce and Economic Opportunity.

22 (35 ILCS 10/5-65)

23 Sec. 5-65. Noncompliance; notice; assessment. If the  
24 Director determines that a Taxpayer who has received a Credit

1 under this Act is not complying with the requirements of the  
2 Agreement or all of the provisions of this Act, the Director  
3 shall provide notice to the Taxpayer of the alleged  
4 noncompliance, and allow the Taxpayer a hearing under the  
5 provisions of the Illinois Administrative Procedure Act. If,  
6 after such notice and any hearing, the Director determines that  
7 a noncompliance exists, the Director shall issue to the  
8 Department of Revenue notice to that effect, stating the  
9 Noncompliance Date. If the Taxpayer ceases operations at a  
10 project location that is the subject of an Agreement with the  
11 intent to terminate operations in the State, then the Taxpayer  
12 shall be subject to the provisions of the Keep Illinois  
13 Business Act.

14 (Source: P.A. 91-476, eff. 8-11-99.)

15 (35 ILCS 10/5-70)

16 Sec. 5-70. Annual report. On or before July 1 each year,  
17 the Committee shall submit a report to the Department on the  
18 tax credit program under this Act to the Governor and the  
19 General Assembly. The report shall include information on the  
20 number of Agreements that were entered into under this Act  
21 during the preceding calendar year, a description of the  
22 project that is the subject of each Agreement, an update on the  
23 status of projects under Agreements entered into before the  
24 preceding calendar year, and the sum of the Credits awarded  
25 under this Act. A copy of the report shall be delivered to the

1 Governor and to each member of the General Assembly.

2 The report must include, for each Agreement:

3 (1) the original estimates of the value of the Credit  
4 and the number of new jobs to be created;

5 (2) any relevant modifications to existing Agreements;

6 (3) a statement of the progress made by each Taxpayer  
7 in meeting the terms of the original Agreement;

8 (4) a statement of wages paid to New Employees and  
9 existing employees in the State;

10 (5) any information reported under Section 5-57 of this  
11 Act; and

12 (6) a copy of the original Agreement.

13 (Source: P.A. 91-476, eff. 8-11-99.)

14 (35 ILCS 10/5-77)

15 Sec. 5-77. Sunset of new Agreements. The Department shall  
16 not enter into any new Agreements under the provisions of  
17 Section 5-50 of this Act after April 30, 2022 ~~April 30, 2017~~.

18 (Source: P.A. 99-925, eff. 1-20-17.)

19 ARTICLE 15. FILM AND THEATER TAX CREDITS

20 Section 15-5. The Film Production Services Tax Credit Act  
21 of 2008 is amended by changing Sections 35 and 45 as follows:

22 (35 ILCS 16/35)

1           Sec. 35. Issuance of Tax Credit Certificate.

2           (a) In order to qualify for a tax credit under this Act, an  
3 applicant must file an application, on forms prescribed by the  
4 Department, providing information necessary to calculate the  
5 tax credit, and any additional information as required by the  
6 Department. As part of the application, the applicant must  
7 commit to supplying the Department with the following  
8 information, at a minimum:

9                 (1) an identification of each vendor that provides  
10                 goods or services that were included in the accredited  
11                 production's Illinois production spending;

12                 (2) the amount of Illinois production spending  
13                 attributable to each vendor; and

14                 (3) for each vendor identified under item (1), a  
15                 statement as to whether the vendor is a minority-owned  
16                 business or a female-owned business, as defined under  
17                 Section 2 of the Business Enterprise for Minorities,  
18                 Females, and Persons with Disabilities Act.

19           (b) Upon satisfactory review of the application, the  
20 Department shall issue a Tax Credit Certificate stating the  
21 amount of the tax credit to which the applicant is entitled.

22           (Source: P.A. 95-720, eff. 5-27-08.)

23           (35 ILCS 16/45)

24           Sec. 45. Evaluation of tax credit program; reports to the  
25 General Assembly.



1           (a) The Department shall evaluate the tax credit program.  
2 The evaluation must include an assessment of the effectiveness  
3 of the program in creating and retaining new jobs in Illinois  
4 and of the revenue impact of the program, and may include a  
5 review of the practices and experiences of other states or  
6 nations with similar programs. Upon completion of this  
7 evaluation, the Department shall determine the overall success  
8 of the program, and may make a recommendation to extend,  
9 modify, or not extend the program based on this evaluation.

10           (b) At the end of each fiscal quarter, the Department must  
11 submit to the General Assembly a report that includes, without  
12 limitation, the following information:

13                 (1) the economic impact of the tax credit program,  
14 including the number of jobs created and retained,  
15 including whether the job positions are entry level,  
16 management, talent-related, vendor-related, or  
17 production-related;

18                 (2) the amount of film production spending brought to  
19 Illinois, including the amount of spending and type of  
20 Illinois vendors hired in connection with an accredited  
21 production; and

22                 (3) an overall picture of whether the human  
23 infrastructure of the motion picture industry in Illinois  
24 reflects the geographical, racial and ethnic, gender, and  
25 income-level diversity of the State of Illinois.

26           (c) At the end of each fiscal year, the Department must

1 submit to the General Assembly a report that includes, without  
2 limitation, the following information:

3 (1) an identification of each vendor that provided  
4 goods or services that were included in an accredited  
5 production's Illinois production spending and a statement  
6 of whether the vendor is a minority-owned business or a  
7 female-owned business, as defined under Section 2 of the  
8 Business Enterprise for Minorities, Females, and Persons  
9 with Disabilities Act;

10 (2) the aggregate amount paid to all ~~each~~ identified  
11 vendors ~~vendor~~ by the accredited production;

12 (3) the aggregate amount paid to all identified vendors  
13 that are ~~for each identified vendor, a statement as to~~  
14 ~~whether the vendor is a~~ minority owned businesses ~~business~~  
15 ~~or a female owned~~ businesses ~~business~~, as defined under  
16 Section 2 of the Business Enterprise for Minorities,  
17 Females, and Persons with Disabilities Act; and

18 (4) a description of any steps taken by the Department  
19 to encourage accredited productions to use vendors who are  
20 a minority owned business or a female owned business.

21 (Source: P.A. 95-720, eff. 5-27-08.)

22 Section 15-10. The Live Theater Production Tax Credit Act  
23 is amended by changing Sections 10-40 and 10-50 as follows:

24 (35 ILCS 17/10-40)

1           Sec. 10-40. Issuance of Tax Credit Award Certificate.

2           (a) In order to qualify for a tax credit award under this  
3 Act, an applicant must file an application for each accredited  
4 theater production at each of the applicant's qualified  
5 production facilities, on forms prescribed by the Department,  
6 providing information necessary to calculate the tax credit  
7 award and any additional information as reasonably required by  
8 the Department. As part of the application, the applicant must  
9 commit to supplying the Department with the following  
10 information, at a minimum:

11           (1) an identification of each vendor that provides  
12 goods or services that were included in the accredited  
13 production's Illinois production spending;

14           (2) the amount of Illinois production spending  
15 attributable to each vendor; and

16           (3) for each vendor identified under item (1), a  
17 statement as to whether the vendor is a minority-owned  
18 business or a female-owned business, as defined under  
19 Section 2 of the Business Enterprise for Minorities,  
20 Females, and Persons with Disabilities Act.

21           (b) Upon satisfactory review of the application, the  
22 Department shall issue a tax credit award certificate stating  
23 the amount of the tax credit award to which the applicant is  
24 entitled for that tax year and shall contemporaneously notify  
25 the applicant and Illinois Department of Revenue in accordance  
26 with Section 222 of the Illinois Income Tax Act.

1 (Source: P.A. 97-636, eff. 6-1-12.)

2 (35 ILCS 17/10-50)

3 Sec. 10-50. Live theater tax credit award program  
4 evaluation and reports.

5 (a) The Department's live theater tax credit award  
6 evaluation must include:

7 (i) an assessment of the effectiveness of the program  
8 in creating and retaining new jobs in Illinois;

9 (ii) an assessment of the revenue impact of the  
10 program;

11 (iii) in the discretion of the Department, a review of  
12 the practices and experiences of other states or nations  
13 with similar programs; and

14 (iv) an assessment of the overall success of the  
15 program. The Department may make a recommendation to  
16 extend, modify, or not extend the program based on the  
17 evaluation.

18 (b) At the end of each fiscal quarter, the Department shall  
19 submit to the General Assembly a report that includes, without  
20 limitation:

21 (i) an assessment of the economic impact of the  
22 program, including the number of jobs created and retained,  
23 and whether the job positions are entry level, management,  
24 vendor, or production related;

25 (ii) the amount of accredited theater production

1 spending brought to Illinois, including the amount of  
2 spending and type of Illinois vendors hired in connection  
3 with an accredited theater production; and

4 (iii) a determination of whether those receiving  
5 qualifying Illinois labor expenditure salaries or wages  
6 reflect the geographical, racial and ethnic, gender, and  
7 income level diversity of the State of Illinois.

8 (c) At the end of each fiscal year, the Department shall  
9 submit to the General Assembly a report that includes, without  
10 limitation:

11 (i) the identification of each vendor that provided  
12 goods or services that were included in an accredited  
13 theater production's Illinois production spending and a  
14 statement of whether the vendor is a minority-owned  
15 business or a female-owned business, as defined under  
16 Section 2 of the Business Enterprise for Minorities,  
17 Females, and Persons with Disabilities Act;

18 (ii) a statement of (A) the aggregate amount paid to  
19 all ~~each~~ identified vendors ~~vendor~~ by the accredited  
20 theater production and (B) the aggregate amount paid to all  
21 identified vendors that are minority-owned businesses or  
22 female-owned businesses, as defined under Section 2 of the  
23 Business Enterprise for Minorities, Females, and Persons  
24 with Disabilities Act and whether the vendor is a minority  
25 or female owned business as defined in Section 2 of the  
26 Business Enterprise for Minorities, Females, and Persons

1 ~~with Disabilities Act;~~ and

2 (iii) a description of the steps taken by the  
3 Department to encourage accredited theater productions to  
4 use vendors who are minority or female owned businesses.

5 (Source: P.A. 97-636, eff. 6-1-12.)

6 ARTICLE 20. USE AND OCCUPATION TAXES

7 Section 20-5. The Use Tax Act is amended by changing  
8 Sections 2 and 3-5 as follows:

9 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

10 Sec. 2. Definitions.

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

1 he sells that tangible personal property. For watercraft or  
2 aircraft, if the period of demonstration use or interim use by  
3 the retailer exceeds 18 months, the retailer shall pay on the  
4 retailers' original cost price the tax imposed by this Act, and  
5 no credit for that tax is permitted if the watercraft or  
6 aircraft is subsequently sold by the retailer. "Use" does not  
7 mean the physical incorporation of tangible personal property,  
8 to the extent not first subjected to a use for which it was  
9 purchased, as an ingredient or constituent, into other tangible  
10 personal property (a) which is sold in the regular course of  
11 business or (b) which the person incorporating such ingredient  
12 or constituent therein has undertaken at the time of such  
13 purchase to cause to be transported in interstate commerce to  
14 destinations outside the State of Illinois: Provided that the  
15 property purchased is deemed to be purchased for the purpose of  
16 resale, despite first being used, to the extent to which it is  
17 resold as an ingredient of an intentionally produced product or  
18 by-product of manufacturing.

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

23 "Purchase at retail" means the acquisition of the ownership  
24 of or title to tangible personal property through a sale at  
25 retail.

26 "Purchaser" means anyone who, through a sale at retail,

1 acquires the ownership of tangible personal property for a  
2 valuable consideration.

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

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



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

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

18           "Selling price" means the consideration for a sale valued  
19 in money whether received in money or otherwise, including  
20 cash, credits, property other than as hereinafter provided, and  
21 services, but not including the value of or credit given for  
22 traded-in tangible personal property where the item that is  
23 traded-in is of like kind and character as that which is being  
24 sold, and shall be determined without any deduction on account  
25 of the cost of the property sold, the cost of materials used,  
26 labor or service cost or any other expense whatsoever, but does

1 not include interest or finance charges which appear as  
2 separate items on the bill of sale or sales contract nor  
3 charges that are added to prices by sellers on account of the  
4 seller's tax liability under the "Retailers' Occupation Tax  
5 Act", or on account of the seller's duty to collect, from the  
6 purchaser, the tax that is imposed by this Act, or, except as  
7 otherwise provided with respect to any cigarette tax imposed by  
8 a home rule unit, on account of the seller's tax liability  
9 under any local occupation tax administered by the Department,  
10 or, except as otherwise provided with respect to any cigarette  
11 tax imposed by a home rule unit on account of the seller's duty  
12 to collect, from the purchasers, the tax that is imposed under  
13 any local use tax administered by the Department. Effective  
14 December 1, 1985, "selling price" shall include charges that  
15 are added to prices by sellers on account of the seller's tax  
16 liability under the Cigarette Tax Act, on account of the  
17 seller's duty to collect, from the purchaser, the tax imposed  
18 under the Cigarette Use Tax Act, and on account of the seller's  
19 duty to collect, from the purchaser, any cigarette tax imposed  
20 by a home rule unit. Beginning January 1, 2018, "selling price"  
21 shall not include any shipping or delivery charges, which means  
22 any freight, express, mail, truck, or other carrier conveyance  
23 or delivery process.

24 Notwithstanding any law to the contrary, for any motor  
25 vehicle, as defined in Section 1-146 of the Vehicle Code, that  
26 is sold on or after January 1, 2015 for the purpose of leasing

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

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

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

25 The phrase "like kind and character" shall be liberally  
26 construed (including but not limited to any form of motor

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

7 "Department" means the Department of Revenue.

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

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

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 retailer hereunder with respect to such  
18 sales (and not primarily in a service occupation)  
19 notwithstanding the fact that such person designs and produces  
20 such tangible personal property on special order for the  
21 purchaser and in such a way as to render the property of value  
22 only to such purchaser, if such tangible personal property so  
23 produced on special order serves substantially the same  
24 function as stock or standard items of tangible personal  
25 property that are sold at retail.

26 A person whose activities are organized and conducted

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

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

26 Persons who engage in the business of transferring tangible

1 personal property upon the redemption of trading stamps are  
2 retailers hereunder when engaged in such business.

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



1 "Retailer maintaining a place of business in this State",  
2 or any like term, means and includes any of the following  
3 retailers:

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

21 1.1. A retailer having a contract with a person located  
22 in this State under which the person, for a commission or  
23 other consideration based upon the sale of tangible  
24 personal property by the retailer, directly or indirectly  
25 refers potential customers to the retailer by providing to  
26 the potential customers a promotional code or other

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

22 1.2. Beginning July 1, 2011, a retailer having a  
23 contract with a person located in this State under which:

24 A. the retailer sells the same or substantially  
25 similar line of products as the person located in this  
26 State and does so using an identical or substantially

1 similar name, trade name, or trademark as the person  
2 located in this State; and

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

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

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

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

25 4. A retailer soliciting orders for tangible personal  
26 property by mail if the solicitations are substantial and

1 recurring and if the retailer benefits from any banking,  
2 financing, debt collection, telecommunication, or  
3 marketing activities occurring in this State or benefits  
4 from the location in this State of authorized installation,  
5 servicing, or repair facilities.

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

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

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

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

22 "Bulk vending machine" means a vending machine, containing  
23 unsorted confections, nuts, toys, or other items designed  
24 primarily to be used or played with by children which, when a  
25 coin or coins of a denomination not larger than \$0.50 are  
26 inserted, are dispensed in equal portions, at random and

1 without selection by the customer.

2 (Source: P.A. 98-628, eff. 1-1-15; 98-1080, eff. 8-26-14;  
3 98-1089, eff. 1-1-15; 99-78, eff. 7-20-15.)

4 (35 ILCS 105/3-5)

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

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

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

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

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

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

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

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

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

8 (7) Farm chemicals.

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

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

16 (10) A motor vehicle that is used for automobile renting,  
17 as defined in the Automobile Renting Occupation and Use Tax  
18 Act.

19 (11) Farm machinery and equipment, both new and used,  
20 including that manufactured on special order, certified by the  
21 purchaser to be used primarily for production agriculture or  
22 State or federal agricultural programs, including individual  
23 replacement parts for the machinery and equipment, including  
24 machinery and equipment purchased for lease, and including  
25 implements of husbandry defined in Section 1-130 of the  
26 Illinois Vehicle Code, farm machinery and agricultural

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

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

20 Farm machinery and equipment also includes computers,  
21 sensors, software, and related equipment used primarily in the  
22 computer-assisted operation of production agriculture  
23 facilities, equipment, and activities such as, but not limited  
24 to, the collection, monitoring, and correlation of animal and  
25 crop data for the purpose of formulating animal diets and  
26 agricultural chemicals. This item (11) is exempt from the



1 provisions of Section 3-90.

2 (12) Until June 30, 2013, fuel and petroleum products sold  
3 to or used by an air common carrier, certified by the carrier  
4 to be used for consumption, shipment, or storage in the conduct  
5 of its business as an air common carrier, for a flight destined  
6 for or returning from a location or locations outside the  
7 United States without regard to previous or subsequent domestic  
8 stopovers.

9 Beginning July 1, 2013, fuel and petroleum products sold to  
10 or used by an air carrier, certified by the carrier to be used  
11 for consumption, shipment, or storage in the conduct of its  
12 business as an air common carrier, for a flight that (i) is  
13 engaged in foreign trade or is engaged in trade between the  
14 United States and any of its possessions and (ii) transports at  
15 least one individual or package for hire from the city of  
16 origination to the city of final destination on the same  
17 aircraft, without regard to a change in the flight number of  
18 that aircraft.

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

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

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

15           (16) Until December 31, 2022, coal ~~Coal~~ and aggregate  
16 exploration, mining, off-highway hauling, processing,  
17 maintenance, and reclamation equipment, including replacement  
18 parts and equipment, and including equipment purchased for  
19 lease, but excluding motor vehicles required to be registered  
20 under the Illinois Vehicle Code. The changes made to this  
21 Section by Public Act 97-767 apply on and after July 1, 2003,  
22 but no claim for credit or refund is allowed on or after August  
23 16, 2013 (the effective date of Public Act 98-456) for such  
24 taxes paid during the period beginning July 1, 2003 and ending  
25 on August 16, 2013 (the effective date of Public Act 98-456).

26           (17) Until July 1, 2003, distillation machinery and

1 equipment, sold as a unit or kit, assembled or installed by the  
2 retailer, 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 the user, and not subject to sale or resale.

6 (18) Manufacturing and assembling machinery and equipment  
7 used primarily in the process of manufacturing or assembling  
8 tangible personal property for wholesale or retail sale or  
9 lease, whether that sale or lease is made directly by the  
10 manufacturer or by some other person, whether the materials  
11 used in the process are owned by the manufacturer or some other  
12 person, or whether that sale or lease is made apart from or as  
13 an incident to the seller's engaging in the service occupation  
14 of producing machines, tools, dies, jigs, patterns, gauges, or  
15 other similar items of no commercial value on special order for  
16 a particular purchaser. The exemption provided by this  
17 paragraph (18) does not include machinery and equipment used in  
18 (i) the generation of electricity for wholesale or retail sale;  
19 (ii) the generation or treatment of natural or artificial gas  
20 for wholesale or retail sale that is delivered to customers  
21 through pipes, pipelines, or mains; or (iii) the treatment of  
22 water for wholesale or retail sale that is delivered to  
23 customers through pipes, pipelines, or mains. The provisions of  
24 Public Act 98-583 are declaratory of existing law as to the  
25 meaning and scope of this exemption.

26 (19) Personal property delivered to a purchaser or

1 purchaser's donee inside Illinois when the purchase order for  
2 that personal property was received by a florist located  
3 outside Illinois who has a florist located inside Illinois  
4 deliver the personal property.

5 (20) Semen used for artificial insemination of livestock  
6 for direct agricultural production.

7 (21) Horses, or interests in horses, registered with and  
8 meeting the requirements of any of the Arabian Horse Club  
9 Registry of America, Appaloosa Horse Club, American Quarter  
10 Horse Association, United States Trotting Association, or  
11 Jockey Club, as appropriate, used for purposes of breeding or  
12 racing for prizes. This item (21) is exempt from the provisions  
13 of Section 3-90, and the exemption provided for under this item  
14 (21) applies for all periods beginning May 30, 1995, but no  
15 claim for credit or refund is allowed on or after January 1,  
16 2008 for such taxes paid during the period beginning May 30,  
17 2000 and ending on January 1, 2008.

18 (22) Computers and communications equipment utilized for  
19 any hospital purpose and equipment used in the diagnosis,  
20 analysis, or treatment of hospital patients purchased by a  
21 lessor who leases the equipment, under a lease of one year or  
22 longer executed or in effect at the time the lessor would  
23 otherwise be subject to the tax imposed by this Act, to a  
24 hospital that has been issued an active tax exemption  
25 identification number by the Department under Section 1g of the  
26 Retailers' Occupation Tax Act. If the equipment is leased in a

1 manner that does not qualify for this exemption or is used in  
2 any other non-exempt manner, the lessor shall be liable for the  
3 tax imposed under this Act or the Service Use Tax Act, as the  
4 case may be, based on the fair market value of the property at  
5 the time the non-qualifying use occurs. No lessor shall collect  
6 or attempt to collect an amount (however designated) that  
7 purports to reimburse that lessor for the tax imposed by this  
8 Act or the Service Use Tax Act, as the case may be, if the tax  
9 has not been paid by the lessor. If a lessor improperly  
10 collects any such amount from the lessee, the lessee shall have  
11 a legal right to claim a refund of that amount from the lessor.  
12 If, however, that amount is not refunded to the lessee for any  
13 reason, the lessor is liable to pay that amount to the  
14 Department.

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

1 to collect an amount (however designated) that purports to  
2 reimburse that lessor for the tax imposed by this Act or the  
3 Service Use Tax Act, as the case may be, if the tax has not been  
4 paid by the lessor. If a lessor improperly collects any such  
5 amount from the lessee, the lessee shall have a legal right to  
6 claim a refund of that amount from the lessor. If, however,  
7 that amount is not refunded to the lessee for any reason, the  
8 lessor is liable to pay that amount to the Department.

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

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

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

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

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

1           (28) Beginning January 1, 2000, personal property,  
2 including food, purchased through fundraising events for the  
3 benefit of a public or private elementary or secondary school,  
4 a group of those schools, or one or more school districts if  
5 the events are sponsored by an entity recognized by the school  
6 district that consists primarily of volunteers and includes  
7 parents and teachers of the school children. This paragraph  
8 does not apply to fundraising events (i) for the benefit of  
9 private home instruction or (ii) for which the fundraising  
10 entity purchases the personal property sold at the events from  
11 another individual or entity that sold the property for the  
12 purpose of resale by the fundraising entity and that profits  
13 from the sale to the fundraising entity. This paragraph is  
14 exempt from the provisions of Section 3-90.

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

25           (30) Beginning January 1, 2001 and through June 30, 2016,  
26 food for human consumption that is to be consumed off the



1 premises where it is sold (other than alcoholic beverages, soft  
2 drinks, and food that has been prepared for immediate  
3 consumption) and prescription and nonprescription medicines,  
4 drugs, medical appliances, and insulin, urine testing  
5 materials, syringes, and needles used by diabetics, for human  
6 use, when purchased for use by a person receiving medical  
7 assistance under Article V of the Illinois Public Aid Code who  
8 resides in a licensed long-term care facility, as defined in  
9 the Nursing Home Care Act, or in a licensed facility as defined  
10 in the ID/DD Community Care Act, the MC/DD Act, or the  
11 Specialized Mental Health Rehabilitation Act of 2013.

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

1 or attempt to collect an amount (however designated) that  
2 purports to reimburse that lessor for the tax imposed by this  
3 Act or the Service Use Tax Act, as the case may be, if the tax  
4 has not been paid by the lessor. If a lessor improperly  
5 collects any such amount from the lessee, the lessee shall have  
6 a legal right to claim a refund of that amount from the lessor.  
7 If, however, that amount is not refunded to the lessee for any  
8 reason, the lessor is liable to pay that amount to the  
9 Department. This paragraph is exempt from the provisions of  
10 Section 3-90.

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

1 case may be, if the tax has not been paid by the lessor. If a  
2 lessor improperly collects any such amount from the lessee, the  
3 lessee shall have a legal right to claim a refund of that  
4 amount from the lessor. If, however, that amount is not  
5 refunded to the lessee for any reason, the lessor is liable to  
6 pay that amount to the Department. This paragraph is exempt  
7 from the provisions of Section 3-90.

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

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

8           (35) Beginning January 1, 2010, materials, parts,  
9 equipment, components, and furnishings incorporated into or  
10 upon an aircraft as part of the modification, refurbishment,  
11 completion, replacement, repair, or maintenance of the  
12 aircraft. This exemption includes consumable supplies used in  
13 the modification, refurbishment, completion, replacement,  
14 repair, and maintenance of aircraft, but excludes any  
15 materials, parts, equipment, components, and consumable  
16 supplies used in the modification, replacement, repair, and  
17 maintenance of aircraft engines or power plants, whether such  
18 engines or power plants are installed or uninstalled upon any  
19 such aircraft. "Consumable supplies" include, but are not  
20 limited to, adhesive, tape, sandpaper, general purpose  
21 lubricants, cleaning solution, latex gloves, and protective  
22 films. This exemption applies only to the use of qualifying  
23 tangible personal property by persons who modify, refurbish,  
24 complete, repair, replace, or maintain aircraft and who (i)  
25 hold an Air Agency Certificate and are empowered to operate an  
26 approved repair station by the Federal Aviation

1 Administration, (ii) have a Class IV Rating, and (iii) conduct  
2 operations in accordance with Part 145 of the Federal Aviation  
3 Regulations. The exemption does not include aircraft operated  
4 by a commercial air carrier providing scheduled passenger air  
5 service pursuant to authority issued under Part 121 or Part 129  
6 of the Federal Aviation Regulations. The changes made to this  
7 paragraph (35) by Public Act 98-534 are declarative of existing  
8 law.

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

23 (37) Beginning January 1, 2017, menstrual pads, tampons,  
24 and menstrual cups.

25 (Source: P.A. 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;  
26 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-574, eff.

1 1-1-14; 98-583, eff. 1-1-14; 98-756, eff. 7-16-14; 99-180, eff.  
2 7-29-15; 99-855, eff. 8-19-16.)

3 Section 20-10. The Service Use Tax Act is amended by  
4 changing Sections 2 and 3-5 as follows:

5 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

6 Sec. 2. Definitions.

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

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

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

1 personal property.

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

14 "Selling price" means the consideration for a sale valued  
15 in money whether received in money or otherwise, including  
16 cash, credits and service, and shall be determined without any  
17 deduction on account of the serviceman's cost of the property  
18 sold, the cost of materials used, labor or service cost or any  
19 other expense whatsoever, but does not include interest or  
20 finance charges which appear as separate items on the bill of  
21 sale or sales contract nor charges that are added to prices by  
22 sellers on account of the seller's duty to collect, from the  
23 purchaser, the tax that is imposed by this Act. Beginning  
24 January 1, 2018, "selling price" shall not include any shipping  
25 or delivery charges, which means any freight, express, mail,  
26 truck, or other carrier conveyance or delivery process.

1 "Department" means the Department of Revenue.

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

7 "Sale of service" means any transaction except:

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

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

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



1 operated exclusively for educational purposes.

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

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

24 (4a-5) on and after July 1, 2003 and through June 30,  
25 2004, a sale or transfer of a motor vehicle of the second  
26 division with a gross vehicle weight in excess of 8,000

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17           (35 ILCS 110/3-5)

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

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

1 purpose of resale by the enterprise.

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

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

20 (4) Legal tender, currency, medallions, or gold or silver  
21 coinage issued by the State of Illinois, the government of the  
22 United States of America, or the government of any foreign  
23 country, and bullion.

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

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

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

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

1 vehicle required to be licensed if the selling price of the  
2 tender is separately stated.

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

11 Farm machinery and equipment also includes computers,  
12 sensors, software, and related equipment used primarily in the  
13 computer-assisted operation of production agriculture  
14 facilities, equipment, and activities such as, but not limited  
15 to, the collection, monitoring, and correlation of animal and  
16 crop data for the purpose of formulating animal diets and  
17 agricultural chemicals. This item (7) is exempt from the  
18 provisions of Section 3-75.

19 (8) Until June 30, 2013, fuel and petroleum products sold  
20 to or used by an air common carrier, certified by the carrier  
21 to be used for consumption, shipment, or storage in the conduct  
22 of its business as an air common carrier, for a flight destined  
23 for or returning from a location or locations outside the  
24 United States without regard to previous or subsequent domestic  
25 stopovers.

26 Beginning July 1, 2013, fuel and petroleum products sold to

1 or used by an air carrier, certified by the carrier to be used  
2 for consumption, shipment, or storage in the conduct of its  
3 business as an air common carrier, for a flight that (i) is  
4 engaged in foreign trade or is engaged in trade between the  
5 United States and any of its possessions and (ii) transports at  
6 least one individual or package for hire from the city of  
7 origination to the city of final destination on the same  
8 aircraft, without regard to a change in the flight number of  
9 that aircraft.

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

19 (10) Until July 1, 2003, oil field exploration, drilling,  
20 and production equipment, including (i) rigs and parts of rigs,  
21 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
22 tubular goods, including casing and drill strings, (iii) pumps  
23 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
24 individual replacement part for oil field exploration,  
25 drilling, and production equipment, and (vi) machinery and  
26 equipment purchased for lease; but excluding motor vehicles



1 required to be registered under the Illinois Vehicle Code.

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

8 (12) Until December 31, 2022, coal ~~Coal~~ and aggregate  
9 exploration, mining, off-highway hauling, processing,  
10 maintenance, and reclamation equipment, including replacement  
11 parts and equipment, and including equipment purchased for  
12 lease, but excluding motor vehicles required to be registered  
13 under the Illinois Vehicle Code. The changes made to this  
14 Section by Public Act 97-767 apply on and after July 1, 2003,  
15 but no claim for credit or refund is allowed on or after August  
16 16, 2013 (the effective date of Public Act 98-456) for such  
17 taxes paid during the period beginning July 1, 2003 and ending  
18 on August 16, 2013 (the effective date of Public Act 98-456).

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

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

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

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

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

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

24 (17) Beginning with taxable years ending on or after  
25 December 31, 1995 and ending with taxable years ending on or  
26 before December 31, 2004, personal property that is donated for

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

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

20 (19) Beginning July 1, 1999, game or game birds purchased  
21 at a "game breeding and hunting preserve area" as that term is  
22 used in the Wildlife Code. This paragraph is exempt from the  
23 provisions of Section 3-75.

24 (20) A motor vehicle, as that term is defined in Section  
25 1-146 of the Illinois Vehicle Code, that is donated to a  
26 corporation, limited liability company, society, association,

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

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

1 purpose of resale by the fundraising entity and that profits  
2 from the sale to the fundraising entity. This paragraph is  
3 exempt from the provisions of Section 3-75.

4 (22) Beginning January 1, 2000 and through December 31,  
5 2001, new or used automatic vending machines that prepare and  
6 serve hot food and beverages, including coffee, soup, and other  
7 items, and replacement parts for these machines. Beginning  
8 January 1, 2002 and through June 30, 2003, machines and parts  
9 for machines used in commercial, coin-operated amusement and  
10 vending business if a use or occupation tax is paid on the  
11 gross receipts derived from the use of the commercial,  
12 coin-operated amusement and vending machines. This paragraph  
13 is exempt from the provisions of Section 3-75.

14 (23) Beginning August 23, 2001 and through June 30, 2016,  
15 food for human consumption that is to be consumed off the  
16 premises where it is sold (other than alcoholic beverages, soft  
17 drinks, and food that has been prepared for immediate  
18 consumption) and prescription and nonprescription medicines,  
19 drugs, medical appliances, and insulin, urine testing  
20 materials, syringes, and needles used by diabetics, for human  
21 use, when purchased for use by a person receiving medical  
22 assistance under Article V of the Illinois Public Aid Code who  
23 resides in a licensed long-term care facility, as defined in  
24 the Nursing Home Care Act, or in a licensed facility as defined  
25 in the ID/DD Community Care Act, the MC/DD Act, or the  
26 Specialized Mental Health Rehabilitation Act of 2013.

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

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

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

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



1 exempt from the provisions of Section 3-75.

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

1 of the Federal Aviation Regulations. The changes made to this  
2 paragraph (27) by Public Act 98-534 are declarative of existing  
3 law.

4 (28) Tangible personal property purchased by a  
5 public-facilities corporation, as described in Section  
6 11-65-10 of the Illinois Municipal Code, for purposes of  
7 constructing or furnishing a municipal convention hall, but  
8 only if the legal title to the municipal convention hall is  
9 transferred to the municipality without any further  
10 consideration by or on behalf of the municipality at the time  
11 of the completion of the municipal convention hall or upon the  
12 retirement or redemption of any bonds or other debt instruments  
13 issued by the public-facilities corporation in connection with  
14 the development of the municipal convention hall. This  
15 exemption includes existing public-facilities corporations as  
16 provided in Section 11-65-25 of the Illinois Municipal Code.  
17 This paragraph is exempt from the provisions of Section 3-75.

18 (29) Beginning January 1, 2017, menstrual pads, tampons,  
19 and menstrual cups.

20 (Source: P.A. 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;  
21 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-756, eff.  
22 7-16-14; 99-180, eff. 7-29-15; 99-855, eff. 8-19-16.)

