



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB1938

Introduced 2/17/2021, by Rep. Tony McCombie

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-55  
35 ILCS 110/3-45

from Ch. 120, par. 439.3-55  
from Ch. 120, par. 439.33-45

Amends the Use Tax Act and the Service Use Tax Act. Provides that the multistate exemption includes the return of property of an out-of-State lessor or purchaser to this State for storage, repair, or refurbishment, so long as the property is not used by a lessee or purchaser in this State. Effective immediately.

LRB102 10430 HLH 15758 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section  
5 3-55 as follows:

6 (35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

7 Sec. 3-55. Multistate exemption. To prevent actual or  
8 likely multistate taxation, the tax imposed by this Act does  
9 not apply to the use of tangible personal property in this  
10 State under the following circumstances:

11 (a) The use, in this State, of tangible personal property  
12 acquired outside this State by a nonresident individual and  
13 brought into this State by the individual for his or her own  
14 use while temporarily within this State or while passing  
15 through this State.

16 (b) (Blank).

17 (c) The use, in this State, by owners, lessors, or  
18 shippers of tangible personal property that is utilized by  
19 interstate carriers for hire for use as rolling stock moving  
20 in interstate commerce as long as so used by the interstate  
21 carriers for hire, and equipment operated by a  
22 telecommunications provider, licensed as a common carrier by  
23 the Federal Communications Commission, which is permanently

1 installed in or affixed to aircraft moving in interstate  
2 commerce.

3 (d) The use, in this State, of tangible personal property  
4 that is acquired outside this State and caused to be brought  
5 into this State by a person who has already paid a tax in  
6 another State in respect to the sale, purchase, or use of that  
7 property, to the extent of the amount of the tax properly due  
8 and paid in the other State.

9 (e) The temporary storage, in this State, of tangible  
10 personal property that is acquired outside this State and  
11 that, after being brought into this State and stored here  
12 temporarily, is used solely outside this State or is  
13 physically attached to or incorporated into other tangible  
14 personal property that is used solely outside this State, or  
15 is altered by converting, fabricating, manufacturing,  
16 printing, processing, or shaping, and, as altered, is used  
17 solely outside this State.

18 (e-5) The return of property of an out-of-State lessor or  
19 purchaser to this State for storage, repair, or refurbishment,  
20 so long as the property is not used by a lessee or purchaser in  
21 this State. As used in this subsection (e-5), refurbishment  
22 includes the replacement of component parts as well as  
23 upgrades.

24 (f) The temporary storage in this State of building  
25 materials and fixtures that are acquired either in this State  
26 or outside this State by an Illinois registered combination

1 retailer and construction contractor, and that the purchaser  
2 thereafter uses outside this State by incorporating that  
3 property into real estate located outside this State.

4 (g) The use or purchase of tangible personal property by a  
5 common carrier by rail or motor that receives the physical  
6 possession of the property in Illinois, and that transports  
7 the property, or shares with another common carrier in the  
8 transportation of the property, out of Illinois on a standard  
9 uniform bill of lading showing the seller of the property as  
10 the shipper or consignor of the property to a destination  
11 outside Illinois, for use outside Illinois.

12 (h) Except as provided in subsection (h-1), the use, in  
13 this State, of a motor vehicle that was sold in this State to a  
14 nonresident, even though the motor vehicle is delivered to the  
15 nonresident in this State, if the motor vehicle is not to be  
16 titled in this State, and if a drive-away permit is issued to  
17 the motor vehicle as provided in Section 3-603 of the Illinois  
18 Vehicle Code or if the nonresident purchaser has vehicle  
19 registration plates to transfer to the motor vehicle upon  
20 returning to his or her home state. The issuance of the  
21 drive-away permit or having the out-of-state registration  
22 plates to be transferred shall be prima facie evidence that  
23 the motor vehicle will not be titled in this State.

24 (h-1) The exemption under subsection (h) does not apply if  
25 the state in which the motor vehicle will be titled does not  
26 allow a reciprocal exemption for the use in that state of a

1 motor vehicle sold and delivered in that state to an Illinois  
2 resident but titled in Illinois. The tax collected under this  
3 Act on the sale of a motor vehicle in this State to a resident  
4 of another state that does not allow a reciprocal exemption  
5 shall be imposed at a rate equal to the state's rate of tax on  
6 taxable property in the state in which the purchaser is a  
7 resident, except that the tax shall not exceed the tax that  
8 would otherwise be imposed under this Act. At the time of the  
9 sale, the purchaser shall execute a statement, signed under  
10 penalty of perjury, of his or her intent to title the vehicle  
11 in the state in which the purchaser is a resident within 30  
12 days after the sale and of the fact of the payment to the State  
13 of Illinois of tax in an amount equivalent to the state's rate  
14 of tax on taxable property in his or her state of residence and  
15 shall submit the statement to the appropriate tax collection  
16 agency in his or her state of residence. In addition, the  
17 retailer must retain a signed copy of the statement in his or  
18 her records. Nothing in this subsection shall be construed to  
19 require the removal of the vehicle from this state following  
20 the filing of an intent to title the vehicle in the purchaser's  
21 state of residence if the purchaser titles the vehicle in his  
22 or her state of residence within 30 days after the date of  
23 sale. The tax collected under this Act in accordance with this  
24 subsection (h-1) shall be proportionately distributed as if  
25 the tax were collected at the 6.25% general rate imposed under  
26 this Act.

