



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3996

Introduced 2/26/2009, by Rep. Dan Reitz - Rich Brauer

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. Exempts the following from taxation under the Acts: materials, replacement parts, and equipment purchased for use directly upon or for the modification, replacement, repair, or maintenance of aircraft, aircraft power plants, or aircraft accessories. Effective immediately.

LRB096 11777 HLH 22560 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

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

1 support of arts or cultural programming, activities, or
2 services. These organizations include, but are not limited to,
3 music and dramatic arts organizations such as symphony
4 orchestras and theatrical groups, arts and cultural service
5 organizations, local arts councils, visual arts organizations,
6 and media arts organizations. On and after the effective date
7 of this amendatory Act of the 92nd General Assembly, however,
8 an entity otherwise eligible for this exemption shall not make
9 tax-free purchases unless it has an active identification
10 number issued by the Department.

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

25 (5) Until July 1, 2003, a passenger car that is a
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

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

11 (7) Farm chemicals.

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

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

19 (10) A motor vehicle of the first division, a motor vehicle
20 of the second division that is a self-contained motor vehicle
21 designed or permanently converted to provide living quarters
22 for recreational, camping, or travel use, with direct walk
23 through to the living quarters from the driver's seat, or a
24 motor vehicle of the second division that is of the van
25 configuration designed for the transportation of not less than
26 7 nor more than 16 passengers, as defined in Section 1-146 of

1 the Illinois Vehicle Code, that is used for automobile renting,
2 as defined in the Automobile Renting Occupation and Use Tax
3 Act.

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

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters, seeders,

1 or spreaders. Precision farming equipment includes, but is not
2 limited to, soil testing sensors, computers, monitors,
3 software, global positioning and mapping systems, and other
4 such equipment.

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

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

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

1 respect to which the service charge is imposed.

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

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

16 (16) Until July 1, 2003, coal exploration, mining,
17 offhighway hauling, processing, maintenance, and reclamation
18 equipment, including replacement parts and equipment, and
19 including equipment purchased for lease, but excluding motor
20 vehicles required to be registered under the Illinois Vehicle
21 Code.

22 (17) Until July 1, 2003, distillation machinery and
23 equipment, sold as a unit or kit, assembled or installed by the
24 retailer, certified by the user to be used only for the
25 production of ethyl alcohol that will be used for consumption
26 as motor fuel or as a component of motor fuel for the personal

1 use of the user, and not subject to sale or resale.

2 (18) Manufacturing and assembling machinery and equipment
3 used primarily in the process of manufacturing or assembling
4 tangible personal property for wholesale or retail sale or
5 lease, whether that sale or lease is made directly by the
6 manufacturer or by some other person, whether the materials
7 used in the process are owned by the manufacturer or some other
8 person, or whether that sale or lease is made apart from or as
9 an incident to the seller's engaging in the service occupation
10 of producing machines, tools, dies, jigs, patterns, gauges, or
11 other similar items of no commercial value on special order for
12 a particular purchaser.

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

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

20 (21) Horses, or interests in horses, registered with and
21 meeting the requirements of any of the Arabian Horse Club
22 Registry of America, Appaloosa Horse Club, American Quarter
23 Horse Association, United States Trotting Association, or
24 Jockey Club, as appropriate, used for purposes of breeding or
25 racing for prizes. This item (21) is exempt from the provisions
26 of Section 3-90, and the exemption provided for under this item

1 (21) applies for all periods beginning May 30, 1995, but no
2 claim for credit or refund is allowed on or after January 1,
3 2008 for such taxes paid during the period beginning May 30,
4 2000 and ending on January 1, 2008.

5 (22) 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 Service Use Tax Act, as the
17 case may be, based on the fair market value of the property at
18 the time the non-qualifying use occurs. No lessor shall collect
19 or attempt to collect an amount (however designated) that
20 purports to reimburse that lessor for the tax imposed by this
21 Act or the Service Use Tax Act, as the case may be, if the tax
22 has not been paid by the lessor. If a lessor improperly
23 collects any such amount from the lessee, the lessee shall have
24 a legal right to claim a refund of that amount from the lessor.
25 If, however, that amount is not refunded to the lessee for any
26 reason, the lessor is liable to pay that amount to the

1 Department.

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

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

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

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

18 (26) Beginning July 1, 1999, game or game birds purchased
19 at a "game breeding and hunting preserve area" or an "exotic
20 game hunting area" as those terms are used in the Wildlife Code
21 or at a hunting enclosure approved through rules adopted by the
22 Department of Natural Resources. This paragraph is exempt from
23 the provisions of Section 3-90.

