Amends the Illinois Procurement Code. Provides that the Code does not apply to the leasing of State-owned facilities by a wireless carrier, a cable operator, a holder, or a provider of broadband services. Amends the Illinois Income Tax Act. Creates credit for the cost of equipment and materials used in the business of providing broadband services in a county in the State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act to exempt equipment and materials used to provide broadband services in a county in the State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people. Effective immediately.
AN ACT concerning revenue.

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

Section 1. Short title. This Act may be cited as the Illinois Broadband Investment Act.

Section 3. The Illinois Procurement Code is amended by changing Section 1-10 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which bidders, offerors, potential contractors, or contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including, but not limited to, any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the
funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies, except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care, except as provided in Section 5-30.6 of the Illinois Public Aid Code and this Section.

(4) Hiring of an individual as an employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than $25,000 must be published in the Procurement Bulletin within 10 calendar days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor
shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) (Blank).

(9) Procurement expenditures by the Illinois Conservation Foundation when only private funds are used.

(10) (Blank).

(11) Public-private agreements entered into according to the procurement requirements of Section 20 of the Public-Private Partnerships for Transportation Act and design-build agreements entered into according to the procurement requirements of Section 25 of the Public-Private Partnerships for Transportation Act.

(12) (A) Contracts for legal, financial, and other professional and artistic services entered into by the Illinois Finance Authority in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Finance Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Finance Authority of the terms of the contract.

(B) Contracts for legal and financial services entered
into by the Illinois Housing Development Authority in connection with the issuance of bonds in which the State of Illinois is not obligated. Such contracts shall be awarded through a competitive process authorized by the members of the Illinois Housing Development Authority and are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code, as well as the final approval by the members of the Illinois Housing Development Authority of the terms of the contract.

(13) Contracts for services, commodities, and equipment to support the delivery of timely forensic science services in consultation with and subject to the approval of the Chief Procurement Officer as provided in subsection (d) of Section 5-4-3a of the Unified Code of Corrections, except for the requirements of Sections 20-60, 20-65, 20-70, and 20-160 and Article 50 of this Code; however, the Chief Procurement Officer may, in writing with justification, waive any certification required under Article 50 of this Code. For any contracts for services which are currently provided by members of a collective bargaining agreement, the applicable terms of the collective bargaining agreement concerning subcontracting shall be followed.

On and after January 1, 2019, this paragraph (13), except for this sentence, is inoperative.

(14) Contracts for participation expenditures required
by a domestic or international trade show or exhibition of
an exhibitor, member, or sponsor.

(15) Contracts with a railroad or utility that
requires the State to reimburse the railroad or utilities
for the relocation of utilities for construction or other
public purpose. Contracts included within this paragraph
(15) shall include, but not be limited to, those
associated with: relocations, crossings, installations,
and maintenance. For the purposes of this paragraph (15),
"railroad" means any form of non-highway ground
transportation that runs on rails or electromagnetic
guideways and "utility" means: (1) public utilities as
defined in Section 3-105 of the Public Utilities Act, (2)
telecommunications carriers as defined in Section 13-202
of the Public Utilities Act, (3) electric cooperatives as
defined in Section 3.4 of the Electric Supplier Act, (4)
telephone or telecommunications cooperatives as defined in
Section 13-212 of the Public Utilities Act, (5) rural
water or waste water systems with 10,000 connections or
less, (6) a holder as defined in Section 21-201 of the
Public Utilities Act, and (7) municipalities owning or
operating utility systems consisting of public utilities
as that term is defined in Section 11-117-2 of the

(16) Procurement expenditures necessary for the
Department of Public Health to provide the delivery of
timely newborn screening services in accordance with the Newborn Metabolic Screening Act.

(17) Procurement expenditures necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, and the Department of Public Health to implement the Compassionate Use of Medical Cannabis Program and Opioid Alternative Pilot Program requirements and ensure access to medical cannabis for patients with debilitating medical conditions in accordance with the Compassionate Use of Medical Cannabis Program Act.

(18) This Code does not apply to any procurements necessary for the Department of Agriculture, the Department of Financial and Professional Regulation, the Department of Human Services, the Department of Commerce and Economic Opportunity, and the Department of Public Health to implement the Cannabis Regulation and Tax Act if the applicable agency has made a good faith determination that it is necessary and appropriate for the expenditure to fall within this exemption and if the process is conducted in a manner substantially in accordance with the requirements of Sections 20-160, 25-60, 30-22, 50-5, 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35, 50-36, 50-37, 50-38, and 50-50 of this Code; however, for Section 50-35, compliance applies only to contracts or subcontracts over $100,000. Notice of each contract
entered into under this paragraph (18) that is related to
the procurement of goods and services identified in
paragraph (1) through (9) of this subsection shall be
published in the Procurement Bulletin within 14 calendar
days after contract execution. The Chief Procurement
Officer shall prescribe the form and content of the
notice. Each agency shall provide the Chief Procurement
Officer, on a monthly basis, in the form and content
prescribed by the Chief Procurement Officer, a report of
contracts that are related to the procurement of goods and
services identified in this subsection. At a minimum, this
report shall include the name of the contractor, a
description of the supply or service provided, the total
amount of the contract, the term of the contract, and the
exception to this Code utilized. A copy of any or all of
these contracts shall be made available to the Chief
Procurement Officer immediately upon request. The Chief
Procurement Officer shall submit a report to the Governor
and General Assembly no later than November 1 of each year
that includes, at a minimum, an annual summary of the
monthly information reported to the Chief Procurement
Officer. This exemption becomes inoperative 5 years after
June 25, 2022 June 25, 2019 (the effective date of Public
Act 101-27).

(19) Acquisition of modifications or adjustments,
limited to assistive technology devices and assistive
technology services, adaptive equipment, repairs, and replacement parts to provide reasonable accommodations (i) that enable a qualified applicant with a disability to complete the job application process and be considered for the position such qualified applicant desires, (ii) that modify or adjust the work environment to enable a qualified current employee with a disability to perform the essential functions of the position held by that employee, (iii) to enable a qualified current employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities, and (iv) that allow a customer, client, claimant, or member of the public seeking State services full use and enjoyment of and access to its programs, services, or benefits.

For purposes of this paragraph (19):

"Assistive technology devices" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"Assistive technology services" means any service that directly assists an individual with a disability in selection, acquisition, or use of an assistive technology device.

"Qualified" has the same meaning and use as provided
under the federal Americans with Disabilities Act when
describing an individual with a disability.

(20) Procurement expenditures necessary for the
Illinois Commerce Commission to hire third-party
facilitators pursuant to Sections 16-105.17 and Section
16-108.18 of the Public Utilities Act or an ombudsman
pursuant to Section 16-107.5 of the Public Utilities Act,
a facilitator pursuant to Section 16-105.17 of the Public
Utilities Act, or a grid auditor pursuant to Section
16-105.10 of the Public Utilities Act.

Notwithstanding any other provision of law, for contracts
entered into on or after October 1, 2017 under an exemption
provided in any paragraph of this subsection (b), except
paragraph (1), (2), or (5), each State agency shall post to the
appropriate procurement bulletin the name of the contractor, a
description of the supply or service provided, the total
amount of the contract, the term of the contract, and the
exception to the Code utilized. The chief procurement officer
shall submit a report to the Governor and General Assembly no
later than November 1 of each year that shall include, at a
minimum, an annual summary of the monthly information reported
to the chief procurement officer.

(c) This Code does not apply to the electric power
procurement process provided for under Section 1-75 of the
Illinois Power Agency Act and Section 16-111.5 of the Public
Utilities Act.
(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(e) This Code does not apply to the process used by the Capital Development Board to retain a person or entity to assist the Capital Development Board with its duties related to the determination of costs of a clean coal SNG brownfield facility, as defined by Section 1-10 of the Illinois Power Agency Act, as required in subsection (h-3) of Section 9-220 of the Public Utilities Act, including calculating the range of capital costs, the range of operating and maintenance costs, or the sequestration costs or monitoring the construction of clean coal SNG brownfield facility for the full duration of construction.

(f) (Blank).

(g) (Blank).

(g-5) This Code does not apply to the leasing of State-owned facilities by a wireless carrier, as defined in Section 2 of the Emergency Telephone System Act, and does not apply to the leasing of State-owned facilities by a cable operator, a holder, or a provider of broadband services, as those terms are defined by Section 21-201 of the Public Utilities Act.

(h) This Code does not apply to the process to procure or
contracts entered into in accordance with Sections 11-5.2 and
11-5.3 of the Illinois Public Aid Code.

(i) Each chief procurement officer may access records
necessary to review whether a contract, purchase, or other
expenditure is or is not subject to the provisions of this
Code, unless such records would be subject to attorney-client
privilege.

(j) This Code does not apply to the process used by the
Capital Development Board to retain an artist or work or works
of art as required in Section 14 of the Capital Development
Board Act.

(k) This Code does not apply to the process to procure
contracts, or contracts entered into, by the State Board of
Elections or the State Electoral Board for hearing officers
appointed pursuant to the Election Code.

(l) This Code does not apply to the processes used by the
Illinois Student Assistance Commission to procure supplies and
services paid for from the private funds of the Illinois
Prepaid Tuition Fund. As used in this subsection (l), "private
funds" means funds derived from deposits paid into the
Illinois Prepaid Tuition Trust Fund and the earnings thereon.

(m) This Code shall apply regardless of the source of
funds with which contracts are paid, including federal
assistance moneys. Except as specifically provided in this
Code, this Code shall not apply to procurement expenditures
necessary for the Department of Public Health to conduct the
Healthy Illinois Survey in accordance with Section 2310-431 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois.
(Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662, eff. 9-15-21; revised 11-23-21.)

Section 5. The Illinois Income Tax Act is amended by changing Section 201 as follows:

(35 ILCS 5/201)

Sec. 201. Tax imposed.

(a) In general. A tax measured by net income is hereby imposed on every individual, corporation, trust and estate for each taxable year ending after July 31, 1969 on the privilege of earning or receiving income in or as a resident of this State. Such tax shall be in addition to all other occupation or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.

(b) Rates. The tax imposed by subsection (a) of this Section shall be determined as follows, except as adjusted by subsection (d-1):

(1) In the case of an individual, trust or estate, for taxable years ending prior to July 1, 1989, an amount equal to 2 1/2% of the taxpayer's net income for the
taxable year.

(2) In the case of an individual, trust or estate, for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of (i) 2 1/2% of the taxpayer's net income for the period prior to July 1, 1989, as calculated under Section 202.3, and (ii) 3% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(3) In the case of an individual, trust or estate, for taxable years beginning after June 30, 1989, and ending prior to January 1, 2011, an amount equal to 3% of the taxpayer's net income for the taxable year.

(4) In the case of an individual, trust, or estate, for taxable years beginning prior to January 1, 2011, and ending after December 31, 2010, an amount equal to the sum of (i) 3% of the taxpayer's net income for the period prior to January 1, 2011, as calculated under Section 202.5, and (ii) 5% of the taxpayer's net income for the period after December 31, 2010, as calculated under Section 202.5.

