



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0283

Introduced 1/18/2005, by Rep. James H. Meyer

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
35 ILCS 110/3-5	from Ch. 120, par. 439.33-5
35 ILCS 115/3-5	from Ch. 120, par. 439.103-5
35 ILCS 120/2-5	from Ch. 120, par. 441-5

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Beginning on January 1, 2006, exempts from the taxes imposed by these Act, American flags, poles intended to serve as flagstuffs for American flags, and American flag sets or kits. Provides that the exemption is not subject to the sunset requirements of the Acts. Effective immediately.

LRB094 04091 BDD 34111 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning taxes.

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

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

6 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

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

1 number issued by the Department.

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

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

19 (6) Until July 1, 2003 and beginning again on September 1,  
20 2004, graphic arts machinery and equipment, including repair  
21 and replacement parts, both new and used, and including that  
22 manufactured on special order, certified by the purchaser to be  
23 used primarily for graphic arts production, and including  
24 machinery and equipment purchased for lease. Equipment  
25 includes chemicals or chemicals acting as catalysts but only if  
26 the chemicals or chemicals acting as catalysts effect a direct  
27 and immediate change upon a graphic arts product.

28 (7) Farm chemicals.

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

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

36 (10) A motor vehicle of the first division, a motor vehicle

1 of the second division that is a self-contained motor vehicle  
2 designed or permanently converted to provide living quarters  
3 for recreational, camping, or travel use, with direct walk  
4 through to the living quarters from the driver's seat, or a  
5 motor vehicle of the second division that is of the van  
6 configuration designed for the transportation of not less than  
7 7 nor more than 16 passengers, as defined in Section 1-146 of  
8 the Illinois Vehicle Code, that is used for automobile renting,  
9 as defined in the Automobile Renting Occupation and Use Tax  
10 Act.

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

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

1 such equipment.

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

10 (12) Fuel and petroleum products sold to or used by an air  
11 common carrier, certified by the carrier to be used for  
12 consumption, shipment, or storage in the conduct of its  
13 business as an air common carrier, for a flight destined for or  
14 returning from a location or locations outside the United  
15 States without regard to previous or subsequent domestic  
16 stopovers.

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

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

34 (15) Photoprocessing machinery and equipment, including  
35 repair and replacement parts, both new and used, including that  
36 manufactured on special order, certified by the purchaser to be

1 used primarily for photoprocessing, and including  
2 photoprocessing machinery and equipment purchased for lease.

3 (16) Until July 1, 2003, coal exploration, mining,  
4 offhighway hauling, processing, maintenance, and reclamation  
5 equipment, including replacement parts and equipment, and  
6 including equipment purchased for lease, but excluding motor  
7 vehicles required to be registered under the Illinois Vehicle  
8 Code.

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

15 (18) Manufacturing and assembling machinery and equipment  
16 used primarily in the process of manufacturing or assembling  
17 tangible personal property for wholesale or retail sale or  
18 lease, whether that sale or lease is made directly by the  
19 manufacturer or by some other person, whether the materials  
20 used in the process are owned by the manufacturer or some other  
21 person, or whether that sale or lease is made apart from or as  
22 an incident to the seller's engaging in the service occupation  
23 of producing machines, tools, dies, jigs, patterns, gauges, or  
24 other similar items of no commercial value on special order for  
25 a particular purchaser.

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

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

33 (21) Horses, or interests in horses, registered with and  
34 meeting the requirements of any of the Arabian Horse Club  
35 Registry of America, Appaloosa Horse Club, American Quarter  
36 Horse Association, United States Trotting Association, or

1 Jockey Club, as appropriate, used for purposes of breeding or  
2 racing for prizes.

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

26 (23) Personal property purchased by a lessor who leases the  
27 property, under a lease of one year or longer executed or in  
28 effect at the time the lessor would otherwise be subject to the  
29 tax imposed by this Act, to a governmental body that has been  
30 issued an active sales tax exemption identification number by  
31 the Department under Section 1g of the Retailers' Occupation  
32 Tax Act. If the property is leased in a manner that does not  
33 qualify for this exemption or used in any other non-exempt  
34 manner, the lessor shall be liable for the tax imposed under  
35 this Act or the Service Use Tax Act, as the case may be, based  
36 on the fair market value of the property at the time the

