

HB5948



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5948

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-85
35 ILCS 110/3-70

Amends the Use Tax Act and the Service Use Tax Act. Extends the Manufacturer's Purchase Credit until August 30, 2019 (now, August 30, 2014). Effective immediately.

LRB098 19254 HLH 54406 b

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section
5 3-85 as follows:

6 (35 ILCS 105/3-85)

7 Sec. 3-85. Manufacturer's Purchase Credit. For purchases
8 of machinery and equipment made on and after January 1, 1995
9 through June 30, 2003, and on and after September 1, 2004
10 through August 30, 2019 ~~August 30, 2014~~, a purchaser of
11 manufacturing machinery and equipment that qualifies for the
12 exemption provided by paragraph (18) of Section 3-5 of this Act
13 earns a credit in an amount equal to a fixed percentage of the
14 tax which would have been incurred under this Act on those
15 purchases. For purchases of graphic arts machinery and
16 equipment made on or after July 1, 1996 and through June 30,
17 2003, and on and after September 1, 2004 through August 30,
18 2019 ~~August 30, 2014~~, a purchaser of graphic arts machinery and
19 equipment that qualifies for the exemption provided by
20 paragraph (6) of Section 3-5 of this Act earns a credit in an
21 amount equal to a fixed percentage of the tax that would have
22 been incurred under this Act on those purchases. The credit
23 earned for purchases of manufacturing machinery and equipment

1 or graphic arts machinery and equipment shall be referred to as
2 the Manufacturer's Purchase Credit. A graphic arts producer is
3 a person engaged in graphic arts production as defined in
4 Section 2-30 of the Retailers' Occupation Tax Act. Beginning
5 July 1, 1996, all references in this Section to manufacturers
6 or manufacturing shall also be deemed to refer to graphic arts
7 producers or graphic arts production.

8 The amount of credit shall be a percentage of the tax that
9 would have been incurred on the purchase of manufacturing
10 machinery and equipment or graphic arts machinery and equipment
11 if the exemptions provided by paragraph (6) or paragraph (18)
12 of Section 3-5 of this Act had not been applicable. The
13 percentage shall be as follows:

14 (1) 15% for purchases made on or before June 30, 1995.

15 (2) 25% for purchases made after June 30, 1995, and on
16 or before June 30, 1996.

17 (3) 40% for purchases made after June 30, 1996, and on
18 or before June 30, 1997.

19 (4) 50% for purchases made on or after July 1, 1997.

20 (a) Manufacturer's Purchase Credit earned prior to July 1,
21 2003. This subsection (a) applies to Manufacturer's Purchase
22 Credit earned prior to July 1, 2003. A purchaser of production
23 related tangible personal property desiring to use the
24 Manufacturer's Purchase Credit shall certify to the seller
25 prior to October 1, 2003 that the purchaser is satisfying all
26 or part of the liability under the Use Tax Act or the Service

1 Use Tax Act that is due on the purchase of the production
2 related tangible personal property by use of Manufacturer's
3 Purchase Credit. The Manufacturer's Purchase Credit
4 certification must be dated and shall include the name and
5 address of the purchaser, the purchaser's registration number,
6 if registered, the credit being applied, and a statement that
7 the State Use Tax or Service Use Tax liability is being
8 satisfied with the manufacturer's or graphic arts producer's
9 accumulated purchase credit. Certification may be incorporated
10 into the manufacturer's or graphic arts producer's purchase
11 order. Manufacturer's Purchase Credit certification provided
12 by the manufacturer or graphic arts producer prior to October
13 1, 2003 may be used to satisfy the retailer's or serviceman's
14 liability under the Retailers' Occupation Tax Act or Service
15 Occupation Tax Act for the credit claimed, not to exceed 6.25%
16 of the receipts subject to tax from a qualifying purchase, but
17 only if the retailer or serviceman reports the Manufacturer's
18 Purchase Credit claimed as required by the Department. A
19 Manufacturer's Purchase Credit reported on any original or
20 amended return filed under this Act after October 20, 2003
21 shall be disallowed. The Manufacturer's Purchase Credit earned
22 by purchase of exempt manufacturing machinery and equipment or
23 graphic arts machinery and equipment is a non-transferable
24 credit. A manufacturer or graphic arts producer that enters
25 into a contract involving the installation of tangible personal
26 property into real estate within a manufacturing or graphic

1 arts production facility may, prior to October 1, 2003,
2 authorize a construction contractor to utilize credit
3 accumulated by the manufacturer or graphic arts producer to
4 purchase the tangible personal property. A manufacturer or
5 graphic arts producer intending to use accumulated credit to
6 purchase such tangible personal property shall execute a
7 written contract authorizing the contractor to utilize a
8 specified dollar amount of credit. The contractor shall
9 furnish, prior to October 1, 2003, the supplier with the
10 manufacturer's or graphic arts producer's name, registration
11 or resale number, and a statement that a specific amount of the
12 Use Tax or Service Use Tax liability, not to exceed 6.25% of
13 the selling price, is being satisfied with the credit. The
14 manufacturer or graphic arts producer shall remain liable to
15 timely report all information required by the annual Report of
16 Manufacturer's Purchase Credit Used for all credit utilized by
17 a construction contractor.