(5) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2011, and ending prior to January 1, 2015, an amount equal to 5% of the taxpayer's net income for the taxable year.

(5.1) In the case of an individual, trust, or estate, for taxable years beginning prior to January 1, 2015, and ending after December 31, 2014, an amount equal to the sum
of (i) 5% of the taxpayer's net income for the period prior to January 1, 2015, as calculated under Section 202.5, and (ii) 3.75% of the taxpayer's net income for the period after December 31, 2014, as calculated under Section 202.5.

(5.2) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2015, and ending prior to July 1, 2017, an amount equal to 3.75% of the taxpayer's net income for the taxable year.

(5.3) In the case of an individual, trust, or estate, for taxable years beginning prior to July 1, 2017, and ending after June 30, 2017, an amount equal to the sum of (i) 3.75% of the taxpayer's net income for the period prior to July 1, 2017, as calculated under Section 202.5, and (ii) 4.95% of the taxpayer's net income for the period after June 30, 2017, as calculated under Section 202.5.

(5.4) In the case of an individual, trust, or estate, for taxable years beginning on or after July 1, 2017, an amount equal to 4.95% of the taxpayer's net income for the taxable year.

(6) In the case of a corporation, for taxable years ending prior to July 1, 1989, an amount equal to 4% of the taxpayer's net income for the taxable year.

(7) In the case of a corporation, for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of (i) 4% of the
taxpayer's net income for the period prior to July 1, 1989, as calculated under Section 202.3, and (ii) 4.8% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(8) In the case of a corporation, for taxable years beginning after June 30, 1989, and ending prior to January 1, 2011, an amount equal to 4.8% of the taxpayer's net income for the taxable year.

(9) In the case of a corporation, for taxable years beginning prior to January 1, 2011, and ending after December 31, 2010, an amount equal to the sum of (i) 4.8% of the taxpayer's net income for the period prior to January 1, 2011, as calculated under Section 202.5, and (ii) 7% of the taxpayer's net income for the period after December 31, 2010, as calculated under Section 202.5.

(10) In the case of a corporation, for taxable years beginning on or after January 1, 2011, and ending prior to January 1, 2015, an amount equal to 7% of the taxpayer's net income for the taxable year.

(11) In the case of a corporation, for taxable years beginning prior to January 1, 2015, and ending after December 31, 2014, an amount equal to the sum of (i) 7% of the taxpayer's net income for the period prior to January 1, 2015, as calculated under Section 202.5, and (ii) 5.25% of the taxpayer's net income for the period after December 31, 2014, as calculated under Section 202.5.
(12) In the case of a corporation, for taxable years beginning on or after January 1, 2015, and ending prior to July 1, 2017, an amount equal to 5.25% of the taxpayer's net income for the taxable year.

(13) In the case of a corporation, for taxable years beginning prior to July 1, 2017, and ending after June 30, 2017, an amount equal to the sum of (i) 5.25% of the taxpayer's net income for the period prior to July 1, 2017, as calculated under Section 202.5, and (ii) 7% of the taxpayer's net income for the period after June 30, 2017, as calculated under Section 202.5.

(14) In the case of a corporation, for taxable years beginning on or after July 1, 2017, an amount equal to 7% of the taxpayer's net income for the taxable year.

The rates under this subsection (b) are subject to the provisions of Section 201.5.

(b-5) Surcharge; sale or exchange of assets, properties, and intangibles of organization gaming licensees. For each of taxable years 2019 through 2027, a surcharge is imposed on all taxpayers on income arising from the sale or exchange of capital assets, depreciable business property, real property used in the trade or business, and Section 197 intangibles (i) of an organization licensee under the Illinois Horse Racing Act of 1975 and (ii) of an organization gaming licensee under the Illinois Gambling Act. The amount of the surcharge is equal to the amount of federal income tax liability for the
taxable year attributable to those sales and exchanges. The
surcharge imposed shall not apply if:

(1) the organization gaming license, organization
license, or racetrack property is transferred as a result
of any of the following:

(A) bankruptcy, a receivership, or a debt
adjustment initiated by or against the initial
licensee or the substantial owners of the initial
licensee;

(B) cancellation, revocation, or termination of
any such license by the Illinois Gaming Board or the
Illinois Racing Board;

(C) a determination by the Illinois Gaming Board
that transfer of the license is in the best interests
of Illinois gaming;

(D) the death of an owner of the equity interest in
a licensee;

(E) the acquisition of a controlling interest in
the stock or substantially all of the assets of a
publicly traded company;

(F) a transfer by a parent company to a wholly
owned subsidiary; or

(G) the transfer or sale to or by one person to
another person where both persons were initial owners
of the license when the license was issued; or

(2) the controlling interest in the organization
gaming license, organization license, or racetrack property is transferred in a transaction to lineal descendants in which no gain or loss is recognized or as a result of a transaction in accordance with Section 351 of the Internal Revenue Code in which no gain or loss is recognized; or

(3) live horse racing was not conducted in 2010 at a racetrack located within 3 miles of the Mississippi River under a license issued pursuant to the Illinois Horse Racing Act of 1975.

The transfer of an organization gaming license, organization license, or racetrack property by a person other than the initial licensee to receive the organization gaming license is not subject to a surcharge. The Department shall adopt rules necessary to implement and administer this subsection.

(c) Personal Property Tax Replacement Income Tax. Beginning on July 1, 1979 and thereafter, in addition to such income tax, there is also hereby imposed the Personal Property Tax Replacement Income Tax measured by net income on every corporation (including Subchapter S corporations), partnership and trust, for each taxable year ending after June 30, 1979. Such taxes are imposed on the privilege of earning or receiving income in or as a resident of this State. The Personal Property Tax Replacement Income Tax shall be in addition to the income tax imposed by subsections (a) and (b)
of this Section and in addition to all other occupation or
privilege taxes imposed by this State or by any municipal
corporation or political subdivision thereof.

(d) Additional Personal Property Tax Replacement Income
Tax Rates. The personal property tax replacement income tax
imposed by this subsection and subsection (c) of this Section
in the case of a corporation, other than a Subchapter S
corporation and except as adjusted by subsection (d-1), shall
be an additional amount equal to 2.85% of such taxpayer's net
income for the taxable year, except that beginning on January
1, 1981, and thereafter, the rate of 2.85% specified in this
subsection shall be reduced to 2.5%, and in the case of a
partnership, trust or a Subchapter S corporation shall be an
additional amount equal to 1.5% of such taxpayer's net income
for the taxable year.

(d-1) Rate reduction for certain foreign insurers. In the
case of a foreign insurer, as defined by Section 35A-5 of the
Illinois Insurance Code, whose state or country of domicile
imposes on insurers domiciled in Illinois a retaliatory tax
(excluding any insurer whose premiums from reinsurance assumed
are 50% or more of its total insurance premiums as determined
under paragraph (2) of subsection (b) of Section 304, except
that for purposes of this determination premiums from
reinsurance do not include premiums from inter-affiliate
reinsurance arrangements), beginning with taxable years ending
on or after December 31, 1999, the sum of the rates of tax
imposed by subsections (b) and (d) shall be reduced (but not increased) to the rate at which the total amount of tax imposed under this Act, net of all credits allowed under this Act, shall equal (i) the total amount of tax that would be imposed on the foreign insurer's net income allocable to Illinois for the taxable year by such foreign insurer's state or country of domicile if that net income were subject to all income taxes and taxes measured by net income imposed by such foreign insurer's state or country of domicile, net of all credits allowed or (ii) a rate of zero if no such tax is imposed on such income by the foreign insurer's state of domicile. For the purposes of this subsection (d-1), an inter-affiliate includes a mutual insurer under common management.

(1) For the purposes of subsection (d-1), in no event shall the sum of the rates of tax imposed by subsections (b) and (d) be reduced below the rate at which the sum of:

(A) the total amount of tax imposed on such foreign insurer under this Act for a taxable year, net of all credits allowed under this Act, plus

(B) the privilege tax imposed by Section 409 of the Illinois Insurance Code, the fire insurance company tax imposed by Section 12 of the Fire Investigation Act, and the fire department taxes imposed under Section 11-10-1 of the Illinois Municipal Code,

equals 1.25% for taxable years ending prior to December
31, 2003, or 1.75% for taxable years ending on or after December 31, 2003, of the net taxable premiums written for the taxable year, as described by subsection (1) of Section 409 of the Illinois Insurance Code. This paragraph will in no event increase the rates imposed under subsections (b) and (d).

(2) Any reduction in the rates of tax imposed by this subsection shall be applied first against the rates imposed by subsection (b) and only after the tax imposed by subsection (a) net of all credits allowed under this Section other than the credit allowed under subsection (i) has been reduced to zero, against the rates imposed by subsection (d).

This subsection (d-1) is exempt from the provisions of Section 250.

(e) Investment credit. A taxpayer shall be allowed a credit against the Personal Property Tax Replacement Income Tax for investment in qualified property.

(1) A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984. There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment
within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. The provisions added to this Section by Public Act 85-1200 (and restored by Public Act 87-895) shall be construed as declaratory of existing law and not as a new enactment. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and the denominator of which is 1%, but shall not exceed .5%. The investment credit shall not be allowed to the extent that it would reduce a taxpayer's liability in any tax year below zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. For tax years ending on or after December 31, 1987, and on or before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to
the tax liability of the 5 taxable years following the excess credit years if the taxpayer (i) makes investments which cause the creation of a minimum of 2,000 full-time equivalent jobs in Illinois, (ii) is located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act and (iii) is certified by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) as complying with the requirements specified in clause (i) and (ii) by July 1, 1986. The Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) shall notify the Department of Revenue of all such certifications immediately. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

(2) The term "qualified property" means property which:
(A) is tangible, whether new or used, including buildings and structural components of buildings and signs that are real property, but not including land or improvements to real property that are not a structural component of a building such as landscaping, sewer lines, local access roads, fencing, parking lots, and other appurtenances;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (e);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code;

(D) is used in Illinois by a taxpayer who is primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing, or was placed in service on or after July 1, 2006 in a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act; and

(E) has not previously been used in Illinois in such a manner and by such a person as would qualify for the credit provided by this subsection (e) or subsection (f).

(3) For purposes of this subsection (e), "manufacturing" means the material staging and production
of tangible personal property by procedures commonly
regarded as manufacturing, processing, fabrication, or
assembling which changes some existing material into new
shapes, new qualities, or new combinations. For purposes
of this subsection (e) the term "mining" shall have the
same meaning as the term "mining" in Section 613(c) of the
Internal Revenue Code. For purposes of this subsection
(e), the term "retailing" means the sale of tangible
personal property for use or consumption and not for
resale, or services rendered in conjunction with the sale
of tangible personal property for use or consumption and
not for resale. For purposes of this subsection (e),
"tangible personal property" has the same meaning as when
that term is used in the Retailers' Occupation Tax Act,
and, for taxable years ending after December 31, 2008,
does not include the generation, transmission, or
distribution of electricity.

(4) The basis of qualified property shall be the basis
used to compute the depreciation deduction for federal
income tax purposes.