1 (h-2) The following exemptions apply with respect to  
2 certain aircraft:

3 (1) Beginning on July 1, 2007, no tax is imposed under  
4 this Act on the purchase of an aircraft, as defined in  
5 Section 3 of the Illinois Aeronautics Act, if all of the  
6 following conditions are met:

7 (A) the aircraft leaves this State within 15 days  
8 after the later of either the issuance of the final  
9 billing for the purchase of the aircraft or the  
10 authorized approval for return to service, completion  
11 of the maintenance record entry, and completion of the  
12 test flight and ground test for inspection, as  
13 required by 14 C.F.R. 91.407;

14 (B) the aircraft is not based or registered in  
15 this State after the purchase of the aircraft; and

16 (C) the purchaser provides the Department with a  
17 signed and dated certification, on a form prescribed  
18 by the Department, certifying that the requirements of  
19 this item (1) are met. The certificate must also  
20 include the name and address of the purchaser, the  
21 address of the location where the aircraft is to be  
22 titled or registered, the address of the primary  
23 physical location of the aircraft, and other  
24 information that the Department may reasonably  
25 require.

26 (2) Beginning on July 1, 2007, no tax is imposed under

1           this Act on the use of an aircraft, as defined in Section 3  
2           of the Illinois Aeronautics Act, that is temporarily  
3           located in this State for the purpose of a prepurchase  
4           evaluation if all of the following conditions are met:

5                   (A) the aircraft is not based or registered in  
6                   this State after the prepurchase evaluation; and

7                   (B) the purchaser provides the Department with a  
8                   signed and dated certification, on a form prescribed  
9                   by the Department, certifying that the requirements of  
10                  this item (2) are met. The certificate must also  
11                  include the name and address of the purchaser, the  
12                  address of the location where the aircraft is to be  
13                  titled or registered, the address of the primary  
14                  physical location of the aircraft, and other  
15                  information that the Department may reasonably  
16                  require.

17           (3) Beginning on July 1, 2007, no tax is imposed under  
18           this Act on the use of an aircraft, as defined in Section 3  
19           of the Illinois Aeronautics Act, that is temporarily  
20           located in this State for the purpose of a post-sale  
21           customization if all of the following conditions are met:

22                   (A) the aircraft leaves this State within 15 days  
23                   after the authorized approval for return to service,  
24                   completion of the maintenance record entry, and  
25                   completion of the test flight and ground test for  
26                   inspection, as required by 14 C.F.R. 91.407;

1 (B) the aircraft is not based or registered in  
2 this State either before or after the post-sale  
3 customization; and

4 (C) the purchaser provides the Department with a  
5 signed and dated certification, on a form prescribed  
6 by the Department, certifying that the requirements of  
7 this item (3) are met. The certificate must also  
8 include the name and address of the purchaser, the  
9 address of the location where the aircraft is to be  
10 titled or registered, the address of the primary  
11 physical location of the aircraft, and other  
12 information that the Department may reasonably  
13 require.

14 If tax becomes due under this subsection (h-2) because of  
15 the purchaser's use of the aircraft in this State, the  
16 purchaser shall file a return with the Department and pay the  
17 tax on the fair market value of the aircraft. This return and  
18 payment of the tax must be made no later than 30 days after the  
19 aircraft is used in a taxable manner in this State. The tax is  
20 based on the fair market value of the aircraft on the date that  
21 it is first used in a taxable manner in this State.

22 For purposes of this subsection (h-2):

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



1 "Post-sale customization" means any improvement,  
2 maintenance, or repair that is performed on an aircraft  
3 following a transfer of ownership of the aircraft.

4 "Prepurchase evaluation" means an examination of an  
5 aircraft to provide a potential purchaser with information  
6 relevant to the potential purchase.

7 "Registered in this State" means an aircraft registered  
8 with the Department of Transportation, Aeronautics Division,  
9 or titled or registered with the Federal Aviation  
10 Administration to an address located in this State.

11 This subsection (h-2) is exempt from the provisions of  
12 Section 3-90.

13 (i) Beginning July 1, 1999, the use, in this State, of fuel  
14 acquired outside this State and brought into this State in the  
15 fuel supply tanks of locomotives engaged in freight hauling  
16 and passenger service for interstate commerce. This subsection  
17 is exempt from the provisions of Section 3-90.