18 No Manufacturer's Purchase Credit earned prior to July 1,
19 2003 may be used after October 1, 2003. The Manufacturer's
20 Purchase Credit may be used to satisfy liability under the Use
21 Tax Act or the Service Use Tax Act due on the purchase of
22 production related tangible personal property (including
23 purchases by a manufacturer, by a graphic arts producer, or by
24 a lessor who rents or leases the use of the property to a
25 manufacturer or graphic arts producer) that does not otherwise
26 qualify for the manufacturing machinery and equipment

1 exemption or the graphic arts machinery and equipment
2 exemption. "Production related tangible personal property"
3 means (i) all tangible personal property used or consumed by
4 the purchaser in a manufacturing facility in which a
5 manufacturing process described in Section 2-45 of the
6 Retailers' Occupation Tax Act takes place, including tangible
7 personal property purchased for incorporation into real estate
8 within a manufacturing facility and including, but not limited
9 to, tangible personal property used or consumed in activities
10 such as preproduction material handling, receiving, quality
11 control, inventory control, storage, staging, and packaging
12 for shipping and transportation purposes; (ii) all tangible
13 personal property used or consumed by the purchaser in a
14 graphic arts facility in which graphic arts production as
15 described in Section 2-30 of the Retailers' Occupation Tax Act
16 takes place, including tangible personal property purchased
17 for incorporation into real estate within a graphic arts
18 facility and including, but not limited to, all tangible
19 personal property used or consumed in activities such as
20 graphic arts preliminary or pre-press production,
21 pre-production material handling, receiving, quality control,
22 inventory control, storage, staging, sorting, labeling,
23 mailing, tying, wrapping, and packaging; and (iii) all tangible
24 personal property used or consumed by the purchaser for
25 research and development. "Production related tangible
26 personal property" does not include (i) tangible personal

1 property used, within or without a manufacturing facility, in
2 sales, purchasing, accounting, fiscal management, marketing,
3 personnel recruitment or selection, or landscaping or (ii)
4 tangible personal property required to be titled or registered
5 with a department, agency, or unit of federal, state, or local
6 government. The Manufacturer's Purchase Credit may be used,
7 prior to October 1, 2003, to satisfy the tax arising either
8 from the purchase of machinery and equipment on or after
9 January 1, 1995 for which the exemption provided by paragraph
10 (18) of Section 3-5 of this Act was erroneously claimed, or the
11 purchase of machinery and equipment on or after July 1, 1996
12 for which the exemption provided by paragraph (6) of Section
13 3-5 of this Act was erroneously claimed, but not in
14 satisfaction of penalty, if any, and interest for failure to
15 pay the tax when due. A purchaser of production related
16 tangible personal property who is required to pay Illinois Use
17 Tax or Service Use Tax on the purchase directly to the
18 Department may, prior to October 1, 2003, utilize the
19 Manufacturer's Purchase Credit in satisfaction of the tax
20 arising from that purchase, but not in satisfaction of penalty
21 and interest. A purchaser who uses the Manufacturer's Purchase
22 Credit to purchase property which is later determined not to be
23 production related tangible personal property may be liable for
24 tax, penalty, and interest on the purchase of that property as
25 of the date of purchase but shall be entitled to use the
26 disallowed Manufacturer's Purchase Credit, so long as it has

1 not expired and is used prior to October 1, 2003, on qualifying
2 purchases of production related tangible personal property not
3 previously subject to credit usage. The Manufacturer's
4 Purchase Credit earned by a manufacturer or graphic arts
5 producer expires the last day of the second calendar year
6 following the calendar year in which the credit arose. No
7 Manufacturer's Purchase Credit may be used after September 30,
8 2003 regardless of when that credit was earned.

9 A purchaser earning Manufacturer's Purchase Credit shall
10 sign and file an annual Report of Manufacturer's Purchase
11 Credit Earned for each calendar year no later than the last day
12 of the sixth month following the calendar year in which a
13 Manufacturer's Purchase Credit is earned. A Report of
14 Manufacturer's Purchase Credit Earned shall be filed on forms
15 as prescribed or approved by the Department and shall state,
16 for each month of the calendar year: (i) the total purchase
17 price of all purchases of exempt manufacturing or graphic arts
18 machinery on which the credit was earned; (ii) the total State
19 Use Tax or Service Use Tax which would have been due on those
20 items; (iii) the percentage used to calculate the amount of
21 credit earned; (iv) the amount of credit earned; and (v) such
22 other information as the Department may reasonably require. A
23 purchaser earning Manufacturer's Purchase Credit shall
24 maintain records which identify, as to each purchase of
25 manufacturing or graphic arts machinery and equipment on which
26 the purchaser earned Manufacturer's Purchase Credit, the

1 vendor (including, if applicable, either the vendor's
2 registration number or Federal Employer Identification
3 Number), the purchase price, and the amount of Manufacturer's
4 Purchase Credit earned on each purchase.