23 Section 20-15. The Service Occupation Tax Act is amended by  
24 changing Section 3-5 as follows:

1 (35 ILCS 115/3-5)

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

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

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

14 (3) Personal property purchased by any not-for-profit arts  
15 or cultural organization that establishes, by proof required by  
16 the Department by rule, that it has received an exemption under  
17 Section 501(c)(3) of the Internal Revenue Code and that is  
18 organized and operated primarily for the presentation or  
19 support of arts or cultural programming, activities, or  
20 services. These organizations include, but are not limited to,  
21 music and dramatic arts organizations such as symphony  
22 orchestras and theatrical groups, arts and cultural service  
23 organizations, local arts councils, visual arts organizations,  
24 and media arts organizations. On and after the effective date  
25 of this amendatory Act of the 92nd General Assembly, however,  
26 an entity otherwise eligible for this exemption shall not make

1 tax-free purchases unless it has an active identification  
2 number issued by the Department.

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

7 (5) Until July 1, 2003 and beginning again on September 1,  
8 2004 through August 30, 2014, graphic arts machinery and  
9 equipment, including repair and replacement parts, both new and  
10 used, and including that manufactured on special order or  
11 purchased for lease, certified by the purchaser to be used  
12 primarily for graphic arts production. Equipment includes  
13 chemicals or chemicals acting as catalysts but only if the  
14 chemicals or chemicals acting as catalysts effect a direct and  
15 immediate change upon a graphic arts product.

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

19 (7) Farm machinery and equipment, both new and used,  
20 including that manufactured on special order, certified by the  
21 purchaser to be used primarily for production agriculture or  
22 State or federal agricultural programs, including individual  
23 replacement parts for the machinery and equipment, including  
24 machinery and equipment purchased for lease, and including  
25 implements of husbandry defined in Section 1-130 of the  
26 Illinois Vehicle Code, farm machinery and agricultural

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

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

20 Farm machinery and equipment also includes computers,  
21 sensors, software, and related equipment used primarily in the  
22 computer-assisted operation of production agriculture  
23 facilities, equipment, and activities such as, but not limited  
24 to, the collection, monitoring, and correlation of animal and  
25 crop data for the purpose of formulating animal diets and  
26 agricultural chemicals. This item (7) is exempt from the

1 provisions of Section 3-55.

2 (8) Until June 30, 2013, fuel and petroleum products sold  
3 to or used by an air common carrier, certified by the carrier  
4 to be used for consumption, shipment, or storage in the conduct  
5 of its business as an air common carrier, for a flight destined  
6 for or returning from a location or locations outside the  
7 United States without regard to previous or subsequent domestic  
8 stopovers.

9 Beginning July 1, 2013, fuel and petroleum products sold to  
10 or used by an air carrier, certified by the carrier to be used  
11 for consumption, shipment, or storage in the conduct of its  
12 business as an air common carrier, for a flight that (i) is  
13 engaged in foreign trade or is engaged in trade between the  
14 United States and any of its possessions and (ii) transports at  
15 least one individual or package for hire from the city of  
16 origination to the city of final destination on the same  
17 aircraft, without regard to a change in the flight number of  
18 that aircraft.

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

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

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

15 (12) Until December 31, 2022, coal ~~Coal~~ and aggregate  
16 exploration, mining, off-highway hauling, processing,  
17 maintenance, and reclamation equipment, including replacement  
18 parts and equipment, and including equipment purchased for  
19 lease, but excluding motor vehicles required to be registered  
20 under the Illinois Vehicle Code. The changes made to this  
21 Section by Public Act 97-767 apply on and after July 1, 2003,  
22 but no claim for credit or refund is allowed on or after August  
23 16, 2013 (the effective date of Public Act 98-456) for such  
24 taxes paid during the period beginning July 1, 2003 and ending  
25 on August 16, 2013 (the effective date of Public Act 98-456).

26 (13) Beginning January 1, 1992 and through June 30, 2016,

1 food for human consumption that is to be consumed off the  
2 premises where it is sold (other than alcoholic beverages, soft  
3 drinks and food that has been prepared for immediate  
4 consumption) and prescription and non-prescription medicines,  
5 drugs, medical appliances, and insulin, urine testing  
6 materials, syringes, and needles used by diabetics, for human  
7 use, when purchased for use by a person receiving medical  
8 assistance under Article V of the Illinois Public Aid Code who  
9 resides in a licensed long-term care facility, as defined in  
10 the Nursing Home Care Act, or in a licensed facility as defined  
11 in the ID/DD Community Care Act, the MC/DD Act, or the  
12 Specialized Mental Health Rehabilitation Act of 2013.

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

15 (15) Horses, or interests in horses, registered with and  
16 meeting the requirements of any of the Arabian Horse Club  
17 Registry of America, Appaloosa Horse Club, American Quarter  
18 Horse Association, United States Trotting Association, or  
19 Jockey Club, as appropriate, used for purposes of breeding or  
20 racing for prizes. This item (15) is exempt from the provisions  
21 of Section 3-55, and the exemption provided for under this item  
22 (15) applies for all periods beginning May 30, 1995, but no  
23 claim for credit or refund is allowed on or after January 1,  
24 2008 (the effective date of Public Act 95-88) for such taxes  
25 paid during the period beginning May 30, 2000 and ending on  
26 January 1, 2008 (the effective date of Public Act 95-88).



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

9           (17) Personal property sold to a lessor who leases the  
10 property, under a lease of one year or longer executed or in  
11 effect at the time of the purchase, to a governmental body that  
12 has been issued an active tax exemption identification number  
13 by the Department under Section 1g of the Retailers' Occupation  
14 Tax Act.

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

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

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

11 (20) Beginning July 1, 1999, game or game birds sold at a  
12 "game breeding and hunting preserve area" as that term is used  
13 in the Wildlife Code. This paragraph is exempt from the  
14 provisions of Section 3-55.

15 (21) A motor vehicle, as that term is defined in Section  
16 1-146 of the Illinois Vehicle Code, that is donated to a  
17 corporation, limited liability company, society, association,  
18 foundation, or institution that is determined by the Department  
19 to be organized and operated exclusively for educational  
20 purposes. For purposes of this exemption, "a corporation,  
21 limited liability company, society, association, foundation,  
22 or institution organized and operated exclusively for  
23 educational purposes" means all tax-supported public schools,  
24 private schools that offer systematic instruction in useful  
25 branches of learning by methods common to public schools and  
26 that compare favorably in their scope and intensity with the

1 course of study presented in tax-supported schools, and  
2 vocational or technical schools or institutes organized and  
3 operated exclusively to provide a course of study of not less  
4 than 6 weeks duration and designed to prepare individuals to  
5 follow a trade or to pursue a manual, technical, mechanical,  
6 industrial, business, or commercial occupation.

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

21 (23) Beginning January 1, 2000 and through December 31,  
22 2001, new or used automatic vending machines that prepare and  
23 serve hot food and beverages, including coffee, soup, and other  
24 items, and replacement parts for these machines. Beginning  
25 January 1, 2002 and through June 30, 2003, machines and parts  
26 for machines used in commercial, coin-operated amusement and

1 vending business if a use or occupation tax is paid on the  
2 gross receipts derived from the use of the commercial,  
3 coin-operated amusement and vending machines. This paragraph  
4 is exempt from the provisions of Section 3-55.

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

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

23 (26) Beginning on January 1, 2002 and through June 30,  
24 2016, tangible personal property purchased from an Illinois  
25 retailer by a taxpayer engaged in centralized purchasing  
26 activities in Illinois who will, upon receipt of the property

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

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

1           (28)     Tangible     personal     property     sold     to     a  
2     public-facilities     corporation,     as     described     in     Section  
3     11-65-10     of     the     Illinois     Municipal     Code,     for     purposes     of  
4     constructing     or     furnishing     a     municipal     convention     hall,     but  
5     only     if     the     legal     title     to     the     municipal     convention     hall     is  
6     transferred     to     the     municipality     without     any     further  
7     consideration     by     or     on     behalf     of     the     municipality     at     the     time  
8     of     the     completion     of     the     municipal     convention     hall     or     upon     the  
9     retirement     or     redemption     of     any     bonds     or     other     debt     instruments  
10     issued     by     the     public-facilities     corporation     in     connection     with  
11     the     development     of     the     municipal     convention     hall.     This  
12     exemption     includes     existing     public-facilities     corporations     as  
13     provided     in     Section     11-65-25     of     the     Illinois     Municipal     Code.  
14     This     paragraph     is     exempt     from     the     provisions     of     Section     3-55.

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

1 limited to, adhesive, tape, sandpaper, general purpose  
2 lubricants, cleaning solution, latex gloves, and protective  
3 films. This exemption applies only to the transfer of  
4 qualifying tangible personal property incident to the  
5 modification, refurbishment, completion, replacement, repair,  
6 or maintenance of an aircraft by persons who (i) hold an Air  
7 Agency Certificate and are empowered to operate an approved  
8 repair station by the Federal Aviation Administration, (ii)  
9 have a Class IV Rating, and (iii) conduct operations in  
10 accordance with Part 145 of the Federal Aviation Regulations.  
11 The exemption does not include aircraft operated by a  
12 commercial air carrier providing scheduled passenger air  
13 service pursuant to authority issued under Part 121 or Part 129  
14 of the Federal Aviation Regulations. The changes made to this  
15 paragraph (29) by Public Act 98-534 are declarative of existing  
16 law.

17 (30) Beginning January 1, 2017, menstrual pads, tampons,  
18 and menstrual cups.

19 (Source: P.A. 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;  
20 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-756, eff.  
21 7-16-14; 99-180, eff. 7-29-15; 99-855, eff. 8-19-16.)

22 Section 20-20. The Retailers' Occupation Tax Act is amended  
23 by changing Sections 1, 2-5, and 2a as follows:

24 (35 ILCS 120/1) (from Ch. 120, par. 440)

1           Sec. 1. Definitions. "Sale at retail" means any transfer of  
2 the ownership of or title to tangible personal property to a  
3 purchaser, for the purpose of use or consumption, and not for  
4 the purpose of resale in any form as tangible personal property  
5 to the extent not first subjected to a use for which it was  
6 purchased, for a valuable consideration: Provided that the  
7 property purchased is deemed to be purchased for the purpose of  
8 resale, despite first being used, to the extent to which it is  
9 resold as an ingredient of an intentionally produced product or  
10 byproduct of manufacturing. For this purpose, slag produced as  
11 an incident to manufacturing pig iron or steel and sold is  
12 considered to be an intentionally produced byproduct of  
13 manufacturing. Transactions whereby the possession of the  
14 property is transferred but the seller retains the title as  
15 security for payment of the selling price shall be deemed to be  
16 sales.

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

25           Sales of tangible personal property, which property, to the  
26 extent not first subjected to a use for which it was purchased,



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

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

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

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

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

26           A person who is the recipient of a grant or contract under

1 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
2 serves meals to participants in the federal Nutrition Program  
3 for the Elderly in return for contributions established in  
4 amount by the individual participant pursuant to a schedule of  
5 suggested fees as provided for in the federal Act is not  
6 engaged in the business of selling tangible personal property  
7 at retail with respect to such transactions.

8 "Purchaser" means anyone who, through a sale at retail,  
9 acquires the ownership of or title to tangible personal  
10 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 consumption.  
14 No person shall act as a reseller of motor fuel within this  
15 State without first being registered as a reseller pursuant to  
16 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 not including  
21 the value of or credit given for traded-in tangible personal  
22 property where the item that is traded-in is of like kind and  
23 character as that which is being sold, and shall be determined  
24 without any deduction on account of the cost of the property  
25 sold, the cost of materials used, labor or service cost or any  
26 other expense whatsoever, but does not include charges that are

1 added to prices by sellers on account of the seller's tax  
2 liability under this Act, or on account of the seller's duty to  
3 collect, from the purchaser, the tax that is imposed by the Use  
4 Tax Act, or, except as otherwise provided with respect to any  
5 cigarette tax imposed by a home rule unit, on account of the  
6 seller's tax liability under any local occupation tax  
7 administered by the Department, or, except as otherwise  
8 provided with respect to any cigarette tax imposed by a home  
9 rule unit on account of the seller's duty to collect, from the  
10 purchasers, the tax that is imposed under any local use tax  
11 administered by the Department. Effective December 1, 1985,  
12 "selling price" shall include charges that are added to prices  
13 by sellers on account of the seller's tax liability under the  
14 Cigarette Tax Act, on account of the sellers' duty to collect,  
15 from the purchaser, the tax imposed under the Cigarette Use Tax  
16 Act, and on account of the seller's duty to collect, from the  
17 purchaser, any cigarette tax imposed by a home rule unit.  
18 Beginning January 1, 2018, "selling price" shall not include  
19 any shipping or delivery charges, which means any freight,  
20 express, mail, truck, or other carrier conveyance or delivery  
21 process.

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

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

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

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

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

1 which, if sold at retail by that retailer, would be exempt from  
2 retailers' occupation tax and use tax as an isolated or  
3 occasional sale.

4 "Gross receipts" from the sales of tangible personal  
5 property at retail means the total selling price or the amount  
6 of such sales, as hereinbefore defined. In the case of charge  
7 and time sales, the amount thereof shall be included only as  
8 and when payments are received by the seller. Receipts or other  
9 consideration derived by a seller from the sale, transfer or  
10 assignment of accounts receivable to a wholly owned subsidiary  
11 will not be deemed payments prior to the time the purchaser  
12 makes payment on such accounts.

13 "Department" means the Department of Revenue.

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

19 The isolated or occasional sale of tangible personal  
20 property at retail by a person who does not hold himself out as  
21 being engaged (or who does not habitually engage) in selling  
22 such tangible personal property at retail, or a sale through a  
23 bulk vending machine, does not constitute engaging in a  
24 business of selling such tangible personal property at retail  
25 within the meaning of this Act; provided that any person who is  
26 engaged in a business which is not subject to the tax imposed



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

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

13          Persons who engage in the business of transferring tangible  
14          personal property upon the redemption of trading stamps are  
15          engaged in the business of selling such property at retail and  
16          shall be liable for and shall pay the tax imposed by this Act  
17          on the basis of the retail value of the property transferred  
18          upon redemption of such stamps.

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

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

1 (35 ILCS 120/2-5)

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

5 (1) Farm chemicals.

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

25 Farm machinery and equipment shall include precision  
26 farming equipment that is installed or purchased to be

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

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

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

21 (4) Until July 1, 2003 and beginning again September 1,  
22 2004 through August 30, 2014, graphic arts machinery and  
23 equipment, including repair and replacement parts, both new and  
24 used, and including that manufactured on special order or  
25 purchased for lease, certified by the purchaser to be used  
26 primarily for graphic arts production. Equipment includes

1 chemicals or chemicals acting as catalysts but only if the  
2 chemicals or chemicals acting as catalysts effect a direct and  
3 immediate change upon a graphic arts product.

4 (5) A motor vehicle that is used for automobile renting, as  
5 defined in the Automobile Renting Occupation and Use Tax Act.  
6 This paragraph is exempt from the provisions of Section 2-70.

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

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

13 (8) Personal property sold to an Illinois county fair  
14 association for use in conducting, operating, or promoting the  
15 county fair.

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

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

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

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

26 (12) Tangible personal property sold to interstate

1 carriers for hire for use as rolling stock moving in interstate  
2 commerce or to lessors under leases of one year or longer  
3 executed or in effect at the time of purchase by interstate  
4 carriers for hire for use as rolling stock moving in interstate  
5 commerce and equipment operated by a telecommunications  
6 provider, licensed as a common carrier by the Federal  
7 Communications Commission, which is permanently installed in  
8 or affixed to aircraft moving in interstate commerce.

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

1           (13) Proceeds from sales to owners, lessors, or shippers of  
2 tangible personal property that is utilized by interstate  
3 carriers for hire for use as rolling stock moving in interstate  
4 commerce and equipment operated by a telecommunications  
5 provider, licensed as a common carrier by the Federal  
6 Communications Commission, which is permanently installed in  
7 or affixed to aircraft moving in interstate commerce.

8           (14) Machinery and equipment that will be used by the  
9 purchaser, or a lessee of the purchaser, primarily in the  
10 process of manufacturing or assembling tangible personal  
11 property for wholesale or retail sale or lease, whether the  
12 sale or lease is made directly by the manufacturer or by some  
13 other person, whether the materials used in the process are  
14 owned by the manufacturer or some other person, or whether the  
15 sale or lease is made apart from or as an incident to the  
16 seller's engaging in the service occupation of producing  
17 machines, tools, dies, jigs, patterns, gauges, or other similar  
18 items of no commercial value on special order for a particular  
19 purchaser. The exemption provided by this paragraph (14) does  
20 not include machinery and equipment used in (i) the generation  
21 of electricity for wholesale or retail sale; (ii) the  
22 generation or treatment of natural or artificial gas for  
23 wholesale or retail sale that is delivered to customers through  
24 pipes, pipelines, or mains; or (iii) the treatment of water for  
25 wholesale or retail sale that is delivered to customers through  
26 pipes, pipelines, or mains. The provisions of Public Act 98-583



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

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

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

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

21 (18) Legal tender, currency, medallions, or gold or silver  
22 coinage issued by the State of Illinois, the government of the  
23 United States of America, or the government of any foreign  
24 country, and bullion.

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

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

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

13 (21) Until December 31, 2022, coal ~~Coal~~ and aggregate  
14 exploration, mining, off-highway hauling, processing,  
15 maintenance, and reclamation equipment, including replacement  
16 parts and equipment, and including equipment purchased for  
17 lease, but excluding motor vehicles required to be registered  
18 under the Illinois Vehicle Code. The changes made to this  
19 Section by Public Act 97-767 apply on and after July 1, 2003,  
20 but no claim for credit or refund is allowed on or after August  
21 16, 2013 (the effective date of Public Act 98-456) for such  
22 taxes paid during the period beginning July 1, 2003 and ending  
23 on August 16, 2013 (the effective date of Public Act 98-456).

24 (22) Until June 30, 2013, fuel and petroleum products sold  
25 to or used by an air carrier, certified by the carrier to be  
26 used for consumption, shipment, or storage in the conduct of

1 its business as an air common carrier, for a flight destined  
2 for or returning from a location or locations outside the  
3 United States without regard to previous or subsequent domestic  
4 stopovers.

5 Beginning July 1, 2013, fuel and petroleum products sold to  
6 or used by an air carrier, certified by the carrier to be used  
7 for consumption, shipment, or storage in the conduct of its  
8 business as an air common carrier, for a flight that (i) is  
9 engaged in foreign trade or is engaged in trade between the  
10 United States and any of its possessions and (ii) transports at  
11 least one individual or package for hire from the city of  
12 origination to the city of final destination on the same  
13 aircraft, without regard to a change in the flight number of  
14 that aircraft.

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

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

25 (25) Except as provided in item (25-5) of this Section, a  
26 motor vehicle sold in this State to a nonresident even though

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

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

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

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

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

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

25 (3) the seller retains in his or her books and records  
26 and provides to the Department a signed and dated

1 certification from the purchaser, on a form prescribed by  
2 the Department, certifying that the requirements of this  
3 item (25-7) are met. The certificate must also include the  
4 name and address of the purchaser, the address of the  
5 location where the aircraft is to be titled or registered,  
6 the address of the primary physical location of the  
7 aircraft, and other information that the Department may  
8 reasonably require.

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

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

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

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

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

22 (27) Horses, or interests in horses, registered with and  
23 meeting the requirements of any of the Arabian Horse Club  
24 Registry of America, Appaloosa Horse Club, American Quarter  
25 Horse Association, United States Trotting Association, or  
26 Jockey Club, as appropriate, used for purposes of breeding or

1 racing for prizes. This item (27) is exempt from the provisions  
2 of Section 2-70, and the exemption provided for under this item  
3 (27) applies for all periods beginning May 30, 1995, but no  
4 claim for credit or refund is allowed on or after January 1,  
5 2008 (the effective date of Public Act 95-88) for such taxes  
6 paid during the period beginning May 30, 2000 and ending on  
7 January 1, 2008 (the effective date of Public Act 95-88).

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

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

21 (30) Beginning with taxable years ending on or after  
22 December 31, 1995 and ending with taxable years ending on or  
23 before December 31, 2004, personal property that is donated for  
24 disaster relief to be used in a State or federally declared  
25 disaster area in Illinois or bordering Illinois by a  
26 manufacturer or retailer that is registered in this State to a

1 corporation, society, association, foundation, or institution  
2 that has been issued a sales tax exemption identification  
3 number by the Department that assists victims of the disaster  
4 who reside within the declared disaster area.

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

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

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



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

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

1           (35) Beginning January 1, 2000 and through December 31,  
2           2001, new or used automatic vending machines that prepare and  
3           serve hot food and beverages, including coffee, soup, and other  
4           items, and replacement parts for these machines. Beginning  
5           January 1, 2002 and through June 30, 2003, machines and parts  
6           for machines used in commercial, coin-operated amusement and  
7           vending business if a use or occupation tax is paid on the  
8           gross receipts derived from the use of the commercial,  
9           coin-operated amusement and vending machines. This paragraph  
10          is exempt from the provisions of Section 2-70.

11          (35-5) Beginning August 23, 2001 and through June 30, 2016,  
12          food for human consumption that is to be consumed off the  
13          premises where it is sold (other than alcoholic beverages, soft  
14          drinks, and food that has been prepared for immediate  
15          consumption) and prescription and nonprescription medicines,  
16          drugs, medical appliances, and insulin, urine testing  
17          materials, syringes, and needles used by diabetics, for human  
18          use, when purchased for use by a person receiving medical  
19          assistance under Article V of the Illinois Public Aid Code who  
20          resides in a licensed long-term care facility, as defined in  
21          the Nursing Home Care Act, or a licensed facility as defined in  
22          the ID/DD Community Care Act, the MC/DD Act, or the Specialized  
23          Mental Health Rehabilitation Act of 2013.

24          (36) Beginning August 2, 2001, computers and  
25          communications equipment utilized for any hospital purpose and  
26          equipment used in the diagnosis, analysis, or treatment of

1 hospital patients sold to a lessor who leases the equipment,  
2 under a lease of one year or longer executed or in effect at  
3 the time of the purchase, to a hospital that has been issued an  
4 active tax exemption identification number by the Department  
5 under Section 1g of this Act. This paragraph is exempt from the  
6 provisions of Section 2-70.

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

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

1 issue a permit to any taxpayer in good standing with the  
2 Department who is eligible for the exemption under this  
3 paragraph (38). The permit issued under this paragraph (38)  
4 shall authorize the holder, to the extent and in the manner  
5 specified in the rules adopted under this Act, to purchase  
6 tangible personal property from a retailer exempt from the  
7 taxes imposed by this Act. Taxpayers shall maintain all  
8 necessary books and records to substantiate the use and  
9 consumption of all such tangible personal property outside of  
10 the State of Illinois.

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

18 (40) Beginning January 1, 2010, materials, parts,  
19 equipment, components, and furnishings incorporated into or  
20 upon an aircraft as part of the modification, refurbishment,  
21 completion, replacement, repair, or maintenance of the  
22 aircraft. This exemption includes consumable supplies used in  
23 the modification, refurbishment, completion, replacement,  
24 repair, and maintenance of aircraft, but excludes any  
25 materials, parts, equipment, components, and consumable  
26 supplies used in the modification, replacement, repair, and

1 maintenance of aircraft engines or power plants, whether such  
2 engines or power plants are installed or uninstalled upon any  
3 such aircraft. "Consumable supplies" include, but are not  
4 limited to, adhesive, tape, sandpaper, general purpose  
5 lubricants, cleaning solution, latex gloves, and protective  
6 films. This exemption applies only to the sale of qualifying  
7 tangible personal property to persons who modify, refurbish,  
8 complete, replace, or maintain an aircraft and who (i) hold an  
9 Air Agency Certificate and are empowered to operate an approved  
10 repair station by the Federal Aviation Administration, (ii)  
11 have a Class IV Rating, and (iii) conduct operations in  
12 accordance with Part 145 of the Federal Aviation Regulations.  
13 The exemption does not include aircraft operated by a  
14 commercial air carrier providing scheduled passenger air  
15 service pursuant to authority issued under Part 121 or Part 129  
16 of the Federal Aviation Regulations. The changes made to this  
17 paragraph (40) by Public Act 98-534 are declarative of existing  
18 law.

19 (41) Tangible personal property sold to a  
20 public-facilities corporation, as described in Section  
21 11-65-10 of the Illinois Municipal Code, for purposes of  
22 constructing or furnishing a municipal convention hall, but  
23 only if the legal title to the municipal convention hall is  
24 transferred to the municipality without any further  
25 consideration by or on behalf of the municipality at the time  
26 of the completion of the municipal convention hall or upon the

1 retirement or redemption of any bonds or other debt instruments  
2 issued by the public-facilities corporation in connection with  
3 the development of the municipal convention hall. This  
4 exemption includes existing public-facilities corporations as  
5 provided in Section 11-65-25 of the Illinois Municipal Code.  
6 This paragraph is exempt from the provisions of Section 2-70.

7 (42) Beginning January 1, 2017, menstrual pads, tampons,  
8 and menstrual cups.

9 (Source: P.A. 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;  
10 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-574, eff.  
11 1-1-14; 98-583, eff. 1-1-14; 98-756, eff. 7-16-14; 99-180, eff.  
12 7-29-15; 99-855, eff. 8-19-16.)

13 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

14 Sec. 2a. It is unlawful for any person to engage in the  
15 business of selling tangible personal property at retail in  
16 this State without a certificate of registration from the  
17 Department. Application for a certificate of registration  
18 shall be made to the Department upon forms furnished by it.  
19 Each such application shall be signed and verified and shall  
20 state: (1) the name and social security number of the  
21 applicant; (2) the address of his principal place of business;  
22 (3) the address of the principal place of business from which  
23 he engages in the business of selling tangible personal  
24 property at retail in this State and the addresses of all other  
25 places of business, if any (enumerating such addresses, if any,

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

26 The Department may deny a certificate of registration to

1 any applicant if a person who is named as the owner, a partner,  
2 a manager or member of a limited liability company, or a  
3 corporate officer of the applicant on the application for the  
4 certificate of registration is or has been named as the owner,  
5 a partner, a manager or member of a limited liability company,  
6 or a corporate officer on the application for the certificate  
7 of registration of another retailer that is in default for  
8 moneys due under this Act or any other tax or fee Act  
9 administered by the Department. For purposes of this paragraph  
10 only, in determining whether a person is in default for moneys  
11 due, the Department shall include only amounts established as a  
12 final liability within the 20 years prior to the date of the  
13 Department's notice of denial of a certificate of registration.

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



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

1 resolution. The amount of security required by the Department  
2 shall be such as, in its opinion, will protect the State of  
3 Illinois against failure to pay the amount which may become due  
4 from the applicant under this Act and under any other State tax  
5 law or municipal or county tax ordinance or resolution under  
6 which the certificate of registration that is issued to the  
7 applicant under this Act will permit the applicant to engage in  
8 business without registering separately under such other law,  
9 ordinance or resolution, but the amount of the security  
10 required by the Department shall not exceed three times the  
11 amount of the applicant's average monthly tax liability, or  
12 \$50,000.00, whichever amount is lower.

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

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

1 engages in the business of selling tangible personal property  
2 at retail in this State.

3 No certificate of registration issued to a taxpayer who  
4 files returns required by this Act on a monthly basis shall be  
5 valid after the expiration of 5 years from the date of its  
6 issuance or last renewal. The expiration date of a  
7 sub-certificate of registration shall be that of the  
8 certificate of registration to which the sub-certificate  
9 relates. A certificate of registration shall automatically be  
10 renewed, subject to revocation as provided by this Act, for an  
11 additional 5 years from the date of its expiration unless  
12 otherwise notified by the Department as provided by this  
13 paragraph. Where a taxpayer to whom a certificate of  
14 registration is issued under this Act is in default to the  
15 State of Illinois for delinquent returns or for moneys due  
16 under this Act or any other State tax law or municipal or  
17 county ordinance administered or enforced by the Department,  
18 the Department shall, not less than 60 days before the  
19 expiration date of such certificate of registration, give  
20 notice to the taxpayer to whom the certificate was issued of  
21 the account period of the delinquent returns, the amount of  
22 tax, penalty and interest due and owing from the taxpayer, and  
23 that the certificate of registration shall not be automatically  
24 renewed upon its expiration date unless the taxpayer, on or  
25 before the date of expiration, has filed and paid the  
26 delinquent returns or paid the defaulted amount in full. A

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

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

1 the statutory rate.

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

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

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

26 If the applicant will sell tangible personal property at

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

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

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

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

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



1     guaranteeing the payment of such admitted or established  
2     liability.

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

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

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

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

26 The Department shall discharge any surety and shall release

1 and return any security deposited, assigned, pledged or  
2 otherwise provided to it by a taxpayer under this Section  
3 within 30 days after:

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

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

23 (Source: P.A. 97-335, eff. 1-1-12; 98-496, eff. 1-1-14; 98-583,  
24 eff. 1-1-14; 98-756, eff. 7-16-14; 98-974, eff. 1-1-15.)

1 Section 25-5. The Renewable Energy, Energy Efficiency, and  
2 Coal Resources Development Law of 1997 is amended by changing  
3 Section 6-5 and by adding Section 6-8 as follows:

4 (20 ILCS 687/6-5)

5 (Section scheduled to be repealed on December 31, 2020)

6 Sec. 6-5. Renewable Energy Resources and Coal Technology  
7 Development Assistance Charge.

8 (a) Notwithstanding the provisions of Section 16-111 of the  
9 Public Utilities Act but subject to subsection (e) of this  
10 Section, each public utility, electric cooperative, as defined  
11 in Section 3.4 of the Electric Supplier Act, and municipal  
12 utility, as referenced in Section 3-105 of the Public Utilities  
13 Act, that is engaged in the delivery of electricity or the  
14 distribution of natural gas within the State of Illinois shall,  
15 effective January 1, 1998, assess each of its customer accounts  
16 a monthly Renewable Energy Resources and Coal Technology  
17 Development Assistance Charge. The delivering public utility,  
18 municipal electric or gas utility, or electric or gas  
19 cooperative for a self-assessing purchaser remains subject to  
20 the collection of the fee imposed by this Section. The monthly  
21 charge shall be as follows:

22 (1) \$0.05 per month on each account for residential  
23 electric service as defined in Section 13 of the Energy  
24 Assistance Act;

1           (2) \$0.05 per month on each account for residential gas  
2 service as defined in Section 13 of the Energy Assistance  
3 Act;

4           (3) \$0.50 per month on each account for nonresidential  
5 electric service, as defined in Section 13 of the Energy  
6 Assistance Act, which had less than 10 megawatts of peak  
7 demand during the previous calendar year;

8           (4) \$0.50 per month on each account for nonresidential  
9 gas service, as defined in Section 13 of the Energy  
10 Assistance Act, which had distributed to it less than  
11 4,000,000 therms of gas during the previous calendar year;

12           (5) \$37.50 per month on each account for nonresidential  
13 electric service, as defined in Section 13 of the Energy  
14 Assistance Act, which had 10 megawatts or greater of peak  
15 demand during the previous calendar year; and

16           (6) \$37.50 per month on each account for nonresidential  
17 gas service, as defined in Section 13 of the Energy  
18 Assistance Act, which had 4,000,000 or more therms of gas  
19 distributed to it during the previous calendar year.

20           (b) The Renewable Energy Resources and Coal Technology  
21 Development Assistance Charge assessed by electric and gas  
22 public utilities shall be considered a charge for public  
23 utility service.

24           (c) Fifty percent of the moneys collected pursuant to this  
25 Section shall be deposited in the Renewable Energy Resources  
26 Trust Fund by the Department of Revenue. The remaining 50

1 percent of the moneys collected pursuant to this Section shall  
2 be deposited in the Coal Technology Development Assistance Fund  
3 by the Department of Revenue for the exclusive purposes of (1)  
4 capturing or sequestering carbon emissions produced by coal  
5 combustion; (2) supporting research on the capture and  
6 sequestration of carbon emissions produced by coal combustion;  
7 and (3) improving coal miner safety.

8 (d) By the 20th day of the month following the month in  
9 which the charges imposed by this Section were collected, each  
10 utility and alternative retail electric supplier collecting  
11 charges pursuant to this Section shall remit to the Department  
12 of Revenue for deposit in the Renewable Energy Resources Trust  
13 Fund and the Coal Technology Development Assistance Fund all  
14 moneys received as payment of the charge provided for in this  
15 Section on a return prescribed and furnished by the Department  
16 of Revenue showing such information as the Department of  
17 Revenue may reasonably require.

18 If any payment provided for in this Section exceeds the  
19 utility or alternative retail electric supplier's liabilities  
20 under this Act, as shown on an original return, the utility or  
21 alternative retail electric supplier may credit the excess  
22 payment against liability subsequently to be remitted to the  
23 Department of Revenue under this Act.

24 (e) The charges imposed by this Section shall only apply to  
25 customers of municipal electric or gas utilities and electric  
26 or gas cooperatives if the municipal electric or gas utility or

1 electric or gas cooperative makes an affirmative decision to  
2 impose the charge. If a municipal electric or gas utility or an  
3 electric or gas cooperative makes an affirmative decision to  
4 impose the charge provided by this Section, the municipal  
5 electric or gas utility or electric or gas cooperative shall  
6 inform the Department of Revenue in writing of such decision  
7 when it begins to impose the charge. If a municipal electric or  
8 gas utility or electric or gas cooperative does not assess this  
9 charge, its customers shall not be eligible for the Renewable  
10 Energy Resources Program.

11 (f) The Department of Revenue may establish such rules as  
12 it deems necessary to implement this Section.

13 (Source: P.A. 95-481, eff. 8-28-07.)