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

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

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

1 purpose of resale by the fundraising entity and that profits
2 from the sale to the fundraising entity. This paragraph is
3 exempt from the provisions of Section 3-90.

4 (29) Beginning January 1, 2000 and through December 31,
5 2001, new or used automatic vending machines that prepare and
6 serve hot food and beverages, including coffee, soup, and other
7 items, and replacement parts for these machines. Beginning
8 January 1, 2002 and through June 30, 2003, machines and parts
9 for machines used in commercial, coin-operated amusement and
10 vending business if a use or occupation tax is paid on the
11 gross receipts derived from the use of the commercial,
12 coin-operated amusement and vending machines. This paragraph
13 is exempt from the provisions of Section 3-90.

14 (30) Beginning January 1, 2001 and through June 30, 2011,
15 food for human consumption that is to be consumed off the
16 premises where it is sold (other than alcoholic beverages, soft
17 drinks, and food that has been prepared for immediate
18 consumption) and prescription and nonprescription medicines,
19 drugs, medical appliances, and insulin, urine testing
20 materials, syringes, and needles used by diabetics, for human
21 use, when purchased for use by a person receiving medical
22 assistance under Article 5 of the Illinois Public Aid Code who
23 resides in a licensed long-term care facility, as defined in
24 the Nursing Home Care Act.

25 (31) Beginning on the effective date of this amendatory Act
26 of the 92nd General Assembly, computers and communications

1 equipment utilized for any hospital purpose and equipment used
2 in the diagnosis, analysis, or treatment of hospital patients
3 purchased by a lessor who leases the equipment, under a lease
4 of one year or longer executed or in effect at the time the
5 lessor would otherwise be subject to the tax imposed by this
6 Act, to a hospital that has been issued an active tax exemption
7 identification number by the Department under Section 1g of the
8 Retailers' Occupation Tax Act. If the equipment is leased in a
9 manner that does not qualify for this exemption or is used in
10 any other nonexempt manner, the lessor shall be liable for the
11 tax imposed under this Act or the Service Use Tax Act, as the
12 case may be, based on the fair market value of the property at
13 the time the nonqualifying use occurs. No lessor shall collect
14 or attempt to collect an amount (however designated) that
15 purports to reimburse that lessor for the tax imposed by this
16 Act or the Service Use Tax Act, as the case may be, if the tax
17 has not been paid by the lessor. If a lessor improperly
18 collects any such amount from the lessee, the lessee shall have
19 a legal right to claim a refund of that amount from the lessor.
20 If, however, that amount is not refunded to the lessee for any
21 reason, the lessor is liable to pay that amount to the
22 Department. This paragraph is exempt from the provisions of
23 Section 3-90.

24 (32) Beginning on the effective date of this amendatory Act
25 of the 92nd General Assembly, personal property purchased by a
26 lessor who leases the property, under a lease of one year or

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

21 (33) On and after July 1, 2003 and through June 30, 2004,
22 the use in this State of motor vehicles of the second division
23 with a gross vehicle weight in excess of 8,000 pounds and that
24 are subject to the commercial distribution fee imposed under
25 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
26 1, 2004 and through June 30, 2005, the use in this State of

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

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

21 (35) Materials, replacement parts, and equipment purchased
22 for use directly upon or for the modification, completion,
23 replacement, repair, or maintenance of aircraft, aircraft
24 power plants, or aircraft accessories.

25 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
26 eff. 1-1-08; 95-876, eff. 8-21-08.)

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

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

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

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

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

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

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

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

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

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

23 (7) Farm machinery and equipment, both new and used,
24 including that manufactured on special order, certified by the
25 purchaser to be used primarily for production agriculture or
26 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

1 facilities, equipment, and activities such as, but not limited
2 to, the collection, monitoring, and correlation of animal and
3 crop data for the purpose of formulating animal diets and
4 agricultural chemicals. This item (7) is exempt from the
5 provisions of Section 3-75.