5 A purchaser using Manufacturer's Purchase Credit shall
6 sign and file an annual Report of Manufacturer's Purchase
7 Credit Used for each calendar year no later than the last day
8 of the sixth month following the calendar year in which a
9 Manufacturer's Purchase Credit is used. A Report of
10 Manufacturer's Purchase Credit Used shall be filed on forms as
11 prescribed or approved by the Department and shall state, for
12 each month of the calendar year: (i) the total purchase price
13 of production related tangible personal property purchased
14 from Illinois suppliers; (ii) the total purchase price of
15 production related tangible personal property purchased from
16 out-of-state suppliers; (iii) the total amount of credit used
17 during such month; and (iv) such other information as the
18 Department may reasonably require. A purchaser using
19 Manufacturer's Purchase Credit shall maintain records that
20 identify, as to each purchase of production related tangible
21 personal property on which the purchaser used Manufacturer's
22 Purchase Credit, the vendor (including, if applicable, either
23 the vendor's registration number or Federal Employer
24 Identification Number), the purchase price, and the amount of
25 Manufacturer's Purchase Credit used on each purchase.

26 No annual report shall be filed before May 1, 1996 or after

1 June 30, 2004. A purchaser that fails to file an annual Report
2 of Manufacturer's Purchase Credit Earned or an annual Report of
3 Manufacturer's Purchase Credit Used by the last day of the
4 sixth month following the end of the calendar year shall
5 forfeit all Manufacturer's Purchase Credit for that calendar
6 year unless it establishes that its failure to file was due to
7 reasonable cause. Manufacturer's Purchase Credit reports may
8 be amended to report and claim credit on qualifying purchases
9 not previously reported at any time before the credit would
10 have expired, unless both the Department and the purchaser have
11 agreed to an extension of the statute of limitations for the
12 issuance of a notice of tax liability as provided in Section 4
13 of the Retailers' Occupation Tax Act. If the time for
14 assessment or refund has been extended, then amended reports
15 for a calendar year may be filed at any time prior to the date
16 to which the statute of limitations for the calendar year or
17 portion thereof has been extended. No Manufacturer's Purchase
18 Credit report filed with the Department for periods prior to
19 January 1, 1995 shall be approved. Manufacturer's Purchase
20 Credit claimed on an amended report may be used, until October
21 1, 2003, to satisfy tax liability under the Use Tax Act or the
22 Service Use Tax Act (i) on qualifying purchases of production
23 related tangible personal property made after the date the
24 amended report is filed or (ii) assessed by the Department on
25 qualifying purchases of production related tangible personal
26 property made in the case of manufacturers on or after January

1 1, 1995, or in the case of graphic arts producers on or after
2 July 1, 1996.

3 If the purchaser is not the manufacturer or a graphic arts
4 producer, but rents or leases the use of the property to a
5 manufacturer or graphic arts producer, the purchaser may earn,
6 report, and use Manufacturer's Purchase Credit in the same
7 manner as a manufacturer or graphic arts producer.

8 A purchaser shall not be entitled to any Manufacturer's
9 Purchase Credit for a purchase that is required to be reported
10 and is not timely reported as provided in this Section. A
11 purchaser remains liable for (i) any tax that was satisfied by
12 use of a Manufacturer's Purchase Credit, as of the date of
13 purchase, if that use is not timely reported as required in
14 this Section and (ii) for any applicable penalties and interest
15 for failing to pay the tax when due. No Manufacturer's Purchase
16 Credit may be used after September 30, 2003 to satisfy any tax
17 liability imposed under this Act, including any audit
18 liability.

19 (b) Manufacturer's Purchase Credit earned on and after
20 September 1, 2004. This subsection (b) applies to
21 Manufacturer's Purchase Credit earned on and after September 1,
22 2004. Manufacturer's Purchase Credit earned on or after
23 September 1, 2004 may only be used to satisfy the Use Tax or
24 Service Use Tax liability incurred on production related
25 tangible personal property purchased on or after September 1,
26 2004. A purchaser of production related tangible personal

1 property desiring to use the Manufacturer's Purchase Credit
2 shall certify to the seller that the purchaser is satisfying
3 all or part of the liability under the Use Tax Act or the
4 Service Use Tax Act that is due on the purchase of the
5 production related tangible personal property by use of
6 Manufacturer's Purchase Credit. The Manufacturer's Purchase
7 Credit certification must be dated and shall include the name
8 and address of the purchaser, the purchaser's registration
9 number, if registered, the credit being applied, and a
10 statement that the State Use Tax or Service Use Tax liability
11 is being satisfied with the manufacturer's or graphic arts
12 producer's accumulated purchase credit. Certification may be
13 incorporated into the manufacturer's or graphic arts
14 producer's purchase order. Manufacturer's Purchase Credit
15 certification provided by the manufacturer or graphic arts
16 producer may be used to satisfy the retailer's or serviceman's
17 liability under the Retailers' Occupation Tax Act or Service
18 Occupation Tax Act for the credit claimed, not to exceed 6.25%
19 of the receipts subject to tax from a qualifying purchase, but
20 only if the retailer or serviceman reports the Manufacturer's
21 Purchase Credit claimed as required by the Department. The
22 Manufacturer's Purchase Credit earned by purchase of exempt
23 manufacturing machinery and equipment or graphic arts
24 machinery and equipment is a non-transferable credit. A
25 manufacturer or graphic arts producer that enters into a
26 contract involving the installation of tangible personal