14 (20 ILCS 687/6-8 new)

15 Sec. 6-8. Application of Retailers' Occupation Tax  
16 provisions. All the provisions of Sections 4, 5, 5a, 5b, 5c,  
17 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12,  
18 and 13 of the Retailers' Occupation Tax Act that are not  
19 inconsistent with this Act apply, as far as practicable, to the  
20 surcharge imposed by this Act to the same extent as if those  
21 provisions were included in this Act. References in the  
22 incorporated Sections of the Retailers' Occupation Tax Act to  
23 retailers, to sellers, or to persons engaged in the business of  
24 selling tangible personal property mean persons required to  
25 remit the charge imposed under this Act.

1           Section 25-10. The Cigarette Machine Operators' Occupation  
2 Tax Act is amended by changing Section 1-40 as follows:

3           (35 ILCS 128/1-40)

4           Sec. 1-40. Returns.

5           (a) Cigarette machine operators shall file a return and  
6 remit the tax imposed by Section 1-10 by the 15th day of each  
7 month covering the preceding calendar month. Each such return  
8 shall show: the quantity of cigarettes made or fabricated  
9 during the period covered by the return; the beginning and  
10 ending meter reading for each cigarette machine for the period  
11 covered by the return; the quantity of such cigarettes sold or  
12 otherwise disposed of during the period covered by the return;  
13 the brand family and manufacturer and quantity of tobacco  
14 products used to make or fabricate cigarettes by use of a  
15 cigarette machine; the license number of each distributor from  
16 whom tobacco products are purchased; the type and quantity of  
17 cigarette tubes purchased for use in a cigarette machine; the  
18 type and quantity of cigarette tubes used in a cigarette  
19 machine; and such other information as the Department may  
20 require. Such returns shall be filed on forms prescribed and  
21 furnished by the Department. The Department may promulgate  
22 rules to require that the cigarette machine operator's return  
23 be accompanied by appropriate computer-generated magnetic  
24 media supporting schedule data in the format required by the



1 Department, unless, as provided by rule, the Department grants  
2 an exception upon petition of a cigarette machine operator.

3 Cigarette machine operators shall send a copy of those  
4 returns, together with supporting schedule data, to the  
5 Attorney General's Office by the 15th day of each month for the  
6 period covering the preceding calendar month.

7 (b) Cigarette machine operators may take a credit against  
8 any tax due under Section 1-10 of this Act for taxes imposed  
9 and paid under the Tobacco Products Tax Act of 1995 on tobacco  
10 products sold to a customer and used in a rolling machine  
11 located at the cigarette machine operator's place of business.  
12 To be eligible for such credit, the tobacco product must meet  
13 the requirements of subsection (a) of Section 1-25 of this Act.  
14 This subsection (b) is exempt from the provisions of Section  
15 1-155 of this Act.

16 (c) If any payment provided for in this Section exceeds the  
17 cigarette machine operator's liabilities under this Act, as  
18 shown on an original return, the cigarette machine operator may  
19 credit such excess payment against liability subsequently to be  
20 remitted to the Department under this Act, in accordance with  
21 reasonable rules adopted by the Department.

22 (Source: P.A. 97-688, eff. 6-14-12.)

23 Section 25-15. The Cigarette Tax Act is amended by changing  
24 Section 2 as follows:

1 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

2 Sec. 2. Tax imposed; rate; collection, payment, and  
3 distribution; discount.

4 (a) A tax is imposed upon any person engaged in business as  
5 a retailer of cigarettes in this State at the rate of 5 1/2  
6 mills per cigarette sold, or otherwise disposed of in the  
7 course of such business in this State. In addition to any other  
8 tax imposed by this Act, a tax is imposed upon any person  
9 engaged in business as a retailer of cigarettes in this State  
10 at a rate of 1/2 mill per cigarette sold or otherwise disposed  
11 of in the course of such business in this State on and after  
12 January 1, 1947, and shall be paid into the Metropolitan Fair  
13 and Exposition Authority Reconstruction Fund or as otherwise  
14 provided in Section 29. On and after December 1, 1985, in  
15 addition to any other tax imposed by this Act, a tax is imposed  
16 upon any person engaged in business as a retailer of cigarettes  
17 in this State at a rate of 4 mills per cigarette sold or  
18 otherwise disposed of in the course of such business in this  
19 State. Of the additional tax imposed by this amendatory Act of  
20 1985, \$9,000,000 of the moneys received by the Department of  
21 Revenue pursuant to this Act shall be paid each month into the  
22 Common School Fund. On and after the effective date of this  
23 amendatory Act of 1989, in addition to any other tax imposed by  
24 this Act, a tax is imposed upon any person engaged in business  
25 as a retailer of cigarettes at the rate of 5 mills per  
26 cigarette sold or otherwise disposed of in the course of such

1 business in this State. On and after the effective date of this  
2 amendatory Act of 1993, in addition to any other tax imposed by  
3 this Act, a tax is imposed upon any person engaged in business  
4 as a retailer of cigarettes at the rate of 7 mills per  
5 cigarette sold or otherwise disposed of in the course of such  
6 business in this State. On and after December 15, 1997, in  
7 addition to any other tax imposed by this Act, a tax is imposed  
8 upon any person engaged in business as a retailer of cigarettes  
9 at the rate of 7 mills per cigarette sold or otherwise disposed  
10 of in the course of such business of this State. All of the  
11 moneys received by the Department of Revenue pursuant to this  
12 Act and the Cigarette Use Tax Act from the additional taxes  
13 imposed by this amendatory Act of 1997, shall be paid each  
14 month into the Common School Fund. On and after July 1, 2002,  
15 in addition to any other tax imposed by this Act, a tax is  
16 imposed upon any person engaged in business as a retailer of  
17 cigarettes at the rate of 20.0 mills per cigarette sold or  
18 otherwise disposed of in the course of such business in this  
19 State. Beginning on June 24, 2012, in addition to any other tax  
20 imposed by this Act, a tax is imposed upon any person engaged  
21 in business as a retailer of cigarettes at the rate of 50 mills  
22 per cigarette sold or otherwise disposed of in the course of  
23 such business in this State. All moneys received by the  
24 Department of Revenue under this Act and the Cigarette Use Tax  
25 Act from the additional taxes imposed by this amendatory Act of  
26 the 97th General Assembly shall be paid each month into the

1 Healthcare Provider Relief Fund. The payment of such taxes  
2 shall be evidenced by a stamp affixed to each original package  
3 of cigarettes, or an authorized substitute for such stamp  
4 imprinted on each original package of such cigarettes  
5 underneath the sealed transparent outside wrapper of such  
6 original package, as hereinafter provided. However, such taxes  
7 are not imposed upon any activity in such business in  
8 interstate commerce or otherwise, which activity may not under  
9 the Constitution and statutes of the United States be made the  
10 subject of taxation by this State.

11 Beginning on the effective date of this amendatory Act of  
12 the 92nd General Assembly and through June 30, 2006, all of the  
13 moneys received by the Department of Revenue pursuant to this  
14 Act and the Cigarette Use Tax Act, other than the moneys that  
15 are dedicated to the Common School Fund, shall be distributed  
16 each month as follows: first, there shall be paid into the  
17 General Revenue Fund an amount which, when added to the amount  
18 paid into the Common School Fund for that month, equals  
19 \$33,300,000, except that in the month of August of 2004, this  
20 amount shall equal \$83,300,000; then, from the moneys  
21 remaining, if any amounts required to be paid into the General  
22 Revenue Fund in previous months remain unpaid, those amounts  
23 shall be paid into the General Revenue Fund; then, beginning on  
24 April 1, 2003, from the moneys remaining, \$5,000,000 per month  
25 shall be paid into the School Infrastructure Fund; then, if any  
26 amounts required to be paid into the School Infrastructure Fund

1 in previous months remain unpaid, those amounts shall be paid  
2 into the School Infrastructure Fund; then the moneys remaining,  
3 if any, shall be paid into the Long-Term Care Provider Fund. To  
4 the extent that more than \$25,000,000 has been paid into the  
5 General Revenue Fund and Common School Fund per month for the  
6 period of July 1, 1993 through the effective date of this  
7 amendatory Act of 1994 from combined receipts of the Cigarette  
8 Tax Act and the Cigarette Use Tax Act, notwithstanding the  
9 distribution provided in this Section, the Department of  
10 Revenue is hereby directed to adjust the distribution provided  
11 in this Section to increase the next monthly payments to the  
12 Long Term Care Provider Fund by the amount paid to the General  
13 Revenue Fund and Common School Fund in excess of \$25,000,000  
14 per month and to decrease the next monthly payments to the  
15 General Revenue Fund and Common School Fund by that same excess  
16 amount.

17 Beginning on July 1, 2006, all of the moneys received by  
18 the Department of Revenue pursuant to this Act and the  
19 Cigarette Use Tax Act, other than the moneys that are dedicated  
20 to the Common School Fund and, beginning on the effective date  
21 of this amendatory Act of the 97th General Assembly, other than  
22 the moneys from the additional taxes imposed by this amendatory  
23 Act of the 97th General Assembly that must be paid each month  
24 into the Healthcare Provider Relief Fund, shall be distributed  
25 each month as follows: first, there shall be paid into the  
26 General Revenue Fund an amount that, when added to the amount

1 paid into the Common School Fund for that month, equals  
2 \$29,200,000; then, from the moneys remaining, if any amounts  
3 required to be paid into the General Revenue Fund in previous  
4 months remain unpaid, those amounts shall be paid into the  
5 General Revenue Fund; then from the moneys remaining,  
6 \$5,000,000 per month shall be paid into the School  
7 Infrastructure Fund; then, if any amounts required to be paid  
8 into the School Infrastructure Fund in previous months remain  
9 unpaid, those amounts shall be paid into the School  
10 Infrastructure Fund; then the moneys remaining, if any, shall  
11 be paid into the Long-Term Care Provider Fund.

12 Moneys collected from the tax imposed on little cigars  
13 under Section 10-10 of the Tobacco Products Tax Act of 1995  
14 shall be included with the moneys collected under the Cigarette  
15 Tax Act and the Cigarette Use Tax Act when making distributions  
16 to the Common School Fund, the Healthcare Provider Relief Fund,  
17 the General Revenue Fund, the School Infrastructure Fund, and  
18 the Long-Term Care Provider Fund under this Section.

19 When any tax imposed herein terminates or has terminated,  
20 distributors who have bought stamps while such tax was in  
21 effect and who therefore paid such tax, but who can show, to  
22 the Department's satisfaction, that they sold the cigarettes to  
23 which they affixed such stamps after such tax had terminated  
24 and did not recover the tax or its equivalent from purchasers,  
25 shall be allowed by the Department to take credit for such  
26 absorbed tax against subsequent tax stamp purchases from the

1 Department by such distributor.

2 The impact of the tax levied by this Act is imposed upon  
3 the retailer and shall be prepaid or pre-collected by the  
4 distributor for the purpose of convenience and facility only,  
5 and the amount of the tax shall be added to the price of the  
6 cigarettes sold by such distributor. Collection of the tax  
7 shall be evidenced by a stamp or stamps affixed to each  
8 original package of cigarettes, as hereinafter provided. Any  
9 distributor who purchases stamps may credit any excess payments  
10 verified by the Department against amounts subsequently due for  
11 the purchase of additional stamps, until such time as no excess  
12 payment remains.

13 Each distributor shall collect the tax from the retailer at  
14 or before the time of the sale, shall affix the stamps as  
15 hereinafter required, and shall remit the tax collected from  
16 retailers to the Department, as hereinafter provided. Any  
17 distributor who fails to properly collect and pay the tax  
18 imposed by this Act shall be liable for the tax. Any  
19 distributor having cigarettes to which stamps have been affixed  
20 in his possession for sale on the effective date of this  
21 amendatory Act of 1989 shall not be required to pay the  
22 additional tax imposed by this amendatory Act of 1989 on such  
23 stamped cigarettes. Any distributor having cigarettes to which  
24 stamps have been affixed in his or her possession for sale at  
25 12:01 a.m. on the effective date of this amendatory Act of  
26 1993, is required to pay the additional tax imposed by this

1 amendatory Act of 1993 on such stamped cigarettes. This  
2 payment, less the discount provided in subsection (b), shall be  
3 due when the distributor first makes a purchase of cigarette  
4 tax stamps after the effective date of this amendatory Act of  
5 1993, or on the first due date of a return under this Act after  
6 the effective date of this amendatory Act of 1993, whichever  
7 occurs first. Any distributor having cigarettes to which stamps  
8 have been affixed in his possession for sale on December 15,  
9 1997 shall not be required to pay the additional tax imposed by  
10 this amendatory Act of 1997 on such stamped cigarettes.

11 Any distributor having cigarettes to which stamps have been  
12 affixed in his or her possession for sale on July 1, 2002 shall  
13 not be required to pay the additional tax imposed by this  
14 amendatory Act of the 92nd General Assembly on those stamped  
15 cigarettes.

16 Any retailer having cigarettes in his or her possession on  
17 June 24, 2012 to which tax stamps have been affixed is not  
18 required to pay the additional tax that begins on June 24, 2012  
19 imposed by this amendatory Act of the 97th General Assembly on  
20 those stamped cigarettes. Any distributor having cigarettes in  
21 his or her possession on June 24, 2012 to which tax stamps have  
22 been affixed, and any distributor having stamps in his or her  
23 possession on June 24, 2012 that have not been affixed to  
24 packages of cigarettes before June 24, 2012, is required to pay  
25 the additional tax that begins on June 24, 2012 imposed by this  
26 amendatory Act of the 97th General Assembly to the extent the



1 calendar year 2012 average monthly volume of cigarette stamps  
2 in the distributor's possession exceeds the average monthly  
3 volume of cigarette stamps purchased by the distributor in  
4 calendar year 2011. This payment, less the discount provided in  
5 subsection (b), is due when the distributor first makes a  
6 purchase of cigarette stamps on or after June 24, 2012 or on  
7 the first due date of a return under this Act occurring on or  
8 after June 24, 2012, whichever occurs first. Those distributors  
9 may elect to pay the additional tax on packages of cigarettes  
10 to which stamps have been affixed and on any stamps in the  
11 distributor's possession that have not been affixed to packages  
12 of cigarettes over a period not to exceed 12 months from the  
13 due date of the additional tax by notifying the Department in  
14 writing. The first payment for distributors making such  
15 election is due when the distributor first makes a purchase of  
16 cigarette tax stamps on or after June 24, 2012 or on the first  
17 due date of a return under this Act occurring on or after June  
18 24, 2012, whichever occurs first. Distributors making such an  
19 election are not entitled to take the discount provided in  
20 subsection (b) on such payments.

21 Distributors making sales of cigarettes to secondary  
22 distributors shall add the amount of the tax to the price of  
23 the cigarettes sold by the distributors. Secondary  
24 distributors making sales of cigarettes to retailers shall  
25 include the amount of the tax in the price of the cigarettes  
26 sold to retailers. The amount of tax shall not be less than the

1 amount of taxes imposed by the State and all local  
2 jurisdictions. The amount of local taxes shall be calculated  
3 based on the location of the retailer's place of business shown  
4 on the retailer's certificate of registration or  
5 sub-registration issued to the retailer pursuant to Section 2a  
6 of the Retailers' Occupation Tax Act. The original packages of  
7 cigarettes sold to the retailer shall bear all the required  
8 stamps, or other indicia, for the taxes included in the price  
9 of cigarettes.

10 The amount of the Cigarette Tax imposed by this Act shall  
11 be separately stated, apart from the price of the goods, by  
12 distributors, manufacturer representatives, secondary  
13 distributors, and retailers, in all bills and sales invoices.

14 (b) The distributor shall be required to collect the taxes  
15 provided under paragraph (a) hereof, and, to cover the costs of  
16 such collection, shall be allowed a discount during any year  
17 commencing July 1st and ending the following June 30th in  
18 accordance with the schedule set out hereinbelow, which  
19 discount shall be allowed at the time of purchase of the stamps  
20 when purchase is required by this Act, or at the time when the  
21 tax is remitted to the Department without the purchase of  
22 stamps from the Department when that method of paying the tax  
23 is required or authorized by this Act. Prior to December 1,  
24 1985, a discount equal to  $1 \frac{2}{3}\%$  of the amount of the tax up to  
25 and including the first \$700,000 paid hereunder by such  
26 distributor to the Department during any such year;  $1 \frac{1}{3}\%$  of

1 the next \$700,000 of tax or any part thereof, paid hereunder by  
2 such distributor to the Department during any such year; 1% of  
3 the next \$700,000 of tax, or any part thereof, paid hereunder  
4 by such distributor to the Department during any such year, and  
5 2/3 of 1% of the amount of any additional tax paid hereunder by  
6 such distributor to the Department during any such year shall  
7 apply. On and after December 1, 1985, a discount equal to 1.75%  
8 of the amount of the tax payable under this Act up to and  
9 including the first \$3,000,000 paid hereunder by such  
10 distributor to the Department during any such year and 1.5% of  
11 the amount of any additional tax paid hereunder by such  
12 distributor to the Department during any such year shall apply.

13 Two or more distributors that use a common means of  
14 affixing revenue tax stamps or that are owned or controlled by  
15 the same interests shall be treated as a single distributor for  
16 the purpose of computing the discount.

17 (c) The taxes herein imposed are in addition to all other  
18 occupation or privilege taxes imposed by the State of Illinois,  
19 or by any political subdivision thereof, or by any municipal  
20 corporation.

21 (Source: P.A. 97-587, eff. 8-26-11; 97-688, eff. 6-14-12;  
22 98-273, eff. 8-9-13.)

23 Section 25-20. The Cigarette Use Tax Act is amended by  
24 changing Section 3 as follows:

1 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

2 Sec. 3. Stamp payment. The tax hereby imposed shall be  
3 collected by a distributor maintaining a place of business in  
4 this State or a distributor authorized by the Department  
5 pursuant to Section 7 hereof to collect the tax, and the amount  
6 of the tax shall be added to the price of the cigarettes sold  
7 by such distributor. Collection of the tax shall be evidenced  
8 by a stamp or stamps affixed to each original package of  
9 cigarettes or by an authorized substitute for such stamp  
10 imprinted on each original package of such cigarettes  
11 underneath the sealed transparent outside wrapper of such  
12 original package, except as hereinafter provided. Each  
13 distributor who is required or authorized to collect the tax  
14 herein imposed, before delivering or causing to be delivered  
15 any original packages of cigarettes in this State to any  
16 purchaser, shall firmly affix a proper stamp or stamps to each  
17 such package, or (in the case of manufacturers of cigarettes in  
18 original packages which are contained inside a sealed  
19 transparent wrapper) shall imprint the required language on the  
20 original package of cigarettes beneath such outside wrapper as  
21 hereinafter provided. Such stamp or stamps need not be affixed  
22 to the original package of any cigarettes with respect to which  
23 the distributor is required to affix a like stamp or stamps by  
24 virtue of the Cigarette Tax Act, however, and no tax imprint  
25 need be placed underneath the sealed transparent wrapper of an  
26 original package of cigarettes with respect to which the

1 distributor is required or authorized to employ a like tax  
2 imprint by virtue of the Cigarette Tax Act. Any distributor who  
3 purchases stamps may credit any excess payments verified by the  
4 Department against amounts subsequently due for the purchase of  
5 additional stamps, until such time as no excess payment  
6 remains.

7 No stamp or imprint may be affixed to, or made upon, any  
8 package of cigarettes unless that package complies with all  
9 requirements of the federal Cigarette Labeling and Advertising  
10 Act, 15 U.S.C. 1331 and following, for the placement of labels,  
11 warnings, or any other information upon a package of cigarettes  
12 that is sold within the United States. Under the authority of  
13 Section 6, the Department shall revoke the license of any  
14 distributor that is determined to have violated this paragraph.  
15 A person may not affix a stamp on a package of cigarettes,  
16 cigarette papers, wrappers, or tubes if that individual package  
17 has been marked for export outside the United States with a  
18 label or notice in compliance with Section 290.185 of Title 27  
19 of the Code of Federal Regulations. It is not a defense to a  
20 proceeding for violation of this paragraph that the label or  
21 notice has been removed, mutilated, obliterated, or altered in  
22 any manner.

23 Only distributors licensed under this Act and  
24 transporters, as defined in Section 9c of the Cigarette Tax  
25 Act, may possess unstamped original packages of cigarettes.  
26 Prior to shipment to an Illinois retailer or secondary

1 distributor, a stamp shall be applied to each original package  
2 of cigarettes sold to the retailer or secondary distributor. A  
3 distributor may apply a tax stamp only to an original package  
4 of cigarettes purchased or obtained directly from an in-state  
5 maker, manufacturer, or fabricator licensed as a distributor  
6 under Section 4 of this Act or an out-of-state maker,  
7 manufacturer, or fabricator holding a permit under Section 7 of  
8 this Act. A licensed distributor may ship or otherwise cause to  
9 be delivered unstamped original packages of cigarettes in,  
10 into, or from this State. A licensed distributor may transport  
11 unstamped original packages of cigarettes to a facility,  
12 wherever located, owned or controlled by such distributor;  
13 however, a distributor may not transport unstamped original  
14 packages of cigarettes to a facility where retail sales of  
15 cigarettes take place or to a facility where a secondary  
16 distributor makes sales for resale. Any licensed distributor  
17 that ships or otherwise causes to be delivered unstamped  
18 original packages of cigarettes into, within, or from this  
19 State shall ensure that the invoice or equivalent documentation  
20 and the bill of lading or freight bill for the shipment  
21 identifies the true name and address of the consignor or  
22 seller, the true name and address of the consignee or  
23 purchaser, and the quantity by brand style of the cigarettes so  
24 transported, provided that this Section shall not be construed  
25 as to impose any requirement or liability upon any common or  
26 contract carrier.

1           Distributors making sales of cigarettes to secondary  
2 distributors shall add the amount of the tax to the price of  
3 the cigarettes sold by the distributors. Secondary  
4 distributors making sales of cigarettes to retailers shall  
5 include the amount of the tax in the price of the cigarettes  
6 sold to retailers. The amount of tax shall not be less than the  
7 amount of taxes imposed by the State and all local  
8 jurisdictions. The amount of local taxes shall be calculated  
9 based on the location of the retailer's place of business shown  
10 on the retailer's certificate of registration or  
11 sub-registration issued to the retailer pursuant to Section 2a  
12 of the Retailers' Occupation Tax Act. The original packages of  
13 cigarettes sold by the retailer shall bear all the required  
14 stamps, or other indicia, for the taxes included in the price  
15 of cigarettes.

16           Stamps, when required hereunder, shall be purchased from  
17 the Department, or any person authorized by the Department, by  
18 distributors. On and after July 1, 2003, payment for such  
19 stamps must be made by means of electronic funds transfer. The  
20 Department may refuse to sell stamps to any person who does not  
21 comply with the provisions of this Act. Beginning on June 6,  
22 2002 and through June 30, 2002, persons holding valid licenses  
23 as distributors may purchase cigarette tax stamps up to an  
24 amount equal to 115% of the distributor's average monthly  
25 cigarette tax stamp purchases over the 12 calendar months prior  
26 to June 6, 2002.

1 Prior to December 1, 1985, the Department shall allow a  
2 distributor 21 days in which to make final payment of the  
3 amount to be paid for such stamps, by allowing the distributor  
4 to make payment for the stamps at the time of purchasing them  
5 with a draft which shall be in such form as the Department  
6 prescribes, and which shall be payable within 21 days  
7 thereafter: Provided that such distributor has filed with the  
8 Department, and has received the Department's approval of, a  
9 bond, which is in addition to the bond required under Section 4  
10 of this Act, payable to the Department in an amount equal to  
11 80% of such distributor's average monthly tax liability to the  
12 Department under this Act during the preceding calendar year or  
13 \$500,000, whichever is less. The bond shall be joint and  
14 several and shall be in the form of a surety company bond in  
15 such form as the Department prescribes, or it may be in the  
16 form of a bank certificate of deposit or bank letter of credit.  
17 The bond shall be conditioned upon the distributor's payment of  
18 the amount of any 21-day draft which the Department accepts  
19 from that distributor for the delivery of stamps to that  
20 distributor under this Act. The distributor's failure to pay  
21 any such draft, when due, shall also make such distributor  
22 automatically liable to the Department for a penalty equal to  
23 25% of the amount of such draft.

24 On and after December 1, 1985 and until July 1, 2003, the  
25 Department shall allow a distributor 30 days in which to make  
26 final payment of the amount to be paid for such stamps, by



1 allowing the distributor to make payment for the stamps at the  
2 time of purchasing them with a draft which shall be in such  
3 form as the Department prescribes, and which shall be payable  
4 within 30 days thereafter, and beginning on January 1, 2003 and  
5 thereafter, the draft shall be payable by means of electronic  
6 funds transfer: Provided that such distributor has filed with  
7 the Department, and has received the Department's approval of,  
8 a bond, which is in addition to the bond required under Section  
9 4 of this Act, payable to the Department in an amount equal to  
10 150% of such distributor's average monthly tax liability to the  
11 Department under this Act during the preceding calendar year or  
12 \$750,000, whichever is less, except that as to bonds filed on  
13 or after January 1, 1987, such additional bond shall be in an  
14 amount equal to 100% of such distributor's average monthly tax  
15 liability under this Act during the preceding calendar year or  
16 \$750,000, whichever is less. The bond shall be joint and  
17 several and shall be in the form of a surety company bond in  
18 such form as the Department prescribes, or it may be in the  
19 form of a bank certificate of deposit or bank letter of credit.  
20 The bond shall be conditioned upon the distributor's payment of  
21 the amount of any 30-day draft which the Department accepts  
22 from that distributor for the delivery of stamps to that  
23 distributor under this Act. The distributor's failure to pay  
24 any such draft, when due, shall also make such distributor  
25 automatically liable to the Department for a penalty equal to  
26 25% of the amount of such draft.

1           Every prior continuous compliance taxpayer shall be exempt  
2 from all requirements under this Section concerning the  
3 furnishing of such bond, as defined in this Section, as a  
4 condition precedent to his being authorized to engage in the  
5 business licensed under this Act. This exemption shall continue  
6 for each such taxpayer until such time as he may be determined  
7 by the Department to be delinquent in the filing of any  
8 returns, or is determined by the Department (either through the  
9 Department's issuance of a final assessment which has become  
10 final under the Act, or by the taxpayer's filing of a return  
11 which admits tax to be due that is not paid) to be delinquent  
12 or deficient in the paying of any tax under this Act, at which  
13 time that taxpayer shall become subject to the bond  
14 requirements of this Section and, as a condition of being  
15 allowed to continue to engage in the business licensed under  
16 this Act, shall be required to furnish bond to the Department  
17 in such form as provided in this Section. Such taxpayer shall  
18 furnish such bond for a period of 2 years, after which, if the  
19 taxpayer has not been delinquent in the filing of any returns,  
20 or delinquent or deficient in the paying of any tax under this  
21 Act, the Department may reinstate such person as a prior  
22 continuance compliance taxpayer. Any taxpayer who fails to pay  
23 an admitted or established liability under this Act may also be  
24 required to post bond or other acceptable security with the  
25 Department guaranteeing the payment of such admitted or  
26 established liability.

1           Except as otherwise provided in this Section, any person  
2 aggrieved by any decision of the Department under this Section  
3 may, within the time allowed by law, protest and request a  
4 hearing before the Department, whereupon the Department shall  
5 give notice and shall hold a hearing in conformity with the  
6 provisions of this Act and then issue its final administrative  
7 decision in the matter to such person. Effective July 1, 2013,  
8 protests concerning matters that are subject to the  
9 jurisdiction of the Illinois Independent Tax Tribunal shall be  
10 filed in accordance with the Illinois Independent Tax Tribunal  
11 Act of 2012, and hearings concerning those matters shall be  
12 held before the Tribunal in accordance with that Act. With  
13 respect to protests filed with the Department prior to July 1,  
14 2013 that would otherwise be subject to the jurisdiction of the  
15 Illinois Independent Tax Tribunal, the person filing the  
16 protest may elect to be subject to the provisions of the  
17 Illinois Independent Tax Tribunal Act of 2012 at any time on or  
18 after July 1, 2013, but not later than 30 days after the date  
19 on which the protest was filed. If made, the election shall be  
20 irrevocable. In the absence of such a protest filed within the  
21 time allowed by law, the Department's decision shall become  
22 final without any further determination being made or notice  
23 given.

24           The Department shall discharge any surety and shall release  
25 and return any bond or security deposited, assigned, pledged,  
26 or otherwise provided to it by a taxpayer under this Section

1 within 30 days after:

2 (1) such Taxpayer becomes a prior continuous  
3 compliance taxpayer; or

4 (2) such taxpayer has ceased to collect receipts on  
5 which he is required to remit tax to the Department, has  
6 filed a final tax return, and has paid to the Department an  
7 amount sufficient to discharge his remaining tax liability  
8 as determined by the Department under this Act. The  
9 Department shall make a final determination of the  
10 taxpayer's outstanding tax liability as expeditiously as  
11 possible after his final tax return has been filed. If the  
12 Department cannot make such final determination within 45  
13 days after receiving the final tax return, within such  
14 period it shall so notify the taxpayer, stating its reasons  
15 therefor.

16 At the time of purchasing such stamps from the Department  
17 when purchase is required by this Act, or at the time when the  
18 tax which he has collected is remitted by a distributor to the  
19 Department without the purchase of stamps from the Department  
20 when that method of remitting the tax that has been collected  
21 is required or authorized by this Act, the distributor shall be  
22 allowed a discount during any year commencing July 1 and ending  
23 the following June 30 in accordance with the schedule set out  
24 hereinbelow, from the amount to be paid by him to the  
25 Department for such stamps, or to be paid by him to the  
26 Department on the basis of monthly remittances (as the case may

1 be), to cover the cost, to such distributor, of collecting the  
2 tax herein imposed by affixing such stamps to the original  
3 packages of cigarettes sold by such distributor or by placing  
4 tax imprints underneath the sealed transparent wrapper of  
5 original packages of cigarettes sold by such distributor (as  
6 the case may be): (1) Prior to December 1, 1985, a discount  
7 equal to 1-2/3% of the amount of the tax up to and including  
8 the first \$700,000 paid hereunder by such distributor to the  
9 Department during any such year; 1-1/3% of the next \$700,000 of  
10 tax or any part thereof, paid hereunder by such distributor to  
11 the Department during any such year; 1% of the next \$700,000 of  
12 tax, or any part thereof, paid hereunder by such distributor to  
13 the Department during any such year; and 2/3 of 1% of the  
14 amount of any additional tax paid hereunder by such distributor  
15 to the Department during any such year or (2) On and after  
16 December 1, 1985, a discount equal to 1.75% of the amount of  
17 the tax payable under this Act up to and including the first  
18 \$3,000,000 paid hereunder by such distributor to the Department  
19 during any such year and 1.5% of the amount of any additional  
20 tax paid hereunder by such distributor to the Department during  
21 any such year.

22 Two or more distributors that use a common means of  
23 affixing revenue tax stamps or that are owned or controlled by  
24 the same interests shall be treated as a single distributor for  
25 the purpose of computing the discount.

26 Cigarette manufacturers who are distributors under Section

1 7(a) of this Act, and who place their cigarettes in original  
2 packages which are contained inside a sealed transparent  
3 wrapper, shall be required to remit the tax which they are  
4 required to collect under this Act to the Department by  
5 remitting the amount thereof to the Department by the 5th day  
6 of each month, covering cigarettes shipped or otherwise  
7 delivered to points in Illinois to purchasers during the  
8 preceding calendar month, but a distributor need not remit to  
9 the Department the tax so collected by him from purchasers  
10 under this Act to the extent to which such distributor is  
11 required to remit the tax imposed by the Cigarette Tax Act to  
12 the Department with respect to the same cigarettes. All taxes  
13 upon cigarettes under this Act are a direct tax upon the retail  
14 consumer and shall conclusively be presumed to be precollected  
15 for the purpose of convenience and facility only. Cigarette  
16 manufacturers that are distributors licensed under Section  
17 7(a) of this Act and who place their cigarettes in original  
18 packages which are contained inside a sealed transparent  
19 wrapper, before delivering such cigarettes or causing such  
20 cigarettes to be delivered in this State to purchasers, shall  
21 evidence their obligation to collect and remit the tax due with  
22 respect to such cigarettes by imprinting language to be  
23 prescribed by the Department on each original package of such  
24 cigarettes underneath the sealed transparent outside wrapper  
25 of such original package, in such place thereon and in such  
26 manner as the Department may prescribe; provided (as stated

1 hereinbefore) that this requirement does not apply when such  
2 distributor is required or authorized by the Cigarette Tax Act  
3 to place the tax imprint provided for in the last paragraph of  
4 Section 3 of that Act underneath the sealed transparent wrapper  
5 of such original package of cigarettes. Such imprinted language  
6 shall acknowledge the manufacturer's collection and payment of  
7 or liability for the tax imposed by this Act with respect to  
8 such cigarettes.

9 The Department shall adopt the design or designs of the tax  
10 stamps and shall procure the printing of such stamps in such  
11 amounts and denominations as it deems necessary to provide for  
12 the affixation of the proper amount of tax stamps to each  
13 original package of cigarettes.

14 Where tax stamps are required, the Department may authorize  
15 distributors to affix revenue tax stamps by imprinting tax  
16 meter stamps upon original packages of cigarettes. The  
17 Department shall adopt rules and regulations relating to the  
18 imprinting of such tax meter stamps as will result in payment  
19 of the proper taxes as herein imposed. No distributor may affix  
20 revenue tax stamps to original packages of cigarettes by  
21 imprinting meter stamps thereon unless such distributor has  
22 first obtained permission from the Department to employ this  
23 method of affixation. The Department shall regulate the use of  
24 tax meters and may, to assure the proper collection of the  
25 taxes imposed by this Act, revoke or suspend the privilege,  
26 theretofore granted by the Department to any distributor, to

1 imprint tax meter stamps upon original packages of cigarettes.

2 The tax hereby imposed and not paid pursuant to this  
3 Section shall be paid to the Department directly by any person  
4 using such cigarettes within this State, pursuant to Section 12  
5 hereof.