(5) If the basis of the property for federal income
tax depreciation purposes is increased after it has been
placed in service in Illinois by the taxpayer, the amount
of such increase shall be deemed property placed in
service on the date of such increase in basis.

(6) The term "placed in service" shall have the same
meaning as under Section 46 of the Internal Revenue Code.

(7) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the Personal Property Tax Replacement Income Tax for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation and, (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (7), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(8) Unless the investment credit is extended by law, the basis of qualified property shall not include costs incurred after December 31, 2018, except for costs incurred pursuant to a binding contract entered into on or before December 31, 2018.

(9) Each taxable year ending before December 31, 2000, a partnership may elect to pass through to its partners the credits to which the partnership is entitled under
this subsection (e) for the taxable year. A partner may
use the credit allocated to him or her under this
paragraph only against the tax imposed in subsections (c)
and (d) of this Section. If the partnership makes that
election, those credits shall be allocated among the
partners in the partnership in accordance with the rules
set forth in Section 704(b) of the Internal Revenue Code,
and the rules promulgated under that Section, and the
allocated amount of the credits shall be allowed to the
partners for that taxable year. The partnership shall make
this election on its Personal Property Tax Replacement
Income Tax return for that taxable year. The election to
pass through the credits shall be irrevocable.

For taxable years ending on or after December 31,
2000, a partner that qualifies its partnership for a
subtraction under subparagraph (I) of paragraph (2) of
subsection (d) of Section 203 or a shareholder that
qualifies a Subchapter S corporation for a subtraction
under subparagraph (S) of paragraph (2) of subsection (b)
of Section 203 shall be allowed a credit under this
subsection (e) equal to its share of the credit earned
under this subsection (e) during the taxable year by the
partnership or Subchapter S corporation, determined in
accordance with the determination of income and
distributive share of income under Sections 702 and 704
and Subchapter S of the Internal Revenue Code. This
paragraph is exempt from the provisions of Section 250.

(f) Investment credit; Enterprise Zone; River Edge Redevelopment Zone.

(1) A taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service in an Enterprise Zone created pursuant to the Illinois Enterprise Zone Act or, for property placed in service on or after July 1, 2006, a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act. For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (f) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. The credit shall be .5% of the basis for such property. The credit shall be available only in the taxable year in which the property is placed in service in the Enterprise Zone or River Edge Redevelopment Zone and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1985, the credit
shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (f);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code;

(D) is used in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer; and

(E) has not been previously used in Illinois in such a manner and by such a person as would qualify for the credit provided by this subsection (f) or
subsection (e).

(3) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(6) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside the Enterprise Zone or River Edge Redevelopment Zone within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a
reduction of the basis of qualified property resulting
from a redetermination of the purchase price shall be
deemed a disposition of qualified property to the extent
of such reduction.

(7) There shall be allowed an additional credit equal
to 0.5% of the basis of qualified property placed in
service during the taxable year in a River Edge
Redevelopment Zone, provided such property is placed in
service on or after July 1, 2006, and the taxpayer's base
employment within Illinois has increased by 1% or more
over the preceding year as determined by the taxpayer's
employment records filed with the Illinois Department of
Employment Security. Taxpayers who are new to Illinois
shall be deemed to have met the 1% growth in base
employment for the first year in which they file
employment records with the Illinois Department of
Employment Security. If, in any year, the increase in base
employment within Illinois over the preceding year is less
than 1%, the additional credit shall be limited to that
percentage times a fraction, the numerator of which is
0.5% and the denominator of which is 1%, but shall not
exceed 0.5%.

(8) For taxable years beginning on or after January 1,
2021, there shall be allowed an Enterprise Zone
construction jobs credit against the taxes imposed under
subsections (a) and (b) of this Section as provided in
Section 13 of the Illinois Enterprise Zone Act.

The credit or credits may not reduce the taxpayer's liability to less than zero. If the amount of the credit or credits exceeds the taxpayer's liability, the excess may be carried forward and applied against the taxpayer's liability in succeeding calendar years in the same manner provided under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.

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

The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not exceed $20,000,000 in any State fiscal year.

This paragraph (8) is exempt from the provisions of Section 250.

(g) (Blank).
(h) Investment credit; High Impact Business.

(1) Subject to subsections (b) and (b-5) of Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service by a Department of Commerce and Economic Opportunity designated High Impact Business. The credit shall be 0.5% of the basis for such property. The credit shall not be available (i) until the minimum investments in qualified property set forth in subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act have been satisfied or (ii) until the time authorized in subsection (b-5) of the Illinois Enterprise Zone Act for entities designated as High Impact Businesses under subdivisions (a)(3)(B), (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone Act, and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. The credit applicable to such investments shall be taken in the taxable year in which such investments have been completed. The credit for additional investments beyond the minimum investment by a designated high impact business authorized under subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act shall be available only in the taxable year in which the property is placed in
service and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1987, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

Changes made in this subdivision (h)(1) by Public Act 88-670 restore changes made by Public Act 85-1182 and reflect existing law.

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (h);
(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code; and

(D) is not eligible for the Enterprise Zone Investment Credit provided by subsection (f) of this Section.

(3) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(6) If during any taxable year ending on or before December 31, 1996, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for
such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(7) Beginning with tax years ending after December 31, 1996, if a taxpayer qualifies for the credit under this subsection (h) and thereby is granted a tax abatement and the taxpayer relocates its entire facility in violation of the explicit terms and length of the contract under Section 18-183 of the Property Tax Code, the tax imposed under subsections (a) and (b) of this Section shall be increased for the taxable year in which the taxpayer relocated its facility by an amount equal to the amount of credit received by the taxpayer under this subsection (h).

(h-5) High Impact Business construction jobs credit. For taxable years beginning on or after January 1, 2021, there shall also be allowed a High Impact Business construction jobs credit against the tax imposed under subsections (a) and (b) of this Section as provided in subsections (i) and (j) of Section 5.5 of the Illinois Enterprise Zone Act.

The credit or credits may not reduce the taxpayer's liability to less than zero. If the amount of the credit or
credits exceeds the taxpayer's liability, the excess may be carried forward and applied against the taxpayer's liability in succeeding calendar years in the manner provided under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.

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

The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not exceed $20,000,000 in any State fiscal year.

This subsection (h-5) is exempt from the provisions of Section 250.

(i) Credit for Personal Property Tax Replacement Income Tax. For tax years ending prior to December 31, 2003, a credit shall be allowed against the tax imposed by subsections (a) and (b) of this Section for the tax imposed by subsections (c) and (d) of this Section. This credit shall be computed by
multiplying the tax imposed by subsections (c) and (d) of this Section by a fraction, the numerator of which is base income allocable to Illinois and the denominator of which is Illinois base income, and further multiplying the product by the tax rate imposed by subsections (a) and (b) of this Section.

Any credit earned on or after December 31, 1986 under this subsection which is unused in the year the credit is computed because it exceeds the tax liability imposed by subsections (a) and (b) for that year (whether it exceeds the original liability or the liability as later amended) may be carried forward and applied to the tax liability imposed by subsections (a) and (b) of the 5 taxable years following the excess credit year, provided that no credit may be carried forward to any year ending on or after December 31, 2003. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability the earliest credit arising under this subsection shall be applied first.

If, during any taxable year ending on or after December 31, 1986, the tax imposed by subsections (c) and (d) of this Section for which a taxpayer has claimed a credit under this subsection (i) is reduced, the amount of credit for such tax shall also be reduced. Such reduction shall be determined by recomputing the credit to take into account the reduced tax imposed by subsections (c) and (d). If any portion of the
reduced amount of credit has been carried to a different taxable year, an amended return shall be filed for such taxable year to reduce the amount of credit claimed.

(j) Training expense credit. Beginning with tax years ending on or after December 31, 1986 and prior to December 31, 2003, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) under this Section for all amounts paid or accrued, on behalf of all persons employed by the taxpayer in Illinois or Illinois residents employed outside of Illinois by a taxpayer, for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields, which were deducted from gross income in the computation of taxable income. The credit against the tax imposed by subsections (a) and (b) shall be 1.6% of such training expenses. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (j) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

Any credit allowed under this subsection which is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first computed until it is used. This credit shall be
applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. No carryforward credit may be claimed in any tax year ending on or after December 31, 2003.

(k) Research and development credit. For tax years ending after July 1, 1990 and prior to December 31, 2003, and beginning again for tax years ending on or after December 31, 2004, and ending prior to January 1, 2027, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for increasing research activities in this State. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

For purposes of this subsection, "qualifying expenditures" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be
allowable under Section 41 of the Internal Revenue Code and which are conducted in this State, "qualifying expenditures for increasing research activities in this State" means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period, "qualifying expenditures for the base period" means the average of the qualifying expenditures for each year in the base period, and "base period" means the 3 taxable years immediately preceding the taxable year for which the determination is being made.

Any credit in excess of the tax liability for the taxable year may be carried forward. A taxpayer may elect to have the unused credit shown on its final completed return carried over as a credit against the tax liability for the following 5 taxable years or until it has been fully used, whichever occurs first; provided that no credit earned in a tax year ending prior to December 31, 2003 may be carried forward to any year ending on or after December 31, 2003.

If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year will be applied first against the tax liability for the given year. If a tax liability for the given year still remains, the credit from the next earliest year will then be applied, and so on, until all credits have been used or no tax liability for the given year remains. Any remaining unused credit or credits then will be carried forward to the next
following year in which a tax liability is incurred, except
that no credit can be carried forward to a year which is more
than 5 years after the year in which the expense for which the
credit is given was incurred.

No inference shall be drawn from Public Act 91-644 in
construing this Section for taxable years beginning before
January 1, 1999.

It is the intent of the General Assembly that the research
and development credit under this subsection (k) shall apply
continuously for all tax years ending on or after December 31,
2004 and ending prior to January 1, 2027, including, but not
limited to, the period beginning on January 1, 2016 and ending
on July 6, 2017 (the effective date of Public Act 100-22). All
actions taken in reliance on the continuation of the credit
under this subsection (k) by any taxpayer are hereby
validated.

(l) Environmental Remediation Tax Credit.

(i) For tax years ending after December 31, 1997 and
on or before December 31, 2001, a taxpayer shall be
allowed a credit against the tax imposed by subsections
(a) and (b) of this Section for certain amounts paid for
unreimbursed eligible remediation costs, as specified in
this subsection. For purposes of this Section,
"unreimbursed eligible remediation costs" means costs
approved by the Illinois Environmental Protection Agency
("Agency") under Section 58.14 of the Environmental
Protection Act that were paid in performing environmental remediation at a site for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. After the Pollution Control Board rules are adopted pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act, determinations as to credit availability for purposes of this Section shall be made consistent with those rules. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed
eligible remediation costs in excess of $100,000 per site, except that the $100,000 threshold shall not apply to any site contained in an enterprise zone as determined by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity). The total credit allowed shall not exceed $40,000 per year with a maximum total of $150,000 per site. For partners and shareholders of subchapter S corporations, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. The term "unused credit" does not include any amounts of unreimbursed eligible remediation costs in excess of the maximum credit per site authorized under paragraph (i). This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation
site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site" shall have the same meaning as under Section 58.2 of the Environmental Protection Act.