1 property into real estate within a manufacturing or graphic
2 arts production facility may, on or after September 1, 2004,
3 authorize a construction contractor to utilize credit
4 accumulated by the manufacturer or graphic arts producer to
5 purchase the tangible personal property. A manufacturer or
6 graphic arts producer intending to use accumulated credit to
7 purchase such tangible personal property shall execute a
8 written contract authorizing the contractor to utilize a
9 specified dollar amount of credit. The contractor shall furnish
10 the supplier with the manufacturer's or graphic arts producer's
11 name, registration or resale number, and a statement that a
12 specific amount of the Use Tax or Service Use Tax liability,
13 not to exceed 6.25% of the selling price, is being satisfied
14 with the credit. The manufacturer or graphic arts producer
15 shall remain liable to timely report all information required
16 by the annual Report of Manufacturer's Purchase Credit Used for
17 all credit utilized by a construction contractor.

18 The Manufacturer's Purchase Credit may be used to satisfy
19 liability under the Use Tax Act or the Service Use Tax Act due
20 on the purchase, made on or after September 1, 2004, of
21 production related tangible personal property (including
22 purchases by a manufacturer, by a graphic arts producer, or by
23 a lessor who rents or leases the use of the property to a
24 manufacturer or graphic arts producer) that does not otherwise
25 qualify for the manufacturing machinery and equipment
26 exemption or the graphic arts machinery and equipment

1 exemption. "Production related tangible personal property"
2 means (i) all tangible personal property used or consumed by
3 the purchaser in a manufacturing facility in which a
4 manufacturing process described in Section 2-45 of the
5 Retailers' Occupation Tax Act takes place, including tangible
6 personal property purchased for incorporation into real estate
7 within a manufacturing facility and including, but not limited
8 to, tangible personal property used or consumed in activities
9 such as preproduction material handling, receiving, quality
10 control, inventory control, storage, staging, and packaging
11 for shipping and transportation purposes; (ii) all tangible
12 personal property used or consumed by the purchaser in a
13 graphic arts facility in which graphic arts production as
14 described in Section 2-30 of the Retailers' Occupation Tax Act
15 takes place, including tangible personal property purchased
16 for incorporation into real estate within a graphic arts
17 facility and including, but not limited to, all tangible
18 personal property used or consumed in activities such as
19 graphic arts preliminary or pre-press production,
20 pre-production material handling, receiving, quality control,
21 inventory control, storage, staging, sorting, labeling,
22 mailing, tying, wrapping, and packaging; and (iii) all tangible
23 personal property used or consumed by the purchaser for
24 research and development. "Production related tangible
25 personal property" does not include (i) tangible personal
26 property used, within or without a manufacturing facility, in

1 sales, purchasing, accounting, fiscal management, marketing,
2 personnel recruitment or selection, or landscaping or (ii)
3 tangible personal property required to be titled or registered
4 with a department, agency, or unit of federal, state, or local
5 government. The Manufacturer's Purchase Credit may be used to
6 satisfy the tax arising either from the purchase of machinery
7 and equipment on or after September 1, 2004 for which the
8 exemption provided by paragraph (18) of Section 3-5 of this Act
9 was erroneously claimed, or the purchase of machinery and
10 equipment on or after September 1, 2004 for which the exemption
11 provided by paragraph (6) of Section 3-5 of this Act was
12 erroneously claimed, but not in satisfaction of penalty, if
13 any, and interest for failure to pay the tax when due. A
14 purchaser of production related tangible personal property
15 that is purchased on or after September 1, 2004 who is required
16 to pay Illinois Use Tax or Service Use Tax on the purchase
17 directly to the Department may utilize the Manufacturer's
18 Purchase Credit in satisfaction of the tax arising from that
19 purchase, but not in satisfaction of penalty and interest. A
20 purchaser who uses the Manufacturer's Purchase Credit to
21 purchase property on and after September 1, 2004 which is later
22 determined not to be production related tangible personal
23 property may be liable for tax, penalty, and interest on the
24 purchase of that property as of the date of purchase but shall
25 be entitled to use the disallowed Manufacturer's Purchase
26 Credit, so long as it has not expired and is used on qualifying