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

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

22 (10) Until July 1, 2003, oil field exploration, drilling,
23 and production equipment, including (i) rigs and parts of rigs,
24 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
25 tubular goods, including casing and drill strings, (iii) pumps
26 and pump-jack units, (iv) storage tanks and flow lines, (v) any

1 individual replacement part for oil field exploration,
2 drilling, and production equipment, and (vi) machinery and
3 equipment purchased for lease; but excluding motor vehicles
4 required to be registered under the Illinois Vehicle Code.

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

11 (12) Until July 1, 2003, coal exploration, mining,
12 offhighway hauling, processing, maintenance, and reclamation
13 equipment, including replacement parts and equipment, and
14 including equipment purchased for lease, but excluding motor
15 vehicles required to be registered under the Illinois Vehicle
16 Code.

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

19 (14) Horses, or interests in horses, registered with and
20 meeting the requirements of any of the Arabian Horse Club
21 Registry of America, Appaloosa Horse Club, American Quarter
22 Horse Association, United States Trotting Association, or
23 Jockey Club, as appropriate, used for purposes of breeding or
24 racing for prizes. This item (14) is exempt from the provisions
25 of Section 3-75, and the exemption provided for under this item
26 (14) applies for all periods beginning May 30, 1995, but no

1 claim for credit or refund is allowed on or after the effective
2 date of this amendatory Act of the 95th General Assembly for
3 such taxes paid during the period beginning May 30, 2000 and
4 ending on the effective date of this amendatory Act of the 95th
5 General Assembly.

6 (15) Computers and communications equipment utilized for
7 any hospital purpose and equipment used in the diagnosis,
8 analysis, or treatment of hospital patients purchased by a
9 lessor who leases the equipment, 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 hospital 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 equipment is leased in a
15 manner that does not qualify for this exemption or is used in
16 any other non-exempt 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 non-qualifying 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

1 liable to pay that amount to the Department.

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

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

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

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

18 (19) Beginning July 1, 1999, game or game birds purchased
19 at a "game breeding and hunting preserve area" or an "exotic
20 game hunting area" as those terms are used in the Wildlife Code
21 or at a hunting enclosure approved through rules adopted by the
22 Department of Natural Resources. This paragraph is exempt from
23 the provisions of Section 3-75.

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

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

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

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

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

14 (23) Beginning August 23, 2001 and through June 30, 2011,
15 food for human consumption that is to be consumed off the
16 premises where it is sold (other than alcoholic beverages, soft
17 drinks, and food that has been prepared for immediate
18 consumption) and prescription and nonprescription medicines,
19 drugs, medical appliances, and insulin, urine testing
20 materials, syringes, and needles used by diabetics, for human
21 use, when purchased for use by a person receiving medical
22 assistance under Article 5 of the Illinois Public Aid Code who
23 resides in a licensed long-term care facility, as defined in
24 the Nursing Home Care Act.

25 (24) Beginning on the effective date of this amendatory Act
26 of the 92nd General Assembly, computers and communications

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

23 (25) Beginning on the effective date of this amendatory Act
24 of the 92nd General Assembly, personal property purchased by a
25 lessor who leases the property, under a lease of one year or
26 longer executed or in effect at the time the lessor would

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

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

26 (27) Materials, replacement parts, and equipment purchased

1 for use directly upon or for the modification, completion,
2 replacement, repair, or maintenance of aircraft, aircraft
3 power plants, or aircraft accessories.

4 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
5 eff. 1-1-08; 95-876, eff. 8-21-08.)

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

8 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

21 (3) Personal property purchased by any not-for-profit arts
22 or cultural organization that establishes, by proof required by
23 the Department by rule, that it has received an exemption under
24 Section 501(c)(3) of the Internal Revenue Code and that is

1 organized and operated primarily for the presentation or
2 support of arts or cultural programming, activities, or
3 services. These organizations include, but are not limited to,
4 music and dramatic arts organizations such as symphony
5 orchestras and theatrical groups, arts and cultural service
6 organizations, local arts councils, visual arts organizations,
7 and media arts organizations. On and after the effective date
8 of this amendatory Act of the 92nd General Assembly, however,
9 an entity otherwise eligible for this exemption shall not make
10 tax-free purchases unless it has an active identification
11 number issued by the Department.