1 non-qualifying use occurs. No lessor shall collect or attempt  
2 to collect an amount (however designated) that purports to  
3 reimburse that lessor for the tax imposed by this Act or the  
4 Service Use Tax Act, as the case may be, if the tax has not been  
5 paid by the lessor. If a lessor improperly collects any such  
6 amount from the lessee, the lessee shall have a legal right to  
7 claim a refund of that amount from the lessor. If, however,  
8 that amount is not refunded to the lessee for any reason, the  
9 lessor is liable to pay that amount to the Department.

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

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

32 (26) Beginning July 1, 1999, game or game birds purchased  
33 at a "game breeding and hunting preserve area" or an "exotic  
34 game hunting area" as those terms are used in the Wildlife Code  
35 or at a hunting enclosure approved through rules adopted by the  
36 Department of Natural Resources. This paragraph is exempt from



1 the provisions of Section 3-90.

2 (27) A motor vehicle, as that term is defined in Section  
3 1-146 of the Illinois Vehicle Code, that is donated to a  
4 corporation, limited liability company, society, association,  
5 foundation, or institution that is determined by the Department  
6 to be organized and operated exclusively for educational  
7 purposes. For purposes of this exemption, "a corporation,  
8 limited liability company, society, association, foundation,  
9 or institution organized and operated exclusively for  
10 educational purposes" means all tax-supported public schools,  
11 private schools that offer systematic instruction in useful  
12 branches of learning by methods common to public schools and  
13 that compare favorably in their scope and intensity with the  
14 course of study presented in tax-supported schools, and  
15 vocational or technical schools or institutes organized and  
16 operated exclusively to provide a course of study of not less  
17 than 6 weeks duration and designed to prepare individuals to  
18 follow a trade or to pursue a manual, technical, mechanical,  
19 industrial, business, or commercial occupation.

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

34 (29) Beginning January 1, 2000 and through December 31,  
35 2001, new or used automatic vending machines that prepare and  
36 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning  
2 January 1, 2002 and through June 30, 2003, machines and parts  
3 for machines used in commercial, coin-operated amusement and  
4 vending business if a use or occupation tax is paid on the  
5 gross receipts derived from the use of the commercial,  
6 coin-operated amusement and vending machines. This paragraph  
7 is exempt from the provisions of Section 3-90.

8 (30) Food for human consumption that is to be consumed off  
9 the premises where it is sold (other than alcoholic beverages,  
10 soft drinks, and food that has been prepared for immediate  
11 consumption) and prescription and nonprescription medicines,  
12 drugs, medical appliances, and insulin, urine testing  
13 materials, syringes, and needles used by diabetics, for human  
14 use, when purchased for use by a person receiving medical  
15 assistance under Article 5 of the Illinois Public Aid Code who  
16 resides in a licensed long-term care facility, as defined in  
17 the Nursing Home Care Act.

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

1 collects any such amount from the lessee, the lessee shall have  
2 a legal right to claim a refund of that amount from the lessor.  
3 If, however, that amount is not refunded to the lessee for any  
4 reason, the lessor is liable to pay that amount to the  
5 Department. This paragraph is exempt from the provisions of  
6 Section 3-90.

7 (32) Beginning on the effective date of this amendatory Act  
8 of the 92nd General Assembly, personal property purchased by a  
9 lessor who leases the property, under a lease of one year or  
10 longer executed or in effect at the time the lessor would  
11 otherwise be subject to the tax imposed by this Act, to a  
12 governmental body that has been issued an active sales tax  
13 exemption identification number by the Department under  
14 Section 1g of the Retailers' Occupation Tax Act. If the  
15 property is leased in a manner that does not qualify for this  
16 exemption or used in any other nonexempt manner, the lessor  
17 shall be liable for the tax imposed under this Act or the  
18 Service Use Tax Act, as the case may be, based on the fair  
19 market value of the property at the time the nonqualifying use  
20 occurs. No lessor shall collect or attempt to collect an amount  
21 (however designated) that purports to reimburse that lessor for  
22 the tax imposed by this Act or the Service Use Tax Act, as the  
23 case may be, if the tax has not been paid by the lessor. If a  
24 lessor improperly collects any such amount from the lessee, the  
25 lessee shall have a legal right to claim a refund of that  
26 amount from the lessor. If, however, that amount is not  
27 refunded to the lessee for any reason, the lessor is liable to  
28 pay that amount to the Department. This paragraph is exempt  
29 from the provisions of Section 3-90.