1 purchases of production related tangible personal property not
2 previously subject to credit usage. The Manufacturer's
3 Purchase Credit earned by a manufacturer or graphic arts
4 producer expires the last day of the second calendar year
5 following the calendar year in which the credit arose. A
6 purchaser earning Manufacturer's Purchase Credit shall sign
7 and file an annual Report of Manufacturer's Purchase Credit
8 Earned for each calendar year no later than the last day of the
9 sixth month following the calendar year in which a
10 Manufacturer's Purchase Credit is earned. A Report of
11 Manufacturer's Purchase Credit Earned shall be filed on forms
12 as prescribed or approved by the Department and shall state,
13 for each month of the calendar year: (i) the total purchase
14 price of all purchases of exempt manufacturing or graphic arts
15 machinery on which the credit was earned; (ii) the total State
16 Use Tax or Service Use Tax which would have been due on those
17 items; (iii) the percentage used to calculate the amount of
18 credit earned; (iv) the amount of credit earned; and (v) such
19 other information as the Department may reasonably require. A
20 purchaser earning Manufacturer's Purchase Credit shall
21 maintain records which identify, as to each purchase of
22 manufacturing or graphic arts machinery and equipment on which
23 the purchaser earned Manufacturer's Purchase Credit, the
24 vendor (including, if applicable, either the vendor's
25 registration number or Federal Employer Identification
26 Number), the purchase price, and the amount of Manufacturer's

1 Purchase Credit earned on each purchase. A purchaser using
2 Manufacturer's Purchase Credit shall sign and file an annual
3 Report of Manufacturer's Purchase Credit Used for each calendar
4 year no later than the last day of the sixth month following
5 the calendar year in which a Manufacturer's Purchase Credit is
6 used. A Report of Manufacturer's Purchase Credit Used shall be
7 filed on forms as prescribed or approved by the Department and
8 shall state, for each month of the calendar year: (i) the total
9 purchase price of production related tangible personal
10 property purchased from Illinois suppliers; (ii) the total
11 purchase price of production related tangible personal
12 property purchased from out-of-state suppliers; (iii) the
13 total amount of credit used during such month; and (iv) such
14 other information as the Department may reasonably require. A
15 purchaser using Manufacturer's Purchase Credit shall maintain
16 records that identify, as to each purchase of production
17 related tangible personal property on which the purchaser used
18 Manufacturer's Purchase Credit, the vendor (including, if
19 applicable, either the vendor's registration number or Federal
20 Employer Identification Number), the purchase price, and the
21 amount of Manufacturer's Purchase Credit used on each purchase.

22 A purchaser that fails to file an annual Report of
23 Manufacturer's Purchase Credit Earned or an annual Report of
24 Manufacturer's Purchase Credit Used by the last day of the
25 sixth month following the end of the calendar year shall
26 forfeit all Manufacturer's Purchase Credit for that calendar

1 year unless it establishes that its failure to file was due to
2 reasonable cause. Manufacturer's Purchase Credit reports may
3 be amended to report and claim credit on qualifying purchases
4 not previously reported at any time before the credit would
5 have expired, unless both the Department and the purchaser have
6 agreed to an extension of the statute of limitations for the
7 issuance of a notice of tax liability as provided in Section 4
8 of the Retailers' Occupation Tax Act. If the time for
9 assessment or refund has been extended, then amended reports
10 for a calendar year may be filed at any time prior to the date
11 to which the statute of limitations for the calendar year or
12 portion thereof has been extended. Manufacturer's Purchase
13 Credit claimed on an amended report may be used to satisfy tax
14 liability under the Use Tax Act or the Service Use Tax Act (i)
15 on qualifying purchases of production related tangible
16 personal property made after the date the amended report is
17 filed or (ii) assessed by the Department on qualifying
18 production related tangible personal property purchased on or
19 after September 1, 2004. If the purchaser is not the
20 manufacturer or a graphic arts producer, but rents or leases
21 the use of the property to a manufacturer or graphic arts
22 producer, the purchaser may earn, report, and use
23 Manufacturer's Purchase Credit in the same manner as a
24 manufacturer or graphic arts producer. A purchaser shall not be
25 entitled to any Manufacturer's Purchase Credit for a purchase
26 that is required to be reported and is not timely reported as

1 provided in this Section. A purchaser remains liable for (i)
2 any tax that was satisfied by use of a Manufacturer's Purchase
3 Credit, as of the date of purchase, if that use is not timely
4 reported as required in this Section and (ii) for any
5 applicable penalties and interest for failing to pay the tax
6 when due.

7 (Source: P.A. 96-116, eff. 7-31-09.)

8 Section 10. The Service Use Tax Act is amended by changing
9 Section 3-70 as follows:

10 (35 ILCS 110/3-70)

11 Sec. 3-70. Manufacturer's Purchase Credit. For purchases
12 of machinery and equipment made on and after January 1, 1995
13 and through June 30, 2003, and on and after September 1, 2004
14 through August 30, 2019 ~~August 30, 2014~~, a purchaser of
15 manufacturing machinery and equipment that qualifies for the
16 exemption provided by Section 2 of this Act earns a credit in
17 an amount equal to a fixed percentage of the tax which would
18 have been incurred under this Act on those purchases. For
19 purchases of graphic arts machinery and equipment made on or
20 after July 1, 1996 through June 30, 2003, and on and after
21 September 1, 2004 through August 30, 2019 ~~August 30, 2014~~, a
22 purchase of graphic arts machinery and equipment that qualifies
23 for the exemption provided by paragraph (5) of Section 3-5 of
24 this Act earns a credit in an amount equal to a fixed

1 percentage of the tax that would have been incurred under this
2 Act on those purchases. The credit earned for the purchase of
3 manufacturing machinery and equipment and graphic arts
4 machinery and equipment shall be referred to as the
5 Manufacturer's Purchase Credit. A graphic arts producer is a
6 person engaged in graphic arts production as defined in Section
7 3-30 of the Service Occupation Tax Act. Beginning July 1, 1996,
8 all references in this Section to manufacturers or
9 manufacturing shall also refer to graphic arts producers or
10 graphic arts production.