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

16 (5) Until July 1, 2003 and beginning again on September 1,
17 2004, graphic arts machinery and equipment, including repair
18 and replacement parts, both new and used, and including that
19 manufactured on special order or purchased for lease, certified
20 by the purchaser to be used primarily for graphic arts
21 production. Equipment includes chemicals or chemicals acting
22 as catalysts but only if the chemicals or chemicals acting as
23 catalysts effect a direct and immediate change upon a graphic
24 arts product.

25 (6) Personal property sold by a teacher-sponsored student
26 organization affiliated with an elementary or secondary school

1 located in Illinois.

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

21 Farm machinery and equipment shall include precision
22 farming equipment that is installed or purchased to be
23 installed on farm machinery and equipment including, but not
24 limited to, tractors, harvesters, sprayers, planters, seeders,
25 or spreaders. Precision farming equipment includes, but is not
26 limited to, soil testing sensors, computers, monitors,

1 software, global positioning and mapping systems, and other
2 such equipment.

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

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

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

26 (10) Until July 1, 2003, oil field exploration, drilling,

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

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

14 (12) Until July 1, 2003, coal exploration, mining,
15 offhighway hauling, processing, maintenance, and reclamation
16 equipment, including replacement parts and equipment, and
17 including equipment purchased for lease, but excluding motor
18 vehicles required to be registered under the Illinois Vehicle
19 Code.

20 (13) Beginning January 1, 1992 and through June 30, 2011,
21 food for human consumption that is to be consumed off the
22 premises where it is sold (other than alcoholic beverages, soft
23 drinks and food that has been prepared for immediate
24 consumption) and prescription and non-prescription medicines,
25 drugs, medical appliances, and insulin, urine testing
26 materials, syringes, and needles used by diabetics, for human

1 use, when purchased for use by a person receiving medical
2 assistance under Article 5 of the Illinois Public Aid Code who
3 resides in a licensed long-term care facility, as defined in
4 the Nursing Home Care Act.

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

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

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

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

1 when such repairs are initiated on facilities located in the
2 declared disaster area within 6 months after the disaster.

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

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

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

15 (23) Beginning January 1, 2000 and through December 31,
16 2001, new or used automatic vending machines that prepare and
17 serve hot food and beverages, including coffee, soup, and other
18 items, and replacement parts for these machines. Beginning
19 January 1, 2002 and through June 30, 2003, machines and parts
20 for machines used in commercial, coin-operated amusement and
21 vending business if a use or occupation tax is paid on the
22 gross receipts derived from the use of the commercial,
23 coin-operated amusement and vending machines. This paragraph
24 is exempt from the provisions of Section 3-55.

25 (24) Beginning on the effective date of this amendatory Act
26 of the 92nd General Assembly, computers and communications

1 equipment utilized for any hospital purpose and equipment used
2 in the diagnosis, analysis, or treatment of hospital patients
3 sold to a lessor who leases the equipment, under a lease of one
4 year or longer executed or in effect at the time of the
5 purchase, to a hospital that has been issued an active tax
6 exemption identification number by the Department under
7 Section 1g of the Retailers' Occupation Tax Act. This paragraph
8 is exempt from the provisions of Section 3-55.

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

17 (26) Beginning on January 1, 2002 and through June 30,
18 2011, tangible personal property purchased from an Illinois
19 retailer by a taxpayer engaged in centralized purchasing
20 activities in Illinois who will, upon receipt of the property
21 in Illinois, temporarily store the property in Illinois (i) for
22 the purpose of subsequently transporting it outside this State
23 for use or consumption thereafter solely outside this State or
24 (ii) for the purpose of being processed, fabricated, or
25 manufactured into, attached to, or incorporated into other
26 tangible personal property to be transported outside this State

1 and thereafter used or consumed solely outside this State. The
2 Director of Revenue shall, pursuant to rules adopted in
3 accordance with the Illinois Administrative Procedure Act,
4 issue a permit to any taxpayer in good standing with the
5 Department who is eligible for the exemption under this
6 paragraph (26). The permit issued under this paragraph (26)
7 shall authorize the holder, to the extent and in the manner
8 specified in the rules adopted under this Act, to purchase
9 tangible personal property from a retailer exempt from the
10 taxes imposed by this Act. Taxpayers shall maintain all
11 necessary books and records to substantiate the use and
12 consumption of all such tangible personal property outside of
13 the State of Illinois.