6 A distributor shall not affix, or cause to be affixed, any  
7 stamp or imprint to a package of cigarettes, as provided for in  
8 this Section, if the tobacco product manufacturer, as defined  
9 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,  
10 that made or sold the cigarettes has failed to become a  
11 participating manufacturer, as defined in subdivision (a)(1)  
12 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,  
13 or has failed to create a qualified escrow fund for any  
14 cigarettes manufactured by the tobacco product manufacturer  
15 and sold in this State or otherwise failed to bring itself into  
16 compliance with subdivision (a)(2) of Section 15 of the Tobacco  
17 Product Manufacturers' Escrow Act.

18 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10;  
19 97-1129, eff. 8-28-12.)

20 Section 25-25. The Tobacco Products Tax Act of 1995 is  
21 amended by changing Section 10-30 as follows:

22 (35 ILCS 143/10-30)

23 Sec. 10-30. Returns.

24 (a) Every distributor shall, on or before the 15th day of



1 each month, file a return with the Department covering the  
2 preceding calendar month. The return shall disclose the  
3 wholesale price for all tobacco products other than moist snuff  
4 and the quantity in ounces of moist snuff sold or otherwise  
5 disposed of and other information that the Department may  
6 reasonably require. The return shall be filed upon a form  
7 prescribed and furnished by the Department.

8 (b) In addition to the information required under  
9 subsection (a), on or before the 15th day of each month,  
10 covering the preceding calendar month, each stamping  
11 distributor shall, on forms prescribed and furnished by the  
12 Department, report the quantity of little cigars sold or  
13 otherwise disposed of, including the number of packages of  
14 little cigars sold or disposed of during the month containing  
15 20 or 25 little cigars.

16 (c) At the time when any return of any distributor is due  
17 to be filed with the Department, the distributor shall also  
18 remit to the Department the tax liability that the distributor  
19 has incurred for transactions occurring in the preceding  
20 calendar month.

21 (d) The Department may adopt rules to require the  
22 electronic filing of any return or document required to be  
23 filed under this Act. Those rules may provide for exceptions  
24 from the filing requirement set forth in this paragraph for  
25 persons who demonstrate that they do not have access to the  
26 Internet and petition the Department to waive the electronic

1 filing requirement.

2 (e) If any payment provided for in this Section exceeds the  
3 distributor's liabilities under this Act, as shown on an  
4 original return, the distributor may credit such excess payment  
5 against liability subsequently to be remitted to the Department  
6 under this Act, in accordance with reasonable rules adopted by  
7 the Department.

8 (Source: P.A. 97-688, eff. 6-14-12; 98-273, eff. 8-9-13.)

9 Section 25-30. The Hotel Operators' Occupation Tax Act is  
10 amended by changing Section 6 as follows:

11 (35 ILCS 145/6) (from Ch. 120, par. 481b.36)

12 Sec. 6. Except as provided hereinafter in this Section, on  
13 or before the last day of each calendar month, every person  
14 engaged in the business of renting, leasing or letting rooms in  
15 a hotel in this State during the preceding calendar month shall  
16 file a return with the Department, stating:

17 1. The name of the operator;

18 2. His residence address and the address of his  
19 principal place of business and the address of the  
20 principal place of business (if that is a different  
21 address) from which he engages in the business of renting,  
22 leasing or letting rooms in a hotel in this State;

23 3. Total amount of rental receipts received by him  
24 during the preceding calendar month from renting, leasing

1 or letting rooms during such preceding calendar month;

2 4. Total amount of rental receipts received by him  
3 during the preceding calendar month from renting, leasing  
4 or letting rooms to permanent residents during such  
5 preceding calendar month;

6 5. Total amount of other exclusions from gross rental  
7 receipts allowed by this Act;

8 6. Gross rental receipts which were received by him  
9 during the preceding calendar month and upon the basis of  
10 which the tax is imposed;

11 7. The amount of tax due;

12 8. Such other reasonable information as the Department  
13 may require.

14 If the operator's average monthly tax liability to the  
15 Department does not exceed \$200, the Department may authorize  
16 his returns to be filed on a quarter annual basis, with the  
17 return for January, February and March of a given year being  
18 due by April 30 of such year; with the return for April, May  
19 and June of a given year being due by July 31 of such year; with  
20 the return for July, August and September of a given year being  
21 due by October 31 of such year, and with the return for  
22 October, November and December of a given year being due by  
23 January 31 of the following year.

24 If the operator's average monthly tax liability to the  
25 Department does not exceed \$50, the Department may authorize  
26 his returns to be filed on an annual basis, with the return for

1 a given year being due by January 31 of the following year.

2 Such quarter annual and annual returns, as to form and  
3 substance, shall be subject to the same requirements as monthly  
4 returns.

5 Notwithstanding any other provision in this Act concerning  
6 the time within which an operator may file his return, in the  
7 case of any operator who ceases to engage in a kind of business  
8 which makes him responsible for filing returns under this Act,  
9 such operator shall file a final return under this Act with the  
10 Department not more than 1 month after discontinuing such  
11 business.

12 Where the same person has more than 1 business registered  
13 with the Department under separate registrations under this  
14 Act, such person shall not file each return that is due as a  
15 single return covering all such registered businesses, but  
16 shall file separate returns for each such registered business.

17 In his return, the operator shall determine the value of  
18 any consideration other than money received by him in  
19 connection with the renting, leasing or letting of rooms in the  
20 course of his business and he shall include such value in his  
21 return. Such determination shall be subject to review and  
22 revision by the Department in the manner hereinafter provided  
23 for the correction of returns.

24 Where the operator is a corporation, the return filed on  
25 behalf of such corporation shall be signed by the president,  
26 vice-president, secretary or treasurer or by the properly

1 accredited agent of such corporation.

2 The person filing the return herein provided for shall, at  
3 the time of filing such return, pay to the Department the  
4 amount of tax herein imposed. The operator filing the return  
5 under this Section shall, at the time of filing such return,  
6 pay to the Department the amount of tax imposed by this Act  
7 less a discount of 2.1% or \$25 per calendar year, whichever is  
8 greater, which is allowed to reimburse the operator for the  
9 expenses incurred in keeping records, preparing and filing  
10 returns, remitting the tax and supplying data to the Department  
11 on request.

12 If any payment provided for in this Section exceeds the  
13 operator's liabilities under this Act, as shown on an original  
14 return, the Department may authorize the operator to credit  
15 such excess payment against liability subsequently to be  
16 remitted to the Department under this Act, in accordance with  
17 reasonable rules adopted by the Department. If the Department  
18 subsequently determines that all or any part of the credit  
19 taken was not actually due to the operator, the operator's  
20 discount shall be reduced by an amount equal to the difference  
21 between the discount as applied to the credit taken and that  
22 actually due, and that operator shall be liable for penalties  
23 and interest on such difference.

24 There shall be deposited in the Build Illinois Fund in the  
25 State Treasury for each State fiscal year 40% of the amount of  
26 total net proceeds from the tax imposed by subsection (a) of

1 Section 3. Of the remaining 60%, \$5,000,000 shall be deposited  
2 in the Illinois Sports Facilities Fund and credited to the  
3 Subsidy Account each fiscal year by making monthly deposits in  
4 the amount of 1/8 of \$5,000,000 plus cumulative deficiencies in  
5 such deposits for prior months, and an additional \$8,000,000  
6 shall be deposited in the Illinois Sports Facilities Fund and  
7 credited to the Advance Account each fiscal year by making  
8 monthly deposits in the amount of 1/8 of \$8,000,000 plus any  
9 cumulative deficiencies in such deposits for prior months;  
10 provided, that for fiscal years ending after June 30, 2001, the  
11 amount to be so deposited into the Illinois Sports Facilities  
12 Fund and credited to the Advance Account each fiscal year shall  
13 be increased from \$8,000,000 to the then applicable Advance  
14 Amount and the required monthly deposits beginning with July  
15 2001 shall be in the amount of 1/8 of the then applicable  
16 Advance Amount plus any cumulative deficiencies in those  
17 deposits for prior months. (The deposits of the additional  
18 \$8,000,000 or the then applicable Advance Amount, as  
19 applicable, during each fiscal year shall be treated as  
20 advances of funds to the Illinois Sports Facilities Authority  
21 for its corporate purposes to the extent paid to the Authority  
22 or its trustee and shall be repaid into the General Revenue  
23 Fund in the State Treasury by the State Treasurer on behalf of  
24 the Authority pursuant to Section 19 of the Illinois Sports  
25 Facilities Authority Act, as amended. If in any fiscal year the  
26 full amount of the then applicable Advance Amount is not repaid

1 into the General Revenue Fund, then the deficiency shall be  
2 paid from the amount in the Local Government Distributive Fund  
3 that would otherwise be allocated to the City of Chicago under  
4 the State Revenue Sharing Act.)

5 For purposes of the foregoing paragraph, the term "Advance  
6 Amount" means, for fiscal year 2002, \$22,179,000, and for  
7 subsequent fiscal years through fiscal year 2032, 105.615% of  
8 the Advance Amount for the immediately preceding fiscal year,  
9 rounded up to the nearest \$1,000.

10 Of the remaining 60% of the amount of total net proceeds  
11 prior to August 1, 2011 from the tax imposed by subsection (a)  
12 of Section 3 after all required deposits in the Illinois Sports  
13 Facilities Fund, the amount equal to 8% of the net revenue  
14 realized from this Act plus an amount equal to 8% of the net  
15 revenue realized from any tax imposed under Section 4.05 of the  
16 Chicago World's Fair-1992 Authority Act during the preceding  
17 month shall be deposited in the Local Tourism Fund each month  
18 for purposes authorized by Section 605-705 of the Department of  
19 Commerce and Economic Opportunity Law (20 ILCS 605/605-705). Of  
20 the remaining 60% of the amount of total net proceeds beginning  
21 on August 1, 2011 from the tax imposed by subsection (a) of  
22 Section 3 after all required deposits in the Illinois Sports  
23 Facilities Fund, an amount equal to 8% of the net revenue  
24 realized from this Act plus an amount equal to 8% of the net  
25 revenue realized from any tax imposed under Section 4.05 of the  
26 Chicago World's Fair-1992 Authority Act during the preceding

1 month shall be deposited as follows: 18% of such amount shall  
2 be deposited into the Chicago Travel Industry Promotion Fund  
3 for the purposes described in subsection (n) of Section 5 of  
4 the Metropolitan Pier and Exposition Authority Act and the  
5 remaining 82% of such amount shall be deposited into the Local  
6 Tourism Fund each month for purposes authorized by Section  
7 605-705 of the Department of Commerce and Economic Opportunity  
8 Law. Beginning on August 1, 1999 and ending on July 31, 2011,  
9 an amount equal to 4.5% of the net revenue realized from the  
10 Hotel Operators' Occupation Tax Act during the preceding month  
11 shall be deposited into the International Tourism Fund for the  
12 purposes authorized in Section 605-707 of the Department of  
13 Commerce and Economic Opportunity Law. Beginning on August 1,  
14 2011, an amount equal to 4.5% of the net revenue realized from  
15 this Act during the preceding month shall be deposited as  
16 follows: 55% of such amount shall be deposited into the Chicago  
17 Travel Industry Promotion Fund for the purposes described in  
18 subsection (n) of Section 5 of the Metropolitan Pier and  
19 Exposition Authority Act and the remaining 45% of such amount  
20 deposited into the International Tourism Fund for the purposes  
21 authorized in Section 605-707 of the Department of Commerce and  
22 Economic Opportunity Law. "Net revenue realized for a month"  
23 means the revenue collected by the State under that Act during  
24 the previous month less the amount paid out during that same  
25 month as refunds to taxpayers for overpayment of liability  
26 under that Act.



1           After making all these deposits, all other proceeds of the  
2 tax imposed under subsection (a) of Section 3 shall be  
3 deposited in the General Revenue Fund in the State Treasury.  
4 All moneys received by the Department from the additional tax  
5 imposed under subsection (b) of Section 3 shall be deposited  
6 into the Build Illinois Fund in the State Treasury.

7           The Department may, upon separate written notice to a  
8 taxpayer, require the taxpayer to prepare and file with the  
9 Department on a form prescribed by the Department within not  
10 less than 60 days after receipt of the notice an annual  
11 information return for the tax year specified in the notice.  
12 Such annual return to the Department shall include a statement  
13 of gross receipts as shown by the operator's last State income  
14 tax return. If the total receipts of the business as reported  
15 in the State income tax return do not agree with the gross  
16 receipts reported to the Department for the same period, the  
17 operator shall attach to his annual information return a  
18 schedule showing a reconciliation of the 2 amounts and the  
19 reasons for the difference. The operator's annual information  
20 return to the Department shall also disclose pay roll  
21 information of the operator's business during the year covered  
22 by such return and any additional reasonable information which  
23 the Department deems would be helpful in determining the  
24 accuracy of the monthly, quarterly or annual tax returns by  
25 such operator as hereinbefore provided for in this Section.

26           If the annual information return required by this Section

1 is not filed when and as required the taxpayer shall be liable  
2 for a penalty in an amount determined in accordance with  
3 Section 3-4 of the Uniform Penalty and Interest Act until such  
4 return is filed as required, the penalty to be assessed and  
5 collected in the same manner as any other penalty provided for  
6 in this Act.

7 The chief executive officer, proprietor, owner or highest  
8 ranking manager shall sign the annual return to certify the  
9 accuracy of the information contained therein. Any person who  
10 willfully signs the annual return containing false or  
11 inaccurate information shall be guilty of perjury and punished  
12 accordingly. The annual return form prescribed by the  
13 Department shall include a warning that the person signing the  
14 return may be liable for perjury.

15 The foregoing portion of this Section concerning the filing  
16 of an annual information return shall not apply to an operator  
17 who is not required to file an income tax return with the  
18 United States Government.

19 (Source: P.A. 97-617, eff. 10-26-11.)

20 Section 25-35. The Live Adult Entertainment Facility  
21 Surcharge Act is amended by changing Section 10 as follows:

22 (35 ILCS 175/10)

23 Sec. 10. Surcharge imposed; returns.

24 (a) An annual surcharge is imposed upon each operator who

1 operates a live adult entertainment facility in this State. By  
2 January 20, 2014, and by January 20 of each year thereafter,  
3 each operator shall elect to pay the surcharge according to  
4 either item (1) or item (2) of this subsection.

5 (1) An operator who elects to be subject to this item  
6 (1) shall pay to the Department a surcharge imposed upon  
7 admissions to a live adult entertainment facility operated  
8 by the operator in this State in an amount equal to \$3 per  
9 person admitted to that live adult entertainment facility.  
10 This item (1) does not require a live entertainment  
11 facility to impose a fee on a customer of the facility. An  
12 operator has the discretion to determine the manner in  
13 which the facility derives the moneys required to pay the  
14 surcharge imposed under this Section. In the event that an  
15 operator has not filed the applicable returns under the  
16 Retailers' Occupation Tax Act for a full calendar year  
17 prior to any January 20, then such operator shall pay the  
18 surcharge under this Act pursuant to this item (1) for  
19 moneys owed to the Department subject to this Act for the  
20 previous calendar year.

21 (2) An operator may, in the alternative, pay to the  
22 Department the surcharge as follows:

23 (A) If the gross receipts received by the live  
24 adult entertainment facility during the preceding  
25 calendar year, upon the basis of which a tax is imposed  
26 under Section 2 of the Retailers' Occupation Tax Act,

1           are equal or greater than \$2,000,000 during the  
2           preceding calendar year, and if the operator elects to  
3           be subject to this item (2), then the operator shall  
4           pay the Department a surcharge of \$25,000.

5           (B) If the gross receipts received by the live  
6           adult entertainment facility during the preceding  
7           calendar year, upon the basis of which a tax is imposed  
8           under Section 2 of the Retailers' Occupation Tax Act,  
9           are equal to or greater than \$500,000 but less than  
10          \$2,000,000 during the preceding calendar year, and if  
11          the operator elects to be subject to this item (2),  
12          then the operator shall pay to the Department a  
13          surcharge of \$15,000.

14          (C) If the gross receipts received by the live  
15          adult entertainment facility during the preceding  
16          calendar year, upon the basis of which a tax is imposed  
17          under Section 2 of the Retailers' Occupation Tax Act,  
18          are less than \$500,000 during the preceding calendar  
19          year, and if the operator elects to be subject to this  
20          item (2), then the operator shall pay the Department a  
21          surcharge of \$5,000.

22          (b) For each live adult entertainment facility paying the  
23          surcharge as set forth in item (1) of subsection (a) of this  
24          Section, the operator must file a return electronically as  
25          provided by the Department and remit payment to the Department  
26          on an annual basis no later than January 20 covering the

1 previous calendar year. Each return made to the Department must  
2 state the following:

3 (1) the name of the operator;

4 (2) the address of the live adult entertainment  
5 facility and the address of the principal place of business  
6 (if that is a different address) of the operator;

7 (3) the total number of admissions to the facility in  
8 the preceding calendar year; and

9 (4) the total amount of surcharge collected in the  
10 preceding calendar year.

11 Notwithstanding any other provision of this subsection  
12 concerning the time within which an operator may file his or  
13 her return, if an operator ceases to operate a live adult  
14 entertainment facility, then he or she must file a final return  
15 under this Act with the Department not more than one calendar  
16 month after discontinuing that business.

17 (c) For each live adult entertainment facility paying the  
18 surcharge as set forth in item (2) of subsection (a) of this  
19 Section, the operator must file a return electronically as  
20 provided by the Department and remit payment to the Department  
21 on an annual basis no later than January 20 covering the  
22 previous calendar year. Each return made to the Department must  
23 state the following:

24 (1) the name of the operator;

25 (2) the address of the live adult entertainment  
26 facility and the address of the principal place of business

1 (if that is a different address) of the operator;

2 (3) the gross receipts received by the live adult  
3 entertainment facility during the preceding calendar year,  
4 upon the basis of which tax is imposed under Section 2 of  
5 the Retailers' Occupation Tax Act; and

6 (4) the applicable surcharge from Section 10(a)(2) of  
7 this Act to be paid by the operator.

8 Notwithstanding any other provision of this subsection  
9 concerning the time within which an operator may file his or  
10 her return, if an operator ceases to operate a live adult  
11 entertainment facility, then he or she must file a final return  
12 under this Act with the Department not more than one calendar  
13 month after discontinuing that business.

14 (d) Beginning January 1, 2014, the Department shall pay all  
15 proceeds collected from the surcharge imposed under this Act  
16 into the Sexual Assault Services and Prevention Fund, less 2%  
17 of those proceeds, which shall be paid into the Tax Compliance  
18 and Administration Fund in the State treasury from which it  
19 shall be appropriated to the Department to cover the costs of  
20 the Department in administering and enforcing the provisions of  
21 this Act.

22 (e) If any payment provided for in this Section exceeds the  
23 operator's liabilities under this Act, as shown on an original  
24 return, the operator may credit such excess payment against  
25 liability subsequently to be remitted to the Department under  
26 this Act, in accordance with reasonable rules adopted by the

1 Department.

2 (Source: P.A. 97-1035, eff. 1-1-13.)

3 Section 25-40. The Illinois Hydraulic Fracturing Tax Act is  
4 amended by changing Sections 2-45 and 2-50 as follows:

5 (35 ILCS 450/2-45)

6 Sec. 2-45. Purchaser's return and tax remittance. Each  
7 purchaser shall make a return to the Department showing the  
8 quantity of oil or gas purchased during the month for which the  
9 return is filed, the price paid therefor, total value, the name  
10 and address of the operator or other person from whom the same  
11 was purchased, a description of the production unit in the  
12 manner prescribed by the Department from which such oil or gas  
13 was severed and the amount of tax due from each production unit  
14 for each calendar month. All taxes due, or to be remitted, by  
15 the purchaser shall accompany this return. The return shall be  
16 filed on or before the last day of the month after the calendar  
17 month for which the return is required. The Department shall  
18 forward the necessary information to each Chief County  
19 Assessment Officer for the administration and application of ad  
20 valorem real property taxes at the county level. This  
21 information shall be forwarded to the Chief County Assessment  
22 Officers in a yearly summary before March 1 of the following  
23 calendar year. The Department may require any additional report  
24 or information it may deem necessary for the proper

1 administration of this Act.

2 Such returns shall be filed electronically in the manner  
3 prescribed by the Department. Purchasers shall make all  
4 payments of that tax to the Department by electronic funds  
5 transfer unless, as provided by rule, the Department grants an  
6 exception upon petition of a purchaser. Purchasers' returns  
7 must be accompanied by appropriate computer generated magnetic  
8 media supporting schedule data in the format required by the  
9 Department, unless, as provided by rule, the Department grants  
10 an exception upon petition of a purchaser.

11 If any payment provided for in this Section exceeds the  
12 purchaser's liabilities under this Act, as shown on an original  
13 return, the purchaser may credit such excess payment against  
14 liability subsequently to be remitted to the Department under  
15 this Act, in accordance with reasonable rules adopted by the  
16 Department.

17 (Source: P.A. 98-22, eff. 6-17-13; 98-23, eff. 6-17-13; 98-756,  
18 eff. 7-16-14.)

19 (35 ILCS 450/2-50)

20 Sec. 2-50. Operator returns; payment of tax.

21 (a) If, on or after July 1, 2013, oil or gas is transported  
22 off the production unit where severed by the operator, used on  
23 the production unit where severed, or if the manufacture and  
24 conversion of oil and gas into refined products occurs on the  
25 production unit where severed, the operator is responsible for



1 remitting the tax imposed under subsection (a) of Section 2-15,  
2 on or before the last day of the month following the end of the  
3 calendar month in which the oil and gas is removed from the  
4 production unit, and such payment shall be accompanied by a  
5 return to the Department showing the gross quantity of oil or  
6 gas removed during the month for which the return is filed, the  
7 price paid therefor, and if no price is paid therefor, the  
8 value of the oil and gas, a description of the production unit  
9 from which such oil or gas was severed, and the amount of tax.  
10 The Department may require any additional information it may  
11 deem necessary for the proper administration of this Act.

12 (b) Operators shall file all returns electronically in the  
13 manner prescribed by the Department unless, as provided by  
14 rule, the Department grants an exception upon petition of an  
15 operator. Operators shall make all payments of that tax to the  
16 Department by electronic funds transfer unless, as provided by  
17 rule, the Department grants an exception upon petition of an  
18 operator. Operators' returns must be accompanied by  
19 appropriate computer generated magnetic media supporting  
20 schedule data in the format required by the Department, unless,  
21 as provided by rule, the Department grants an exception upon  
22 petition of a purchaser.

23 (c) Any operator who makes a monetary payment to a producer  
24 for his or her portion of the value of products from a  
25 production unit shall withhold from such payment the amount of  
26 tax due from the producer. Any operator who pays any tax due

1 from a producer shall be entitled to reimbursement from the  
2 producer for the tax so paid and may take credit for such  
3 amount from any monetary payment to the producer for the value  
4 of products. To the extent that an operator required to collect  
5 the tax imposed by this Act has actually collected that tax,  
6 such tax is held in trust for the benefit of the State of  
7 Illinois.

8 (d) In the event the operator fails to make payment of the  
9 tax to the State as required herein, the operator shall be  
10 liable for the tax. A producer shall be entitled to bring an  
11 action against such operator to recover the amount of tax so  
12 withheld together with penalties and interest which may have  
13 accrued by failure to make such payment. A producer shall be  
14 entitled to all attorney fees and court costs incurred in such  
15 action. To the extent that a producer liable for the tax  
16 imposed by this Act collects the tax, and any penalties and  
17 interest, from an operator, such tax, penalties, and interest  
18 are held in trust by the producer for the benefit of the State  
19 of Illinois.

20 (e) When the title to any oil or gas severed from the earth  
21 or water is in dispute and the operator of such oil or gas is  
22 withholding payments on account of litigation, or for any other  
23 reason, such operator is hereby authorized, empowered and  
24 required to deduct from the gross amount thus held the amount  
25 of the tax imposed and to make remittance thereof to the  
26 Department as provided in this Section.

1 (f) An operator required to file a return and pay the tax  
2 under this Section shall register with the Department.  
3 Application for a certificate of registration shall be made to  
4 the Department upon forms furnished by the Department and shall  
5 contain any reasonable information the Department may require.  
6 Upon receipt of the application for a certificate of  
7 registration in proper form, the Department shall issue to the  
8 applicant a certificate of registration.

9 (g) If oil or gas is transported off the production unit  
10 where severed by the operator and sold to a purchaser or  
11 refiner, the State shall have a lien on all the oil or gas  
12 severed from the production unit in this State in the hands of  
13 the operator, the first or any subsequent purchaser thereof, or  
14 refiner to secure the payment of the tax. If a lien is filed by  
15 the Department, the purchaser or refiner shall withhold from  
16 the operator the amount of tax, penalty and interest identified  
17 in the lien.

18 (h) If any payment provided for in this Section exceeds the  
19 operator's liabilities under this Act, as shown on an original  
20 return, the operator may credit such excess payment against  
21 liability subsequently to be remitted to the Department under  
22 this Act, in accordance with reasonable rules adopted by the  
23 Department.

24 (Source: P.A. 98-22, eff. 6-17-13; 98-756, eff. 7-16-14.)

25 Section 25-45. The Motor Fuel Tax Law is amended by

1 changing Sections 2b, 5, 5a, and 13 as follows:

2 (35 ILCS 505/2b) (from Ch. 120, par. 418b)

3 Sec. 2b. Receiver's monthly return. In addition to the tax  
4 collection and reporting responsibilities imposed elsewhere in  
5 this Act, a person who is required to pay the tax imposed by  
6 Section 2a of this Act shall pay the tax to the Department by  
7 return showing all fuel purchased, acquired or received and  
8 sold, distributed or used during the preceding calendar month  
9 including losses of fuel as the result of evaporation or  
10 shrinkage due to temperature variations, and such other  
11 reasonable information as the Department may require. Losses of  
12 fuel as the result of evaporation or shrinkage due to  
13 temperature variations may not exceed 1% of the total gallons  
14 in storage at the beginning of the month, plus the receipts of  
15 gallonage during the month, minus the gallonage remaining in  
16 storage at the end of the month. Any loss reported that is in  
17 excess of this amount shall be subject to the tax imposed by  
18 Section 2a of this Law. On and after July 1, 2001, for each  
19 6-month period January through June, net losses of fuel (for  
20 each category of fuel that is required to be reported on a  
21 return) as the result of evaporation or shrinkage due to  
22 temperature variations may not exceed 1% of the total gallons  
23 in storage at the beginning of each January, plus the receipts  
24 of gallonage each January through June, minus the gallonage  
25 remaining in storage at the end of each June. On and after July

1 1, 2001, for each 6-month period July through December, net  
2 losses of fuel (for each category of fuel that is required to  
3 be reported on a return) as the result of evaporation or  
4 shrinkage due to temperature variations may not exceed 1% of  
5 the total gallons in storage at the beginning of each July,  
6 plus the receipts of gallonage each July through December,  
7 minus the gallonage remaining in storage at the end of each  
8 December. Any net loss reported that is in excess of this  
9 amount shall be subject to the tax imposed by Section 2a of  
10 this Law. For purposes of this Section, "net loss" means the  
11 number of gallons gained through temperature variations minus  
12 the number of gallons lost through temperature variations or  
13 evaporation for each of the respective 6-month periods.

14 The return shall be prescribed by the Department and shall  
15 be filed between the 1st and 20th days of each calendar month.  
16 The Department may, in its discretion, combine the returns  
17 filed under this Section, Section 5, and Section 5a of this  
18 Act. The return must be accompanied by appropriate  
19 computer-generated magnetic media supporting schedule data in  
20 the format required by the Department, unless, as provided by  
21 rule, the Department grants an exception upon petition of a  
22 taxpayer. If the return is filed timely, the seller shall take  
23 a discount of 2% through June 30, 2003 and 1.75% thereafter  
24 which is allowed to reimburse the seller for the expenses  
25 incurred in keeping records, preparing and filing returns,  
26 collecting and remitting the tax and supplying data to the

1 Department on request. The discount, however, shall be  
2 applicable only to the amount of payment which accompanies a  
3 return that is filed timely in accordance with this Section.

4 If any payment provided for in this Section exceeds the  
5 receiver's liabilities under this Act, as shown on an original  
6 return, the Department may authorize the receiver to credit  
7 such excess payment against liability subsequently to be  
8 remitted to the Department under this Act, in accordance with  
9 reasonable rules adopted by the Department. If the Department  
10 subsequently determines that all or any part of the credit  
11 taken was not actually due to the receiver, the receiver's  
12 discount shall be reduced by an amount equal to the difference  
13 between the discount as applied to the credit taken and that  
14 actually due, and that receiver shall be liable for penalties  
15 and interest on such difference.

16 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

17 (35 ILCS 505/5) (from Ch. 120, par. 421)

18 Sec. 5. Distributor's monthly return. Except as  
19 hereinafter provided, a person holding a valid unrevoked  
20 license to act as a distributor of motor fuel shall, between  
21 the 1st and 20th days of each calendar month, make return to  
22 the Department, showing an itemized statement of the number of  
23 invoiced gallons of motor fuel of the types specified in this  
24 Section which were purchased, acquired, received, or exported  
25 during the preceding calendar month; the amount of such motor

1 fuel produced, refined, compounded, manufactured, blended,  
2 sold, distributed, exported, and used by the licensed  
3 distributor during the preceding calendar month; the amount of  
4 such motor fuel lost or destroyed during the preceding calendar  
5 month; the amount of such motor fuel on hand at the close of  
6 business for such month; and such other reasonable information  
7 as the Department may require. If a distributor's only  
8 activities with respect to motor fuel are either: (1)  
9 production of alcohol in quantities of less than 10,000 proof  
10 gallons per year or (2) blending alcohol in quantities of less  
11 than 10,000 proof gallons per year which such distributor has  
12 produced, he shall file returns on an annual basis with the  
13 return for a given year being due by January 20 of the  
14 following year. Distributors whose total production of alcohol  
15 (whether blended or not) exceeds 10,000 proof gallons per year,  
16 based on production during the preceding (calendar) year or as  
17 reasonably projected by the Department if one calendar year's  
18 record of production cannot be established, shall file returns  
19 between the 1st and 20th days of each calendar month as  
20 hereinabove provided.

21 The types of motor fuel referred to in the preceding  
22 paragraph are: (A) All products commonly or commercially known  
23 or sold as gasoline (including casing-head and absorption or  
24 natural gasoline), gasohol, motor benzol or motor benzene  
25 regardless of their classification or uses; and (B) all  
26 combustible gases which exist in a gaseous state at 60 degrees

1 Fahrenheit and at 14.7 pounds per square inch absolute  
2 including, but not limited to, liquefied petroleum gases used  
3 for highway purposes; and (C) special fuel. Only those  
4 quantities of combustible gases (example (B) above) which are  
5 used or sold by the distributor to be used to propel motor  
6 vehicles on the public highways, or which are delivered into a  
7 storage tank that is located at a facility that has withdrawal  
8 facilities which are readily accessible to and are capable of  
9 dispensing combustible gases into the fuel supply tanks of  
10 motor vehicles, shall be subject to return. For purposes of  
11 this Section, a facility is considered to have withdrawal  
12 facilities that are not "readily accessible to and capable of  
13 dispensing combustible gases into the fuel supply tanks of  
14 motor vehicles" only if the combustible gases are delivered  
15 from: (i) a dispenser hose that is short enough so that it will  
16 not reach the fuel supply tank of a motor vehicle or (ii) a  
17 dispenser that is enclosed by a fence or other physical barrier  
18 so that a vehicle cannot pull alongside the dispenser to permit  
19 fueling. For the purposes of this Act, liquefied petroleum  
20 gases shall mean and include any material having a vapor  
21 pressure not exceeding that allowed for commercial propane  
22 composed predominantly of the following hydrocarbons, either  
23 by themselves or as mixtures: Propane, Propylene, Butane  
24 (normal butane or iso-butane) and Butylene (including  
25 isomers).

26 In case of a sale of special fuel to someone other than a



1 licensed distributor, or a licensed supplier, for a use other  
2 than in motor vehicles, the distributor shall show in his  
3 return the amount of invoiced gallons sold and the name and  
4 address of the purchaser in addition to any other information  
5 the Department may require.

6 All special fuel sold or used for non-highway purposes must  
7 have a dye added in accordance with Section 4d of this Law.

8 In case of a tax-free sale, as provided in Section 6, of  
9 motor fuel which the distributor is required by this Section to  
10 include in his return to the Department, the distributor in his  
11 return shall show: (1) If the sale is made to another licensed  
12 distributor the amount sold and the name, address and license  
13 number of the purchasing distributor; (2) if the sale is made  
14 to a person where delivery is made outside of this State the  
15 name and address of such purchaser and the point of delivery  
16 together with the date and amount delivered; (3) if the sale is  
17 made to the Federal Government or its instrumentalities the  
18 amount sold; (4) if the sale is made to a municipal corporation  
19 owning and operating a local transportation system for public  
20 service in this State the name and address of such purchaser,  
21 and the amount sold, as evidenced by official forms of  
22 exemption certificates properly executed and furnished by such  
23 purchaser; (5) if the sale is made to a privately owned public  
24 utility owning and operating 2-axle vehicles designed and used  
25 for transporting more than 7 passengers, which vehicles are  
26 used as common carriers in general transportation of

1 passengers, are not devoted to any specialized purpose and are  
2 operated entirely within the territorial limits of a single  
3 municipality or of any group of contiguous municipalities or in  
4 a close radius thereof, and the operations of which are subject  
5 to the regulations of the Illinois Commerce Commission, then  
6 the name and address of such purchaser and the amount sold as  
7 evidenced by official forms of exemption certificates properly  
8 executed and furnished by the purchaser; (6) if the product  
9 sold is special fuel and if the sale is made to a licensed  
10 supplier under conditions which qualify the sale for tax  
11 exemption under Section 6 of this Act, the amount sold and the  
12 name, address and license number of the purchaser; and (7) if a  
13 sale of special fuel is made to someone other than a licensed  
14 distributor, or a licensed supplier, for a use other than in  
15 motor vehicles, by making a specific notation thereof on the  
16 invoice or sales slip covering such sales and obtaining such  
17 supporting documentation as may be required by the Department.