30 (33) On and after July 1, 2003 and through June 30, 2004,  
31 the use in this State of motor vehicles of the second division  
32 with a gross vehicle weight in excess of 8,000 pounds and that  
33 are subject to the commercial distribution fee imposed under  
34 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
35 1, 2004 and through June 30, 2005, the use in this State of  
36 motor vehicles of the second division: (i) with a gross vehicle

1 weight rating in excess of 8,000 pounds; (ii) that are subject  
2 to the commercial distribution fee imposed under Section  
3 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
4 primarily used for commercial purposes. Through June 30, 2005,  
5 this exemption applies to repair and replacement parts added  
6 after the initial purchase of such a motor vehicle if that  
7 motor vehicle is used in a manner that would qualify for the  
8 rolling stock exemption otherwise provided for in this Act. For  
9 purposes of this paragraph, the term "used for commercial  
10 purposes" means the transportation of persons or property in  
11 furtherance of any commercial or industrial enterprise,  
12 whether for-hire or not.

13 (34) Beginning on January 1, 2006, American flags, poles  
14 intended to serve as flagstuffs for American flags, and  
15 American flag sets or kits. This paragraph is exempt from the  
16 provisions of Section 3-90.

17 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,  
18 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;  
19 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
20 93-1033, eff. 9-3-04; revised 10-21-04.)

21 Section 10. The Service Use Tax Act is amended by changing  
22 Section 3-5 as follows:

23 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

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

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

1 promoting the county fair.

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

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

21 (5) Until July 1, 2003 and beginning again on September 1,  
22 2004, graphic arts machinery and equipment, including repair  
23 and replacement parts, both new and used, and including that  
24 manufactured on special order or purchased for lease, certified  
25 by the purchaser to be used primarily for graphic arts  
26 production. Equipment includes chemicals or chemicals acting  
27 as catalysts but only if the chemicals or chemicals acting as  
28 catalysts effect a direct and immediate change upon a graphic  
29 arts product.

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

33 (7) Farm machinery and equipment, both new and used,  
34 including that manufactured on special order, certified by the  
35 purchaser to be used primarily for production agriculture or  
36 State or federal agricultural programs, including individual

1 replacement parts for the machinery and equipment, including  
2 machinery and equipment purchased for lease, and including  
3 implements of husbandry defined in Section 1-130 of the  
4 Illinois Vehicle Code, farm machinery and agricultural  
5 chemical and fertilizer spreaders, and nurse wagons required to  
6 be registered under Section 3-809 of the Illinois Vehicle Code,  
7 but excluding other motor vehicles required to be registered  
8 under the Illinois Vehicle Code. Horticultural polyhouses or  
9 hoop houses used for propagating, growing, or overwintering  
10 plants shall be considered farm machinery and equipment under  
11 this item (7). Agricultural chemical tender tanks and dry boxes  
12 shall include units sold separately from a motor vehicle  
13 required to be licensed and units sold mounted on a motor  
14 vehicle required to be licensed if the selling price of the  
15 tender is separately stated.

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

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

32 (8) Fuel and petroleum products sold to or used by an air  
33 common carrier, certified by the carrier to be used for  
34 consumption, shipment, or storage in the conduct of its  
35 business as an air common carrier, for a flight destined for or  
36 returning from a location or locations outside the United

1 States without regard to previous or subsequent domestic  
2 stopovers.

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

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

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

27 (12) Until July 1, 2003, coal exploration, mining,  
28 offhighway hauling, processing, maintenance, and reclamation  
29 equipment, including replacement parts and equipment, and  
30 including equipment purchased for lease, but excluding motor  
31 vehicles required to be registered under the Illinois Vehicle  
32 Code.