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

21 (28) Materials, replacement parts, and equipment purchased
22 for use directly upon or for the modification, completion,
23 replacement, repair, or maintenance of aircraft, aircraft
24 power plants, or aircraft accessories.

25 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
26 eff. 1-1-08; 95-876, eff. 8-21-08.)

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

3 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

7 (1) Farm chemicals.

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

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

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

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

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

25 (4) Until July 1, 2003 and beginning again September 1,
26 2004, graphic arts machinery and equipment, including repair

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

8 (5) A motor vehicle of the first division, a motor vehicle
9 of the second division that is a self contained motor vehicle
10 designed or permanently converted to provide living quarters
11 for recreational, camping, or travel use, with direct walk
12 through access to the living quarters from the driver's seat,
13 or a motor vehicle of the second division that is of the van
14 configuration designed for the transportation of not less than
15 7 nor more than 16 passengers, as defined in Section 1-146 of
16 the Illinois Vehicle Code, that is used for automobile renting,
17 as defined in the Automobile Renting Occupation and Use Tax
18 Act. This paragraph is exempt from the provisions of Section
19 2-70.

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

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

26 (8) Personal property sold to an Illinois county fair

1 association for use in conducting, operating, or promoting the
2 county fair.

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

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

25 (11) Personal property sold to a governmental body, to a
26 corporation, society, association, foundation, or institution

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

13 (12) Tangible personal property sold to interstate
14 carriers for hire for use as rolling stock moving in interstate
15 commerce or to lessors under leases of one year or longer
16 executed or in effect at the time of purchase 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 (12-5) On and after July 1, 2003 and through June 30, 2004,
23 motor vehicles of the second division with a gross vehicle
24 weight in excess of 8,000 pounds that are subject to the
25 commercial distribution fee imposed under Section 3-815.1 of
26 the Illinois Vehicle Code. Beginning on July 1, 2004 and

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

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

21 (14) Machinery and equipment that will be used by the
22 purchaser, or a lessee of the purchaser, primarily in the
23 process of manufacturing or assembling tangible personal
24 property for wholesale or retail sale or lease, whether the
25 sale or lease is made directly by the manufacturer or by some
26 other person, whether the materials used in the process are

1 owned by the manufacturer or some other person, or whether the
2 sale or lease is made apart from or as an incident to the
3 seller's engaging in the service occupation of producing
4 machines, tools, dies, jigs, patterns, gauges, or other similar
5 items of no commercial value on special order for a particular
6 purchaser.

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

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

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

25 (18) Legal tender, currency, medallions, or gold or silver
26 coinage issued by the State of Illinois, the government of the

1 United States of America, or the government of any foreign
2 country, and bullion.

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

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

17 (21) Until July 1, 2003, coal exploration, mining,
18 offhighway hauling, processing, maintenance, and reclamation
19 equipment, including replacement parts and equipment, and
20 including equipment purchased for lease, but excluding motor
21 vehicles required to be registered under the Illinois Vehicle
22 Code.

23 (22) Fuel and petroleum products sold to or used by an air
24 carrier, certified by the carrier to be used for consumption,
25 shipment, or storage in the conduct of its business as an air
26 common carrier, for a flight destined for or returning from a

1 location or locations outside the United States without regard
2 to previous or subsequent domestic stopovers.

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

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

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

25 (25-5) The exemption under item (25) does not apply if the
26 state in which the motor vehicle will be titled does not allow

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

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

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

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

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

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

24 "Based in this State" means hangared, stored, or otherwise
25 used, excluding post-sale customizations as defined in this
26 Section, for 10 or more days in each 12-month period

1 immediately following the date of the sale of the aircraft.