18 All special fuel sold or used for non-highway purposes must  
19 have a dye added in accordance with Section 4d of this Law.

20 A person whose license to act as a distributor of motor  
21 fuel has been revoked shall make a return to the Department  
22 covering the period from the date of the last return to the  
23 date of the revocation of the license, which return shall be  
24 delivered to the Department not later than 10 days from the  
25 date of the revocation or termination of the license of such  
26 distributor; the return shall in all other respects be subject

1 to the same provisions and conditions as returns by  
2 distributors licensed under the provisions of this Act.

3 The records, waybills and supporting documents kept by  
4 railroads and other common carriers in the regular course of  
5 business shall be prima facie evidence of the contents and  
6 receipt of cars or tanks covered by those records, waybills or  
7 supporting documents.

8 If the Department has reason to believe and does believe  
9 that the amount shown on the return as purchased, acquired,  
10 received, exported, sold, used, lost or destroyed is incorrect,  
11 or that an amount of motor fuel of the types required by the  
12 second paragraph of this Section to be reported to the  
13 Department has not been correctly reported the Department shall  
14 fix an amount for such receipt, sales, export, use, loss or  
15 destruction according to its best judgment and information,  
16 which amount so fixed by the Department shall be prima facie  
17 correct. All returns shall be made on forms prepared and  
18 furnished by the Department, and shall contain such other  
19 information as the Department may reasonably require. The  
20 return must be accompanied by appropriate computer-generated  
21 magnetic media supporting schedule data in the format required  
22 by the Department, unless, as provided by rule, the Department  
23 grants an exception upon petition of a taxpayer. All licensed  
24 distributors shall report all losses of motor fuel sustained on  
25 account of fire, theft, spillage, spoilage, leakage, or any  
26 other provable cause when filing the return for the period

1 during which the loss occurred. If the distributor reports  
2 losses due to fire or theft, then the distributor must include  
3 fire department or police department reports and any other  
4 documentation that the Department may require. The mere making  
5 of the report does not assure the allowance of the loss as a  
6 reduction in tax liability. Losses of motor fuel as the result  
7 of evaporation or shrinkage due to temperature variations may  
8 not exceed 1% of the total gallons in storage at the beginning  
9 of the month, plus the receipts of gallonage during the month,  
10 minus the gallonage remaining in storage at the end of the  
11 month. Any loss reported that is in excess of 1% shall be  
12 subject to the tax imposed by Section 2 of this Law. On and  
13 after July 1, 2001, for each 6-month period January through  
14 June, net losses of motor fuel (for each category of motor fuel  
15 that is required to be reported on a return) as the result of  
16 evaporation or shrinkage due to temperature variations may not  
17 exceed 1% of the total gallons in storage at the beginning of  
18 each January, plus the receipts of gallonage each January  
19 through June, minus the gallonage remaining in storage at the  
20 end of each June. On and after July 1, 2001, for each 6-month  
21 period July through December, net losses of motor fuel (for  
22 each category of motor fuel that is required to be reported on  
23 a return) as the result of evaporation or shrinkage due to  
24 temperature variations may not exceed 1% of the total gallons  
25 in storage at the beginning of each July, plus the receipts of  
26 gallonage each July through December, minus the gallonage

1 remaining in storage at the end of each December. Any net loss  
2 reported that is in excess of this amount shall be subject to  
3 the tax imposed by Section 2 of this Law. For purposes of this  
4 Section, "net loss" means the number of gallons gained through  
5 temperature variations minus the number of gallons lost through  
6 temperature variations or evaporation for each of the  
7 respective 6-month periods.

8 If any payment provided for in this Section exceeds the  
9 distributor's liabilities under this Act, as shown on an  
10 original return, the Department may authorize the distributor  
11 to credit such excess payment against liability subsequently to  
12 be remitted to the Department under this Act, in accordance  
13 with reasonable rules adopted by the Department. If the  
14 Department subsequently determines that all or any part of the  
15 credit taken was not actually due to the distributor, the  
16 distributor's discount shall be reduced by an amount equal to  
17 the difference between the discount as applied to the credit  
18 taken and that actually due, and that distributor shall be  
19 liable for penalties and interest on such difference.

20 (Source: P.A. 96-1384, eff. 7-29-10.)

21 (35 ILCS 505/5a) (from Ch. 120, par. 421a)

22 Sec. 5a. Supplier's monthly return. A person holding a  
23 valid unrevoked license to act as a supplier of special fuel  
24 shall, between the 1st and 20th days of each calendar month,  
25 make return to the Department showing an itemized statement of

1 the number of invoiced gallons of special fuel acquired,  
2 received, purchased, sold, exported, or used during the  
3 preceding calendar month; the amount of special fuel sold,  
4 distributed, exported, and used by the licensed supplier during  
5 the preceding calendar month; the amount of special fuel lost  
6 or destroyed during the preceding calendar month; the amount of  
7 special fuel on hand at the close of business for the preceding  
8 calendar month; and such other reasonable information as the  
9 Department may require.

10 A person whose license to act as a supplier of special fuel  
11 has been revoked shall make a return to the Department covering  
12 the period from the date of the last return to the date of the  
13 revocation of the license, which return shall be delivered to  
14 the Department not later than 10 days from the date of the  
15 revocation or termination of the license of such supplier. The  
16 return shall in all other respects be subject to the same  
17 provisions and conditions as returns by suppliers licensed  
18 under this Act.

19 The records, waybills and supporting documents kept by  
20 railroads and other common carriers in the regular course of  
21 business shall be prima facie evidence of the contents and  
22 receipt of cars or tanks covered by those records, waybills or  
23 supporting documents.

24 If the Department has reason to believe and does believe  
25 that the amount shown on the return as purchased, acquired,  
26 received, sold, exported, used, or lost is incorrect, or that

1 an amount of special fuel of the type required by the 1st  
2 paragraph of this Section to be reported to the Department by  
3 suppliers has not been correctly reported as a purchase,  
4 receipt, sale, use, export, or loss the Department shall fix an  
5 amount for such purchase, receipt, sale, use, export, or loss  
6 according to its best judgment and information, which amount so  
7 fixed by the Department shall be prima facie correct. All  
8 licensed suppliers shall report all losses of special fuel  
9 sustained on account of fire, theft, spillage, spoilage,  
10 leakage, or any other provable cause when filing the return for  
11 the period during which the loss occurred. If the supplier  
12 reports losses due to fire or theft, then the supplier must  
13 include fire department or police department reports and any  
14 other documentation that the Department may require. The mere  
15 making of the report does not assure the allowance of the loss  
16 as a reduction in tax liability. Losses of special fuel as the  
17 result of evaporation or shrinkage due to temperature  
18 variations may not exceed 1% of the total gallons in storage at  
19 the beginning of the month, plus the receipts of gallonage  
20 during the month, minus the gallonage remaining in storage at  
21 the end of the month.

22 Any loss reported that is in excess of 1% shall be subject  
23 to the tax imposed by Section 2 of this Law. On and after July  
24 1, 2001, for each 6-month period January through June, net  
25 losses of special fuel (for each category of special fuel that  
26 is required to be reported on a return) as the result of

1 evaporation or shrinkage due to temperature variations may not  
2 exceed 1% of the total gallons in storage at the beginning of  
3 each January, plus the receipts of gallonage each January  
4 through June, minus the gallonage remaining in storage at the  
5 end of each June. On and after July 1, 2001, for each 6-month  
6 period July through December, net losses of special fuel (for  
7 each category of special fuel that is required to be reported  
8 on a return) as the result of evaporation or shrinkage due to  
9 temperature variations may not exceed 1% of the total gallons  
10 in storage at the beginning of each July, plus the receipts of  
11 gallonage each July through December, minus the gallonage  
12 remaining in storage at the end of each December. Any net loss  
13 reported that is in excess of this amount shall be subject to  
14 the tax imposed by Section 2 of this Law. For purposes of this  
15 Section, "net loss" means the number of gallons gained through  
16 temperature variations minus the number of gallons lost through  
17 temperature variations or evaporation for each of the  
18 respective 6-month periods.

19 In case of a sale of special fuel to someone other than a  
20 licensed distributor or licensed supplier for a use other than  
21 in motor vehicles, the supplier shall show in his return the  
22 amount of invoiced gallons sold and the name and address of the  
23 purchaser in addition to any other information the Department  
24 may require.

25 All special fuel sold or used for non-highway purposes must  
26 have a dye added in accordance with Section 4d of this Law.



1 All returns shall be made on forms prepared and furnished  
2 by the Department and shall contain such other information as  
3 the Department may reasonably require. The return must be  
4 accompanied by appropriate computer-generated magnetic media  
5 supporting schedule data in the format required by the  
6 Department, unless, as provided by rule, the Department grants  
7 an exception upon petition of a taxpayer.

8 In case of a tax-free sale, as provided in Section 6a, of  
9 special fuel which the supplier is required by this Section to  
10 include in his return to the Department, the supplier in his  
11 return shall show: (1) If the sale of special fuel is made to  
12 the Federal Government or its instrumentalities; (2) if the  
13 sale of special fuel is made to a municipal corporation owning  
14 and operating a local transportation system for public service  
15 in this State, the name and address of such purchaser and the  
16 amount sold, as evidenced by official forms of exemption  
17 certificates properly executed and furnished by such  
18 purchaser; (3) if the sale of special fuel is made to a  
19 privately owned public utility owning and operating 2-axle  
20 vehicles designed and used for transporting more than 7  
21 passengers, which vehicles are used as common carriers in  
22 general transportation of passengers, are not devoted to any  
23 specialized purpose and are operated entirely within the  
24 territorial limits of a single municipality or of any group of  
25 contiguous municipalities or in a close radius thereof, and the  
26 operations of which are subject to the regulations of the

1 Illinois Commerce Commission, then the name and address of such  
2 purchaser and the amount sold, as evidenced by official forms  
3 of exemption certificates properly executed and furnished by  
4 such purchaser; (4) if the product sold is special fuel and if  
5 the sale is made to a licensed supplier or to a licensed  
6 distributor under conditions which qualify the sale for tax  
7 exemption under Section 6a of this Act, the amount sold and the  
8 name, address and license number of such purchaser; (5) if a  
9 sale of special fuel is made to a person where delivery is made  
10 outside of this State, the name and address of such purchaser  
11 and the point of delivery together with the date and amount of  
12 invoiced gallons delivered; and (6) if a sale of special fuel  
13 is made to someone other than a licensed distributor or a  
14 licensed supplier, for a use other than in motor vehicles, by  
15 making a specific notation thereof on the invoice or sales slip  
16 covering that sale and obtaining such supporting documentation  
17 as may be required by the Department.

18 All special fuel sold or used for non-highway purposes must  
19 have a dye added in accordance with Section 4d of this Law.

20 If any payment provided for in this Section exceeds the  
21 supplier's liabilities under this Act, as shown on an original  
22 return, the Department may authorize the supplier to credit  
23 such excess payment against liability subsequently to be  
24 remitted to the Department under this Act, in accordance with  
25 reasonable rules adopted by the Department. If the Department  
26 subsequently determines that all or any part of the credit

1 taken was not actually due to the supplier, the supplier's  
2 discount shall be reduced by an amount equal to the difference  
3 between the discount as applied to the credit taken and that  
4 actually due, and that supplier shall be liable for penalties  
5 and interest on such difference.

6 (Source: P.A. 96-1384, eff. 7-29-10.)

7 (35 ILCS 505/13) (from Ch. 120, par. 429)

8 Sec. 13. Refund of tax paid. Any person other than a  
9 distributor or supplier, who loses motor fuel through any cause  
10 or uses motor fuel (upon which he has paid the amount required  
11 to be collected under Section 2 of this Act) for any purpose  
12 other than operating a motor vehicle upon the public highways  
13 or waters, shall be reimbursed and repaid the amount so paid.

14 Any person who purchases motor fuel in Illinois and uses  
15 that motor fuel in another state and that other state imposes a  
16 tax on the use of such motor fuel shall be reimbursed and  
17 repaid the amount of Illinois tax paid under Section 2 of this  
18 Act on the motor fuel used in such other state. Reimbursement  
19 and repayment shall be made by the Department upon receipt of  
20 adequate proof of taxes directly paid to another state and the  
21 amount of motor fuel used in that state.

22 Claims based in whole or in part on taxes paid to another  
23 state shall include (i) a certified copy of the tax return  
24 filed with such other state by the claimant; (ii) a copy of  
25 either the cancelled check paying the tax due on such return,

1 or a receipt acknowledging payment of the tax due on such tax  
2 return; and (iii) such other information as the Department may  
3 reasonably require. This paragraph shall not apply to taxes  
4 paid on returns filed under Section 13a.3 of this Act.

5 Any person who purchases motor fuel use tax decals as  
6 required by Section 13a.4 and pays an amount of fees for such  
7 decals that exceeds the amount due shall be reimbursed and  
8 repaid the amount of the decal fees that are deemed by the  
9 department to be in excess of the amount due. Alternatively,  
10 any person who purchases motor fuel use tax decals as required  
11 by Section 13a.4 may credit any excess decal payment verified  
12 by the Department against amounts subsequently due for the  
13 purchase of additional decals, until such time as no excess  
14 payment remains.

15 Claims for such reimbursement must be made to the  
16 Department of Revenue, duly verified by the claimant (or by the  
17 claimant's legal representative if the claimant has died or  
18 become a person under legal disability), upon forms prescribed  
19 by the Department. The claim must state such facts relating to  
20 the purchase, importation, manufacture or production of the  
21 motor fuel by the claimant as the Department may deem  
22 necessary, and the time when, and the circumstances of its loss  
23 or the specific purpose for which it was used (as the case may  
24 be), together with such other information as the Department may  
25 reasonably require. No claim based upon idle time shall be  
26 allowed. Claims for reimbursement for overpayment of decal fees

1 shall be made to the Department of Revenue, duly verified by  
2 the claimant (or by the claimant's legal representative if the  
3 claimant has died or become a person under legal disability),  
4 upon forms prescribed by the Department. The claim shall state  
5 facts relating to the overpayment of decal fees, together with  
6 such other information as the Department may reasonably  
7 require. Claims for reimbursement of overpayment of decal fees  
8 paid on or after January 1, 2011 must be filed not later than  
9 one year after the date on which the fees were paid by the  
10 claimant. If it is determined that the Department should  
11 reimburse a claimant for overpayment of decal fees, the  
12 Department shall first apply the amount of such refund against  
13 any tax or penalty or interest due by the claimant under  
14 Section 13a of this Act.

15 Claims for full reimbursement for taxes paid on or before  
16 December 31, 1999 must be filed not later than one year after  
17 the date on which the tax was paid by the claimant. If,  
18 however, a claim for such reimbursement otherwise meeting the  
19 requirements of this Section is filed more than one year but  
20 less than 2 years after that date, the claimant shall be  
21 reimbursed at the rate of 80% of the amount to which he would  
22 have been entitled if his claim had been timely filed.

23 Claims for full reimbursement for taxes paid on or after  
24 January 1, 2000 must be filed not later than 2 years after the  
25 date on which the tax was paid by the claimant.

26 The Department may make such investigation of the

1 correctness of the facts stated in such claims as it deems  
2 necessary. When the Department has approved any such claim, it  
3 shall pay to the claimant (or to the claimant's legal  
4 representative, as such if the claimant has died or become a  
5 person under legal disability) the reimbursement provided in  
6 this Section, out of any moneys appropriated to it for that  
7 purpose.

8 Any distributor or supplier who has paid the tax imposed by  
9 Section 2 of this Act upon motor fuel lost or used by such  
10 distributor or supplier for any purpose other than operating a  
11 motor vehicle upon the public highways or waters may file a  
12 claim for credit or refund to recover the amount so paid. Such  
13 claims shall be filed on forms prescribed by the Department.  
14 Such claims shall be made to the Department, duly verified by  
15 the claimant (or by the claimant's legal representative if the  
16 claimant has died or become a person under legal disability),  
17 upon forms prescribed by the Department. The claim shall state  
18 such facts relating to the purchase, importation, manufacture  
19 or production of the motor fuel by the claimant as the  
20 Department may deem necessary and the time when the loss or  
21 nontaxable use occurred, and the circumstances of its loss or  
22 the specific purpose for which it was used (as the case may  
23 be), together with such other information as the Department may  
24 reasonably require. Claims must be filed not later than one  
25 year after the date on which the tax was paid by the claimant.

26 The Department may make such investigation of the

1 correctness of the facts stated in such claims as it deems  
2 necessary. When the Department approves a claim, the Department  
3 shall issue a refund or credit memorandum as requested by the  
4 taxpayer, to the distributor or supplier who made the payment  
5 for which the refund or credit is being given or, if the  
6 distributor or supplier has died or become incompetent, to such  
7 distributor's or supplier's legal representative, as such. The  
8 amount of such credit memorandum shall be credited against any  
9 tax due or to become due under this Act from the distributor or  
10 supplier who made the payment for which credit has been given.

11 Any credit or refund that is allowed under this Section  
12 shall bear interest at the rate and in the manner specified in  
13 the Uniform Penalty and Interest Act.

14 In case the distributor or supplier requests and the  
15 Department determines that the claimant is entitled to a  
16 refund, such refund shall be made only from such appropriation  
17 as may be available for that purpose. If it appears unlikely  
18 that the amount appropriated would permit everyone having a  
19 claim allowed during the period covered by such appropriation  
20 to elect to receive a cash refund, the Department, by rule or  
21 regulation, shall provide for the payment of refunds in  
22 hardship cases and shall define what types of cases qualify as  
23 hardship cases.

24 In any case in which there has been an erroneous refund of  
25 tax or fees payable under this Section, a notice of tax  
26 liability may be issued at any time within 3 years from the

1 making of that refund, or within 5 years from the making of  
2 that refund if it appears that any part of the refund was  
3 induced by fraud or the misrepresentation of material fact. The  
4 amount of any proposed assessment set forth by the Department  
5 shall be limited to the amount of the erroneous refund.

6 If no tax is due and no proceeding is pending to determine  
7 whether such distributor or supplier is indebted to the  
8 Department for tax, the credit memorandum so issued may be  
9 assigned and set over by the lawful holder thereof, subject to  
10 reasonable rules of the Department, to any other licensed  
11 distributor or supplier who is subject to this Act, and the  
12 amount thereof applied by the Department against any tax due or  
13 to become due under this Act from such assignee.

14 If the payment for which the distributor's or supplier's  
15 claim is filed is held in the protest fund of the State  
16 Treasury during the pendency of the claim for credit  
17 proceedings pursuant to the order of the court in accordance  
18 with Section 2a of the State Officers and Employees Money  
19 Disposition Act and if it is determined by the Department or by  
20 the final order of a reviewing court under the Administrative  
21 Review Law that the claimant is entitled to all or a part of  
22 the credit claimed, the claimant, instead of receiving a credit  
23 memorandum from the Department, shall receive a cash refund  
24 from the protest fund as provided for in Section 2a of the  
25 State Officers and Employees Money Disposition Act.

26 If any person ceases to be licensed as a distributor or



1 supplier while still holding an unused credit memorandum issued  
2 under this Act, such person may, at his election (instead of  
3 assigning the credit memorandum to a licensed distributor or  
4 licensed supplier under this Act), surrender such unused credit  
5 memorandum to the Department and receive a refund of the amount  
6 to which such person is entitled.

7 For claims based upon taxes paid on or before December 31,  
8 2000, a claim based upon the use of undyed diesel fuel shall  
9 not be allowed except (i) if allowed under the following  
10 paragraph or (ii) for undyed diesel fuel used by a commercial  
11 vehicle, as that term is defined in Section 1-111.8 of the  
12 Illinois Vehicle Code, for any purpose other than operating the  
13 commercial vehicle upon the public highways and unlicensed  
14 commercial vehicles operating on private property. Claims  
15 shall be limited to commercial vehicles that are operated for  
16 both highway purposes and any purposes other than operating  
17 such vehicles upon the public highways.

18 For claims based upon taxes paid on or after January 1,  
19 2000, a claim based upon the use of undyed diesel fuel shall  
20 not be allowed except (i) if allowed under the preceding  
21 paragraph or (ii) for claims for the following:

22 (1) Undyed diesel fuel used (i) in a manufacturing  
23 process, as defined in Section 2-45 of the Retailers'  
24 Occupation Tax Act, wherein the undyed diesel fuel becomes  
25 a component part of a product or by-product, other than  
26 fuel or motor fuel, when the use of dyed diesel fuel in

1           that manufacturing process results in a product that is  
2           unsuitable for its intended use or (ii) for testing  
3           machinery and equipment in a manufacturing process, as  
4           defined in Section 2-45 of the Retailers' Occupation Tax  
5           Act, wherein the testing takes place on private property.

6           (2) Undyed diesel fuel used by a manufacturer on  
7           private property in the research and development, as  
8           defined in Section 1.29, of machinery or equipment intended  
9           for manufacture.

10          (3) Undyed diesel fuel used by a single unit  
11          self-propelled agricultural fertilizer implement, designed  
12          for on and off road use, equipped with flotation tires and  
13          specially adapted for the application of plant food  
14          materials or agricultural chemicals.

15          (4) Undyed diesel fuel used by a commercial motor  
16          vehicle for any purpose other than operating the commercial  
17          motor vehicle upon the public highways. Claims shall be  
18          limited to commercial motor vehicles that are operated for  
19          both highway purposes and any purposes other than operating  
20          such vehicles upon the public highways.

21          (5) Undyed diesel fuel used by a unit of local  
22          government in its operation of an airport if the undyed  
23          diesel fuel is used directly in airport operations on  
24          airport property.

25          (6) Undyed diesel fuel used by refrigeration units that  
26          are permanently mounted to a semitrailer, as defined in

1 Section 1.28 of this Law, wherein the refrigeration units  
2 have a fuel supply system dedicated solely for the  
3 operation of the refrigeration units.

4 (7) Undyed diesel fuel used by power take-off equipment  
5 as defined in Section 1.27 of this Law.

6 (8) Beginning on the effective date of this amendatory  
7 Act of the 94th General Assembly, undyed diesel fuel used  
8 by tugs and spotter equipment to shift vehicles or parcels  
9 on both private and airport property. Any claim under this  
10 item (8) may be made only by a claimant that owns tugs and  
11 spotter equipment and operates that equipment on both  
12 private and airport property. The aggregate of all credits  
13 or refunds resulting from claims filed under this item (8)  
14 by a claimant in any calendar year may not exceed \$100,000.  
15 A claim may not be made under this item (8) by the same  
16 claimant more often than once each quarter. For the  
17 purposes of this item (8), "tug" means a vehicle designed  
18 for use on airport property that shifts custom-designed  
19 containers of parcels from loading docks to aircraft, and  
20 "spotter equipment" means a vehicle designed for use on  
21 both private and airport property that shifts trailers  
22 containing parcels between staging areas and loading  
23 docks.

24 Any person who has paid the tax imposed by Section 2 of  
25 this Law upon undyed diesel fuel that is unintentionally mixed  
26 with dyed diesel fuel and who owns or controls the mixture of

1 undyed diesel fuel and dyed diesel fuel may file a claim for  
2 refund to recover the amount paid. The amount of undyed diesel  
3 fuel unintentionally mixed must equal 500 gallons or more. Any  
4 claim for refund of unintentionally mixed undyed diesel fuel  
5 and dyed diesel fuel shall be supported by documentation  
6 showing the date and location of the unintentional mixing, the  
7 number of gallons involved, the disposition of the mixed diesel  
8 fuel, and any other information that the Department may  
9 reasonably require. Any unintentional mixture of undyed diesel  
10 fuel and dyed diesel fuel shall be sold or used only for  
11 non-highway purposes.

12 The Department shall promulgate regulations establishing  
13 specific limits on the amount of undyed diesel fuel that may be  
14 claimed for refund.

15 For purposes of claims for refund, "loss" means the  
16 reduction of motor fuel resulting from fire, theft, spillage,  
17 spoilage, leakage, or any other provable cause, but does not  
18 include a reduction resulting from evaporation, or shrinkage  
19 due to temperature variations. In the case of losses due to  
20 fire or theft, the claimant must include fire department or  
21 police department reports and any other documentation that the  
22 Department may require.

23 (Source: P.A. 96-1384, eff. 7-29-10.)

24 Section 25-50. The Gas Revenue Tax Act is amended by  
25 changing Sections 2a.2 and 3 as follows:

1 (35 ILCS 615/2a.2) (from Ch. 120, par. 467.17a.2)

2 Sec. 2a.2. Annual return, collection and payment. - A  
3 return with respect to the tax imposed by Section 2a.1 shall be  
4 made by every person for any taxable period for which such  
5 person is liable for such tax. Such return shall be made on  
6 such forms as the Department shall prescribe and shall contain  
7 the following information:

8 1. Taxpayer's name;

9 2. Address of taxpayer's principal place of business,  
10 and address of the principal place of business (if that is  
11 a different address) from which the taxpayer engages in the  
12 business of distributing, supplying, furnishing or selling  
13 gas in this State;

14 3. The total proprietary capital and total long-term  
15 debt as of the beginning and end of the taxable period as  
16 set forth on the balance sheets included in the taxpayer's  
17 annual report to the Illinois Commerce Commission for the  
18 taxable period;

19 4. The taxpayer's base income allocable to Illinois  
20 under Sections 301 and 304(a) of the "Illinois Income Tax  
21 Act", for the period covered by the return;

22 5. The amount of tax due for the taxable period  
23 (computed on the basis of the amounts set forth in Items 3  
24 and 4); and

25 6. Such other reasonable information as may be required

1 by forms or regulations prescribed by the Department.

2 The returns prescribed by this Section shall be due and  
3 shall be filed with the Department not later than the 15th day  
4 of the third month following the close of the taxable period.  
5 The taxpayer making the return herein provided for shall, at  
6 the time of making such return, pay to the Department the  
7 remaining amount of tax herein imposed and due for the taxable  
8 period. Each taxpayer shall make estimated quarterly payments  
9 on the 15th day of the third, sixth, ninth and twelfth months  
10 of each taxable period. Such estimated payments shall be 25% of  
11 the tax liability for the immediately preceding taxable period  
12 or the tax liability that would have been imposed in the  
13 immediately preceding taxable period if this amendatory Act of  
14 1979 had been in effect. All moneys received by the Department  
15 under Sections 2a.1 and 2a.2 shall be paid into the Personal  
16 Property Tax Replacement Fund in the State Treasury.

17 If any payment provided for in this Section exceeds the  
18 taxpayer's liabilities under this Act, as shown on an original  
19 return, the Department may authorize the taxpayer to credit  
20 such excess payment against liability subsequently to be  
21 remitted to the Department under this Act, in accordance with  
22 reasonable rules adopted by the Department.

23 (Source: P.A. 87-205.)

24 (35 ILCS 615/3) (from Ch. 120, par. 467.18)

25 Sec. 3. Return of taxpayer; payment of tax. Except as

1 provided in this Section, on or before the 15th day of each  
2 month, each taxpayer shall make a return to the Department for  
3 the preceding calendar month, stating:

4 1. His name;

5 2. The address of his principal place of business, and  
6 the address of the principal place of business (if that is  
7 a different address) from which he engages in the business  
8 of distributing, supplying, furnishing or selling gas in  
9 this State;

10 3. The total number of therms for which payment was  
11 received by him from customers during the preceding  
12 calendar month and upon the basis of which the tax is  
13 imposed;

14 4. Gross receipts which were received by him from  
15 customers during the preceding calendar month from such  
16 business, including budget plan and other customer-owned  
17 amounts applied during such month in payment of charges  
18 includible in gross receipts, and upon the basis of which  
19 the tax is imposed;

20 5. Amount of tax (computed upon Items 3 and 4);

21 6. Such other reasonable information as the Department  
22 may require.

23 In making such return the taxpayer may use any reasonable  
24 method to derive reportable "therms" and "gross receipts" from  
25 his billing and payment records.

26 Any taxpayer required to make payments under this Section

1 may make the payments by electronic funds transfer. The  
2 Department shall adopt rules necessary to effectuate a program  
3 of electronic funds transfer.

4 If the taxpayer's average monthly tax liability to the  
5 Department does not exceed \$100.00, the Department may  
6 authorize his returns to be filed on a quarter annual basis,  
7 with the return for January, February and March of a given year  
8 being due by April 30 of such year; with the return for April,  
9 May and June of a given year being due by July 31 of such year;  
10 with the return for July, August and September of a given year  
11 being due by October 31 of such year, and with the return for  
12 October, November and December of a given year being due by  
13 January 31 of the following year.

14 If the taxpayer's average monthly tax liability to the  
15 Department does not exceed \$20.00, the Department may authorize  
16 his returns to be filed on an annual basis, with the return for  
17 a given year being due by January 31 of the following year.

18 Such quarter annual and annual returns, as to form and  
19 substance, shall be subject to the same requirements as monthly  
20 returns.

21 Notwithstanding any other provision in this Act concerning  
22 the time within which a taxpayer may file his return, in the  
23 case of any taxpayer who ceases to engage in a kind of business  
24 which makes him responsible for filing returns under this Act,  
25 such taxpayer shall file a final return under this Act with the  
26 Department not more than one month after discontinuing such



1 business.

2 In making such return the taxpayer shall determine the  
3 value of any reportable consideration other than money received  
4 by him and shall include such value in his return. Such  
5 determination shall be subject to review and revision by the  
6 Department in the same manner as is provided in this Act for  
7 the correction of returns.

8 Each taxpayer whose average monthly liability to the  
9 Department under this Act was \$10,000 or more during the  
10 preceding calendar year, excluding the month of highest  
11 liability and the month of lowest liability in such calendar  
12 year, and who is not operated by a unit of local government,  
13 shall make estimated payments to the Department on or before  
14 the 7th, 15th, 22nd and last day of the month during which tax  
15 liability to the Department is incurred in an amount not less  
16 than the lower of either 22.5% of the taxpayer's actual tax  
17 liability for the month or 25% of the taxpayer's actual tax  
18 liability for the same calendar month of the preceding year.  
19 The amount of such quarter monthly payments shall be credited  
20 against the final tax liability of the taxpayer's return for  
21 that month. Any outstanding credit, approved by the Department,  
22 arising from the taxpayer's overpayment of its final tax  
23 liability for any month may be applied to reduce the amount of  
24 any subsequent quarter monthly payment or credited against the  
25 final tax liability of the taxpayer's return for any subsequent  
26 month. If any quarter monthly payment is not paid at the time

1 or in the amount required by this Section, the taxpayer shall  
2 be liable for penalty and interest on the difference between  
3 the minimum amount due as a payment and the amount of such  
4 payment actually and timely paid, except insofar as the  
5 taxpayer has previously made payments for that month to the  
6 Department in excess of the minimum payments previously due.

7 If the Director finds that the information required for the  
8 making of an accurate return cannot reasonably be compiled by a  
9 taxpayer within 15 days after the close of the calendar month  
10 for which a return is to be made, he may grant an extension of  
11 time for the filing of such return for a period of not to  
12 exceed 31 calendar days. The granting of such an extension may  
13 be conditioned upon the deposit by the taxpayer with the  
14 Department of an amount of money not exceeding the amount  
15 estimated by the Director to be due with the return so  
16 extended. All such deposits, including any made before the  
17 effective date of this amendatory Act of 1975 with the  
18 Department, shall be credited against the taxpayer's  
19 liabilities under this Act. If any such deposit exceeds the  
20 taxpayer's present and probable future liabilities under this  
21 Act, the Department shall issue to the taxpayer a credit  
22 memorandum, which may be assigned by the taxpayer to a similar  
23 taxpayer under this Act, in accordance with reasonable rules  
24 and regulations to be prescribed by the Department.

25 The taxpayer making the return provided for in this Section  
26 shall, at the time of making such return, pay to the Department

1 the amount of tax imposed by this Act. All moneys received by  
2 the Department under this Act shall be paid into the General  
3 Revenue Fund in the State Treasury, except as otherwise  
4 provided.

5 If any payment provided for in this Section exceeds the  
6 taxpayer's liabilities under this Act, as shown on an original  
7 return, the Department may authorize the taxpayer to credit  
8 such excess payment against liability subsequently to be  
9 remitted to the Department under this Act, in accordance with  
10 reasonable rules adopted by the Department.

11 (Source: P.A. 90-16, eff. 6-16-97.)

12 Section 25-55. The Public Utilities Revenue Act is amended  
13 by changing Section 2a.2 as follows:

14 (35 ILCS 620/2a.2) (from Ch. 120, par. 469a.2)

15 Sec. 2a.2. Annual return, collection and payment. A return  
16 with respect to the tax imposed by Section 2a.1 shall be made  
17 by every person for any taxable period for which such person is  
18 liable for such tax. Such return shall be made on such forms as  
19 the Department shall prescribe and shall contain the following  
20 information:

21 1. Taxpayer's name;

22 2. Address of taxpayer's principal place of business,  
23 and address of the principal place of business (if that is  
24 a different address) from which the taxpayer engages in the

1 business of distributing electricity in this State;

2 3. The total equity, in the case of electric  
3 cooperatives, in the annual reports filed with the Rural  
4 Utilities Service for the taxable period;

5 3a. The total kilowatt-hours of electricity  
6 distributed by a taxpayer, other than an electric  
7 cooperative, in this State for the taxable period covered  
8 by the return;

9 4. The amount of tax due for the taxable period  
10 (computed on the basis of the amounts set forth in Items 3  
11 and 3a); and

12 5. Such other reasonable information as may be required  
13 by forms or regulations prescribed by the Department.