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

35 (14) Horses, or interests in horses, registered with and  
36 meeting the requirements of any of the Arabian Horse Club

1 Registry of America, Appaloosa Horse Club, American Quarter  
2 Horse Association, United States Trotting Association, or  
3 Jockey Club, as appropriate, used for purposes of breeding or  
4 racing for prizes.

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

27 (16) Personal property purchased by a lessor who leases the  
28 property, under a lease of one year or longer executed or in  
29 effect at the time the lessor would otherwise be subject to the  
30 tax imposed by this Act, to a governmental body that has been  
31 issued an active tax exemption identification number by the  
32 Department under Section 1g of the Retailers' Occupation Tax  
33 Act. If the property is leased in a manner that does not  
34 qualify for this exemption or is used in any other non-exempt  
35 manner, the lessor shall be liable for the tax imposed under  
36 this Act or the Use Tax Act, as the case may be, based on the



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

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

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

33 (19) Beginning July 1, 1999, game or game birds purchased  
34 at a "game breeding and hunting preserve area" or an "exotic  
35 game hunting area" as those terms are used in the Wildlife Code  
36 or at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from  
2 the provisions of Section 3-75.

3 (20) A motor vehicle, as that term is defined in Section  
4 1-146 of the Illinois Vehicle Code, that is donated to a  
5 corporation, limited liability company, society, association,  
6 foundation, or institution that is determined by the Department  
7 to be organized and operated exclusively for educational  
8 purposes. For purposes of this exemption, "a corporation,  
9 limited liability company, society, association, foundation,  
10 or institution organized and operated exclusively for  
11 educational purposes" means all tax-supported public schools,  
12 private schools that offer systematic instruction in useful  
13 branches of learning by methods common to public schools and  
14 that compare favorably in their scope and intensity with the  
15 course of study presented in tax-supported schools, and  
16 vocational or technical schools or institutes organized and  
17 operated exclusively to provide a course of study of not less  
18 than 6 weeks duration and designed to prepare individuals to  
19 follow a trade or to pursue a manual, technical, mechanical,  
20 industrial, business, or commercial occupation.

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

35 (22) Beginning January 1, 2000 and through December 31,  
36 2001, new or used automatic vending machines that prepare and

1 serve hot food and beverages, including coffee, soup, and other  
2 items, and replacement parts for these machines. Beginning  
3 January 1, 2002 and through June 30, 2003, machines and parts  
4 for machines used in commercial, coin-operated amusement and  
5 vending business if a use or occupation tax is paid on the  
6 gross receipts derived from the use of the commercial,  
7 coin-operated amusement and vending machines. This paragraph  
8 is exempt from the provisions of Section 3-75.

9 (23) Food for human consumption that is to be consumed off  
10 the premises where it is sold (other than alcoholic beverages,  
11 soft drinks, and food that has been prepared for immediate  
12 consumption) and prescription and nonprescription medicines,  
13 drugs, medical appliances, and insulin, urine testing  
14 materials, syringes, and needles used by diabetics, for human  
15 use, when purchased for use by a person receiving medical  
16 assistance under Article 5 of the Illinois Public Aid Code who  
17 resides in a licensed long-term care facility, as defined in  
18 the Nursing Home Care Act.

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

1 the lessor. If a lessor improperly collects any such amount  
2 from the lessee, the lessee shall have a legal right to claim a  
3 refund of that amount from the lessor. If, however, that amount  
4 is not refunded to the lessee for any reason, the lessor is  
5 liable to pay that amount to the Department. This paragraph is  
6 exempt from the provisions of Section 3-75.

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

29 (26) Beginning on January 1, 2006, American flags, poles  
30 intended to serve as flagstaffs for American flags, and  
31 American flag sets or kits. This paragraph is exempt from the  
32 provisions of Section 3-75.

33 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
34 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
35 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff.  
36 7-30-04.)

1           Section 15. The Service Occupation Tax Act is amended by  
2 changing Section 3-5 as follows:

3           (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

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

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

1 (5) Until July 1, 2003 and beginning again on September 1,  
2 2004, graphic arts machinery and equipment, including repair  
3 and replacement parts, both new and used, and including that  
4 manufactured on special order or purchased for lease, certified  
5 by the purchaser to be used primarily for graphic arts  
6 production. Equipment includes chemicals or chemicals acting  
7 as catalysts but only if the chemicals or chemicals acting as  
8 catalysts effect a direct and immediate change upon a graphic  
9 arts product.