18 (j) Beginning on January 1, 2002 and through June 30,  
19 2016, the use of tangible personal property purchased from an  
20 Illinois retailer by a taxpayer engaged in centralized  
21 purchasing activities in Illinois who will, upon receipt of  
22 the property in Illinois, temporarily store the property in  
23 Illinois (i) for the purpose of subsequently transporting it  
24 outside this State for use or consumption thereafter solely  
25 outside this State or (ii) for the purpose of being processed,  
26 fabricated, or manufactured into, attached to, or incorporated

1 into other tangible personal property to be transported  
2 outside this State and thereafter used or consumed solely  
3 outside this State. The Director of Revenue shall, pursuant to  
4 rules adopted in accordance with the Illinois Administrative  
5 Procedure Act, issue a permit to any taxpayer in good standing  
6 with the Department who is eligible for the exemption under  
7 this subsection (j). The permit issued under this subsection  
8 (j) shall authorize the holder, to the extent and in the manner  
9 specified in the rules adopted under this Act, to purchase  
10 tangible personal property from a retailer exempt from the  
11 taxes imposed by this Act. Taxpayers shall maintain all  
12 necessary books and records to substantiate the use and  
13 consumption of all such tangible personal property outside of  
14 the State of Illinois.

15 (Source: P.A. 100-321, eff. 8-24-17.)

16 Section 10. The Service Use Tax Act is amended by changing  
17 Section 3-45 as follows:

18 (35 ILCS 110/3-45) (from Ch. 120, par. 439.33-45)

19 Sec. 3-45. Multistate exemption. To prevent actual or  
20 likely multistate taxation, the tax imposed by this Act does  
21 not apply to the use of tangible personal property in this  
22 State under the following circumstances:

23 (a) The use, in this State, of property acquired outside  
24 this State by a nonresident individual and brought into this

1 State by the individual for his or her own use while  
2 temporarily within this State or while passing through this  
3 State.

4 (b) The use, in this State, of property that is acquired  
5 outside this State and that is moved into this State for use as  
6 rolling stock moving in interstate commerce.

7 (c) The use, in this State, of property that is acquired  
8 outside this State and caused to be brought into this State by  
9 a person who has already paid a tax in another state in respect  
10 to the sale, purchase, or use of that property, to the extent  
11 of the amount of the tax properly due and paid in the other  
12 state.

13 (d) The temporary storage, in this State, of property that  
14 is acquired outside this State and that after being brought  
15 into this State and stored here temporarily, is used solely  
16 outside this State or is physically attached to or  
17 incorporated into other property that is used solely outside  
18 this State, or is altered by converting, fabricating,  
19 manufacturing, printing, processing, or shaping, and, as  
20 altered, is used solely outside this State.

21 (d-5) The return of property of an out-of-State lessor or  
22 purchaser to this State for storage, repair, or refurbishment,  
23 so long as the property is not used by a lessee or purchaser in  
24 this State. As used in this subsection (d-5), refurbishment  
25 includes the replacement of component parts as well as  
26 upgrades.

1           (e) Beginning July 1, 1999, the use, in this State, of fuel  
2 acquired outside this State and brought into this State in the  
3 fuel supply tanks of locomotives engaged in freight hauling  
4 and passenger service for interstate commerce. This subsection  
5 is exempt from the provisions of Section 3-75.

6           (f) Beginning on January 1, 2002 and through June 30,  
7 2016, the use of tangible personal property purchased from an  
8 Illinois retailer by a taxpayer engaged in centralized  
9 purchasing activities in Illinois who will, upon receipt of  
10 the property in Illinois, temporarily store the property in  
11 Illinois (i) for the purpose of subsequently transporting it  
12 outside this State for use or consumption thereafter solely  
13 outside this State or (ii) for the purpose of being processed,  
14 fabricated, or manufactured into, attached to, or incorporated  
15 into other tangible personal property to be transported  
16 outside this State and thereafter used or consumed solely  
17 outside this State. The Director of Revenue shall, pursuant to  
18 rules adopted in accordance with the Illinois Administrative  
19 Procedure Act, issue a permit to any taxpayer in good standing  
20 with the Department who is eligible for the exemption under  
21 this subsection (f). The permit issued under this subsection  
22 (f) shall authorize the holder, to the extent and in the manner  
23 specified in the rules adopted under this Act, to purchase  
24 tangible personal property from a retailer exempt from the  
25 taxes imposed by this Act. Taxpayers shall maintain all  
26 necessary books and records to substantiate the use and

1 consumption of all such tangible personal property outside of  
2 the State of Illinois.

3 (Source: P.A. 97-73, eff. 6-30-11.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.