14 The returns prescribed by this Section shall be due and  
15 shall be filed with the Department not later than the 15th day  
16 of the third month following the close of the taxable period.  
17 The taxpayer making the return herein provided for shall, at  
18 the time of making such return, pay to the Department the  
19 remaining amount of tax herein imposed and due for the taxable  
20 period. Each taxpayer shall make estimated quarterly payments  
21 on the 15th day of the third, sixth, ninth and twelfth months  
22 of each taxable period. Such estimated payments shall be 25% of  
23 the tax liability for the immediately preceding taxable period  
24 or the tax liability that would have been imposed in the  
25 immediately preceding taxable period if this amendatory Act of  
26 1979 had been in effect. All moneys received by the Department

1 under Sections 2a.1 and 2a.2 shall be paid into the Personal  
2 Property Tax Replacement Fund in the State Treasury.

3 If any payment provided for in this Section exceeds the  
4 taxpayer's liabilities under this Act, as shown on an original  
5 return, the taxpayer may credit such excess payment against  
6 liability subsequently to be remitted to the Department under  
7 this Act, in accordance with reasonable rules adopted by the  
8 Department.

9 (Source: P.A. 90-561, eff. 1-1-98.)

10 Section 25-60. The Telecommunications Excise Tax Act is  
11 amended by changing Section 6 as follows:

12 (35 ILCS 630/6) (from Ch. 120, par. 2006)

13 Sec. 6. Returns; payments. Except as provided hereinafter  
14 in this Section, on or before the last day of each month, each  
15 retailer maintaining a place of business in this State shall  
16 make a return to the Department for the preceding calendar  
17 month, stating:

18 1. His name;

19 2. The address of his principal place of business, or  
20 the address of the principal place of business (if that is  
21 a different address) from which he engages in the business  
22 of transmitting telecommunications;

23 3. Total amount of gross charges billed by him during  
24 the preceding calendar month for providing

1 telecommunications during such calendar month;

2 4. Total amount received by him during the preceding  
3 calendar month on credit extended;

4 5. Deductions allowed by law;

5 6. Gross charges which were billed by him during the  
6 preceding calendar month and upon the basis of which the  
7 tax is imposed;

8 7. Amount of tax (computed upon Item 6);

9 8. Such other reasonable information as the Department  
10 may require.

11 Any taxpayer required to make payments under this Section  
12 may make the payments by electronic funds transfer. The  
13 Department shall adopt rules necessary to effectuate a program  
14 of electronic funds transfer. Any taxpayer who has average  
15 monthly tax billings due to the Department under this Act and  
16 the Simplified Municipal Telecommunications Tax Act that  
17 exceed \$1,000 shall make all payments by electronic funds  
18 transfer as required by rules of the Department and shall file  
19 the return required by this Section by electronic means as  
20 required by rules of the Department.

21 If the retailer's average monthly tax billings due to the  
22 Department under this Act and the Simplified Municipal  
23 Telecommunications Tax Act do not exceed \$1,000, the Department  
24 may authorize his returns to be filed on a quarter annual  
25 basis, with the return for January, February and March of a  
26 given year being due by April 30 of such year; with the return

1 for April, May and June of a given year being due by July 31st  
2 of such year; with the return for July, August and September of  
3 a given year being due by October 31st of such year; and with  
4 the return of October, November and December of a given year  
5 being due by January 31st of the following year.

6 If the retailer is otherwise required to file a monthly or  
7 quarterly return and if the retailer's average monthly tax  
8 billings due to the Department under this Act and the  
9 Simplified Municipal Telecommunications Tax Act do not exceed  
10 \$400, the Department may authorize his or her return to be  
11 filed on an annual basis, with the return for a given year  
12 being due by January 31st of the following year.

13 Notwithstanding any other provision of this Article  
14 containing the time within which a retailer may file his  
15 return, in the case of any retailer who ceases to engage in a  
16 kind of business which makes him responsible for filing returns  
17 under this Article, such retailer shall file a final return  
18 under this Article with the Department not more than one month  
19 after discontinuing such business.

20 In making such return, the retailer shall determine the  
21 value of any consideration other than money received by him and  
22 he shall include such value in his return. Such determination  
23 shall be subject to review and revision by the Department in  
24 the manner hereinafter provided for the correction of returns.

25 Each retailer whose average monthly liability to the  
26 Department under this Article and the Simplified Municipal

1 Telecommunications Tax Act was \$25,000 or more during the  
2 preceding calendar year, excluding the month of highest  
3 liability and the month of lowest liability in such calendar  
4 year, and who is not operated by a unit of local government,  
5 shall make estimated payments to the Department on or before  
6 the 7th, 15th, 22nd and last day of the month during which tax  
7 collection liability to the Department is incurred in an amount  
8 not less than the lower of either 22.5% of the retailer's  
9 actual tax collections for the month or 25% of the retailer's  
10 actual tax collections for the same calendar month of the  
11 preceding year. The amount of such quarter monthly payments  
12 shall be credited against the final liability of the retailer's  
13 return for that month. Any outstanding credit, approved by the  
14 Department, arising from the retailer's overpayment of its  
15 final liability for any month may be applied to reduce the  
16 amount of any subsequent quarter monthly payment or credited  
17 against the final liability of the retailer's return for any  
18 subsequent month. If any quarter monthly payment is not paid at  
19 the time or in the amount required by this Section, the  
20 retailer shall be liable for penalty and interest on the  
21 difference between the minimum amount due as a payment and the  
22 amount of such payment actually and timely paid, except insofar  
23 as the retailer has previously made payments for that month to  
24 the Department in excess of the minimum payments previously  
25 due.

26 The retailer making the return herein provided for shall,



1 at the time of making such return, pay to the Department the  
2 amount of tax herein imposed, less a discount of 1% which is  
3 allowed to reimburse the retailer for the expenses incurred in  
4 keeping records, billing the customer, preparing and filing  
5 returns, remitting the tax, and supplying data to the  
6 Department upon request. No discount may be claimed by a  
7 retailer on returns not timely filed and for taxes not timely  
8 remitted.

9 If any payment provided for in this Section exceeds the  
10 retailer's liabilities under this Act, as shown on an original  
11 return, the Department may authorize the retailer to credit  
12 such excess payment against liability subsequently to be  
13 remitted to the Department under this Act, in accordance with  
14 reasonable rules adopted by the Department. If the Department  
15 subsequently determines that all or any part of the credit  
16 taken was not actually due to the retailer, the retailer's  
17 discount shall be reduced by an amount equal to the difference  
18 between the discount as applied to the credit taken and that  
19 actually due, and that retailer shall be liable for penalties  
20 and interest on such difference.

21 On and after the effective date of this Article of 1985, of  
22 the moneys received by the Department of Revenue pursuant to  
23 this Article, other than moneys received pursuant to the  
24 additional taxes imposed by Public Act 90-548:

25 (1) \$1,000,000 shall be paid each month into the Common  
26 School Fund;

1           (2) beginning on the first day of the first calendar  
2 month to occur on or after the effective date of this  
3 amendatory Act of the 98th General Assembly, an amount  
4 equal to 1/12 of 5% of the cash receipts collected during  
5 the preceding fiscal year by the Audit Bureau of the  
6 Department from the tax under this Act and the Simplified  
7 Municipal Telecommunications Tax Act shall be paid each  
8 month into the Tax Compliance and Administration Fund;  
9 those moneys shall be used, subject to appropriation, to  
10 fund additional auditors and compliance personnel at the  
11 Department of Revenue; and

12           (3) the remainder shall be deposited into the General  
13 Revenue Fund.

14           On and after February 1, 1998, however, of the moneys  
15 received by the Department of Revenue pursuant to the  
16 additional taxes imposed by Public Act 90-548, one-half shall  
17 be deposited into the School Infrastructure Fund and one-half  
18 shall be deposited into the Common School Fund. On and after  
19 the effective date of this amendatory Act of the 91st General  
20 Assembly, if in any fiscal year the total of the moneys  
21 deposited into the School Infrastructure Fund under this Act is  
22 less than the total of the moneys deposited into that Fund from  
23 the additional taxes imposed by Public Act 90-548 during fiscal  
24 year 1999, then, as soon as possible after the close of the  
25 fiscal year, the Comptroller shall order transferred and the  
26 Treasurer shall transfer from the General Revenue Fund to the

1 School Infrastructure Fund an amount equal to the difference  
2 between the fiscal year total deposits and the total amount  
3 deposited into the Fund in fiscal year 1999.

4 (Source: P.A. 98-1098, eff. 8-26-14.)

5 Section 25-65. The Electricity Excise Tax Law is amended by  
6 changing Sections 2-9 and 2-11 as follows:

7 (35 ILCS 640/2-9)

8 Sec. 2-9. Return and payment of tax by delivering supplier.  
9 Each delivering supplier who is required or authorized to  
10 collect the tax imposed by this Law shall make a return to the  
11 Department on or before the 15th day of each month for the  
12 preceding calendar month stating the following:

13 (1) The delivering supplier's name.

14 (2) The address of the delivering supplier's principal  
15 place of business and the address of the principal place of  
16 business (if that is a different address) from which the  
17 delivering supplier engaged in the business of delivering  
18 electricity in this State.

19 (3) The total number of kilowatt-hours which the  
20 supplier delivered to or for purchasers during the  
21 preceding calendar month and upon the basis of which the  
22 tax is imposed.

23 (4) Amount of tax, computed upon Item (3) at the rates  
24 stated in Section 2-4.

1           (5) An adjustment for uncollectible amounts of tax in  
2           respect of prior period kilowatt-hour deliveries,  
3           determined in accordance with rules and regulations  
4           promulgated by the Department.

5           (5.5) The amount of credits to which the taxpayer is  
6           entitled on account of purchases made under Section 8-403.1  
7           of the Public Utilities Act.

8           (6) Such other information as the Department  
9           reasonably may require.

10          In making such return the delivering supplier may use any  
11          reasonable method to derive reportable "kilowatt-hours" from  
12          the delivering supplier's records.

13          If the average monthly tax liability to the Department of  
14          the delivering supplier does not exceed \$2,500, the Department  
15          may authorize the delivering supplier's returns to be filed on  
16          a quarter-annual basis, with the return for January, February  
17          and March of a given year being due by April 30 of such year;  
18          with the return for April, May and June of a given year being  
19          due by July 31 of such year; with the return for July, August  
20          and September of a given year being due by October 31 of such  
21          year; and with the return for October, November and December of  
22          a given year being due by January 31 of the following year.

23          If the average monthly tax liability to the Department of  
24          the delivering supplier does not exceed \$1,000, the Department  
25          may authorize the delivering supplier's returns to be filed on  
26          an annual basis, with the return for a given year being due by

1 January 31 of the following year.

2 Such quarter-annual and annual returns, as to form and  
3 substance, shall be subject to the same requirements as monthly  
4 returns.

5 Notwithstanding any other provision in this Law concerning  
6 the time within which a delivering supplier may file a return,  
7 any such delivering supplier who ceases to engage in a kind of  
8 business which makes the person responsible for filing returns  
9 under this Law shall file a final return under this Law with  
10 the Department not more than one month after discontinuing such  
11 business.

12 Each delivering supplier whose average monthly liability  
13 to the Department under this Law was \$10,000 or more during the  
14 preceding calendar year, excluding the month of highest  
15 liability and the month of lowest liability in such calendar  
16 year, and who is not operated by a unit of local government,  
17 shall make estimated payments to the Department on or before  
18 the 7th, 15th, 22nd and last day of the month during which tax  
19 liability to the Department is incurred in an amount not less  
20 than the lower of either 22.5% of such delivering supplier's  
21 actual tax liability for the month or 25% of such delivering  
22 supplier's actual tax liability for the same calendar month of  
23 the preceding year. The amount of such quarter-monthly payments  
24 shall be credited against the final tax liability of such  
25 delivering supplier's return for that month. An outstanding  
26 credit approved by the Department or a credit memorandum issued

1 by the Department arising from such delivering supplier's  
2 overpayment of his or her final tax liability for any month may  
3 be applied to reduce the amount of any subsequent  
4 quarter-monthly payment or credited against the final tax  
5 liability of such delivering supplier's return for any  
6 subsequent month. If any quarter-monthly payment is not paid at  
7 the time or in the amount required by this Section, such  
8 delivering supplier shall be liable for penalty and interest on  
9 the difference between the minimum amount due as a payment and  
10 the amount of such payment actually and timely paid, except  
11 insofar as such delivering supplier has previously made  
12 payments for that month to the Department in excess of the  
13 minimum payments previously due.

14 If the Director finds that the information required for the  
15 making of an accurate return cannot reasonably be compiled by  
16 such delivering supplier within 15 days after the close of the  
17 calendar month for which a return is to be made, the Director  
18 may grant an extension of time for the filing of such return  
19 for a period not to exceed 31 calendar days. The granting of  
20 such an extension may be conditioned upon the deposit by such  
21 delivering supplier with the Department of an amount of money  
22 not exceeding the amount estimated by the Director to be due  
23 with the return so extended. All such deposits shall be  
24 credited against such delivering supplier's liabilities under  
25 this Law. If the deposit exceeds such delivering supplier's  
26 present and probable future liabilities under this Law, the

1 Department shall issue to such delivering supplier a credit  
2 memorandum, which may be assigned by such delivering supplier  
3 to a similar person under this Law, in accordance with  
4 reasonable rules and regulations to be prescribed by the  
5 Department.

6 The delivering supplier making the return provided for in  
7 this Section shall, at the time of making such return, pay to  
8 the Department the amount of tax imposed by this Law.

9 Until October 1, 2002, a delivering supplier who has an  
10 average monthly tax liability of \$10,000 or more shall make all  
11 payments required by rules of the Department by electronic  
12 funds transfer. The term "average monthly tax liability" shall  
13 be the sum of the delivering supplier's liabilities under this  
14 Law for the immediately preceding calendar year divided by 12.  
15 Beginning on October 1, 2002, a taxpayer who has a tax  
16 liability in the amount set forth in subsection (b) of Section  
17 2505-210 of the Department of Revenue Law shall make all  
18 payments required by rules of the Department by electronic  
19 funds transfer. Any delivering supplier not required to make  
20 payments by electronic funds transfer may make payments by  
21 electronic funds transfer with the permission of the  
22 Department. All delivering suppliers required to make payments  
23 by electronic funds transfer and any delivering suppliers  
24 authorized to voluntarily make payments by electronic funds  
25 transfer shall make those payments in the manner authorized by  
26 the Department.

1       If any payment provided for in this Section exceeds the  
2       delivering supplier's liabilities under this Act, as shown on  
3       an original return, the Department may authorize the delivering  
4       supplier to credit such excess payment against liability  
5       subsequently to be remitted to the Department under this Act,  
6       in accordance with reasonable rules adopted by the Department.

7       Through June 30, 2004, each month the Department shall pay  
8       into the Public Utility Fund in the State treasury an amount  
9       determined by the Director to be equal to 3.0% of the funds  
10      received by the Department pursuant to this Section. Through  
11      June 30, 2004, the remainder of all moneys received by the  
12      Department under this Section shall be paid into the General  
13      Revenue Fund in the State treasury. Beginning on July 1, 2004,  
14      of the 3% of the funds received pursuant to this Section, each  
15      month the Department shall pay \$416,667 into the General  
16      Revenue Fund and the balance shall be paid into the Public  
17      Utility Fund in the State treasury.

18      (Source: P.A. 92-492, eff. 1-1-02; 93-839, eff. 7-30-04.)

19           (35 ILCS 640/2-11)

20      Sec. 2-11. Direct return and payment by self-assessing  
21      purchaser. When electricity is used or consumed by a  
22      self-assessing purchaser subject to the tax imposed by this Law  
23      who did not pay the tax to a delivering supplier maintaining a  
24      place of business within this State and required or authorized  
25      to collect the tax, that self-assessing purchaser shall, on or



1 before the 15th day of each month, make a return to the  
2 Department for the preceding calendar month, stating all of the  
3 following:

4 (1) The self-assessing purchaser's name and principal  
5 address.

6 (2) The aggregate purchase price paid by the  
7 self-assessing purchaser for the distribution, supply,  
8 furnishing, sale, transmission and delivery of such  
9 electricity to or for the purchaser during the preceding  
10 calendar month, including budget plan and other  
11 purchaser-owned amounts applied during such month in  
12 payment of charges includible in the purchase price, and  
13 upon the basis of which the tax is imposed.

14 (3) Amount of tax, computed upon item (2) at the rate  
15 stated in Section 2-4.

16 (4) Such other information as the Department  
17 reasonably may require.

18 In making such return the self-assessing purchaser may use  
19 any reasonable method to derive reportable "purchase price"  
20 from the self-assessing purchaser's records.

21 If the average monthly tax liability of the self-assessing  
22 purchaser to the Department does not exceed \$2,500, the  
23 Department may authorize the self-assessing purchaser's  
24 returns to be filed on a quarter-annual basis, with the return  
25 for January, February and March of a given year being due by  
26 April 30 of such year; with the return for April, May and June

1 of a given year being due by July 31 of such year; with the  
2 return for July, August, and September of a given year being  
3 due by October 31 of such year; and with the return for  
4 October, November and December of a given year being due by  
5 January 31 of the following year.

6 If the average monthly tax liability of the self-assessing  
7 purchaser to the Department does not exceed \$1,000, the  
8 Department may authorize the self-assessing purchaser's  
9 returns to be filed on an annual basis, with the return for a  
10 given year being due by January 31 of the following year.

11 Such quarter-annual and annual returns, as to form and  
12 substance, shall be subject to the same requirements as monthly  
13 returns.

14 Notwithstanding any other provision in this Law concerning  
15 the time within which a self-assessing purchaser may file a  
16 return, any such self-assessing purchaser who ceases to be  
17 responsible for filing returns under this Law shall file a  
18 final return under this Law with the Department not more than  
19 one month thereafter.

20 Each self-assessing purchaser whose average monthly  
21 liability to the Department pursuant to this Section was  
22 \$10,000 or more during the preceding calendar year, excluding  
23 the month of highest liability and the month of lowest  
24 liability during such calendar year, and which is not operated  
25 by a unit of local government, shall make estimated payments to  
26 the Department on or before the 7th, 15th, 22nd and last day of

1 the month during which tax liability to the Department is  
2 incurred in an amount not less than the lower of either 22.5%  
3 of such self-assessing purchaser's actual tax liability for the  
4 month or 25% of such self-assessing purchaser's actual tax  
5 liability for the same calendar month of the preceding year.  
6 The amount of such quarter-monthly payments shall be credited  
7 against the final tax liability of the self-assessing  
8 purchaser's return for that month. An outstanding credit  
9 approved by the Department or a credit memorandum issued by the  
10 Department arising from the self-assessing purchaser's  
11 overpayment of the self-assessing purchaser's final tax  
12 liability for any month may be applied to reduce the amount of  
13 any subsequent quarter-monthly payment or credited against the  
14 final tax liability of such self-assessing purchaser's return  
15 for any subsequent month. If any quarter-monthly payment is not  
16 paid at the time or in the amount required by this Section,  
17 such person shall be liable for penalty and interest on the  
18 difference between the minimum amount due as a payment and the  
19 amount of such payment actually and timely paid, except insofar  
20 as such person has previously made payments for that month to  
21 the Department in excess of the minimum payments previously  
22 due.

23 If the Director finds that the information required for the  
24 making of an accurate return cannot reasonably be compiled by a  
25 self-assessing purchaser within 15 days after the close of the  
26 calendar month for which a return is to be made, the Director

1 may grant an extension of time for the filing of such return  
2 for a period of not to exceed 31 calendar days. The granting of  
3 such an extension may be conditioned upon the deposit by such  
4 self-assessing purchaser with the Department of an amount of  
5 money not exceeding the amount estimated by the Director to be  
6 due with the return so extended. All such deposits shall be  
7 credited against such self-assessing purchaser's liabilities  
8 under this Law. If the deposit exceeds such self-assessing  
9 purchaser's present and probable future liabilities under this  
10 Law, the Department shall issue to such self-assessing  
11 purchaser a credit memorandum, which may be assigned by such  
12 self-assessing purchaser to a similar person under this Law, in  
13 accordance with reasonable rules and regulations to be  
14 prescribed by the Department.

15 The self-assessing purchaser making the return provided  
16 for in this Section shall, at the time of making such return,  
17 pay to the Department the amount of tax imposed by this Law.

18 Until October 1, 2002, a self-assessing purchaser who has  
19 an average monthly tax liability of \$10,000 or more shall make  
20 all payments required by rules of the Department by electronic  
21 funds transfer. The term "average monthly tax liability" shall  
22 be the sum of the self-assessing purchaser's liabilities under  
23 this Law for the immediately preceding calendar year divided by  
24 12. Beginning on October 1, 2002, a taxpayer who has a tax  
25 liability in the amount set forth in subsection (b) of Section  
26 2505-210 of the Department of Revenue Law shall make all

1 payments required by rules of the Department by electronic  
2 funds transfer. Any self-assessing purchaser not required to  
3 make payments by electronic funds transfer may make payments by  
4 electronic funds transfer with the permission of the  
5 Department. All self-assessing purchasers required to make  
6 payments by electronic funds transfer and any self-assessing  
7 purchasers authorized to voluntarily make payments by  
8 electronic funds transfer shall make those payments in the  
9 manner authorized by the Department.

10 If any payment provided for in this Section exceeds the  
11 self-assessing purchaser's liabilities under this Act, as  
12 shown on an original return, the Department may authorize the  
13 self-assessing purchaser to credit such excess payment against  
14 liability subsequently to be remitted to the Department under  
15 this Act, in accordance with reasonable rules adopted by the  
16 Department.

17 Through June 30, 2004, each month the Department shall pay  
18 into the Public Utility Fund in the State treasury an amount  
19 determined by the Director to be equal to 3.0% of the funds  
20 received by the Department pursuant to this Section. Through  
21 June 30, 2004, the remainder of all moneys received by the  
22 Department under this Section shall be paid into the General  
23 Revenue Fund in the State treasury. Beginning on July 1, 2004,  
24 of the 3% of the funds received pursuant to this Section, each  
25 month the Department shall pay \$416,667 into the General  
26 Revenue Fund and the balance shall be paid into the Public

1 Utility Fund in the State treasury.

2 (Source: P.A. 92-492, eff. 1-1-02; 93-839, eff. 7-30-04.)

3 Section 25-70. The Illinois Pull Tabs and Jar Games Act is  
4 amended by changing Section 5 as follows:

5 (230 ILCS 20/5) (from Ch. 120, par. 1055)

6 Sec. 5. Payments; returns. There shall be paid to the  
7 Department of Revenue 5% of the gross proceeds of any pull tabs  
8 and jar games conducted under this Act. Such payments shall be  
9 made 4 times per year, between the first and the 20th day of  
10 April, July, October and January. Accompanying each payment  
11 shall be a return, on forms prescribed by the Department of  
12 Revenue. Failure to submit either the payment or the return  
13 within the specified time shall result in suspension or  
14 revocation of the license. Tax returns filed pursuant to this  
15 Act shall not be confidential and shall be available for public  
16 inspection. All payments made to the Department of Revenue  
17 under this Act shall be deposited as follows:

18 (a) 50% shall be deposited in the Common School Fund;

19 and

20 (b) 50% shall be deposited in the Illinois Gaming Law  
21 Enforcement Fund. Of the monies deposited in the Illinois  
22 Gaming Law Enforcement Fund under this Section, the General  
23 Assembly shall appropriate two-thirds to the Department of  
24 Revenue, Department of State Police and the Office of the

1 Attorney General for State law enforcement purposes, and  
2 one-third shall be appropriated to the Department of  
3 Revenue for the purpose of distribution in the form of  
4 grants to counties or municipalities for law enforcement  
5 purposes. The amounts of grants to counties or  
6 municipalities shall bear the same ratio as the number of  
7 licenses issued in counties or municipalities bears to the  
8 total number of licenses issued in the State. In computing  
9 the number of licenses issued in a county, licenses issued  
10 for locations within a municipality's boundaries shall be  
11 excluded.

12 The provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,  
13 5g, 5h, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11 and 12 of the  
14 Retailers' Occupation Tax Act, and Section 3-7 of the Uniform  
15 Penalty and Interest Act, which are not inconsistent with this  
16 Act shall apply, as far as practicable, to the subject matter  
17 of this Act to the same extent as if such provisions were  
18 included in this Act. For the purposes of this Act, references  
19 in such incorporated Sections of the Retailers' Occupation Tax  
20 Act to retailers, sellers or persons engaged in the business of  
21 selling tangible personal property means persons engaged in  
22 conducting pull tabs and jar games and references in such  
23 incorporated Sections of the Retailers' Occupation Tax Act to  
24 sales of tangible personal property mean the conducting of pull  
25 tabs and jar games and the making of charges for participating  
26 in such drawings.

1       If any payment provided for in this Section exceeds the  
2       taxpayer's liabilities under this Act, as shown on an original  
3       return, the taxpayer may credit such excess payment against  
4       liability subsequently to be remitted to the Department under  
5       this Act, in accordance with reasonable rules adopted by the  
6       Department.

7       (Source: P.A. 95-228, eff. 8-16-07.)

8           Section 25-75. The Bingo License and Tax Act is amended by  
9       changing Section 3 as follows:

10           (230 ILCS 25/3) (from Ch. 120, par. 1103)

11           Sec. 3. Payments; returns. There shall be paid to the  
12       Department of Revenue, 5% of the gross proceeds of any game of  
13       bingo conducted under the provision of this Act. Such payments  
14       shall be made 4 times per year, between the first and the 20th  
15       day of April, July, October and January. Accompanying each  
16       payment shall be a return, on forms prescribed by the  
17       Department of Revenue. Failure to submit either the payment or  
18       the return within the specified time may result in suspension  
19       or revocation of the license. Tax returns filed pursuant to  
20       this Act shall not be confidential and shall be available for  
21       public inspection.

22           If any payment provided for in this Section exceeds the  
23       taxpayer's liabilities under this Act, as shown on an original  
24       return, the taxpayer may credit such excess payment against



1 liability subsequently to be remitted to the Department under  
2 this Act, in accordance with reasonable rules adopted by the  
3 Department.

4 All payments made to the Department of Revenue under this  
5 Section shall be deposited as follows:

6 (1) 50% shall be deposited in the Mental Health Fund;

7 and

8 (2) 50% shall be deposited in the Common School Fund.

9 The provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,  
10 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11 and 12 of the Retailers'  
11 Occupation Tax Act and Section 3-7 of the Uniform Penalty and  
12 Interest Act, which are not inconsistent with this Act, shall  
13 apply, as far as practicable, to the subject matter of this Act  
14 to the same extent as if such provisions were included in this  
15 Act. For the purposes of this Act, references in such  
16 incorporated Sections of the Retailers' Occupation Tax Act to  
17 retailers, sellers or persons engaged in the business of  
18 selling tangible personal property means persons engaged in  
19 conducting bingo games, and references in such incorporated  
20 Sections of the Retailers' Occupation Tax Act to sales of  
21 tangible personal property mean the conducting of bingo games  
22 and the making of charges for playing such games.

23 (Source: P.A. 95-228, eff. 8-16-07.)

24 Section 25-80. The Charitable Games Act is amended by  
25 changing Section 9 as follows:

1 (230 ILCS 30/9) (from Ch. 120, par. 1129)

2 Sec. 9. Payments; returns. There shall be paid to the  
3 Department of Revenue, 5% of the net proceeds of charitable  
4 games conducted under the provisions of this Act. Such payments  
5 shall be made within 30 days after the completion of the games.  
6 Accompanying each payment shall be a return, on forms  
7 prescribed by the Department of Revenue. Failure to submit  
8 either the payment or the return within the specified time may  
9 result in suspension or revocation of the license. Tax returns  
10 filed pursuant to this Act shall not be confidential and shall  
11 be available for public inspection.

12 The provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,  
13 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11 and 12 of the Retailers'  
14 Occupation Tax Act, and Section 3-7 of the Uniform Penalty and  
15 Interest Act, which are not inconsistent with this Act shall  
16 apply, as far as practicable, to the subject matter of this Act  
17 to the same extent as if such provisions were included in this  
18 Act. For the purposes of this Act, references in such  
19 incorporated Sections of the Retailers' Occupation Tax Act to  
20 retailers, sellers or persons engaged in the business of  
21 selling tangible personal property means persons engaged in  
22 conducting charitable games, and references in such  
23 incorporated Sections of the Retailers' Occupation Tax Act to  
24 sales of tangible personal property mean the conducting of  
25 charitable games and the making of charges for playing such

1 games.

2 If any payment provided for in this Section exceeds the  
3 taxpayer's liabilities under this Act, as shown on an original  
4 return, the taxpayer may credit such excess payment against  
5 liability subsequently to be remitted to the Department under  
6 this Act, in accordance with reasonable rules adopted by the  
7 Department.

8 All payments made to the Department of Revenue under this  
9 Section shall be deposited into the Illinois Gaming Law  
10 Enforcement Fund of the State Treasury.

11 (Source: P.A. 98-377, eff. 1-1-14.)

12 Section 25-85. The Liquor Control Act of 1934 is amended by  
13 changing Section 8-2 as follows:

14 (235 ILCS 5/8-2) (from Ch. 43, par. 159)

15 Sec. 8-2. Payments; reports. It is the duty of each  
16 manufacturer with respect to alcoholic liquor produced or  
17 imported by such manufacturer, or purchased tax-free by such  
18 manufacturer from another manufacturer or importing  
19 distributor, and of each importing distributor as to alcoholic  
20 liquor purchased by such importing distributor from foreign  
21 importers or from anyone from any point in the United States  
22 outside of this State or purchased tax-free from another  
23 manufacturer or importing distributor, to pay the tax imposed  
24 by Section 8-1 to the Department of Revenue on or before the

1 15th day of the calendar month following the calendar month in  
2 which such alcoholic liquor is sold or used by such  
3 manufacturer or by such importing distributor other than in an  
4 authorized tax-free manner or to pay that tax electronically as  
5 provided in this Section.

6 Each manufacturer and each importing distributor shall  
7 make payment under one of the following methods: (1) on or  
8 before the 15th day of each calendar month, file in person or  
9 by United States first-class mail, postage pre-paid, with the  
10 Department of Revenue, on forms prescribed and furnished by the  
11 Department, a report in writing in such form as may be required  
12 by the Department in order to compute, and assure the accuracy  
13 of, the tax due on all taxable sales and uses of alcoholic  
14 liquor occurring during the preceding month. Payment of the tax  
15 in the amount disclosed by the report shall accompany the  
16 report or, (2) on or before the 15th day of each calendar  
17 month, electronically file with the Department of Revenue, on  
18 forms prescribed and furnished by the Department, an electronic  
19 report in such form as may be required by the Department in  
20 order to compute, and assure the accuracy of, the tax due on  
21 all taxable sales and uses of alcoholic liquor occurring during  
22 the preceding month. An electronic payment of the tax in the  
23 amount disclosed by the report shall accompany the report. A  
24 manufacturer or distributor who files an electronic report and  
25 electronically pays the tax imposed pursuant to Section 8-1 to  
26 the Department of Revenue on or before the 15th day of the

1 calendar month following the calendar month in which such  
2 alcoholic liquor is sold or used by that manufacturer or  
3 importing distributor other than in an authorized tax-free  
4 manner shall pay to the Department the amount of the tax  
5 imposed pursuant to Section 8-1, less a discount which is  
6 allowed to reimburse the manufacturer or importing distributor  
7 for the expenses incurred in keeping and maintaining records,  
8 preparing and filing the electronic returns, remitting the tax,  
9 and supplying data to the Department upon request.

10 The discount shall be in an amount as follows:

11 (1) For original returns due on or after January 1,  
12 2003 through September 30, 2003, the discount shall be  
13 1.75% or \$1,250 per return, whichever is less;

14 (2) For original returns due on or after October 1,  
15 2003 through September 30, 2004, the discount shall be 2%  
16 or \$3,000 per return, whichever is less; and

17 (3) For original returns due on or after October 1,  
18 2004, the discount shall be 2% or \$2,000 per return,  
19 whichever is less.

20 The Department may, if it deems it necessary in order to  
21 insure the payment of the tax imposed by this Article, require  
22 returns to be made more frequently than and covering periods of  
23 less than a month. Such return shall contain such further  
24 information as the Department may reasonably require.

25 It shall be presumed that all alcoholic liquors acquired or  
26 made by any importing distributor or manufacturer have been

1 sold or used by him in this State and are the basis for the tax  
2 imposed by this Article unless proven, to the satisfaction of  
3 the Department, that such alcoholic liquors are (1) still in  
4 the possession of such importing distributor or manufacturer,  
5 or (2) prior to the termination of possession have been lost by  
6 theft or through unintentional destruction, or (3) that such  
7 alcoholic liquors are otherwise exempt from taxation under this  
8 Act.

9 If any payment provided for in this Section exceeds the  
10 manufacturer's or importing distributor's liabilities under  
11 this Act, as shown on an original report, the manufacturer or  
12 importing distributor may credit such excess payment against  
13 liability subsequently to be remitted to the Department under  
14 this Act, in accordance with reasonable rules adopted by the  
15 Department. If the Department subsequently determines that all  
16 or any part of the credit taken was not actually due to the  
17 manufacturer or importing distributor, the manufacturer's or  
18 importing distributor's discount shall be reduced by an amount  
19 equal to the difference between the discount as applied to the  
20 credit taken and that actually due, and the manufacturer or  
21 importing distributor shall be liable for penalties and  
22 interest on such difference.