11 The amount of credit shall be a percentage of the tax that
12 would have been incurred on the purchase of the manufacturing
13 machinery and equipment or graphic arts machinery and equipment
14 if the exemptions provided by Section 2 or paragraph (5) of
15 Section 3-5 of this Act had not been applicable.

16 All purchases prior to October 1, 2003 of manufacturing
17 machinery and equipment and graphic arts machinery and
18 equipment that qualify for the exemptions provided by paragraph
19 (5) of Section 2 or paragraph (5) of Section 3-5 of this Act
20 qualify for the credit without regard to whether the serviceman
21 elected, or could have elected, under paragraph (7) of Section
22 2 of this Act to exclude the transaction from this Act. If the
23 serviceman's billing to the service customer separately states
24 a selling price for the exempt manufacturing machinery or
25 equipment or the exempt graphic arts machinery and equipment,
26 the credit shall be calculated, as otherwise provided herein,

1 based on that selling price. If the serviceman's billing does
2 not separately state a selling price for the exempt
3 manufacturing machinery and equipment or the exempt graphic
4 arts machinery and equipment, the credit shall be calculated,
5 as otherwise provided herein, based on 50% of the entire
6 billing. If the serviceman contracts to design, develop, and
7 produce special order manufacturing machinery and equipment or
8 special order graphic arts machinery and equipment, and the
9 billing does not separately state a selling price for such
10 special order machinery and equipment, the credit shall be
11 calculated, as otherwise provided herein, based on 50% of the
12 entire billing. The provisions of this paragraph are effective
13 for purchases made on or after January 1, 1995.

14 The percentage shall be as follows:

15 (1) 15% for purchases made on or before June 30, 1995.

16 (2) 25% for purchases made after June 30, 1995, and on
17 or before June 30, 1996.

18 (3) 40% for purchases made after June 30, 1996, and on
19 or before June 30, 1997.

20 (4) 50% for purchases made on or after July 1, 1997.

21 (a) Manufacturer's Purchase Credit earned prior to July 1,
22 2003. This subsection (a) applies to Manufacturer's Purchase
23 Credit earned prior to July 1, 2003. A purchaser of production
24 related tangible personal property desiring to use the
25 Manufacturer's Purchase Credit shall certify to the seller
26 prior to October 1, 2003 that the purchaser is satisfying all

1 or part of the liability under the Use Tax Act or the Service
2 Use Tax Act that is due on the purchase of the production
3 related tangible personal property by use of a Manufacturer's
4 Purchase Credit. The Manufacturer's Purchase Credit
5 certification must be dated and shall include the name and
6 address of the purchaser, the purchaser's registration number,
7 if registered, the credit being applied, and a statement that
8 the State Use Tax or Service Use Tax liability is being
9 satisfied with the manufacturer's or graphic arts producer's
10 accumulated purchase credit. Certification may be incorporated
11 into the manufacturer's or graphic arts producer's purchase
12 order. Manufacturer's Purchase Credit certification provided
13 by the manufacturer or graphic arts producer prior to October
14 1, 2003 may be used to satisfy the retailer's or serviceman's
15 liability under the Retailers' Occupation Tax Act or Service
16 Occupation Tax Act for the credit claimed, not to exceed 6.25%
17 of the receipts subject to tax from a qualifying purchase, but
18 only if the retailer or serviceman reports the Manufacturer's
19 Purchase Credit claimed as required by the Department. A
20 Manufacturer's Purchase Credit reported on any original or
21 amended return filed under this Act after October 20, 2003
22 shall be disallowed. The Manufacturer's Purchase Credit earned
23 by purchase of exempt manufacturing machinery and equipment or
24 graphic arts machinery and equipment is a non-transferable
25 credit. A manufacturer or graphic arts producer that enters
26 into a contract involving the installation of tangible personal

1 property into real estate within a manufacturing or graphic
2 arts production facility, prior to October 1, 2003, may
3 authorize a construction contractor to utilize credit
4 accumulated by the manufacturer or graphic arts producer to
5 purchase the tangible personal property. A manufacturer or
6 graphic arts producer intending to use accumulated credit to
7 purchase such tangible personal property shall execute a
8 written contract authorizing the contractor to utilize a
9 specified dollar amount of credit. The contractor shall
10 furnish, prior to October 1, 2003, the supplier with the
11 manufacturer's or graphic arts producer's name, registration
12 or resale number, and a statement that a specific amount of the
13 Use Tax or Service Use Tax liability, not to exceed 6.25% of
14 the selling price, is being satisfied with the credit. The
15 manufacturer or graphic arts producer shall remain liable to
16 timely report all information required by the annual Report of
17 Manufacturer's Purchase Credit Used for credit utilized by a
18 construction contractor.