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

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

32 Farm machinery and equipment shall include precision  
33 farming equipment that is installed or purchased to be  
34 installed on farm machinery and equipment including, but not  
35 limited to, tractors, harvesters, sprayers, planters, seeders,  
36 or spreaders. Precision farming equipment includes, but is not

1 limited to, soil testing sensors, computers, monitors,  
2 software, global positioning and mapping systems, and other  
3 such equipment.

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

12 (8) Fuel and petroleum products sold to or used by an air  
13 common carrier, certified by the carrier to be used for  
14 consumption, shipment, or storage in the conduct of its  
15 business as an air common carrier, for a flight destined for or  
16 returning from a location or locations outside the United  
17 States without regard to previous or subsequent domestic  
18 stopovers.

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

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

36 (11) Photoprocessing machinery and equipment, including

1 repair and replacement parts, both new and used, including that  
2 manufactured on special order, certified by the purchaser to be  
3 used primarily for photoprocessing, and including  
4 photoprocessing machinery and equipment purchased for lease.

5 (12) Until July 1, 2003, coal exploration, mining,  
6 offhighway hauling, processing, maintenance, and reclamation  
7 equipment, including replacement parts and equipment, and  
8 including equipment purchased for lease, but excluding motor  
9 vehicles required to be registered under the Illinois Vehicle  
10 Code.

11 (13) Food for human consumption that is to be consumed off  
12 the premises where it is sold (other than alcoholic beverages,  
13 soft drinks and food that has been prepared for immediate  
14 consumption) and prescription and non-prescription medicines,  
15 drugs, medical appliances, and insulin, urine testing  
16 materials, syringes, and needles used by diabetics, for human  
17 use, when purchased for use by a person receiving medical  
18 assistance under Article 5 of the Illinois Public Aid Code who  
19 resides in a licensed long-term care facility, as defined in  
20 the Nursing Home Care Act.

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

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

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



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

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

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

29           (20) Beginning July 1, 1999, game or game birds sold at a  
30 "game breeding and hunting preserve area" or an "exotic game  
31 hunting area" as those terms are used in the Wildlife Code or  
32 at a hunting enclosure approved through rules adopted by the  
33 Department of Natural Resources. This paragraph is exempt from  
34 the provisions of Section 3-55.

35           (21) A motor vehicle, as that term is defined in Section  
36 1-146 of the Illinois Vehicle Code, that is donated to a

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

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

31 (23) Beginning January 1, 2000 and through December 31,  
32 2001, new or used automatic vending machines that prepare and  
33 serve hot food and beverages, including coffee, soup, and other  
34 items, and replacement parts for these machines. Beginning  
35 January 1, 2002 and through June 30, 2003, machines and parts  
36 for machines used in commercial, coin-operated amusement and

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

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

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

23 (26) Beginning on January 1, 2002, tangible personal  
24 property purchased from an Illinois retailer by a taxpayer  
25 engaged in centralized purchasing activities in Illinois who  
26 will, upon receipt of the property in Illinois, temporarily  
27 store the property in Illinois (i) for the purpose of  
28 subsequently transporting it outside this State for use or  
29 consumption thereafter solely outside this State or (ii) for  
30 the purpose of being processed, fabricated, or manufactured  
31 into, attached to, or incorporated into other tangible personal  
32 property to be transported outside this State and thereafter  
33 used or consumed solely outside this State. The Director of  
34 Revenue shall, pursuant to rules adopted in accordance with the  
35 Illinois Administrative Procedure Act, issue a permit to any  
36 taxpayer in good standing with the Department who is eligible

1 for the exemption under this paragraph (26). The permit issued  
2 under this paragraph (26) shall authorize the holder, to the  
3 extent and in the manner specified in the rules adopted under  
4 this Act, to purchase tangible personal property from a  
5 retailer exempt from the taxes imposed by this Act. Taxpayers  
6 shall maintain all necessary books and records to substantiate  
7 the use and consumption of all such tangible personal property  
8 outside of the State of Illinois.