(m) Education expense credit. Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for qualified education expenses incurred on behalf of the qualifying pupils. The credit shall be equal to 25% of qualified education expenses, but in no event may the total credit under this subsection claimed by a family that is the custodian of qualifying pupils exceed (i) $500 for tax years ending prior to December 31, 2017, and (ii) $750 for tax years ending on or after December 31, 2017. In no event shall a
credit under this subsection reduce the taxpayer's liability under this Act to less than zero. Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, no taxpayer may claim a credit under this subsection (m) if the taxpayer's adjusted gross income for the taxable year exceeds (i) $500,000, in the case of spouses filing a joint federal tax return or (ii) $250,000, in the case of all other taxpayers. This subsection is exempt from the provisions of Section 250 of this Act.

For purposes of this subsection:

"Qualifying pupils" means individuals who (i) are residents of the State of Illinois, (ii) are under the age of 21 at the close of the school year for which a credit is sought, and (iii) during the school year for which a credit is sought were full-time pupils enrolled in a kindergarten through twelfth grade education program at any school, as defined in this subsection.

"Qualified education expense" means the amount incurred on behalf of a qualifying pupil in excess of $250 for tuition, book fees, and lab fees at the school in which the pupil is enrolled during the regular school year.

"School" means any public or nonpublic elementary or secondary school in Illinois that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of the School Code, except that nothing shall be construed to require a child to
attend any particular public or nonpublic school to qualify
for the credit under this Section.

"Custodian" means, with respect to qualifying pupils, an
Illinois resident who is a parent, the parents, a legal
guardian, or the legal guardians of the qualifying pupils.

(n) River Edge Redevelopment Zone site remediation tax
credit.

(i) For tax years ending on or after December 31,
2006, a taxpayer shall be allowed a credit against the tax
imposed by subsections (a) and (b) of this Section for
certain amounts paid for unreimbursed eligible remediation
costs, as specified in this subsection. For purposes of
this Section, "unreimbursed eligible remediation costs"
means costs approved by the Illinois Environmental
Protection Agency ("Agency") under Section 58.14a of the
Environmental Protection Act that were paid in performing
environmental remediation at a site within a River Edge
Redevelopment Zone for which a No Further Remediation
Letter was issued by the Agency and recorded under Section
58.10 of the Environmental Protection Act. The credit must
be claimed for the taxable year in which Agency approval
of the eligible remediation costs is granted. The credit
is not available to any taxpayer if the taxpayer or any
related party caused or contributed to, in any material
respect, a release of regulated substances on, in, or
under the site that was identified and addressed by the
remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. Determinations as to credit availability for purposes of this Section shall be made consistent with rules adopted by the Pollution Control Board pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of $100,000 per site.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed
under this subsection may be sold to a buyer as part of a
sale of all or part of the remediation site for which the
credit was granted. The purchaser of a remediation site
and the tax credit shall succeed to the unused credit and
remaining carry-forward period of the seller. To perfect
the transfer, the assignor shall record the transfer in
the chain of title for the site and provide written notice
to the Director of the Illinois Department of Revenue of
the assignor's intent to sell the remediation site and the
amount of the tax credit to be transferred as a portion of
the sale. In no event may a credit be transferred to any
taxpayer if the taxpayer or a related party would not be
eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site"
shall have the same meaning as under Section 58.2 of the
Environmental Protection Act.

(n-5) For taxable years beginning on or after the earlier
of: (i) January 1, 2025; or (ii) January 1 of the calendar year
immediately following the calendar year in which the State
reports to the United States Department of the Treasury that
all federal funds received under the American Rescue Plan Act
of 2021 have been fully expended, a taxpayer shall be allowed
an annual credit against the tax imposed by subsections (a)
and (b) of this Section of an amount equal to 15% of the cost
of equipment and materials incorporated into or used in the
business of providing broadband services in a county in the
State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people during that year. For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. Such annual credits shall be allowed commencing with the taxable year in which such property is placed in service and continue for 9 consecutive years thereafter. The aggregate credit established by the subsection taken in any one tax year shall not reduce taxpayer's tax liability under subsections (a) and (b) of Section 201 by more than 50%; provided, however, that any tax credit claimed under this subsection but not used in any taxable year may be carried forward for 10 consecutive years from the close of the tax year in which the credits were earned. The maximum aggregate amount of credits that may be claimed under this subsection shall not exceed the original investment made by the taxpayer in the qualifying equipment.

For purposes this subsection: (i) "broadband service" means a service provided by wireline or wireless means capable of delivering high-speed internet access at speeds of at least
25 megabits per second of download speed and 3 megabits per
second of upload speed; and (ii) "equipment, and materials
incorporated into or used in the business of providing
broadband services", means all equipment and materials
machinery, software, or other tangible personal property
deployed in Illinois on or after January 1, 2023 that is used
in whole or in part in producing, broadcasting, distributing,
sending, receiving, storing, transmitting, retransmitting,
amplifying, switching, or routing broadband services,
including the monitoring, testing, maintaining, enabling, or
facilitating of such equipment, machinery, software, or other
infrastructure. Such property includes, but is not limited to,
wires, cables including fiber optic cables, antennas, poles,
switches, routers, amplifiers, rectifiers, repeaters,
receivers, multiplexers, duplexers, transmitters, power
equipment, backup power equipment, diagnostic equipment,
storage devices, modems, and other general central office
equipment, such as channel cards, frames, and cabinets.

The Department may award no more than $25,000,000 in
credits under this subsection (n-5) in any taxable year. The
credit under this subsection (n-5) may be taken for property
placed in service on or after January 1, 2023; however, the
credit may not be taken until a taxable year beginning on or
after the earlier of: (i) January 1, 2025; or (ii) January 1 of
the calendar year immediately following the calendar year in
which the State reports to the United States Department of the
Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended. The credit under this subsection (n-5) does not apply to property placed in service on or after December 31 of the seventh calendar year to occur after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended.

(o) For each of taxable years during the Compassionate Use of Medical Cannabis Program, a surcharge is imposed on all taxpayers on income arising from the sale or exchange of capital assets, depreciable business property, real property used in the trade or business, and Section 197 intangibles of an organization registrant under the Compassionate Use of Medical Cannabis Program Act. The amount of the surcharge is equal to the amount of federal income tax liability for the taxable year attributable to those sales and exchanges. The surcharge imposed does not apply if:

(1) the medical cannabis cultivation center registration, medical cannabis dispensary registration, or the property of a registration is transferred as a result of any of the following:

(A) bankruptcy, a receivership, or a debt adjustment initiated by or against the initial
registration or the substantial owners of the initial registration;

(B) cancellation, revocation, or termination of any registration by the Illinois Department of Public Health;

(C) a determination by the Illinois Department of Public Health that transfer of the registration is in the best interests of Illinois qualifying patients as defined by the Compassionate Use of Medical Cannabis Program Act;

(D) the death of an owner of the equity interest in a registrant;

(E) the acquisition of a controlling interest in the stock or substantially all of the assets of a publicly traded company;

(F) a transfer by a parent company to a wholly owned subsidiary; or

(G) the transfer or sale to or by one person to another person where both persons were initial owners of the registration when the registration was issued; or

(2) the cannabis cultivation center registration, medical cannabis dispensary registration, or the controlling interest in a registrant's property is transferred in a transaction to lineal descendants in which no gain or loss is recognized or as a result of a
transaction in accordance with Section 351 of the Internal Revenue Code in which no gain or loss is recognized.

(p) Pass-through entity tax.

(1) For taxable years ending on or after December 31, 2021 and beginning prior to January 1, 2026, a partnership (other than a publicly traded partnership under Section 7704 of the Internal Revenue Code) or Subchapter S corporation may elect to apply the provisions of this subsection. A separate election shall be made for each taxable year. Such election shall be made at such time, and in such form and manner as prescribed by the Department, and, once made, is irrevocable.

(2) Entity-level tax. A partnership or Subchapter S corporation electing to apply the provisions of this subsection shall be subject to a tax for the privilege of earning or receiving income in this State in an amount equal to 4.95% of the taxpayer's net income for the taxable year.

(3) Net income defined.

(A) In general. For purposes of paragraph (2), the term net income has the same meaning as defined in Section 202 of this Act, except that the following provisions shall not apply:

(i) the standard exemption allowed under Section 204;

(ii) the deduction for net losses allowed
under Section 207;

(iii) in the case of an S corporation, the modification under Section 203(b)(2)(S); and

(iv) in the case of a partnership, the modifications under Section 203(d)(2)(H) and Section 203(d)(2)(I).

(B) Special rule for tiered partnerships. If a taxpayer making the election under paragraph (1) is a partner of another taxpayer making the election under paragraph (1), net income shall be computed as provided in subparagraph (A), except that the taxpayer shall subtract its distributive share of the net income of the electing partnership (including its distributive share of the net income of the electing partnership derived as a distributive share from electing partnerships in which it is a partner).

(4) Credit for entity level tax. Each partner or shareholder of a taxpayer making the election under this Section shall be allowed a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act for the taxable year of the partnership or Subchapter S corporation for which an election is in effect ending within or with the taxable year of the partner or shareholder in an amount equal to 4.95% times the partner or shareholder's distributive share of the net income of the electing partnership or Subchapter S corporation, but
not to exceed the partner's or shareholder's share of the
tax imposed under paragraph (1) which is actually paid by
the partnership or Subchapter S corporation. If the
taxpayer is a partnership or Subchapter S corporation that
is itself a partner of a partnership making the election
under paragraph (1), the credit under this paragraph shall
be allowed to the taxpayer's partners or shareholders (or
if the partner is a partnership or Subchapter S
corporation then its partners or shareholders) in
accordance with the determination of income and
distributive share of income under Sections 702 and 704
and Subchapter S of the Internal Revenue Code. If the
amount of the credit allowed under this paragraph exceeds
the partner's or shareholder's liability for tax imposed
under subsections (a) and (b) of Section 201 of this Act
for the taxable year, such excess shall be treated as an
overpayment for purposes of Section 909 of this Act.

(5) Nonresidents. A nonresident individual who is a
partner or shareholder of a partnership or Subchapter S
corporation for a taxable year for which an election is in
effect under paragraph (1) shall not be required to file
an income tax return under this Act for such taxable year
if the only source of net income of the individual (or the
individual and the individual's spouse in the case of a
joint return) is from an entity making the election under
paragraph (1) and the credit allowed to the partner or
shareholder under paragraph (4) equals or exceeds the individual's liability for the tax imposed under subsections (a) and (b) of Section 201 of this Act for the taxable year.

(6) Liability for tax. Except as provided in this paragraph, a partnership or Subchapter S making the election under paragraph (1) is liable for the entity-level tax imposed under paragraph (2). If the electing partnership or corporation fails to pay the full amount of tax deemed assessed under paragraph (2), the partners or shareholders shall be liable to pay the tax assessed (including penalties and interest). Each partner or shareholder shall be liable for the unpaid assessment based on the ratio of the partner's or shareholder's share of the net income of the partnership over the total net income of the partnership. If the partnership or Subchapter S corporation fails to pay the tax assessed (including penalties and interest) and thereafter an amount of such tax is paid by the partners or shareholders, such amount shall not be collected from the partnership or corporation.