19 No Manufacturer's Purchase Credit earned prior to July 1,
20 2003 may be used after October 1, 2003. The Manufacturer's
21 Purchase Credit may be used to satisfy liability under the Use
22 Tax Act or the Service Use Tax Act due on the purchase of
23 production related tangible personal property (including
24 purchases by a manufacturer, by a graphic arts producer, or a
25 lessor who rents or leases the use of the property to a
26 manufacturer or graphic arts producer) that does not otherwise

1 qualify for the manufacturing machinery and equipment
2 exemption or the graphic arts machinery and equipment
3 exemption. "Production related tangible personal property"
4 means (i) all tangible personal property used or consumed by
5 the purchaser in a manufacturing facility in which a
6 manufacturing process described in Section 2-45 of the
7 Retailers' Occupation Tax Act takes place, including tangible
8 personal property purchased for incorporation into real estate
9 within a manufacturing facility and including, but not limited
10 to, tangible personal property used or consumed in activities
11 such as pre-production material handling, receiving, quality
12 control, inventory control, storage, staging, and packaging
13 for shipping and transportation purposes; (ii) all tangible
14 personal property used or consumed by the purchaser in a
15 graphic arts facility in which graphic arts production as
16 described in Section 2-30 of the Retailers' Occupation Tax Act
17 takes place, including tangible personal property purchased
18 for incorporation into real estate within a graphic arts
19 facility and including, but not limited to, all tangible
20 personal property used or consumed in activities such as
21 graphic arts preliminary or pre-press production,
22 pre-production material handling, receiving, quality control,
23 inventory control, storage, staging, sorting, labeling,
24 mailing, tying, wrapping, and packaging; and (iii) all tangible
25 personal property used or consumed by the purchaser for
26 research and development. "Production related tangible

1 personal property" does not include (i) tangible personal
2 property used, within or without a manufacturing or graphic
3 arts facility, in sales, purchasing, accounting, fiscal
4 management, marketing, personnel recruitment or selection, or
5 landscaping or (ii) tangible personal property required to be
6 titled or registered with a department, agency, or unit of
7 federal, state, or local government. The Manufacturer's
8 Purchase Credit may be used, prior to October 1, 2003, to
9 satisfy the tax arising either from the purchase of machinery
10 and equipment on or after January 1, 1995 for which the
11 manufacturing machinery and equipment exemption provided by
12 Section 2 of this Act was erroneously claimed, or the purchase
13 of machinery and equipment on or after July 1, 1996 for which
14 the exemption provided by paragraph (5) of Section 3-5 of this
15 Act was erroneously claimed, but not in satisfaction of
16 penalty, if any, and interest for failure to pay the tax when
17 due. A purchaser of production related tangible personal
18 property who is required to pay Illinois Use Tax or Service Use
19 Tax on the purchase directly to the Department may, prior to
20 October 1, 2003, utilize the Manufacturer's Purchase Credit in
21 satisfaction of the tax arising from that purchase, but not in
22 satisfaction of penalty and interest. A purchaser who uses the
23 Manufacturer's Purchase Credit to purchase property which is
24 later determined not to be production related tangible personal
25 property may be liable for tax, penalty, and interest on the
26 purchase of that property as of the date of purchase but shall

1 be entitled to use the disallowed Manufacturer's Purchase
2 Credit, so long as it has not expired and is used prior to
3 October 1, 2003, on qualifying purchases of production related
4 tangible personal property not previously subject to credit
5 usage. The Manufacturer's Purchase Credit earned by a
6 manufacturer or graphic arts producer expires the last day of
7 the second calendar year following the calendar year in which
8 the credit arose. No Manufacturer's Purchase Credit may be used
9 after September 30, 2003 regardless of when that credit was
10 earned.

11 A purchaser earning Manufacturer's Purchase Credit shall
12 sign and file an annual Report of Manufacturer's Purchase
13 Credit Earned for each calendar year no later than the last day
14 of the sixth month following the calendar year in which a
15 Manufacturer's Purchase Credit is earned. A Report of
16 Manufacturer's Purchase Credit Earned shall be filed on forms
17 as prescribed or approved by the Department and shall state,
18 for each month of the calendar year: (i) the total purchase
19 price of all purchases of exempt manufacturing or graphic arts
20 machinery on which the credit was earned; (ii) the total State
21 Use Tax or Service Use Tax which would have been due on those
22 items; (iii) the percentage used to calculate the amount of
23 credit earned; (iv) the amount of credit earned; and (v) such
24 other information as the Department may reasonably require. A
25 purchaser earning Manufacturer's Purchase Credit shall
26 maintain records which identify, as to each purchase of

1 manufacturing or graphic arts machinery and equipment on which
2 the purchaser earned Manufacturer's Purchase Credit, the
3 vendor (including, if applicable, either the vendor's
4 registration number or Federal Employer Identification
5 Number), the purchase price, and the amount of Manufacturer's
6 Purchase Credit earned on each purchase.