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

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

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

10 (27) Horses, or interests in horses, registered with and
11 meeting the requirements of any of the Arabian Horse Club
12 Registry of America, Appaloosa Horse Club, American Quarter
13 Horse Association, United States Trotting Association, or
14 Jockey Club, as appropriate, used for purposes of breeding or
15 racing for prizes. This item (27) is exempt from the provisions
16 of Section 2-70, and the exemption provided for under this item
17 (27) applies for all periods beginning May 30, 1995, but no
18 claim for credit or refund is allowed on or after January 1,
19 2008 (the effective date of Public Act 95-88) for such taxes
20 paid during the period beginning May 30, 2000 and ending on
21 January 1, 2008 (the effective date of Public Act 95-88) .

22 (28) Computers and communications equipment utilized for
23 any hospital purpose and equipment used in the diagnosis,
24 analysis, or treatment of hospital patients sold to a lessor
25 who leases the equipment, under a lease of one year or longer
26 executed or in effect at the time of the purchase, to a

1 hospital that has been issued an active tax exemption
2 identification number by the Department under Section 1g of
3 this Act.

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

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

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

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

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

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

1 follow a trade or to pursue a manual, technical, mechanical,
2 industrial, business, or commercial occupation.

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

17 (35) Beginning January 1, 2000 and through December 31,
18 2001, new or used automatic vending machines that prepare and
19 serve hot food and beverages, including coffee, soup, and other
20 items, and replacement parts for these machines. Beginning
21 January 1, 2002 and through June 30, 2003, machines and parts
22 for machines used in commercial, coin-operated amusement and
23 vending business if a use or occupation tax is paid on the
24 gross receipts derived from the use of the commercial,
25 coin-operated amusement and vending machines. This paragraph
26 is exempt from the provisions of Section 2-70.

1 (35-5) Beginning August 23, 2001 and through June 30, 2011,
2 food for human consumption that is to be consumed off the
3 premises where it is sold (other than alcoholic beverages, soft
4 drinks, and food that has been prepared for immediate
5 consumption) and prescription and nonprescription medicines,
6 drugs, medical appliances, and insulin, urine testing
7 materials, syringes, and needles used by diabetics, for human
8 use, when purchased for use by a person receiving medical
9 assistance under Article 5 of the Illinois Public Aid Code who
10 resides in a licensed long-term care facility, as defined in
11 the Nursing Home Care Act.

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

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

1 Section 2-70.

2 (38) Beginning on January 1, 2002 and through June 30,
3 2011, tangible personal property purchased from an Illinois
4 retailer by a taxpayer engaged in centralized purchasing
5 activities in Illinois who will, upon receipt of the property
6 in Illinois, temporarily store the property in Illinois (i) for
7 the purpose of subsequently transporting it outside this State
8 for use or consumption thereafter solely outside this State or
9 (ii) for the purpose of being processed, fabricated, or
10 manufactured into, attached to, or incorporated into other
11 tangible personal property to be transported outside this State
12 and thereafter used or consumed solely outside this State. The
13 Director of Revenue shall, pursuant to rules adopted in
14 accordance with the Illinois Administrative Procedure Act,
15 issue a permit to any taxpayer in good standing with the
16 Department who is eligible for the exemption under this
17 paragraph (38). The permit issued under this paragraph (38)
18 shall authorize the holder, to the extent and in the manner
19 specified in the rules adopted under this Act, to purchase
20 tangible personal property from a retailer exempt from the
21 taxes imposed by this Act. Taxpayers shall maintain all
22 necessary books and records to substantiate the use and
23 consumption of all such tangible personal property outside of
24 the State of Illinois.

25 (39) Beginning January 1, 2008, tangible personal property
26 used in the construction or maintenance of a community water

1 supply, as defined under Section 3.145 of the Environmental
2 Protection Act, that is operated by a not-for-profit
3 corporation that holds a valid water supply permit issued under
4 Title IV of the Environmental Protection Act. This paragraph is
5 exempt from the provisions of Section 2-70.

6 (40) Materials, replacement parts, and equipment purchased
7 for use directly upon or for the modification, completion,
8 replacement, repair, or maintenance of aircraft, aircraft
9 power plants, or aircraft accessories.

10 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233,
11 eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08;
12 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)

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