9 (27) Beginning on January 1, 2006, American flags, poles  
10 intended to serve as flagstuffs for American flags, and  
11 American flag sets or kits. This paragraph is exempt from the  
12 provisions of Section 3-55.

13 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
14 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
15 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.  
16 6-20-03; 93-840, eff. 7-30-04.)

17 Section 20. The Retailers' Occupation Tax Act is amended by  
18 changing Section 2-5 as follows:

19 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

23 (1) Farm chemicals.

24 (2) Farm machinery and equipment, both new and used,  
25 including that manufactured on special order, certified by the  
26 purchaser to be used primarily for production agriculture or  
27 State or federal agricultural programs, including individual  
28 replacement parts for the machinery and equipment, including  
29 machinery and equipment purchased for lease, and including  
30 implements of husbandry defined in Section 1-130 of the  
31 Illinois Vehicle Code, farm machinery and agricultural  
32 chemical and fertilizer spreaders, and nurse wagons required to  
33 be registered under Section 3-809 of the Illinois Vehicle Code,  
34 but excluding other motor vehicles required to be registered

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

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

17 Farm machinery and equipment also includes computers,  
18 sensors, software, and related equipment used primarily in the  
19 computer-assisted operation of production agriculture  
20 facilities, equipment, and activities such as, but not limited  
21 to, the collection, monitoring, and correlation of animal and  
22 crop data for the purpose of formulating animal diets and  
23 agricultural chemicals. This item (7) is exempt from the  
24 provisions of Section 2-70.

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

31 (4) Until July 1, 2003 and beginning again September 1,  
32 2004, graphic arts machinery and equipment, including repair  
33 and replacement parts, both new and used, and including that  
34 manufactured on special order or purchased for lease, certified  
35 by the purchaser to be used primarily for graphic arts  
36 production. Equipment includes chemicals or chemicals acting

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

4 (5) A motor vehicle of the first division, a motor vehicle  
5 of the second division that is a self-contained motor vehicle  
6 designed or permanently converted to provide living quarters  
7 for recreational, camping, or travel use, with direct walk  
8 through access to the living quarters from the driver's seat,  
9 or a motor vehicle of the second division that is of the van  
10 configuration designed for the transportation of not less than  
11 7 nor more than 16 passengers, as defined in Section 1-146 of  
12 the Illinois Vehicle Code, that is used for automobile renting,  
13 as defined in the Automobile Renting Occupation and Use Tax  
14 Act.

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

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

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

24 (9) Personal property sold to a not-for-profit arts or  
25 cultural organization that establishes, by proof required by  
26 the Department by rule, that it has received an exemption under  
27 Section 501(c)(3) of the Internal Revenue Code and that is  
28 organized and operated primarily for the presentation or  
29 support of arts or cultural programming, activities, or  
30 services. These organizations include, but are not limited to,  
31 music and dramatic arts organizations such as symphony  
32 orchestras and theatrical groups, arts and cultural service  
33 organizations, local arts councils, visual arts organizations,  
34 and media arts organizations. On and after the effective date  
35 of this amendatory Act of the 92nd General Assembly, however,  
36 an entity otherwise eligible for this exemption shall not make

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

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

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

24 (12) Tangible personal property sold to interstate  
25 carriers for hire for use as rolling stock moving in interstate  
26 commerce or to lessors under leases of one year or longer  
27 executed or in effect at the time of purchase by interstate  
28 carriers for hire for use as rolling stock moving in interstate  
29 commerce and equipment operated by a telecommunications  
30 provider, licensed as a common carrier by the Federal  
31 Communications Commission, which is permanently installed in  
32 or affixed to aircraft moving in interstate commerce.