(7) Foreign tax. For purposes of the credit allowed under Section 601(b)(3) of this Act, tax paid by a partnership or Subchapter S corporation to another state which, as determined by the Department, is substantially similar to the tax imposed under this subsection, shall be
considered tax paid by the partner or shareholder to the extent that the partner's or shareholder's share of the income of the partnership or Subchapter S corporation allocated and apportioned to such other state bears to the total income of the partnership or Subchapter S corporation allocated or apportioned to such other state.

(8) Suspension of withholding. The provisions of Section 709.5 of this Act shall not apply to a partnership or Subchapter S corporation for the taxable year for which an election under paragraph (1) is in effect.

(9) Requirement to pay estimated tax. For each taxable year for which an election under paragraph (1) is in effect, a partnership or Subchapter S corporation is required to pay estimated tax for such taxable year under Sections 803 and 804 of this Act if the amount payable as estimated tax can reasonably be expected to exceed $500.

(10) The provisions of this subsection shall apply only with respect to taxable years for which the limitation on individual deductions applies under Section 164(b)(6) of the Internal Revenue Code.

(Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff. 8-20-21; 102-658, eff. 8-27-21.)

Section 10. The Use Tax Act is amended by changing Sections 2 and 3-5 as follows:
Sec. 2. Definitions. As used in this Act:

"Broadband service" means a service provided by wireline or wireless means capable of delivering high-speed internet access at speeds of at least 25 megabits per second of download speed and 3 megabits per second of upload speed.

"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of such property in any form as tangible personal property in the regular course of business to the extent that such property is not first subjected to a use for which it was purchased, and does not include the use of such property by its owner for demonstration purposes: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. "Use" does not mean the demonstration use or interim use of tangible personal property by a retailer before he sells that tangible personal property. For watercraft or aircraft, if the period of demonstration use or interim use by the retailer exceeds 18 months, the retailer shall pay on the retailers' original cost price the tax imposed by this Act, and no credit for that tax is permitted if the watercraft or aircraft is subsequently sold by the
retailer. "Use" does not mean the physical incorporation of tangible personal property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, into other tangible personal property (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing.

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

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

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

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

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

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

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

"Selling price" means the consideration for a sale valued
in money whether received in money or otherwise, including
cash, credits, property other than as hereinafter provided,
and services, but, prior to January 1, 2020 and beginning
again on January 1, 2022, not including the value of or credit
given for traded-in tangible personal property where the item
that is traded-in is of like kind and character as that which
is being sold; beginning January 1, 2020 and until January 1,
2022, "selling price" includes the portion of the value of or
credit given for traded-in motor vehicles of the First
Division as defined in Section 1-146 of the Illinois Vehicle
Code of like kind and character as that which is being sold
that exceeds $10,000. "Selling price" shall be determined
without any deduction on account of the cost of the property
sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's tax liability under the Retailers' Occupation Tax Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit, on account of the seller's tax liability under any local occupation tax administered by the Department, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit on account of the seller's duty to collect, from the purchasers, the tax that is imposed under any local use tax administered by the Department. Effective December 1, 1985, "selling price" shall include charges that are added to prices by sellers on account of the seller's tax liability under the Cigarette Tax Act, on account of the seller's duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act, and on account of the seller's duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit.

Notwithstanding any law to the contrary, for any motor vehicle, as defined in Section 1-146 of the Vehicle Code, that is sold on or after January 1, 2015 for the purpose of leasing the vehicle for a defined period that is longer than one year and (1) is a motor vehicle of the second division that: (A) is
a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat; (B) is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers; or (C) has a gross vehicle weight rating of 8,000 pounds or less or (2) is a motor vehicle of the first division, "selling price" or "amount of sale" means the consideration received by the lessor pursuant to the lease contract, including amounts due at lease signing and all monthly or other regular payments charged over the term of the lease. Also included in the selling price is any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, including, but not limited to, excess mileage charges and charges for excess wear and tear. For sales that occur in Illinois, with respect to any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, the lessor who purchased the motor vehicle does not incur the tax imposed by the Use Tax Act on those amounts, and the retailer who makes the retail sale of the motor vehicle to the lessor is not required to collect the tax imposed by this Act or to pay the tax imposed by the Retailers' Occupation Tax Act on those amounts. However, the lessor who purchased the motor vehicle assumes the liability for reporting and paying the tax on those amounts directly to
the Department in the same form (Illinois Retailers' Occupation Tax, and local retailers' occupation taxes, if applicable) in which the retailer would have reported and paid such tax if the retailer had accounted for the tax to the Department. For amounts received by the lessor from the lessee that are not calculated at the time the lease is executed, the lessor must file the return and pay the tax to the Department by the due date otherwise required by this Act for returns other than transaction returns. If the retailer is entitled under this Act to a discount for collecting and remitting the tax imposed under this Act to the Department with respect to the sale of the motor vehicle to the lessor, then the right to the discount provided in this Act shall be transferred to the lessor with respect to the tax paid by the lessor for any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed; provided that the discount is only allowed if the return is timely filed and for amounts timely paid. The "selling price" of a motor vehicle that is sold on or after January 1, 2015 for the purpose of leasing for a defined period of longer than one year shall not be reduced by the value of or credit given for traded-in tangible personal property owned by the lessor, nor shall it be reduced by the value of or credit given for traded-in tangible personal property owned by the lessee, regardless of whether the trade-in value thereof is assigned by the lessee to the lessor. In the case of a motor
vehicle that is sold for the purpose of leasing for a defined period of longer than one year, the sale occurs at the time of the delivery of the vehicle, regardless of the due date of any lease payments. A lessor who incurs a Retailers' Occupation Tax liability on the sale of a motor vehicle coming off lease may not take a credit against that liability for the Use Tax the lessor paid upon the purchase of the motor vehicle (or for any tax the lessor paid with respect to any amount received by the lessor from the lessee for the leased vehicle that was not calculated at the time the lease was executed) if the selling price of the motor vehicle at the time of purchase was calculated using the definition of "selling price" as defined in this paragraph. Notwithstanding any other provision of this Act to the contrary, lessors shall file all returns and make all payments required under this paragraph to the Department by electronic means in the manner and form as required by the Department. This paragraph does not apply to leases of motor vehicles for which, at the time the lease is entered into, the term of the lease is not a defined period, including leases with a defined initial period with the option to continue the lease on a month-to-month or other basis beyond the initial defined period.

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

"Department" means the Department of Revenue.

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

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

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

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

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

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

The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail or a sale through a bulk vending machine does not make such person a retailer hereunder. However, any person who is engaged in a business which is not subject to the tax imposed by the Retailers' Occupation Tax Act because of involving the sale of or a contract to sell real estate or a construction contract to improve real estate, but who, in the course of conducting such business, transfers tangible personal property to users or consumers in the finished form in which it was purchased, and which does not become real estate, under any provision of a construction contract or real estate sale or real estate sales agreement entered into with some other person arising out of or because of such nontaxable business, is a retailer to the extent of the value of the tangible personal property so transferred. If, in such transaction, a separate charge is made for the tangible personal property so transferred, the value of such property, for the purposes of this Act, is the amount so separately charged, but not less than the cost of such property to the transferor; if no separate charge is made, the value of such property, for the purposes of this Act, is the cost to the transferor of such tangible personal property.
"Retailer maintaining a place of business in this State", or any like term, means and includes any of the following retailers:

(1) A retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State. However, the ownership of property that is located at the premises of a printer with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced shall not result in the retailer being deemed to have or maintain an office, distribution house, sales house, warehouse, or other place of business within this State.

(1.1) A retailer having a contract with a person located in this State under which the person, for a commission or other consideration based upon the sale of tangible personal property by the retailer, directly or indirectly refers potential customers to the retailer by
providing to the potential customers a promotional code or other mechanism that allows the retailer to track purchases referred by such persons. Examples of mechanisms that allow the retailer to track purchases referred by such persons include but are not limited to the use of a link on the person's Internet website, promotional codes distributed through the person's hand-delivered or mailed material, and promotional codes distributed by the person through radio or other broadcast media. The provisions of this paragraph (1.1) shall apply only if the cumulative gross receipts from sales of tangible personal property by the retailer to customers who are referred to the retailer by all persons in this State under such contracts exceed $10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December. A retailer meeting the requirements of this paragraph (1.1) shall be presumed to be maintaining a place of business in this State but may rebut this presumption by submitting proof that the referrals or other activities pursued within this State by such persons were not sufficient to meet the nexus standards of the United States Constitution during the preceding 4 quarterly periods.

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

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

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

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

(2) (Blank).

(3) (Blank).

(4) (Blank).

(5) (Blank).

(6) (Blank).

(7) (Blank).

(8) (Blank).

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

(A) the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are $100,000 or more; or
(B) the retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

The retailer shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) of this paragraph (9) for the preceding 12-month period. If the retailer meets the threshold of either subparagraph (A) or (B) for a 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the retailer shall determine whether he or she met the threshold of either subparagraph (A) or (B) during the preceding 12-month period. If the retailer met the criteria in either subparagraph (A) or (B) for the preceding 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a retailer that was required to collect and remit the tax imposed under this Act determines that he or she did not meet the threshold in either subparagraph (A) or (B) during the preceding 12-month period, the retailer shall subsequently determine
on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the threshold of either subparagraph (A) or (B) for the preceding 12-month period.

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

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

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

(Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 1-1-20; 101-604, eff. 1-1-20; 102-353, eff. 1-1-22.)

(35 ILCS 105/3-5)

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

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

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

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.
(4) Personal property purchased by a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or by a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

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

(6) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon
a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under paragraph (18).

(7) Farm chemicals.

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

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

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

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

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

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

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

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

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

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

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

(16) Until July 1, 2023, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

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

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser. The exemption provided by this paragraph (18) includes production related tangible personal property, as defined in Section 3-50, purchased on or after July 1, 2019. The exemption provided by this paragraph (18) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. Beginning on July 1,
2017, the exemption provided by this paragraph (18) includes, but is not limited to, graphic arts machinery and equipment, as defined in paragraph (6) of this Section.

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

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

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

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

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

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

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

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

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

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

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

(30) Beginning January 1, 2001 and through June 30, 2016,
food for human consumption that is to be consumed off the
premises where it is sold (other than alcoholic beverages,
soft drinks, and food that has been prepared for immediate
consumption) and prescription and nonprescription medicines,
drugs, medical appliances, and insulin, urine testing
materials, syringes, and needles used by diabetics, for human
use, when purchased for use by a person receiving medical
assistance under Article V of the Illinois Public Aid Code who
resides in a licensed long-term care facility, as defined in
the Nursing Home Care Act, or in a licensed facility as defined
in the ID/DD Community Care Act, the MC/DD Act, or the
Specialized Mental Health Rehabilitation Act of 2013.