23 The Department may require any foreign importer to file  
24 monthly information returns, by the 15th day of the month  
25 following the month which any such return covers, if the  
26 Department determines this to be necessary to the proper

1 performance of the Department's functions and duties under this  
2 Act. Such return shall contain such information as the  
3 Department may reasonably require.

4 Every manufacturer and importing distributor shall also  
5 file, with the Department, a bond in an amount not less than  
6 \$1,000 and not to exceed \$100,000 on a form to be approved by,  
7 and with a surety or sureties satisfactory to, the Department.  
8 Such bond shall be conditioned upon the manufacturer or  
9 importing distributor paying to the Department all monies  
10 becoming due from such manufacturer or importing distributor  
11 under this Article. The Department shall fix the penalty of  
12 such bond in each case, taking into consideration the amount of  
13 alcoholic liquor expected to be sold and used by such  
14 manufacturer or importing distributor, and the penalty fixed by  
15 the Department shall be sufficient, in the Department's  
16 opinion, to protect the State of Illinois against failure to  
17 pay any amount due under this Article, but the amount of the  
18 penalty fixed by the Department shall not exceed twice the  
19 amount of tax liability of a monthly return, nor shall the  
20 amount of such penalty be less than \$1,000. The Department  
21 shall notify the Commission of the Department's approval or  
22 disapproval of any such manufacturer's or importing  
23 distributor's bond, or of the termination or cancellation of  
24 any such bond, or of the Department's direction to a  
25 manufacturer or importing distributor that he must file  
26 additional bond in order to comply with this Section. The

1 Commission shall not issue a license to any applicant for a  
2 manufacturer's or importing distributor's license unless the  
3 Commission has received a notification from the Department  
4 showing that such applicant has filed a satisfactory bond with  
5 the Department hereunder and that such bond has been approved  
6 by the Department. Failure by any licensed manufacturer or  
7 importing distributor to keep a satisfactory bond in effect  
8 with the Department or to furnish additional bond to the  
9 Department, when required hereunder by the Department to do so,  
10 shall be grounds for the revocation or suspension of such  
11 manufacturer's or importing distributor's license by the  
12 Commission. If a manufacturer or importing distributor fails to  
13 pay any amount due under this Article, his bond with the  
14 Department shall be deemed forfeited, and the Department may  
15 institute a suit in its own name on such bond.

16 After notice and opportunity for a hearing the State  
17 Commission may revoke or suspend the license of any  
18 manufacturer or importing distributor who fails to comply with  
19 the provisions of this Section. Notice of such hearing and the  
20 time and place thereof shall be in writing and shall contain a  
21 statement of the charges against the licensee. Such notice may  
22 be given by United States registered or certified mail with  
23 return receipt requested, addressed to the person concerned at  
24 his last known address and shall be given not less than 7 days  
25 prior to the date fixed for the hearing. An order revoking or  
26 suspending a license under the provisions of this Section may



1 be reviewed in the manner provided in Section 7-10 of this Act.  
2 No new license shall be granted to a person whose license has  
3 been revoked for a violation of this Section or, in case of  
4 suspension, shall such suspension be terminated until he has  
5 paid to the Department all taxes and penalties which he owes  
6 the State under the provisions of this Act.

7 Every manufacturer or importing distributor who has, as  
8 verified by the Department, continuously complied with the  
9 conditions of the bond under this Act for a period of 2 years  
10 shall be considered to be a prior continuous compliance  
11 taxpayer. In determining the consecutive period of time for  
12 qualification as a prior continuous compliance taxpayer, any  
13 consecutive period of time of qualifying compliance  
14 immediately prior to the effective date of this amendatory Act  
15 of 1987 shall be credited to any manufacturer or importing  
16 distributor.

17 A manufacturer or importing distributor that is a prior  
18 continuous compliance taxpayer under this Section and becomes a  
19 successor as the result of an acquisition, merger, or  
20 consolidation of a manufacturer or importing distributor shall  
21 be deemed to be a prior continuous compliance taxpayer with  
22 respect to the acquired, merged, or consolidated entity.

23 Every prior continuous compliance taxpayer shall be exempt  
24 from the bond requirements of this Act until the Department has  
25 determined the taxpayer to be delinquent in the filing of any  
26 return or deficient in the payment of any tax under this Act.

1 Any taxpayer who fails to pay an admitted or established  
2 liability under this Act may also be required to post bond or  
3 other acceptable security with the Department guaranteeing the  
4 payment of such admitted or established liability.

5 The Department shall discharge any surety and shall release  
6 and return any bond or security deposit assigned, pledged or  
7 otherwise provided to it by a taxpayer under this Section  
8 within 30 days after: (1) such taxpayer becomes a prior  
9 continuous compliance taxpayer; or (2) such taxpayer has ceased  
10 to collect receipts on which he is required to remit tax to the  
11 Department, has filed a final tax return, and has paid to the  
12 Department an amount sufficient to discharge his remaining tax  
13 liability as determined by the Department under this Act.

14 (Source: P.A. 95-769, eff. 7-29-08.)

15 Section 25-90. The Energy Assistance Act is amended by  
16 changing Section 13 and by adding Section 19 as follows:

17 (305 ILCS 20/13)

18 (Text of Section before amendment by P.A. 99-906)

19 (Section scheduled to be repealed on January 1, 2025)

20 Sec. 13. Supplemental Low-Income Energy Assistance Fund.

21 (a) The Supplemental Low-Income Energy Assistance Fund is  
22 hereby created as a special fund in the State Treasury. The  
23 Supplemental Low-Income Energy Assistance Fund is authorized  
24 to receive moneys from voluntary donations from individuals,

1 foundations, corporations, and other sources, moneys received  
2 pursuant to Section 17, and, by statutory deposit, the moneys  
3 collected pursuant to this Section. The Fund is also authorized  
4 to receive voluntary donations from individuals, foundations,  
5 corporations, and other sources. Subject to appropriation, the  
6 Department shall use moneys from the Supplemental Low-Income  
7 Energy Assistance Fund for payments to electric or gas public  
8 utilities, municipal electric or gas utilities, and electric  
9 cooperatives on behalf of their customers who are participants  
10 in the program authorized by Sections 4 and 18 of this Act, for  
11 the provision of weatherization services and for  
12 administration of the Supplemental Low-Income Energy  
13 Assistance Fund. The yearly expenditures for weatherization  
14 may not exceed 10% of the amount collected during the year  
15 pursuant to this Section. The yearly administrative expenses of  
16 the Supplemental Low-Income Energy Assistance Fund may not  
17 exceed 10% of the amount collected during that year pursuant to  
18 this Section, except when unspent funds from the Supplemental  
19 Low-Income Energy Assistance Fund are reallocated from a  
20 previous year; any unspent balance of the 10% administrative  
21 allowance may be utilized for administrative expenses in the  
22 year they are reallocated.

23 (b) Notwithstanding the provisions of Section 16-111 of the  
24 Public Utilities Act but subject to subsection (k) of this  
25 Section, each public utility, electric cooperative, as defined  
26 in Section 3.4 of the Electric Supplier Act, and municipal

1 utility, as referenced in Section 3-105 of the Public Utilities  
2 Act, that is engaged in the delivery of electricity or the  
3 distribution of natural gas within the State of Illinois shall,  
4 effective January 1, 1998, assess each of its customer accounts  
5 a monthly Energy Assistance Charge for the Supplemental  
6 Low-Income Energy Assistance Fund. The delivering public  
7 utility, municipal electric or gas utility, or electric or gas  
8 cooperative for a self-assessing purchaser remains subject to  
9 the collection of the fee imposed by this Section. The monthly  
10 charge shall be as follows:

11 (1) \$0.48 per month on each account for residential  
12 electric service;

13 (2) \$0.48 per month on each account for residential gas  
14 service;

15 (3) \$4.80 per month on each account for non-residential  
16 electric service which had less than 10 megawatts of peak  
17 demand during the previous calendar year;

18 (4) \$4.80 per month on each account for non-residential  
19 gas service which had distributed to it less than 4,000,000  
20 therms of gas during the previous calendar year;

21 (5) \$360 per month on each account for non-residential  
22 electric service which had 10 megawatts or greater of peak  
23 demand during the previous calendar year; and

24 (6) \$360 per month on each account for non-residential  
25 gas service which had 4,000,000 or more therms of gas  
26 distributed to it during the previous calendar year.

1           The incremental change to such charges imposed by this  
2 amendatory Act of the 96th General Assembly shall not (i) be  
3 used for any purpose other than to directly assist customers  
4 and (ii) be applicable to utilities serving less than 100,000  
5 customers in Illinois on January 1, 2009.

6           In addition, electric and gas utilities have committed, and  
7 shall contribute, a one-time payment of \$22 million to the  
8 Fund, within 10 days after the effective date of the tariffs  
9 established pursuant to Sections 16-111.8 and 19-145 of the  
10 Public Utilities Act to be used for the Department's cost of  
11 implementing the programs described in Section 18 of this  
12 amendatory Act of the 96th General Assembly, the Arrearage  
13 Reduction Program described in Section 18, and the programs  
14 described in Section 8-105 of the Public Utilities Act. If a  
15 utility elects not to file a rider within 90 days after the  
16 effective date of this amendatory Act of the 96th General  
17 Assembly, then the contribution from such utility shall be made  
18 no later than February 1, 2010.

19           (c) For purposes of this Section:

20           (1) "residential electric service" means electric  
21 utility service for household purposes delivered to a  
22 dwelling of 2 or fewer units which is billed under a  
23 residential rate, or electric utility service for  
24 household purposes delivered to a dwelling unit or units  
25 which is billed under a residential rate and is registered  
26 by a separate meter for each dwelling unit;

1           (2) "residential gas service" means gas utility  
2 service for household purposes distributed to a dwelling of  
3 2 or fewer units which is billed under a residential rate,  
4 or gas utility service for household purposes distributed  
5 to a dwelling unit or units which is billed under a  
6 residential rate and is registered by a separate meter for  
7 each dwelling unit;

8           (3) "non-residential electric service" means electric  
9 utility service which is not residential electric service;  
10 and

11           (4) "non-residential gas service" means gas utility  
12 service which is not residential gas service.

13           (d) Within 30 days after the effective date of this  
14 amendatory Act of the 96th General Assembly, each public  
15 utility engaged in the delivery of electricity or the  
16 distribution of natural gas shall file with the Illinois  
17 Commerce Commission tariffs incorporating the Energy  
18 Assistance Charge in other charges stated in such tariffs,  
19 which shall become effective no later than the beginning of the  
20 first billing cycle following such filing.

21           (e) The Energy Assistance Charge assessed by electric and  
22 gas public utilities shall be considered a charge for public  
23 utility service.

24           (f) By the 20th day of the month following the month in  
25 which the charges imposed by the Section were collected, each  
26 public utility, municipal utility, and electric cooperative

1 shall remit to the Department of Revenue all moneys received as  
2 payment of the Energy Assistance Charge on a return prescribed  
3 and furnished by the Department of Revenue showing such  
4 information as the Department of Revenue may reasonably  
5 require; provided, however, that a utility offering an  
6 Arrearage Reduction Program pursuant to Section 18 of this Act  
7 shall be entitled to net those amounts necessary to fund and  
8 recover the costs of such Program as authorized by that Section  
9 that is no more than the incremental change in such Energy  
10 Assistance Charge authorized by this amendatory Act of the 96th  
11 General Assembly. If a customer makes a partial payment, a  
12 public utility, municipal utility, or electric cooperative may  
13 elect either: (i) to apply such partial payments first to  
14 amounts owed to the utility or cooperative for its services and  
15 then to payment for the Energy Assistance Charge or (ii) to  
16 apply such partial payments on a pro-rata basis between amounts  
17 owed to the utility or cooperative for its services and to  
18 payment for the Energy Assistance Charge.

19 If any payment provided for in this Section exceeds the  
20 public utility, municipal utility, or electric cooperative's  
21 liabilities under this Act, as shown on an original return, the  
22 public utility, municipal utility, or electric cooperative may  
23 credit the excess payment against liability subsequently to be  
24 remitted to the Department of Revenue under this Act.

25 (g) The Department of Revenue shall deposit into the  
26 Supplemental Low-Income Energy Assistance Fund all moneys

1 remitted to it in accordance with subsection (f) of this  
2 Section; provided, however, that the amounts remitted by each  
3 utility shall be used to provide assistance to that utility's  
4 customers. The utilities shall coordinate with the Department  
5 to establish an equitable and practical methodology for  
6 implementing this subsection (g) beginning with the 2010  
7 program year.

8 (h) On or before December 31, 2002, the Department shall  
9 prepare a report for the General Assembly on the expenditure of  
10 funds appropriated from the Low-Income Energy Assistance Block  
11 Grant Fund for the program authorized under Section 4 of this  
12 Act.

13 (i) The Department of Revenue may establish such rules as  
14 it deems necessary to implement this Section.

15 (j) The Department of Commerce and Economic Opportunity may  
16 establish such rules as it deems necessary to implement this  
17 Section.

18 (k) The charges imposed by this Section shall only apply to  
19 customers of municipal electric or gas utilities and electric  
20 or gas cooperatives if the municipal electric or gas utility or  
21 electric or gas cooperative makes an affirmative decision to  
22 impose the charge. If a municipal electric or gas utility or an  
23 electric cooperative makes an affirmative decision to impose  
24 the charge provided by this Section, the municipal electric or  
25 gas utility or electric cooperative shall inform the Department  
26 of Revenue in writing of such decision when it begins to impose



1 the charge. If a municipal electric or gas utility or electric  
2 or gas cooperative does not assess this charge, the Department  
3 may not use funds from the Supplemental Low-Income Energy  
4 Assistance Fund to provide benefits to its customers under the  
5 program authorized by Section 4 of this Act.

6 In its use of federal funds under this Act, the Department  
7 may not cause a disproportionate share of those federal funds  
8 to benefit customers of systems which do not assess the charge  
9 provided by this Section.

10 This Section is repealed effective December 31, 2018 unless  
11 renewed by action of the General Assembly. The General Assembly  
12 shall consider the results of the evaluations described in  
13 Section 8 in its deliberations.

14 (Source: P.A. 98-429, eff. 8-16-13; 99-457, eff. 1-1-16;  
15 99-933, eff. 1-27-17.)

16 (Text of Section after amendment by P.A. 99-906)

17 (Section scheduled to be repealed on January 1, 2025)

18 Sec. 13. Supplemental Low-Income Energy Assistance Fund.

19 (a) The Supplemental Low-Income Energy Assistance Fund is  
20 hereby created as a special fund in the State Treasury. The  
21 Supplemental Low-Income Energy Assistance Fund is authorized  
22 to receive moneys from voluntary donations from individuals,  
23 foundations, corporations, and other sources, moneys received  
24 pursuant to Section 17, and, by statutory deposit, the moneys  
25 collected pursuant to this Section. The Fund is also authorized

1 to receive voluntary donations from individuals, foundations,  
2 corporations, and other sources. Subject to appropriation, the  
3 Department shall use moneys from the Supplemental Low-Income  
4 Energy Assistance Fund for payments to electric or gas public  
5 utilities, municipal electric or gas utilities, and electric  
6 cooperatives on behalf of their customers who are participants  
7 in the program authorized by Sections 4 and 18 of this Act, for  
8 the provision of weatherization services and for  
9 administration of the Supplemental Low-Income Energy  
10 Assistance Fund. The yearly expenditures for weatherization  
11 may not exceed 10% of the amount collected during the year  
12 pursuant to this Section. The yearly administrative expenses of  
13 the Supplemental Low-Income Energy Assistance Fund may not  
14 exceed 10% of the amount collected during that year pursuant to  
15 this Section, except when unspent funds from the Supplemental  
16 Low-Income Energy Assistance Fund are reallocated from a  
17 previous year; any unspent balance of the 10% administrative  
18 allowance may be utilized for administrative expenses in the  
19 year they are reallocated.

20 (b) Notwithstanding the provisions of Section 16-111 of the  
21 Public Utilities Act but subject to subsection (k) of this  
22 Section, each public utility, electric cooperative, as defined  
23 in Section 3.4 of the Electric Supplier Act, and municipal  
24 utility, as referenced in Section 3-105 of the Public Utilities  
25 Act, that is engaged in the delivery of electricity or the  
26 distribution of natural gas within the State of Illinois shall,

1 effective January 1, 1998, assess each of its customer accounts  
2 a monthly Energy Assistance Charge for the Supplemental  
3 Low-Income Energy Assistance Fund. The delivering public  
4 utility, municipal electric or gas utility, or electric or gas  
5 cooperative for a self-assessing purchaser remains subject to  
6 the collection of the fee imposed by this Section. The monthly  
7 charge shall be as follows:

8 (1) \$0.48 per month on each account for residential  
9 electric service;

10 (2) \$0.48 per month on each account for residential gas  
11 service;

12 (3) \$4.80 per month on each account for non-residential  
13 electric service which had less than 10 megawatts of peak  
14 demand during the previous calendar year;

15 (4) \$4.80 per month on each account for non-residential  
16 gas service which had distributed to it less than 4,000,000  
17 therms of gas during the previous calendar year;

18 (5) \$360 per month on each account for non-residential  
19 electric service which had 10 megawatts or greater of peak  
20 demand during the previous calendar year; and

21 (6) \$360 per month on each account for non-residential  
22 gas service which had 4,000,000 or more therms of gas  
23 distributed to it during the previous calendar year.

24 The incremental change to such charges imposed by this  
25 amendatory Act of the 96th General Assembly shall not (i) be  
26 used for any purpose other than to directly assist customers

1 and (ii) be applicable to utilities serving less than 100,000  
2 customers in Illinois on January 1, 2009.

3 In addition, electric and gas utilities have committed, and  
4 shall contribute, a one-time payment of \$22 million to the  
5 Fund, within 10 days after the effective date of the tariffs  
6 established pursuant to Sections 16-111.8 and 19-145 of the  
7 Public Utilities Act to be used for the Department's cost of  
8 implementing the programs described in Section 18 of this  
9 amendatory Act of the 96th General Assembly, the Arrearage  
10 Reduction Program described in Section 18, and the programs  
11 described in Section 8-105 of the Public Utilities Act. If a  
12 utility elects not to file a rider within 90 days after the  
13 effective date of this amendatory Act of the 96th General  
14 Assembly, then the contribution from such utility shall be made  
15 no later than February 1, 2010.

16 (c) For purposes of this Section:

17 (1) "residential electric service" means electric  
18 utility service for household purposes delivered to a  
19 dwelling of 2 or fewer units which is billed under a  
20 residential rate, or electric utility service for  
21 household purposes delivered to a dwelling unit or units  
22 which is billed under a residential rate and is registered  
23 by a separate meter for each dwelling unit;

24 (2) "residential gas service" means gas utility  
25 service for household purposes distributed to a dwelling of  
26 2 or fewer units which is billed under a residential rate,

1 or gas utility service for household purposes distributed  
2 to a dwelling unit or units which is billed under a  
3 residential rate and is registered by a separate meter for  
4 each dwelling unit;

5 (3) "non-residential electric service" means electric  
6 utility service which is not residential electric service;  
7 and

8 (4) "non-residential gas service" means gas utility  
9 service which is not residential gas service.

10 (d) Within 30 days after the effective date of this  
11 amendatory Act of the 96th General Assembly, each public  
12 utility engaged in the delivery of electricity or the  
13 distribution of natural gas shall file with the Illinois  
14 Commerce Commission tariffs incorporating the Energy  
15 Assistance Charge in other charges stated in such tariffs,  
16 which shall become effective no later than the beginning of the  
17 first billing cycle following such filing.

18 (e) The Energy Assistance Charge assessed by electric and  
19 gas public utilities shall be considered a charge for public  
20 utility service.

21 (f) By the 20th day of the month following the month in  
22 which the charges imposed by the Section were collected, each  
23 public utility, municipal utility, and electric cooperative  
24 shall remit to the Department of Revenue all moneys received as  
25 payment of the Energy Assistance Charge on a return prescribed  
26 and furnished by the Department of Revenue showing such

1 information as the Department of Revenue may reasonably  
2 require; provided, however, that a utility offering an  
3 Arrearage Reduction Program or Supplemental Arrearage  
4 Reduction Program pursuant to Section 18 of this Act shall be  
5 entitled to net those amounts necessary to fund and recover the  
6 costs of such Programs as authorized by that Section that is no  
7 more than the incremental change in such Energy Assistance  
8 Charge authorized by Public Act 96-33. If a customer makes a  
9 partial payment, a public utility, municipal utility, or  
10 electric cooperative may elect either: (i) to apply such  
11 partial payments first to amounts owed to the utility or  
12 cooperative for its services and then to payment for the Energy  
13 Assistance Charge or (ii) to apply such partial payments on a  
14 pro-rata basis between amounts owed to the utility or  
15 cooperative for its services and to payment for the Energy  
16 Assistance Charge.

17 If any payment provided for in this Section exceeds the  
18 public utility, municipal utility, or electric cooperative's  
19 liabilities under this Act, as shown on an original return, the  
20 public utility, municipal utility, or electric cooperative may  
21 credit the excess payment against liability subsequently to be  
22 remitted to the Department of Revenue under this Act.

23 (g) The Department of Revenue shall deposit into the  
24 Supplemental Low-Income Energy Assistance Fund all moneys  
25 remitted to it in accordance with subsection (f) of this  
26 Section; provided, however, that the amounts remitted by each

1 utility shall be used to provide assistance to that utility's  
2 customers. The utilities shall coordinate with the Department  
3 to establish an equitable and practical methodology for  
4 implementing this subsection (g) beginning with the 2010  
5 program year.

6 (h) On or before December 31, 2002, the Department shall  
7 prepare a report for the General Assembly on the expenditure of  
8 funds appropriated from the Low-Income Energy Assistance Block  
9 Grant Fund for the program authorized under Section 4 of this  
10 Act.

11 (i) The Department of Revenue may establish such rules as  
12 it deems necessary to implement this Section.

13 (j) The Department of Commerce and Economic Opportunity may  
14 establish such rules as it deems necessary to implement this  
15 Section.

16 (k) The charges imposed by this Section shall only apply to  
17 customers of municipal electric or gas utilities and electric  
18 or gas cooperatives if the municipal electric or gas utility or  
19 electric or gas cooperative makes an affirmative decision to  
20 impose the charge. If a municipal electric or gas utility or an  
21 electric cooperative makes an affirmative decision to impose  
22 the charge provided by this Section, the municipal electric or  
23 gas utility or electric cooperative shall inform the Department  
24 of Revenue in writing of such decision when it begins to impose  
25 the charge. If a municipal electric or gas utility or electric  
26 or gas cooperative does not assess this charge, the Department

1 may not use funds from the Supplemental Low-Income Energy  
2 Assistance Fund to provide benefits to its customers under the  
3 program authorized by Section 4 of this Act.

4 In its use of federal funds under this Act, the Department  
5 may not cause a disproportionate share of those federal funds  
6 to benefit customers of systems which do not assess the charge  
7 provided by this Section.

8 This Section is repealed on January 1, 2025 unless renewed  
9 by action of the General Assembly.

10 (Source: P.A. 98-429, eff. 8-16-13; 99-457, eff. 1-1-16;  
11 99-906, eff. 6-1-17; 99-933, eff. 1-27-17; revised 2-15-17.)

12 (305 ILCS 20/19 new)

13 Sec. 19. Application of Retailers' Occupation Tax  
14 provisions. All the provisions of Sections 4, 5, 5a, 5b, 5c,  
15 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12,  
16 and 13 of the Retailers' Occupation Tax Act that are not  
17 inconsistent with this Act apply, as far as practicable, to the  
18 surcharge imposed by this Act to the same extent as if those  
19 provisions were included in this Act. References in the  
20 incorporated Sections of the Retailers' Occupation Tax Act to  
21 retailers, to sellers, or to persons engaged in the business of  
22 selling tangible personal property mean persons required to  
23 remit the charge imposed under this Act.

24 Section 25-95. The Environmental Protection Act is amended



1 by changing Section 55.10 as follows:

2 (415 ILCS 5/55.10) (from Ch. 111 1/2, par. 1055.10)

3 Sec. 55.10. Tax returns by retailer.

4 (a) Except as otherwise provided in this Section, for  
5 returns due on or before January 31, 2010, each retailer of  
6 tires maintaining a place of business in this State shall make  
7 a return to the Department of Revenue on a quarter annual  
8 basis, with the return for January, February and March of a  
9 given year being due by April 30 of that year; with the return  
10 for April, May and June of a given year being due by July 31 of  
11 that year; with the return for July, August and September of a  
12 given year being due by October 31 of that year; and with the  
13 return for October, November and December of a given year being  
14 due by January 31 of the following year.

15 For returns due after January 31, 2010, each retailer of  
16 tires maintaining a place of business in this State shall make  
17 a return to the Department of Revenue on a quarter annual  
18 basis, with the return for January, February, and March of a  
19 given year being due by April 20 of that year; with the return  
20 for April, May, and June of a given year being due by July 20 of  
21 that year; with the return for July, August, and September of a  
22 given year being due by October 20 of that year; and with the  
23 return for October, November, and December of a given year  
24 being due by January 20 of the following year.

25 Notwithstanding any other provision of this Section to the

1 contrary, the return for October, November, and December of  
2 2009 is due by February 20, 2010.

3 (b) Each return made to the Department of Revenue shall  
4 state:

5 (1) the name of the retailer;

6 (2) the address of the retailer's principal place of  
7 business, and the address of the principal place of  
8 business (if that is a different address) from which the  
9 retailer engages in the business of making retail sales of  
10 tires;

11 (3) total number of tires sold at retail for the  
12 preceding calendar quarter;

13 (4) the amount of tax due; and

14 (5) such other reasonable information as the  
15 Department of Revenue may require.

16 If any payment provided for in this Section exceeds the  
17 retailer's liabilities under this Act, as shown on an original  
18 return, the retailer may credit such excess payment against  
19 liability subsequently to be remitted to the Department under  
20 this Act, in accordance with reasonable rules adopted by the  
21 Department. If the Department subsequently determines that all  
22 or any part of the credit taken was not actually due to the  
23 retailer, the retailer's discount shall be reduced by the  
24 monetary amount of the discount applicable to the difference  
25 between the credit taken and that actually due, and the  
26 retailer shall be liable for penalties and interest on such

1 difference.

2 Notwithstanding any other provision of this Act concerning  
3 the time within which a retailer may file his return, in the  
4 case of any retailer who ceases to engage in the retail sale of  
5 tires, the retailer shall file a final return under this Act  
6 with the Department of Revenue not more than one month after  
7 discontinuing that business.

8 (Source: P.A. 96-520, eff. 8-14-09.)

9 Section 25-100. The Environmental Impact Fee Law is amended  
10 by changing Section 315 as follows:

11 (415 ILCS 125/315)

12 (Section scheduled to be repealed on January 1, 2025)

13 Sec. 315. Fee on receivers of fuel for sale or use;  
14 collection and reporting. A person that is required to pay the  
15 fee imposed by this Law shall pay the fee to the Department by  
16 return showing all fuel purchased, acquired, or received and  
17 sold, distributed or used during the preceding calendar month,  
18 including losses of fuel as the result of evaporation or  
19 shrinkage due to temperature variations, and such other  
20 reasonable information as the Department may require. Losses of  
21 fuel as the result of evaporation or shrinkage due to  
22 temperature variations may not exceed 1% of the total gallons  
23 in storage at the beginning of the month, plus the receipts of  
24 gallonage during the month, minus the gallonage remaining in

1 storage at the end of the month. Any loss reported that is in  
2 excess of this amount shall be subject to the fee imposed by  
3 Section 310 of this Law. On and after July 1, 2001, for each  
4 6-month period January through June, net losses of fuel (for  
5 each category of fuel that is required to be reported on a  
6 return) as the result of evaporation or shrinkage due to  
7 temperature variations may not exceed 1% of the total gallons  
8 in storage at the beginning of each January, plus the receipts  
9 of gallonage each January through June, minus the gallonage  
10 remaining in storage at the end of each June. On and after July  
11 1, 2001, for each 6-month period July through December, net  
12 losses of fuel (for each category of fuel that is required to  
13 be reported on a return) as the result of evaporation or  
14 shrinkage due to temperature variations may not exceed 1% of  
15 the total gallons in storage at the beginning of each July,  
16 plus the receipts of gallonage each July through December,  
17 minus the gallonage remaining in storage at the end of each  
18 December. Any net loss reported that is in excess of this  
19 amount shall be subject to the fee imposed by Section 310 of  
20 this Law. For purposes of this Section, "net loss" means the  
21 number of gallons gained through temperature variations minus  
22 the number of gallons lost through temperature variations or  
23 evaporation for each of the respective 6-month periods.

24 The return shall be prescribed by the Department and shall  
25 be filed between the 1st and 20th days of each calendar month.  
26 The Department may, in its discretion, combine the return filed

1 under this Law with the return filed under Section 2b of the  
2 Motor Fuel Tax Law. If the return is timely filed, the receiver  
3 may take a discount of 2% through June 30, 2003 and 1.75%  
4 thereafter to reimburse himself for the expenses incurred in  
5 keeping records, preparing and filing returns, collecting and  
6 remitting the fee, and supplying data to the Department on  
7 request. However, the discount applies only to the amount of  
8 the fee payment that accompanies a return that is timely filed  
9 in accordance with this Section.

10 If any payment provided for in this Section exceeds the  
11 receiver's liabilities under this Act, as shown on an original  
12 return, the Department may authorize the receiver to credit  
13 such excess payment against liability subsequently to be  
14 remitted to the Department under this Act, in accordance with  
15 reasonable rules adopted by the Department. If the Department  
16 subsequently determines that all or any part of the credit  
17 taken was not actually due to the receiver, the receiver's  
18 discount shall be reduced by an amount equal to the difference  
19 between the discount as applied to the credit taken and that  
20 actually due, and that receiver shall be liable for penalties  
21 and interest on such difference.

22 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

23 Section 25-105. The Drycleaner Environmental Response  
24 Trust Fund Act is amended by changing Section 65 as follows:

1 (415 ILCS 135/65)

2 (Section scheduled to be repealed on January 1, 2020)

3 Sec. 65. Drycleaning solvent tax.

4 (a) On and after January 1, 1998, a tax is imposed upon the  
5 use of drycleaning solvent by a person engaged in the business  
6 of operating a drycleaning facility in this State at the rate  
7 of \$3.50 per gallon of perchloroethylene or other chlorinated  
8 drycleaning solvents used in drycleaning operations, \$0.35 per  
9 gallon of petroleum-based drycleaning solvent, and \$1.75 per  
10 gallon of green solvents, unless the green solvent is used at a  
11 virgin facility, in which case the rate is \$0.35 per gallon.  
12 The Council shall determine by rule which products are  
13 chlorine-based solvents, which products are petroleum-based  
14 solvents, and which products are green solvents. All  
15 drycleaning solvents shall be considered chlorinated solvents  
16 unless the Council determines that the solvents are  
17 petroleum-based drycleaning solvents or green solvents.

18 (b) The tax imposed by this Act shall be collected from the  
19 purchaser at the time of sale by a seller of drycleaning  
20 solvents maintaining a place of business in this State and  
21 shall be remitted to the Department of Revenue under the  
22 provisions of this Act.

23 (c) The tax imposed by this Act that is not collected by a  
24 seller of drycleaning solvents shall be paid directly to the  
25 Department of Revenue by the purchaser or end user who is  
26 subject to the tax imposed by this Act.

1 (d) No tax shall be imposed upon the use of drycleaning  
2 solvent if the drycleaning solvent will not be used in a  
3 drycleaning facility or if a floor stock tax has been imposed  
4 and paid on the drycleaning solvent. Prior to the purchase of  
5 the solvent, the purchaser shall provide a written and signed  
6 certificate to the drycleaning solvent seller stating:

7 (1) the name and address of the purchaser;

8 (2) the purchaser's signature and date of signing; and

9 (3) one of the following:

10 (A) that the drycleaning solvent will not be used  
11 in a drycleaning facility; or

12 (B) that a floor stock tax has been imposed and  
13 paid on the drycleaning solvent.

14 (e) On January 1, 1998, there is imposed on each operator  
15 of a drycleaning facility a tax on drycleaning solvent held by  
16 the operator on that date for use in a drycleaning facility.  
17 The tax imposed shall be the tax that would have been imposed  
18 under subsection (a) if the drycleaning solvent held by the  
19 operator on that date had been purchased by the operator during  
20 the first year of this Act.

21 (f) On or before the 25th day of the 1st month following  
22 the end of the calendar quarter, a seller of drycleaning  
23 solvents who has collected a tax pursuant to this Section  
24 during the previous calendar quarter, or a purchaser or end  
25 user of drycleaning solvents required under subsection (c) to  
26 submit the tax directly to the Department, shall file a return

1 with the Department of Revenue. The return shall be filed on a  
2 form prescribed by the Department of Revenue and shall contain  
3 information that the Department of Revenue reasonably  
4 requires, but at a minimum will require the reporting of the  
5 volume of drycleaning solvent sold to each licensed drycleaner.  
6 The Department of Revenue shall report quarterly to the Council  
7 the volume of drycleaning solvent purchased for the quarter by  
8 each licensed drycleaner. Each seller of drycleaning solvent  
9 maintaining a place of business in this State who is required  
10 or authorized to collect the tax imposed by this Act shall pay  
11 to the Department the amount of the tax at the time when he or  
12 she is required to file his or her return for the period during  
13 which the tax was collected. Purchasers or end users remitting  
14 the tax directly to the Department under subsection (c) shall  
15 file a return with the Department of Revenue and pay the tax so  
16 incurred by the purchaser or end user during the preceding  
17 calendar quarter.