33 (12-5) On and after July 1, 2003 and through June 30, 2004,  
34 motor vehicles of the second division with a gross vehicle  
35 weight in excess of 8,000 pounds that are subject to the  
36 commercial distribution fee imposed under Section 3-815.1 of

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

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

22 (14) Machinery and equipment that will be used by the  
23 purchaser, or a lessee of the purchaser, primarily in the  
24 process of manufacturing or assembling tangible personal  
25 property for wholesale or retail sale or lease, whether the  
26 sale or lease is made directly by the manufacturer or by some  
27 other person, whether the materials used in the process are  
28 owned by the manufacturer or some other person, or whether the  
29 sale or lease is made apart from or as an incident to the  
30 seller's engaging in the service occupation of producing  
31 machines, tools, dies, jigs, patterns, gauges, or other similar  
32 items of no commercial value on special order for a particular  
33 purchaser.

34 (15) Proceeds of mandatory service charges separately  
35 stated on customers' bills for purchase and consumption of food  
36 and beverages, to the extent that the proceeds of the service



1 charge are in fact turned over as tips or as a substitute for  
2 tips to the employees who participate directly in preparing,  
3 serving, hosting or cleaning up the food or beverage function  
4 with respect to which the service charge is imposed.

5 (16) Petroleum products sold to a purchaser if the seller  
6 is prohibited by federal law from charging tax to the  
7 purchaser.

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

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

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

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

34 (21) Until July 1, 2003, coal exploration, mining,  
35 offhighway hauling, processing, maintenance, and reclamation  
36 equipment, including replacement parts and equipment, and

1 including equipment purchased for lease, but excluding motor  
2 vehicles required to be registered under the Illinois Vehicle  
3 Code.

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

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

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

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

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

33 (27) Horses, or interests in horses, registered with and  
34 meeting the requirements of any of the Arabian Horse Club  
35 Registry of America, Appaloosa Horse Club, American Quarter  
36 Horse Association, United States Trotting Association, or

1 Jockey Club, as appropriate, used for purposes of breeding or  
2 racing for prizes.

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

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

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

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

1 declared disaster area within 6 months after the disaster.

2 (32) Beginning July 1, 1999, game or game birds sold at a  
3 "game breeding and hunting preserve area" or an "exotic game  
4 hunting area" as those terms are used in the Wildlife Code or  
5 at a hunting enclosure approved through rules adopted by the  
6 Department of Natural Resources. This paragraph is exempt from  
7 the provisions of Section 2-70.

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

26 (34) Beginning January 1, 2000, personal property,  
27 including food, purchased through fundraising events for the  
28 benefit of a public or private elementary or secondary school,  
29 a group of those schools, or one or more school districts if  
30 the events are sponsored by an entity recognized by the school  
31 district that consists primarily of volunteers and includes  
32 parents and teachers of the school children. This paragraph  
33 does not apply to fundraising events (i) for the benefit of  
34 private home instruction or (ii) for which the fundraising  
35 entity purchases the personal property sold at the events from  
36 another individual or entity that sold the property for the

1 purpose of resale by the fundraising entity and that profits  
2 from the sale to the fundraising entity. This paragraph is  
3 exempt from the provisions of Section 2-70.

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

14 (35-5) Food for human consumption that is to be consumed  
15 off the premises where it is sold (other than alcoholic  
16 beverages, soft drinks, and food that has been prepared for  
17 immediate consumption) and prescription and nonprescription  
18 medicines, drugs, medical appliances, and insulin, urine  
19 testing materials, syringes, and needles used by diabetics, for  
20 human use, when purchased for use by a person receiving medical  
21 assistance under Article 5 of the Illinois Public Aid Code who  
22 resides in a licensed long-term care facility, as defined in  
23 the Nursing Home Care Act.

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

33 (37) Beginning August 2, 2001, personal property sold to a  
34 lessor who leases the property, under a lease of one year or  
35 longer executed or in effect at the time of the purchase, to a  
36 governmental body that has been issued an active tax exemption

1 identification number by the Department under Section 1g of  
2 this Act. This paragraph is exempt from the provisions of  
3 Section 2-70.

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

26 (39) Beginning on January 1, 2006, American flags, poles  
27 intended to serve as flagstuffs for American flags, and  
28 American flag sets or kits. This paragraph is exempt from the  
29 provisions of Section 2-70.

30 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
31 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
32 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.  
33 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.  
34 7-30-04; 93-1033, eff. 9-3-04; revised 9-14-04.)

35 Section 99. Effective date. This Act takes effect upon

1 becoming law.