(31) Beginning on August 2, 2001 (the effective date of
Public Act 92-227), computers and communications equipment
utilized for any hospital purpose and equipment used in the
diagnosis, analysis, or treatment of hospital patients
purchased by a lessor who leases the equipment, under a lease
of one year or longer executed or in effect at the time the
lessor would otherwise be subject to the tax imposed by this
Act, to a hospital that has been issued an active tax exemption
identification number by the Department under Section 1g of
the Retailers' Occupation Tax Act. If the equipment is leased
in a manner that does not qualify for this exemption or is used
in any other nonexempt manner, the lessor shall be liable for
the tax imposed under this Act or the Service Use Tax Act, as
the case may be, based on the fair market value of the property
at the time the nonqualifying use occurs. No lessor shall
collect or attempt to collect an amount (however designated)
that purports to reimburse that lessor for the tax imposed by
this Act or the Service Use Tax Act, as the case may be, if the
tax has not been paid by the lessor. If a lessor improperly
collects any such amount from the lessee, the lessee shall
have a legal right to claim a refund of that amount from the
lessor. If, however, that amount is not refunded to the lessee
for any reason, the lessor is liable to pay that amount to the
Department. This paragraph is exempt from the provisions of
Section 3-90.

(32) Beginning on August 2, 2001 (the effective date of
Public Act 92-227), personal property purchased by a lessor
who leases the property, under a lease of one year or longer
executed or in effect at the time the lessor would otherwise be
subject to the tax imposed by this Act, to a governmental body
that has been issued an active sales tax exemption
identification number by the Department under Section 1g of
the Retailers' Occupation Tax Act. If the property is leased
in a manner that does not qualify for this exemption or used in
any other nonexempt manner, the lessor shall be liable for the
tax imposed under this Act or the Service Use Tax Act, as the
case may be, based on the fair market value of the property at
the time the nonqualifying use occurs. No lessor shall collect
or attempt to collect an amount (however designated) that
purports to reimburse that lessor for the tax imposed by this
Act or the Service Use Tax Act, as the case may be, if the tax
has not been paid by the lessor. If a lessor improperly
collects any such amount from the lessee, the lessee shall
have a legal right to claim a refund of that amount from the
lessor. If, however, that amount is not refunded to the lessee
for any reason, the lessor is liable to pay that amount to the
Department. This paragraph is exempt from the provisions of
Section 3-90.

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

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

(35) Beginning January 1, 2010 and continuing through December 31, 2024, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft.
"Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the use of qualifying tangible personal property by persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (35) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (35) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to the effective date of this amendatory Act of the 101st General Assembly.

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

(37) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(38) Merchandise that is subject to the Rental Purchase Agreement Occupation and Use Tax. The purchaser must certify that the item is purchased to be rented subject to a rental purchase agreement, as defined in the Rental Purchase Agreement Act, and provide proof of registration under the Rental Purchase Agreement Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 3-90.

(39) Tangible personal property purchased by a purchaser who is exempt from the tax imposed by this Act by operation of federal law. This paragraph is exempt from the provisions of Section 3-90.

(40) Qualified tangible personal property used in the construction or operation of a data center that has been
granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had Public Act 101-31 been in effect may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (40) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (40):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.

"Qualified tangible personal property" means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency
generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated in to the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (40) is exempt from the provisions of Section 3-90.

(41) Beginning on the earlier of: (i) January 1, 2025; or
(ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended, and continuing through December 31 of the fifth calendar year to occur after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended, equipment and material deployed after January 1, 2023 in a county in the State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people during that year that is incorporated into or used in the business of providing broadband services, including all equipment and material, machinery, software, or other tangible personal property that is used in whole or in part in producing, broadcasting, distributing, sending, receiving, storing, transmitting, retransmitting, amplifying, switching, or routing broadband services, including the monitoring, testing, maintaining, enabling, or facilitating of such equipment, machinery, software, or other infrastructure. Such property includes, but is not limited to, wires, cables including fiber optic cables, antennas, poles, switches,
routers, amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers, transmitters, power equipment, backup power equipment, diagnostic equipment, storage devices, modems, and other general central office equipment, such as channel cards, frames, and cabinets. The exemption under this item (41) may be taken for property placed in service on or after January 1, 2023; however, the credit may not be taken until a taxable year beginning on or after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended.

(Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21.)

Section 15. The Service Use Tax Act is amended by changing Sections 2 and 3-5 as follows:

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

Sec. 2. Definitions. In this Act:

"Broadband service" means a service provided by wireline or wireless means capable of delivering high-speed internet access at speeds of at least 25 megabits per second of download speed and 3 megabits per second of upload speed.
"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property, (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.

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

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

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

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

"Department" means the Department of Revenue.

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

"Sale of service" means any transaction except:

(1) a retail sale of tangible personal property
taxable under the Retailers' Occupation Tax Act or under
the Use Tax Act.
(2) a sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

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

(4) (blank).

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

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

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

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

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

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

(7) at the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.
Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (5) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. On and after July 1, 2017, exemption (5) also includes graphic arts machinery and equipment, as defined in paragraph (5) of Section 3-5. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. For the purposes of exemption (5), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials
into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further, for purposes of exemption (5), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any
machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption stating facts establishing the exemption, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.

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

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

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

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

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

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

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

(1) having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary,
irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State;

(1.1) having a contract with a person located in this State under which the person, for a commission or other consideration based on the sale of service by the serviceman, directly or indirectly refers potential customers to the serviceman by providing to the potential customers a promotional code or other mechanism that allows the serviceman to track purchases referred by such persons. Examples of mechanisms that allow the serviceman to track purchases referred by such persons include but are not limited to the use of a link on the person's Internet website, promotional codes distributed through the person's hand-delivered or mailed material, and promotional codes distributed by the person through radio or other broadcast media. The provisions of this paragraph (1.1) shall apply only if the cumulative gross receipts from sales of service by the serviceman to customers who are referred to the serviceman by all persons in this State under such contracts exceed $10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December; a serviceman meeting the requirements of this paragraph (1.1) shall be presumed to be maintaining a place of business in this State but may
rebut this presumption by submitting proof that the referrals or other activities pursued within this State by such persons were not sufficient to meet the nexus standards of the United States Constitution during the preceding 4 quarterly periods;

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

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

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

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

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

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

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

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

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

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

(8) engaging in activities in Illinois, which activities in the state in which the supply business
engaging in such activities is located would constitute maintaining a place of business in that state; or

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

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

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

The serviceman shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) of this paragraph (9) for the preceding 12-month period. If the serviceman meets the criteria of either subparagraph (A) or (B) for a 12-month period, he or she is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the serviceman shall determine whether the serviceman met the criteria of either subparagraph (A) or (B) during the preceding 12-month period. If the serviceman met the criteria in either subparagraph (A) or (B) for the preceding 12-month period, he or she is considered a serviceman maintaining a place of business in this State.
and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a serviceman that was required to collect and remit the tax imposed under this Act determines that he or she did not meet the criteria in either subparagraph (A) or (B) during the preceding 12-month period, the serviceman subsequently shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) for the preceding 12-month period.

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

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

(Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17; 100-587, eff. 6-4-18; 100-863, eff. 8-14-18; 101-9, Article 10, Section 10-15, eff. 6-5-19; 101-9, Article 25, Section 25-10, eff. 6-5-19; 101-604, eff. 12-13-19.)
Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

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

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

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free
purchases unless it has an active identification number issued
by the Department.

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

(5) Until July 1, 2003 and beginning again on September 1,
2004 through August 30, 2014, graphic arts machinery and
equipment, including repair and replacement parts, both new
and used, and including that manufactured on special order or
purchased for lease, certified by the purchaser to be used
primarily for graphic arts production. Equipment includes
chemicals or chemicals acting as catalysts but only if the
chemicals or chemicals acting as catalysts effect a direct and
immediate change upon a graphic arts product. Beginning on
July 1, 2017, graphic arts machinery and equipment is included
in the manufacturing and assembling machinery and equipment
exemption under Section 2 of this Act.

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

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

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

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

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

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

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

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

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

(12) Until July 1, 2023, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by
Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

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

(14) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

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

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

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

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

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

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

(21) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-75.

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

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

(24) Beginning on August 2, 2001 (the effective date of Public Act 92-227), computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased
in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(25) Beginning on August 2, 2001 (the effective date of Public Act 92-227), personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be,
based on the fair market value of the property at the time the
nonqualifying use occurs. No lessor shall collect or attempt
to collect an amount (however designated) that purports to
reimburse that lessor for the tax imposed by this Act or the
Use Tax Act, as the case may be, if the tax has not been paid
by the lessor. If a lessor improperly collects any such amount
from the lessee, the lessee shall have a legal right to claim a
refund of that amount from the lessor. If, however, that
amount is not refunded to the lessee for any reason, the lessor
is liable to pay that amount to the Department. This paragraph
is exempt from the provisions of Section 3-75.

(26) Beginning January 1, 2008, tangible personal property
used in the construction or maintenance of a community water
supply, as defined under Section 3.145 of the Environmental
Protection Act, that is operated by a not-for-profit
corporation that holds a valid water supply permit issued
under Title IV of the Environmental Protection Act. This
paragraph is exempt from the provisions of Section 3-75.

(27) Beginning January 1, 2010 and continuing through
December 31, 2024, materials, parts, equipment, components,
and furnishings incorporated into or upon an aircraft as part
of the modification, refurbishment, completion, replacement,
repair, or maintenance of the aircraft. This exemption
includes consumable supplies used in the modification,
refurbishment, completion, replacement, repair, and
maintenance of aircraft, but excludes any materials, parts,
equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the use of qualifying tangible personal property transferred incident to the modification, refurbishment, completion, replacement, repair, or maintenance of aircraft by persons who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (27) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (27) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to the effective date of this amendatory Act of the 101st
General Assembly.

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

(29) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.

(30) Tangible personal property transferred to a purchaser who is exempt from the tax imposed by this Act by operation of federal law. This paragraph is exempt from the provisions of Section 3-75.

(31) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible
personal property is purchased by the owner, operator, or
tenant of the data center or by a contractor or subcontractor
of the owner, operator, or tenant. Data centers that would
have qualified for a certificate of exemption prior to January
1, 2020 had this amendatory Act of the 101st General Assembly
been in effect, may apply for and obtain an exemption for
subsequent purchases of computer equipment or enabling
software purchased or leased to upgrade, supplement, or
replace computer equipment or enabling software purchased or
leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall
grant a certificate of exemption under this item (31) to
qualified data centers as defined by Section 605-1025 of the
Department of Commerce and Economic Opportunity Law of the
Civil Administrative Code of Illinois.

For the purposes of this item (31):

"Data center" means a building or a series of
buildings rehabilitated or constructed to house working
servers in one physical location or multiple sites within
the State of Illinois.

"Qualified tangible personal property" means:
electrical systems and equipment; climate control and
chilling equipment and systems; mechanical systems and
equipment; monitoring and secure systems; emergency
generators; hardware; computers; servers; data storage
devices; network connectivity equipment; racks; cabinets;
telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated into the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (31) is exempt from the provisions of Section 3-75.