18 Except as provided in this Section, the seller of  
19 drycleaning solvents filing the return under this Section  
20 shall, at the time of filing the return, pay to the Department  
21 the amount of tax imposed by this Act less a discount of 1.75%,  
22 or \$5 per calendar year, whichever is greater. Failure to  
23 timely file the returns and provide to the Department the data  
24 requested under this Act will result in disallowance of the  
25 reimbursement discount.

26 (g) The tax on drycleaning solvents used in drycleaning



1 facilities and the floor stock tax shall be administered by  
2 Department of Revenue under rules adopted by that Department.

3 (h) On and after January 1, 1998, no person shall knowingly  
4 sell or transfer drycleaning solvent to an operator of a  
5 drycleaning facility that is not licensed by the Council under  
6 Section 60.

7 (i) The Department of Revenue may adopt rules as necessary  
8 to implement this Section.

9 (j) If any payment provided for in this Section exceeds the  
10 seller's liabilities under this Act, as shown on an original  
11 return, the seller may credit such excess payment against  
12 liability subsequently to be remitted to the Department under  
13 this Act, in accordance with reasonable rules adopted by the  
14 Department. If the Department subsequently determines that all  
15 or any part of the credit taken was not actually due to the  
16 seller, the seller's discount shall be reduced by an amount  
17 equal to the difference between the discount as applied to the  
18 credit taken and that actually due, and the seller shall be  
19 liable for penalties and interest on such difference.

20 (Source: P.A. 96-774, eff. 1-1-10.)

21 ARTICLE 30. ESTATE AND GENERATION-SKIPPING TAX ACT

22 Section 30-5. The Illinois Estate and Generation-Skipping  
23 Transfer Tax Act is amended by changing Section 2 as follows:

1 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

2 Sec. 2. Definitions.

3 "Federal estate tax" means the tax due to the United States  
4 with respect to a taxable transfer under Chapter 11 of the  
5 Internal Revenue Code.

6 "Federal generation-skipping transfer tax" means the tax  
7 due to the United States with respect to a taxable transfer  
8 under Chapter 13 of the Internal Revenue Code.

9 "Federal return" means the federal estate tax return with  
10 respect to the federal estate tax and means the federal  
11 generation-skipping transfer tax return with respect to the  
12 federal generation-skipping transfer tax.

13 "Federal transfer tax" means the federal estate tax or the  
14 federal generation-skipping transfer tax.

15 "Illinois estate tax" means the tax due to this State with  
16 respect to a taxable transfer.

17 "Illinois generation-skipping transfer tax" means the tax  
18 due to this State with respect to a taxable transfer that gives  
19 rise to a federal generation-skipping transfer tax.

20 "Illinois transfer tax" means the Illinois estate tax or  
21 the Illinois generation-skipping transfer tax.

22 "Internal Revenue Code" means, unless otherwise provided,  
23 the Internal Revenue Code of 1986, as amended from time to  
24 time.

25 "Non-resident trust" means a trust that is not a resident  
26 of this State for purposes of the Illinois Income Tax Act, as

1 amended from time to time.

2 "Person" means and includes any individual, trust, estate,  
3 partnership, association, company or corporation.

4 "Qualified heir" means a qualified heir as defined in  
5 Section 2032A(e) (1) of the Internal Revenue Code.

6 "Resident trust" means a trust that is a resident of this  
7 State for purposes of the Illinois Income Tax Act, as amended  
8 from time to time.

9 "State" means any state, territory or possession of the  
10 United States and the District of Columbia.

11 "State tax credit" means:

12 (a) For persons dying on or after January 1, 2003 and  
13 through December 31, 2005, an amount equal to the full credit  
14 calculable under Section 2011 or Section 2604 of the Internal  
15 Revenue Code as the credit would have been computed and allowed  
16 under the Internal Revenue Code as in effect on December 31,  
17 2001, without the reduction in the State Death Tax Credit as  
18 provided in Section 2011(b) (2) or the termination of the State  
19 Death Tax Credit as provided in Section 2011(f) as enacted by  
20 the Economic Growth and Tax Relief Reconciliation Act of 2001,  
21 but recognizing the increased applicable exclusion amount  
22 through December 31, 2005.

23 (b) For persons dying after December 31, 2005 and on or  
24 before December 31, 2009, and for persons dying after December  
25 31, 2010, an amount equal to the full credit calculable under  
26 Section 2011 or 2604 of the Internal Revenue Code as the credit

1 would have been computed and allowed under the Internal Revenue  
2 Code as in effect on December 31, 2001, without the reduction  
3 in the State Death Tax Credit as provided in Section 2011(b) (2)  
4 or the termination of the State Death Tax Credit as provided in  
5 Section 2011(f) as enacted by the Economic Growth and Tax  
6 Relief Reconciliation Act of 2001, but recognizing the  
7 exclusion amount of only (i) \$2,000,000 for persons dying prior  
8 to January 1, 2012, (ii) \$3,500,000 for persons dying on or  
9 after January 1, 2012 and prior to January 1, 2013, and (iii)  
10 \$4,000,000 for persons dying on or after January 1, 2013, and  
11 with reduction to the adjusted taxable estate for any qualified  
12 terminable interest property election as defined in subsection  
13 (b-1) of this Section. For persons dying on or after July 1,  
14 2017, for the purposes of computing the State tax credit, the  
15 person's adjusted taxable estate shall not include the value of  
16 business property transferred to a qualified heir if any  
17 qualified heir of the decedent will be engaged in active  
18 management of the business for a period of at least 10 years  
19 after the date of the transfer, or until the death of that  
20 qualified heir, whichever occurs first. For the purposes of  
21 this subsection (b):

22 "Active management" means material participation, as  
23 defined in Section 469 of the Internal Revenue Code.

24 "Qualified heir" means:

25 (1) an ancestor of the decedent;

26 (2) the spouse of the decedent;

1           (3) a lineal descendant of any of the following:

2           (i) the decedent, (ii) the decedent's spouse, or (iii)

3           a parent of the decedent; or

4           (4) the spouse of any lineal descendant described

5           in item (3).

6           (b-1) The person required to file the Illinois return may  
7           elect on a timely filed Illinois return a marital deduction for  
8           qualified terminable interest property under Section  
9           2056(b)(7) of the Internal Revenue Code for purposes of the  
10          Illinois estate tax that is separate and independent of any  
11          qualified terminable interest property election for federal  
12          estate tax purposes. For purposes of the Illinois estate tax,  
13          the inclusion of property in the gross estate of a surviving  
14          spouse is the same as under Section 2044 of the Internal  
15          Revenue Code.

16          In the case of any trust for which a State or federal  
17          qualified terminable interest property election is made, the  
18          trustee may not retain non-income producing assets for more  
19          than a reasonable amount of time without the consent of the  
20          surviving spouse.

21          "Taxable transfer" means an event that gives rise to a  
22          state tax credit, including any credit as a result of the  
23          imposition of an additional tax under Section 2032A(c) of the  
24          Internal Revenue Code.

25          "Transferee" means a transferee within the meaning of  
26          Section 2603(a)(1) and Section 6901(h) of the Internal Revenue

1 Code.

2 "Transferred property" means:

3 (1) With respect to a taxable transfer occurring at the  
4 death of an individual, the deceased individual's gross  
5 estate as defined in Section 2031 of the Internal Revenue  
6 Code.

7 (2) With respect to a taxable transfer occurring as a  
8 result of a taxable termination as defined in Section  
9 2612(a) of the Internal Revenue Code, the taxable amount  
10 determined under Section 2622(a) of the Internal Revenue  
11 Code.

12 (3) With respect to a taxable transfer occurring as a  
13 result of a taxable distribution as defined in Section  
14 2612(b) of the Internal Revenue Code, the taxable amount  
15 determined under Section 2621(a) of the Internal Revenue  
16 Code.

17 (4) With respect to an event which causes the  
18 imposition of an additional estate tax under Section  
19 2032A(c) of the Internal Revenue Code, the qualified real  
20 property that was disposed of or which ceased to be used  
21 for the qualified use, within the meaning of Section  
22 2032A(c) (1) of the Internal Revenue Code.

23 "Trust" includes a trust as defined in Section 2652(b) (1)  
24 of the Internal Revenue Code.

25 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;  
26 97-636, eff. 6-1-12.)

1           ARTICLE 35. BUSINESS CORPORATION; LLCS; FEES AND PENALTIES

2           Section 35-5. The Business Corporation Act of 1983 is  
3 amended by changing Sections 14.30, 15.35, 15.65, and 15.97 as  
4 follows:

5           (805 ILCS 5/14.30) (from Ch. 32, par. 14.30)

6           Sec. 14.30. Cumulative report of changes in issued shares  
7 or paid-in capital.

8           (a) Each domestic corporation and each foreign  
9 corporation authorized to transact business in this State that  
10 effects any change in the number of issued shares or the amount  
11 of paid-in capital prior to January 1, 2018 that has not  
12 theretofore been reported in any report other than an annual  
13 report, interim annual report, or final transition annual  
14 report, shall execute and file, in accordance with Section 1.10  
15 of this Act, a report with respect to the changes in its issued  
16 shares or paid-in capital:

17           (1) that have occurred subsequent to the last day of  
18 the third month preceding its anniversary month in the  
19 preceding year and prior to the first day of the second  
20 month immediately preceding its anniversary month in the  
21 current year; or

22           (2) in the case of a corporation that has established  
23 an extended filing month, that have occurred during its

1 fiscal year; or

2 (3) in the case of a statutory merger or consolidation  
3 or an amendment to the corporation's articles of  
4 incorporation that affects the number of issued shares or  
5 the amount of paid-in capital, that have occurred between  
6 the last day of the third month immediately preceding its  
7 anniversary month and the date of the merger,  
8 consolidation, or amendment or, in the case of a  
9 corporation that has established an extended filing month,  
10 that have occurred between the first day of its fiscal year  
11 and the date of the merger, consolidation, or amendment; or

12 (4) in the case of a statutory merger or consolidation  
13 or an amendment to the corporation's articles of  
14 incorporation that affects the number of issued shares or  
15 the amount of paid-in capital, that have occurred between  
16 the date of the merger, consolidation, or amendment (but  
17 not including the merger, consolidation, or amendment) and  
18 the first day of the second month immediately preceding its  
19 anniversary month in the current year, or in the case of a  
20 corporation that has established an extended filing month,  
21 that have occurred between the date of the merger,  
22 consolidation or amendment (but not including the merger,  
23 consolidation or amendment) and the last day of its fiscal  
24 year.

25 (b) The corporation shall file the report required under  
26 subsection (a) not later than (i) the time its annual report is



1 required to be filed in 1992 and in each subsequent year and  
2 (ii) not later than the time of filing the articles of merger,  
3 consolidation, or amendment to the articles of incorporation  
4 that affects the number of issued shares or the amount of  
5 paid-in capital of a domestic corporation or the certified copy  
6 of merger of a foreign corporation.

7 (c) The report shall net decreases against increases that  
8 occur during the same taxable period. The report shall set  
9 forth:

10 (1) The name of the corporation and the state or  
11 country under the laws of which it is organized.

12 (2) A statement of the aggregate number of shares which  
13 the corporation has authority to issue, itemized by classes  
14 and series, if any, within a class.

15 (3) A statement of the aggregate number of issued  
16 shares as last reported to the Secretary of State in any  
17 document required or permitted by this Act to be filed,  
18 other than an annual report, interim annual report or final  
19 transition annual report, itemized by classes and series,  
20 if any, within a class.

21 (4) A statement, expressed in dollars, of the amount of  
22 paid-in capital of the corporation as last reported to the  
23 Secretary of State in any document required or permitted by  
24 this Act to be filed, other than an annual report, interim  
25 annual report or final transition annual report.

26 (5) A statement, if applicable, of the aggregate number

1 of shares issued by the corporation not theretofore  
2 reported to the Secretary of State as having been issued,  
3 and a statement, expressed in dollars, of the value of the  
4 entire consideration received, less expenses, including  
5 commissions, paid or incurred in connection with the  
6 issuance, for, or on account of, the issuance of the  
7 shares, itemized by classes, and series, if any, within a  
8 class; and in the case of shares issued as a share  
9 dividend, the amount added or transferred to the paid-in  
10 capital of the corporation for, or on account of, the  
11 issuance of the shares; provided, however, that the report  
12 shall also include the date of each issuance made prior to  
13 the current reporting period, and the number of issued  
14 shares and consideration received in each case.

15 (6) A statement, if applicable, expressed in dollars,  
16 of the amount added or transferred to paid-in capital of  
17 the corporation without the issuance of shares; provided,  
18 however, that the report shall also include the date of  
19 each increase made prior to the current reporting period,  
20 and the consideration received in each case.

21 (7) In case of an exchange or reclassification of  
22 issued shares resulting in an increase in the amount of  
23 paid-in capital, a statement of the manner in which it was  
24 effected, and a statement, expressed in dollars, of the  
25 amount added or transferred to the paid-in capital of the  
26 corporation as a result thereof, except any portion thereof

1 reported under any other subsection of this Section as a  
2 part of the consideration received by the corporation for,  
3 or on account of, its issued shares; provided, however,  
4 that the report shall also include the date of each  
5 exchange or reclassification made prior to the current  
6 reporting period and the consideration received in each  
7 case.

8 (8) If the consideration received for the issuance of  
9 any shares not theretofore reported as having been issued  
10 consists of labor or services performed or of property,  
11 other than cash, then a statement, expressed in dollars, of  
12 the value of that consideration as fixed by the board of  
13 directors.

14 (9) In the case of a cancellation of shares or a  
15 reduction in paid-in capital made pursuant to Section 9.20,  
16 the aggregate reduction in paid-in capital; provided,  
17 however, that the report shall also include the date of  
18 each reduction made prior to the current reporting period.

19 (10) A statement of the aggregate number of issued  
20 shares itemized by classes and series, if any, within a  
21 class, after giving effect to the changes reported.

22 (11) A statement, expressed in dollars, of the amount  
23 of paid-in capital of the corporation after giving effect  
24 to the changes reported.

25 (d) No additional license fees or franchise taxes shall be  
26 payable upon the filing of the report to the extent that

1 license fees or franchise taxes shall have been previously paid  
2 by the corporation in respect of shares previously issued which  
3 are being exchanged for the shares the issuance of which is  
4 being reported, provided those facts are shown in the report.

5 (e) The report shall be made on forms prescribed and  
6 furnished by the Secretary of State.

7 (f) Until the report under this Section or a report under  
8 Section 14.25 shall have been filed in the Office of the  
9 Secretary of State showing a reduction in paid-in capital, the  
10 basis of the annual franchise tax payable by the corporation  
11 shall not be reduced, provided, however, in no event shall the  
12 annual franchise tax for any taxable year be reduced if the  
13 report is not filed prior to the first day of the anniversary  
14 month or, in the case of a corporation which has established an  
15 extended filing month, the extended filing month of the  
16 corporation of that taxable year and before payment of its  
17 annual franchise tax.

18 (Source: P.A. 90-421, eff. 1-1-98.)

19 (805 ILCS 5/15.35) (from Ch. 32, par. 15.35)

20 Sec. 15.35. Franchise taxes payable by domestic  
21 corporations. For the privilege of exercising its franchises in  
22 this State, each domestic corporation shall pay to the  
23 Secretary of State the following franchise taxes, computed on  
24 the basis, at the rates and for the periods prescribed in this  
25 Act:

1           (a) An initial franchise tax at the time of filing its  
2 first report of issuance of shares.

3           (b) An additional franchise tax at the time of filing (1) a  
4 report of the issuance of additional shares, or (2) a report of  
5 an increase in paid-in capital without the issuance of shares,  
6 or (3) an amendment to the articles of incorporation or a  
7 report of cumulative changes in paid-in capital, whenever any  
8 amendment or such report discloses an increase in its paid-in  
9 capital over the amount thereof last reported in any document,  
10 other than an annual report, interim annual report or final  
11 transition annual report required by this Act to be filed in  
12 the office of the Secretary of State.

13           (c) An additional franchise tax at the time of filing a  
14 report of paid-in capital following a statutory merger or  
15 consolidation, which discloses that the paid-in capital of the  
16 surviving or new corporation immediately after the merger or  
17 consolidation is greater than the sum of the paid-in capital of  
18 all of the merged or consolidated corporations as last reported  
19 by them in any documents, other than annual reports, required  
20 by this Act to be filed in the office of the Secretary of  
21 State; and in addition, the surviving or new corporation shall  
22 be liable for a further additional franchise tax on the paid-in  
23 capital of each of the merged or consolidated corporations as  
24 last reported by them in any document, other than an annual  
25 report, required by this Act to be filed with the Secretary of  
26 State from their taxable year end to the next succeeding

1 anniversary month or, in the case of a corporation which has  
2 established an extended filing month, the extended filing month  
3 of the surviving or new corporation; however if the taxable  
4 year ends within the 2 month period immediately preceding the  
5 anniversary month or, in the case of a corporation which has  
6 established an extended filing month, the extended filing month  
7 of the surviving or new corporation the tax will be computed to  
8 the anniversary month or, in the case of a corporation which  
9 has established an extended filing month, the extended filing  
10 month of the surviving or new corporation in the next  
11 succeeding calendar year.

12 (d) An annual franchise tax payable each year with the  
13 annual report which the corporation is required by this Act to  
14 file.

15 (e) The provisions of this Section shall not apply to  
16 require the payment of any franchise tax that would otherwise  
17 have been due and payable on or after January 1, 2018. There  
18 shall be no refunds or proration of franchise tax for any taxes  
19 due and payable prior to January 1, 2018 on the basis that a  
20 portion of the corporation's taxable year extends beyond  
21 January 1, 2018. This amendatory Act of the 100th General  
22 Assembly shall not affect any right accrued or established, or  
23 any liability or penalty incurred prior to January 1, 2018.

24 (Source: P.A. 86-985.)

25 (805 ILCS 5/15.65) (from Ch. 32, par. 15.65)

1           Sec. 15.65. Franchise taxes payable by foreign  
2 corporations. For the privilege of exercising its authority to  
3 transact such business in this State as set out in its  
4 application therefor or any amendment thereto, each foreign  
5 corporation shall pay to the Secretary of State the following  
6 franchise taxes, computed on the basis, at the rates and for  
7 the periods prescribed in this Act:

8           (a) An initial franchise tax at the time of filing its  
9 application for authority to transact business in this State.

10           (b) An additional franchise tax at the time of filing (1) a  
11 report of the issuance of additional shares, or (2) a report of  
12 an increase in paid-in capital without the issuance of shares,  
13 or (3) a report of cumulative changes in paid-in capital or a  
14 report of an exchange or reclassification of shares, whenever  
15 any such report discloses an increase in its paid-in capital  
16 over the amount thereof last reported in any document, other  
17 than an annual report, interim annual report or final  
18 transition annual report, required by this Act to be filed in  
19 the office of the Secretary of State.

20           (c) Whenever the corporation shall be a party to a  
21 statutory merger and shall be the surviving corporation, an  
22 additional franchise tax at the time of filing its report  
23 following merger, if such report discloses that the amount  
24 represented in this State of its paid-in capital immediately  
25 after the merger is greater than the aggregate of the amounts  
26 represented in this State of the paid-in capital of such of the

1 merged corporations as were authorized to transact business in  
2 this State at the time of the merger, as last reported by them  
3 in any documents, other than annual reports, required by this  
4 Act to be filed in the office of the Secretary of State; and in  
5 addition, the surviving corporation shall be liable for a  
6 further additional franchise tax on the paid-in capital of each  
7 of the merged corporations as last reported by them in any  
8 document, other than an annual report, required by this Act to  
9 be filed with the Secretary of State, from their taxable year  
10 end to the next succeeding anniversary month or, in the case of  
11 a corporation which has established an extended filing month,  
12 the extended filing month of the surviving corporation; however  
13 if the taxable year ends within the 2 month period immediately  
14 preceding the anniversary month or the extended filing month of  
15 the surviving corporation, the tax will be computed to the  
16 anniversary or, extended filing month of the surviving  
17 corporation in the next succeeding calendar year.

18 (d) An annual franchise tax payable each year with any  
19 annual report which the corporation is required by this Act to  
20 file.

21 (e) The provisions of this Section shall not apply to  
22 require the payment of any franchise tax that would otherwise  
23 have been due and payable on or after January 1, 2018. There  
24 shall be no refunds or proration of franchise tax for any taxes  
25 due and payable prior to January 1, 2018 on the basis that a  
26 portion of the corporation's taxable year extends beyond



1 January 1, 2018. This amendatory Act of the 100th General  
2 Assembly shall not affect any right accrued or established, or  
3 any liability or penalty incurred prior to January 1, 2018.

4 (Source: P.A. 92-33, eff. 7-1-01.)

5 (805 ILCS 5/15.97) (from Ch. 32, par. 15.97)

6 Sec. 15.97. Corporate Franchise Tax Refund Fund.

7 (a) Beginning July 1, 1993, a percentage of the amounts  
8 collected under Sections 15.35, 15.45, 15.65, and 15.75 of this  
9 Act shall be deposited into the Corporate Franchise Tax Refund  
10 Fund, a special Fund hereby created in the State treasury. From  
11 July 1, 1993, until December 31, 1994, there shall be deposited  
12 into the Fund 3% of the amounts received under those Sections.  
13 Beginning January 1, 1995, and for each fiscal year beginning  
14 thereafter, 2% of the amounts collected under those Sections  
15 during the preceding fiscal year shall be deposited into the  
16 Fund.

17 (b) Beginning July 1, 1993, moneys in the Fund shall be  
18 expended exclusively for the purpose of paying refunds payable  
19 because of overpayment of franchise taxes, penalties, or  
20 interest under Sections 13.70, 15.35, 15.45, 15.65, 15.75, and  
21 16.05 of this Act and making transfers authorized under this  
22 Section. Refunds in accordance with the provisions of  
23 subsections (f) and (g) of Section 1.15 and Section 1.17 of  
24 this Act may be made from the Fund only to the extent that  
25 amounts collected under Sections 15.35, 15.45, 15.65, and 15.75

1 of this Act have been deposited in the Fund and remain  
2 available. On or before August 31 of each year, the balance in  
3 the Fund in excess of \$100,000 shall be transferred to the  
4 General Revenue Fund. Notwithstanding the above, for the period  
5 commencing on the effective date of this amendatory Act of the  
6 100th General Assembly and continuing through December 31,  
7 2020, amounts in the fund shall not be transferred to the  
8 General Revenue Fund and shall be used to pay refunds in  
9 accordance with the provisions of this Act. Within a reasonable  
10 time after January 1, 2021, the Secretary of State shall direct  
11 and the Comptroller shall order transferred to the General  
12 Revenue Fund all amounts remaining in the fund.

13 (c) This Act shall constitute an irrevocable and continuing  
14 appropriation from the Corporate Franchise Tax Refund Fund for  
15 the purpose of paying refunds upon the order of the Secretary  
16 of State in accordance with the provisions of this Section.

17 (Source: P.A. 99-620, eff. 1-1-17.)

18 Section 35-10. The Limited Liability Company Act is amended  
19 by changing Section 50-10 as follows:

20 (805 ILCS 180/50-10)

21 (Text of Section before amendment by P.A. 99-637)

22 Sec. 50-10. Fees.

23 (a) The Secretary of State shall charge and collect in  
24 accordance with the provisions of this Act and rules

1 promulgated under its authority all of the following:

2 (1) Fees for filing documents.

3 (2) Miscellaneous charges.

4 (3) Fees for the sale of lists of filings and for  
5 copies of any documents.

6 (b) The Secretary of State shall charge and collect for all  
7 of the following:

8 (1) Filing articles of organization (domestic),  
9 application for admission (foreign), and restated articles  
10 of organization (domestic), \$150 ~~\$500~~. Notwithstanding the  
11 foregoing, the fee for filing articles of organization  
12 (domestic), application for admission (foreign), and  
13 restated articles of organization (domestic) in connection  
14 with a limited liability company with ability to establish  
15 series pursuant to Section 37-40 of this Act is \$400 ~~\$750~~.

16 (2) Filing articles of amendment or an amended  
17 application for admission, \$50 ~~\$150~~.

18 (3) Filing articles of dissolution or application for  
19 withdrawal, \$5 ~~\$100~~.

20 (4) Filing an application to reserve a name, \$25 ~~\$300~~.

21 (5) Filing a notice of cancellation of a reserved name,  
22 \$5 ~~\$100~~.

23 (6) Filing a notice of a transfer of a reserved name,  
24 \$25 ~~\$100~~.

25 (7) Registration of a name, \$50 ~~\$300~~.

26 (8) Renewal of registration of a name, \$50 ~~\$100~~.

1 (9) Filing an application for use of an assumed name  
2 under Section 1-20 of this Act, \$150 for each year or part  
3 thereof ending in 0 or 5, \$120 for each year or part  
4 thereof ending in 1 or 6, \$90 for each year or part thereof  
5 ending in 2 or 7, \$60 for each year or part thereof ending  
6 in 3 or 8, \$30 for each year or part thereof ending in 4 or  
7 9, and a renewal for each assumed name, \$150.

8 (9.5) Filing an application for change of an assumed  
9 name, \$25.

10 (10) Filing an application for ~~change or~~ cancellation  
11 of an assumed name, \$5 ~~\$100~~.

12 (11) Filing an annual report of a limited liability  
13 company or foreign limited liability company, \$75 ~~\$250~~, if  
14 filed as required by this Act, plus a penalty if  
15 delinquent. Notwithstanding the foregoing, the fee for  
16 filing an annual report of a limited liability company or  
17 foreign limited liability company with ability to  
18 establish series is \$75 ~~\$250~~ plus \$50 for each series for  
19 which a certificate of designation has been filed pursuant  
20 to Section 37-40 of this Act and active on the last day of  
21 the third month preceding the company's anniversary month,  
22 plus a penalty if delinquent.

23 (12) Filing an application for reinstatement of a  
24 limited liability company or foreign limited liability  
25 company \$200 ~~\$500~~.

26 (13) Filing Articles of Merger, \$100 plus \$50 for each

1 party to the merger in excess of the first 2 parties.

2 (14) Filing an Agreement of Conversion or Statement of  
3 Conversion, \$100.

4 (15) Filing a statement of change of address of  
5 registered office or change of registered agent, or both,  
6 or filing a statement of correction, \$25.

7 (16) Filing a petition for refund, \$5 ~~\$15~~.

8 (17) Filing any other document, \$5 ~~\$100~~.

9 (18) Filing a certificate of designation of a limited  
10 liability company with the ability to establish series  
11 pursuant to Section 37-40 of this Act, \$50.

12 (c) The Secretary of State shall charge and collect all of  
13 the following:

14 (1) For furnishing a copy or certified copy of any  
15 document, instrument, or paper relating to a limited  
16 liability company or foreign limited liability company, or  
17 for a certificate, \$25.

18 (2) For the transfer of information by computer process  
19 media to any purchaser, fees established by rule.

20 (Source: P.A. 97-839, eff. 7-20-12.)

21 (Text of Section after amendment by P.A. 99-637)

22 Sec. 50-10. Fees.

23 (a) The Secretary of State shall charge and collect in  
24 accordance with the provisions of this Act and rules  
25 promulgated under its authority all of the following:

1 (1) Fees for filing documents.

2 (2) Miscellaneous charges.

3 (3) Fees for the sale of lists of filings and for  
4 copies of any documents.

5 (b) The Secretary of State shall charge and collect for all  
6 of the following:

7 (1) Filing articles of organization (domestic),  
8 application for admission (foreign), and restated articles  
9 of organization (domestic), \$150 ~~\$500~~. Notwithstanding the  
10 foregoing, the fee for filing articles of organization  
11 (domestic), application for admission (foreign), and  
12 restated articles of organization (domestic) in connection  
13 with a limited liability company with a series or the  
14 ability to establish a series pursuant to Section 37-40 of  
15 this Act is \$400 ~~\$750~~.

16 (2) Filing amendments (domestic or foreign), \$50 ~~\$150~~.

17 (3) Filing a statement of termination or application  
18 for withdrawal, \$5 ~~\$25~~.

19 (4) Filing an application to reserve a name, \$25 ~~\$300~~.

20 (5) Filing a notice of cancellation of a reserved name,  
21 \$5 ~~\$100~~.

22 (6) Filing a notice of a transfer of a reserved name,  
23 \$25 ~~\$100~~.

24 (7) Registration of a name, \$50 ~~\$300~~.

25 (8) Renewal of registration of a name, \$50 ~~\$100~~.

26 (9) Filing an application for use of an assumed name

1 under Section 1-20 of this Act, \$150 for each year or part  
2 thereof ending in 0 or 5, \$120 for each year or part  
3 thereof ending in 1 or 6, \$90 for each year or part thereof  
4 ending in 2 or 7, \$60 for each year or part thereof ending  
5 in 3 or 8, \$30 for each year or part thereof ending in 4 or  
6 9, and a renewal for each assumed name, \$150.

7 (9.5) Filing an application for change of an assumed  
8 name, \$25.

9 (10) Filing an application for ~~change or~~ cancellation  
10 of an assumed name, \$5 ~~\$100~~.

11 (11) Filing an annual report of a limited liability  
12 company or foreign limited liability company, \$75 ~~\$250~~, if  
13 filed as required by this Act, plus a penalty if  
14 delinquent. Notwithstanding the foregoing, the fee for  
15 filing an annual report of a limited liability company or  
16 foreign limited liability company is \$75 ~~\$250~~ plus \$50 for  
17 each series for which a certificate of designation has been  
18 filed pursuant to Section 37-40 of this Act and is in  
19 effect on the last day of the third month preceding the  
20 company's anniversary month, plus a penalty if delinquent.

21 (12) Filing an application for reinstatement of a  
22 limited liability company or foreign limited liability  
23 company \$200 ~~\$500~~.

24 (13) Filing articles of merger, \$100 plus \$50 for each  
25 party to the merger in excess of the first 2 parties.

26 (14) Filing articles of conversion, \$100.

1 (15) Filing a statement of change of address of  
2 registered office or change of registered agent, or both,  
3 or filing a statement of correction, \$25.

4 (16) Filing a petition for refund, \$5 ~~\$15~~.

5 (17) Filing a certificate of designation of a limited  
6 liability company with a series pursuant to Section 37-40  
7 of this Act, \$50.

8 (18) Filing articles of domestication, \$100.

9 (19) Filing, amending, or cancelling a statement of  
10 authority, \$50.

11 (20) Filing, amending, or cancelling a statement of  
12 denial, \$10.

13 (21) Filing any other document, \$5 ~~\$100~~.

14 (c) The Secretary of State shall charge and collect all of  
15 the following:

16 (1) For furnishing a copy or certified copy of any  
17 document, instrument, or paper relating to a limited  
18 liability company or foreign limited liability company, or  
19 for a certificate, \$25.

20 (2) For the transfer of information by computer process  
21 media to any purchaser, fees established by rule.

22 (Source: P.A. 99-637, eff. 7-1-17.)

23 ARTICLE 90. BUSINESS OCCUPATION

24 ASSESSMENT ACT



1           Section 90-1. Short title. This Act may be cited as the  
2 Business Occupation Assessment Act.

3           Section 90-10. Business Occupation Assessment.

4           (a) For each taxable year ending on or after December 31,  
5 2017, a corporation transacting business in this State shall be  
6 subject to a business occupation assessment. For taxable years  
7 ending on December 31, 2017, the assessment shall be equal to  
8 \$5,000. On January 1, 2018, and on January 1 of each year  
9 thereafter, the amount of the assessment imposed under this  
10 subsection (a) shall be adjusted for inflation as determined by  
11 the Consumer Price Index for All Urban Consumers, as issued by  
12 the United States Department of Labor, and rounded to the  
13 nearest \$50. Each corporation subject to the assessment under  
14 this Act shall be liable for the assessment amount in effect on  
15 the last day of its taxable year. If the taxable year of the  
16 corporation is less than 365 days, then the amount of the  
17 assessment shall be the otherwise applicable assessment amount  
18 multiplied by a fraction the numerator of which is the number  
19 of days in the corporation's taxable year and the denominator  
20 of which is 365.

21           (b) The taxable year of the corporation shall be its  
22 taxable year under Section 401 of the Illinois Income Tax Act.  
23 The business occupation assessment for each taxable year shall  
24 be reported by taxpayers that are subject to the assessment on  
25 the taxpayer's Illinois corporate income tax return and shall

1 be due and payable to the Department of Revenue on the due date  
2 prescribed under Section 601 of the Illinois Income Tax Act for  
3 payment of the corporation's liability under that Act.

4 (c) The provisions in the Illinois Income Tax Act for  
5 assessment, collection, and refund of overpayments of tax shall  
6 apply to the business occupation assessment as if the  
7 assessment were imposed under the Illinois Income Tax Act. The  
8 Department of Revenue shall adopt rules to determine procedures  
9 for refunding a business occupation assessment that is paid in  
10 error.

11 (d) For purposes of this Act, a corporation is considered  
12 to be transacting business in this State if the corporation is  
13 required to register with the Secretary of State and is not  
14 excluded under the provisions of Section 13.75 of the Business  
15 Corporation Act of 1983. Subchapter S corporations and  
16 corporations recognized by the United States Internal Revenue  
17 Service as tax-exempt organizations under Section 501(c)(3) of  
18 the Internal Revenue Code are not considered to be transacting  
19 business in this State for the purposes of this Act.

20 ARTICLE 95. NON-ACCELERATION

21 Section 95-995. No acceleration or delay. Where this Act  
22 makes changes in a statute that is represented in this Act by  
23 text that is not yet or no longer in effect (for example, a  
24 Section represented by multiple versions), the use of that text

1 does not accelerate or delay the taking effect of (i) the  
2 changes made by this Act or (ii) provisions derived from any  
3 other Public Act.

4 ARTICLE 99. EFFECTIVE DATE

5 Section 99-999. Effective date. This Act takes effect upon  
6 becoming law.