(32) Beginning on the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States
Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended, and continuing through December 31 of the fifth calendar year to occur after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended, equipment and material deployed after January 1, 2023 in a county in the State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people during that year that is incorporated into or used in the business of providing broadband services, including all equipment and material, machinery, software, or other tangible personal property that is used in whole or in part in producing, broadcasting, distributing, sending, receiving, storing, transmitting, retransmitting, amplifying, switching, or routing broadband services, including the monitoring, testing, maintaining, enabling, or facilitating of such equipment, machinery, software, or other infrastructure. Such property includes, but is not limited to, wires, cables including fiber optic cables, antennas, poles, switches, routers, amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers, transmitters, power equipment, backup
power equipment, diagnostic equipment, storage devices, modems, and other general central office equipment, such as channel cards, frames, and cabinets. The exemption under this item (32) may be taken for property placed in service on or after January 1, 2023; however, the credit may not be taken until a taxable year beginning on or after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21.)

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

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

Sec. 2. In this Act:

"Broadband service" means a service provided by wireline or wireless means capable of delivering high-speed internet access at speeds of at least 25 megabits per second of download speed and 3 megabits per second of upload speed.

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

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

"Department" means the Department of Revenue.

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

"Sale of Service" means any transaction except:

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

(b) A sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.
(c) Except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(d) (Blank).

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

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

(d-2) The repairing, reconditioning or remodeling, for a
common carrier by rail, of tangible personal property which
belongs to such carrier for hire, and as to which such carrier
receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property
in Illinois, and which such carrier transports, or shares with
another common carrier in the transportation of such property,
out of Illinois on a standard uniform bill of lading showing
the person who repaired, reconditioned or remodeled the
property as the shipper or consignor of such property to a
destination outside Illinois, for use outside Illinois.

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

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

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

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

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

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

Exemption (e) also includes machinery and equipment used
in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. On and after July 1, 2017, exemption (e) also includes graphic arts machinery and equipment, as defined in paragraph (5) of Section 3-5. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. For the purposes of exemption (e), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the
manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further for purposes of exemption (e), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools.
Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall furnish to the seller a certificate of exemption stating facts establishing the exemption, which certificate shall be available to the Department for inspection or audit.

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

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

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

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

"Sale at Retail" means "sale at retail" as defined in the

"Supplier" means any person who makes sales of tangible
personal property to servicemen for the purpose of resale as
an incident to a sale of service.
(Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
100-863, eff. 8-14-18; 101-9, eff. 6-5-19; 101-604, eff.
12-13-19.)

(35 ILCS 115/3-5)

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

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

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

(3) Personal property purchased by any not-for-profit arts
or cultural organization that establishes, by proof required
by the Department by rule, that it has received an exemption
under Section 501(c)(3) of the Internal Revenue Code and that
is organized and operated primarily for the presentation or
support of arts or cultural programming, activities, or
services. These organizations include, but are not limited to,
music and dramatic arts organizations such as symphony
orchestras and theatrical groups, arts and cultural service
organizations, local arts councils, visual arts organizations,
and media arts organizations. On and after July 1, 2001 (the
effective date of Public Act 92-35), however, an entity
otherwise eligible for this exemption shall not make tax-free
purchases unless it has an active identification number issued
by the Department.

(4) Legal tender, currency, medallions, or gold or silver
coinage issued by the State of Illinois, the government of the
United States of America, or the government of any foreign
country, and bullion.
(5) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under Section 2 of this Act.

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

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

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

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-55.

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

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

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

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

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

(12) Until July 1, 2023, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

(13) Beginning January 1, 1992 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages,
soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

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

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

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

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

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

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

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

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

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

(23) Beginning January 1, 2000 and through December 31,
2001, new or used automatic vending machines that prepare and
serve hot food and beverages, including coffee, soup, and
other items, and replacement parts for these machines.
Beginning January 1, 2002 and through June 30, 2003, machines
and parts for machines used in commercial, coin-operated
amusement and vending business if a use or occupation tax is
paid on the gross receipts derived from the use of the
commercial, coin-operated amusement and vending machines. This
paragraph is exempt from the provisions of Section 3-55.

(24) Beginning on August 2, 2001 (the effective date of
Public Act 92-227), computers and communications equipment
utilized for any hospital purpose and equipment used in the
diagnosis, analysis, or treatment of hospital patients sold to
a lessor who leases the equipment, under a lease of one year or
longer executed or in effect at the time of the purchase, to a
hospital that has been issued an active tax exemption
identification number by the Department under Section 1g of
the Retailers’ Occupation Tax Act. This paragraph is exempt
from the provisions of Section 3-55.

(25) Beginning on August 2, 2001 (the effective date of
Public Act 92-227), personal property sold to a lessor who
leases the property, under a lease of one year or longer
executed or in effect at the time of the purchase, to a
governmental body that has been issued an active tax exemption
identification number by the Department under Section 1g of
the Retailers’ Occupation Tax Act. This paragraph is exempt
from the provisions of Section 3-55.

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

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

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

(29) Beginning January 1, 2010 and continuing through December 31, 2024, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft
engines or power plants, whether such engines or power plants
are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to,
adhesive, tape, sandpaper, general purpose lubricants,
cleaning solution, latex gloves, and protective films. This exemption applies only to the transfer of qualifying tangible
personal property incident to the modification, refurbishment,
completion, replacement, repair, or maintenance of an aircraft
by persons who (i) hold an Air Agency Certificate and are
empowered to operate an approved repair station by the Federal
Aviation Administration, (ii) have a Class IV Rating, and
(iii) conduct operations in accordance with Part 145 of the
Federal Aviation Regulations. The exemption does not include
aircraft operated by a commercial air carrier providing
scheduled passenger air service pursuant to authority issued
under Part 121 or Part 129 of the Federal Aviation
Regulations. The changes made to this paragraph (29) by Public
Act 98-534 are declarative of existing law. It is the intent of
the General Assembly that the exemption under this paragraph
(29) applies continuously from January 1, 2010 through
December 31, 2024; however, no claim for credit or refund is
allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to the
effective date of this amendatory Act of the 101st General
Assembly.

(30) Beginning January 1, 2017 and through December 31,
2026, menstrual pads, tampons, and menstrual cups.

(31) Tangible personal property transferred to a purchaser who is exempt from tax by operation of federal law. This paragraph is exempt from the provisions of Section 3-55.

(32) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had this amendatory Act of the 101st General Assembly been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (32) to qualified data centers as defined by Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

For the purposes of this item (32):

"Data center" means a building or a series of buildings rehabilitated or constructed to house working
servers in one physical location or multiple sites within
the State of Illinois.

"Qualified tangible personal property" means:
electrical systems and equipment; climate control and
chilling equipment and systems; mechanical systems and
equipment; monitoring and secure systems; emergency
generators; hardware; computers; servers; data storage
devices; network connectivity equipment; racks; cabinets;
telecommunications cabling infrastructure; raised floor
systems; peripheral components or systems; software;
mechanical, electrical, or plumbing systems; battery
systems; cooling systems and towers; temperature control
systems; other cabling; and other data center
infrastructure equipment and systems necessary to operate
qualified tangible personal property, including fixtures;
and component parts of any of the foregoing, including
installation, maintenance, repair, refurbishment, and
replacement of qualified tangible personal property to
generate, transform, transmit, distribute, or manage
electricity necessary to operate qualified tangible
personal property; and all other tangible personal
property that is essential to the operations of a computer
data center. The term "qualified tangible personal
property" also includes building materials physically
incorporated in to the qualifying data center. To document
the exemption allowed under this Section, the retailer
must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (32) is exempt from the provisions of Section 3-55.

(33) Beginning on the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended, and continuing through December 31 of the fifth calendar year to occur after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended, equipment and material deployed after January 1, 2023 in a county in the State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people during that year that is incorporated into or used in the business of providing broadband services, including all equipment and material, machinery, software, or other tangible personal property that is used in whole or in part in producing, broadcasting, distributing, sending, receiving,
storing, transmitting, retransmitting, amplifying, switching, or routing broadband services, including the monitoring, testing, maintaining, enabling, or facilitating of such equipment, machinery, software, or other infrastructure. Such property includes, but is not limited to, wires, cables including fiber optic cables, antennas, poles, switches, routers, amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers, transmitters, power equipment, backup power equipment, diagnostic equipment, storage devices, modems, and other general central office equipment, such as channel cards, frames, and cabinets. The exemption under this item (33) may be taken for property placed in service on or after January 1, 2023; however, the credit may not be taken until a taxable year beginning on or after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21.)

Section 25. The Retailers' Occupation Tax Act is amended by changing Sections 1 and 2-5 as follows:

(35 ILCS 120/1) (from Ch. 120, par. 440)
Sec. 1. Definitions. As used in this Act:

"Broadband service" means a service provided by wireline or wireless means capable of delivering high-speed internet access at speeds of at least 25 megabits per second of download speed and 3 megabits per second of upload speed.

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

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

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

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

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

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

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

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

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

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

"Selling price" or the "amount of sale" means the
consideration for a sale valued in money whether received in
money or otherwise, including cash, credits, property, other
than as hereinafter provided, and services, but, prior to January 1, 2020 and beginning again on January 1, 2022, not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold; beginning January 1, 2020 and until January 1, 2022, "selling price" includes the portion of the value of or credit given for traded-in motor vehicles of the First Division as defined in Section 1-146 of the Illinois Vehicle Code of like kind and character as that which is being sold that exceeds $10,000. "Selling price" shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include charges that are added to prices by sellers on account of the seller's tax liability under this Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Use Tax Act, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit, on account of the seller's tax liability under any local occupation tax administered by the Department, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit on account of the seller's duty to collect, from the purchasers, the tax that is imposed under any local use tax administered by the Department. Effective December 1, 1985, "selling price" shall include charges that are added to prices by sellers on account
of the seller's tax liability under the Cigarette Tax Act, on account of the sellers' duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act, and on account of the seller's duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit.

Notwithstanding any law to the contrary, for any motor vehicle, as defined in Section 1-146 of the Vehicle Code, that is sold on or after January 1, 2015 for the purpose of leasing the vehicle for a defined period that is longer than one year and (1) is a motor vehicle of the second division that: (A) is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat; (B) is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers; or (C) has a gross vehicle weight rating of 8,000 pounds or less or (2) is a motor vehicle of the first division, "selling price" or "amount of sale" means the consideration received by the lessor pursuant to the lease contract, including amounts due at lease signing and all monthly or other regular payments charged over the term of the lease. Also included in the selling price is any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, including, but not limited to, excess mileage charges and charges for excess wear and tear. For sales that occur in
Illinois, with respect to any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, the lessor who purchased the motor vehicle does not incur the tax imposed by the Use Tax Act on those amounts, and the retailer who makes the retail sale of the motor vehicle to the lessor is not required to collect the tax imposed by the Use Tax Act or to pay the tax imposed by this Act on those amounts. However, the lessor who purchased the motor vehicle assumes the liability for reporting and paying the tax on those amounts directly to the Department in the same form (Illinois Retailers' Occupation Tax, and local retailers' occupation taxes, if applicable) in which the retailer would have reported and paid such tax if the retailer had accounted for the tax to the Department. For amounts received by the lessor from the lessee that are not calculated at the time the lease is executed, the lessor must file the return and pay the tax to the Department by the due date otherwise required by this Act for returns other than transaction returns. If the retailer is entitled under this Act to a discount for collecting and remitting the tax imposed under this Act to the Department with respect to the sale of the motor vehicle to the lessor, then the right to the discount provided in this Act shall be transferred to the lessor with respect to the tax paid by the lessor for any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed; provided
that the discount is only allowed if the return is timely filed and for amounts timely paid. The "selling price" of a motor vehicle that is sold on or after January 1, 2015 for the purpose of leasing for a defined period of longer than one year shall not be reduced by the value of or credit given for traded-in tangible personal property owned by the lessor, nor shall it be reduced by the value of or credit given for traded-in tangible personal property owned by the lessee, regardless of whether the trade-in value thereof is assigned by the lessee to the lessor. In the case of a motor vehicle that is sold for the purpose of leasing for a defined period of longer than one year, the sale occurs at the time of the delivery of the vehicle, regardless of the due date of any lease payments. A lessor who incurs a Retailers' Occupation Tax liability on the sale of a motor vehicle coming off lease may not take a credit against that liability for the Use Tax the lessor paid upon the purchase of the motor vehicle (or for any tax the lessor paid with respect to any amount received by the lessor from the lessee for the leased vehicle that was not calculated at the time the lease was executed) if the selling price of the motor vehicle at the time of purchase was calculated using the definition of "selling price" as defined in this paragraph. Notwithstanding any other provision of this Act to the contrary, lessors shall file all returns and make all payments required under this paragraph to the Department by electronic means in the manner and form as required by the
Department. This paragraph does not apply to leases of motor vehicles for which, at the time the lease is entered into, the term of the lease is not a defined period, including leases with a defined initial period with the option to continue the lease on a month-to-month or other basis beyond the initial defined period.

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

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

"Department" means the Department of Revenue.

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

The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail, or a sale through a bulk vending machine, does not constitute engaging in a business of selling such tangible personal property at retail within the meaning of this Act; provided that any person who is engaged in a business which is not subject to the tax imposed by this Act because of involving the sale of or a contract to sell real estate or a construction contract to improve real estate or a construction contract to engineer, install, and maintain an integrated system of products, but who, in the course of conducting such business, transfers tangible personal property to users or consumers in the finished form in which it was purchased, and which does not become real estate or was not engineered and installed, under any provision of a construction contract or real estate sale or real estate sales agreement entered into with some other person arising out of or because of such nontaxable business, is engaged in the business of selling tangible personal property at retail to the extent of the value of the tangible personal property so transferred. If, in such a transaction, a separate charge is made for the tangible personal property so
transferred, the value of such property, for the purpose of this Act, shall be the amount so separately charged, but not less than the cost of such property to the transferor; if no separate charge is made, the value of such property, for the purposes of this Act, is the cost to the transferor of such tangible personal property. Construction contracts for the improvement of real estate consisting of engineering, installation, and maintenance of voice, data, video, security, and all telecommunication systems do not constitute engaging in a business of selling tangible personal property at retail within the meaning of this Act if they are sold at one specified contract price.

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

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

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

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

"Marketplace" means a physical or electronic place, forum,
platform, application, or other method by which a marketplace
seller sells or offers to sell items.

"Marketplace facilitator" means a person who, pursuant to
an agreement with an unrelated third-party marketplace seller,
directly or indirectly through one or more affiliates
facilitates a retail sale by an unrelated third party
(1) listing or advertising for sale by the marketplace seller in a marketplace, tangible personal property that is subject to tax under this Act; and

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

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

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

"Marketplace seller" means a person that makes sales through a marketplace operated by an unrelated third party marketplace facilitator.

(Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 1-1-20; 102-353, eff. 1-1-22; 102-634, eff. 8-27-21; revised 11-1-21.)
Sec. 2-5. Exemptions. Gross receipts from proceeds from the sale of the following tangible personal property are exempt from the tax imposed by this Act:

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.
Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

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

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

(4) Until July 1, 2003 and beginning again September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts,
both new and used, and including that manufactured on
special order or purchased for lease, certified by the
purchaser to be used primarily for graphic arts
production. Equipment includes chemicals or chemicals
acting as catalysts but only if the chemicals or chemicals
acting as catalysts effect a direct and immediate change
upon a graphic arts product. Beginning on July 1, 2017,
graphic arts machinery and equipment is included in the
manufacturing and assembling machinery and equipment
exemption under paragraph (14).

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

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

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

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

(9) Personal property sold to a not-for-profit arts or
cultural organization that establishes, by proof required
by the Department by rule, that it has received an
exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

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

(12) (Blank).

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

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

(14) Machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser. The exemption provided by this paragraph (14) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the
generation or treatment of natural or artificial gas for
wholesale or retail sale that is delivered to customers
through pipes, pipelines, or mains; or (iii) the treatment
of water for wholesale or retail sale that is delivered to
customers through pipes, pipelines, or mains. The
provisions of Public Act 98-583 are declaratory of
existing law as to the meaning and scope of this
exemption. Beginning on July 1, 2017, the exemption
provided by this paragraph (14) includes, but is not
limited to, graphic arts machinery and equipment, as
defined in paragraph (4) of this Section.

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

(16) Tangible personal property sold to a purchaser if
the purchaser is exempt from use tax by operation of
federal law. This paragraph is exempt from the provisions
of Section 2-70.

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

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

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

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

(21) Until July 1, 2023, coal and aggregate
exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

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

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

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

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

(25) Except as provided in item (25-5) of this
Section, a motor vehicle sold in this State to a
nonresident even though the motor vehicle is delivered to
the nonresident in this State, if the motor vehicle is not
to be titled in this State, and if a drive-away permit is
issued to the motor vehicle as provided in Section 3-603
of the Illinois Vehicle Code or if the nonresident
purchaser has vehicle registration plates to transfer to
the motor vehicle upon returning to his or her home state.
The issuance of the drive-away permit or having the
out-of-state registration plates to be transferred is
prima facie evidence that the motor vehicle will not be
titled in this State.

(25-5) The exemption under item (25) does not apply if
the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in
accordance with this item (25-5) shall be proportionately
distributed as if the tax were collected at the 6.25%
general rate imposed under this Act.

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

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

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

(3) the seller retains in his or her books and
records and provides to the Department a signed and
dated certification from the purchaser, on a form
prescribed by the Department, certifying that the
requirements of this item (25-7) are met. The
certificate must also include the name and address of
the purchaser, the address of the location where the
aircraft is to be titled or registered, the address of
the primary physical location of the aircraft, and
other information that the Department may reasonably
require.

For purposes of this item (25-7):

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

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

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

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

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008.
(the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

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

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

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

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

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

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

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

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

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

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

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

(38) Beginning on January 1, 2002 and through June 30, 2016, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption
thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

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

(40) Beginning January 1, 2010 and continuing through
December 31, 2024, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the sale of qualifying tangible personal property to persons who modify, refurbish, complete, replace, or maintain an aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.
The changes made to this paragraph (40) by Public Act 98-534 are declarative of existing law. It is the intent of the General Assembly that the exemption under this paragraph (40) applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to the effective date of this amendatory Act of the 101st General Assembly.

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

(42) Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.
(43) Merchandise that is subject to the Rental Purchase Agreement Occupation and Use Tax. The purchaser must certify that the item is purchased to be rented subject to a rental purchase agreement, as defined in the Rental Purchase Agreement Act, and provide proof of registration under the Rental Purchase Agreement Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

(44) Qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020 had this amendatory Act of the 101st General Assembly been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified.

The Department of Commerce and Economic Opportunity shall grant a certificate of exemption under this item (44) to qualified data centers as defined by Section
605-1025 of the Department of Commerce and Economic
Opportunity Law of the Civil Administrative Code of
Illinois.

For the purposes of this item (44):

"Data center" means a building or a series of
buildings rehabilitated or constructed to house
working servers in one physical location or multiple
sites within the State of Illinois.

"Qualified tangible personal property" means:
electrical systems and equipment; climate control and
chilling equipment and systems; mechanical systems and
equipment; monitoring and secure systems; emergency
generators; hardware; computers; servers; data storage
devices; network connectivity equipment; racks;
cabinets; telecommunications cabling infrastructure;
raised floor systems; peripheral components or
systems; software; mechanical, electrical, or plumbing
systems; battery systems; cooling systems and towers;
temperature control systems; other cabling; and other
data center infrastructure equipment and systems
necessary to operate qualified tangible personal
property, including fixtures; and component parts of
any of the foregoing, including installation,
maintenance, repair, refurbishment, and replacement of
qualified tangible personal property to generate,
transform, transmit, distribute, or manage electricity
necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term "qualified tangible personal property" also includes building materials physically incorporated into the qualifying data center. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity.

This item (44) is exempt from the provisions of Section 2-70.

(45) Beginning January 1, 2020 and through December 31, 2020, sales of tangible personal property made by a marketplace seller over a marketplace for which tax is due under this Act but for which use tax has been collected and remitted to the Department by a marketplace facilitator under Section 2d of the Use Tax Act are exempt from tax under this Act. A marketplace seller claiming this exemption shall maintain books and records demonstrating that the use tax on such sales has been collected and remitted by a marketplace facilitator. Marketplace sellers that have properly remitted tax under this Act on such sales may file a claim for credit as provided in Section 6 of this Act. No claim is allowed, however, for such taxes for which a credit or refund has been issued to the
marketplace facilitator under the Use Tax Act, or for which the marketplace facilitator has filed a claim for credit or refund under the Use Tax Act.

(46) Beginning on the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended, and continuing through December 31 of the fifth calendar year to occur after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended, equipment and material deployed after January 1, 2023 in a county in the State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people during that year that is incorporated into or used in the business of providing broadband services, including all equipment and material, machinery, software, or other tangible personal property that is used in whole or in part in producing, broadcasting, distributing, sending, receiving, storing, transmitting, retransmitting,
amplifying, switching, or routing broadband services, including the monitoring, testing, maintaining, enabling, or facilitating of such equipment, machinery, software, or other infrastructure. Such property includes, but is not limited to, wires, cables including fiber optic cables, antennas, poles, switches, routers, amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers, transmitters, power equipment, backup power equipment, diagnostic equipment, storage devices, modems, and other general central office equipment, such as channel cards, frames, and cabinets. The exemption under this item (46) may be taken for property placed in service on or after January 1, 2023; however, the credit may not be taken until a taxable year beginning on or after the earlier of: (i) January 1, 2025; or (ii) January 1 of the calendar year immediately following the calendar year in which the State reports to the United States Department of the Treasury that all federal funds received under the American Rescue Plan Act of 2021 have been fully expended.

(Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-634, eff. 8-27-21; revised 11-9-21.)

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