7 A purchaser using Manufacturer's Purchase Credit shall
8 sign and file an annual Report of Manufacturer's Purchase
9 Credit Used for each calendar year no later than the last day
10 of the sixth month following the calendar year in which a
11 Manufacturer's Purchase Credit is used. A Report of
12 Manufacturer's Purchase Credit Used shall be filed on forms as
13 prescribed or approved by the Department and shall state, for
14 each month of the calendar year: (i) the total purchase price
15 of production related tangible personal property purchased
16 from Illinois suppliers; (ii) the total purchase price of
17 production related tangible personal property purchased from
18 out-of-state suppliers; (iii) the total amount of credit used
19 during such month; and (iv) such other information as the
20 Department may reasonably require. A purchaser using
21 Manufacturer's Purchase Credit shall maintain records that
22 identify, as to each purchase of production related tangible
23 personal property on which the purchaser used Manufacturer's
24 Purchase Credit, the vendor (including, if applicable, either
25 the vendor's registration number or Federal Employer
26 Identification Number), the purchase price, and the amount of

1 Manufacturer's Purchase Credit used on each purchase.

2 No annual report shall be filed before May 1, 1996 or after
3 June 30, 2004. A purchaser that fails to file an annual Report
4 of Manufacturer's Purchase Credit Earned or an annual Report of
5 Manufacturer's Purchase Credit Used by the last day of the
6 sixth month following the end of the calendar year shall
7 forfeit all Manufacturer's Purchase Credit for that calendar
8 year unless it establishes that its failure to file was due to
9 reasonable cause. Manufacturer's Purchase Credit reports may
10 be amended to report and claim credit on qualifying purchases
11 not previously reported at any time before the credit would
12 have expired, unless both the Department and the purchaser have
13 agreed to an extension of the statute of limitations for the
14 issuance of a notice of tax liability as provided in Section 4
15 of the Retailers' Occupation Tax Act. If the time for
16 assessment or refund has been extended, then amended reports
17 for a calendar year may be filed at any time prior to the date
18 to which the statute of limitations for the calendar year or
19 portion thereof has been extended. No Manufacturer's Purchase
20 Credit report filed with the Department for periods prior to
21 January 1, 1995 shall be approved. Manufacturer's Purchase
22 Credit claimed on an amended report may be used, prior to
23 October 1, 2003, to satisfy tax liability under the Use Tax Act
24 or the Service Use Tax Act (i) on qualifying purchases of
25 production related tangible personal property made after the
26 date the amended report is filed or (ii) assessed by the

1 Department on qualifying purchases of production related
2 tangible personal property made in the case of manufacturers on
3 or after January 1, 1995, or in the case of graphic arts
4 producers on or after July 1, 1996.

5 If the purchaser is not the manufacturer or a graphic arts
6 producer, but rents or leases the use of the property to a
7 manufacturer or a graphic arts producer, the purchaser may
8 earn, report, and use Manufacturer's Purchase Credit in the
9 same manner as a manufacturer or graphic arts producer.

10 A purchaser shall not be entitled to any Manufacturer's
11 Purchase Credit for a purchase that is required to be reported
12 and is not timely reported as provided in this Section. A
13 purchaser remains liable for (i) any tax that was satisfied by
14 use of a Manufacturer's Purchase Credit, as of the date of
15 purchase, if that use is not timely reported as required in
16 this Section and (ii) for any applicable penalties and interest
17 for failing to pay the tax when due. No Manufacturer's Purchase
18 Credit may be used after September 30, 2003 to satisfy any tax
19 liability imposed under this Act, including any audit
20 liability.

21 (b) Manufacturer's Purchase Credit earned on and after
22 September 1, 2004. This subsection (b) applies to
23 Manufacturer's Purchase Credit earned on or after September 1,
24 2004. Manufacturer's Purchase Credit earned on or after
25 September 1, 2004 may only be used to satisfy the Use Tax or
26 Service Use Tax liability incurred on production related

1 tangible personal property purchased on or after September 1,
2 2004. A purchaser of production related tangible personal
3 property desiring to use the Manufacturer's Purchase Credit
4 shall certify to the seller that the purchaser is satisfying
5 all or part of the liability under the Use Tax Act or the
6 Service Use Tax Act that is due on the purchase of the
7 production related tangible personal property by use of a
8 Manufacturer's Purchase Credit. The Manufacturer's Purchase
9 Credit certification must be dated and shall include the name
10 and address of the purchaser, the purchaser's registration
11 number, if registered, the credit being applied, and a
12 statement that the State Use Tax or Service Use Tax liability
13 is being satisfied with the manufacturer's or graphic arts
14 producer's accumulated purchase credit. Certification may be
15 incorporated into the manufacturer's or graphic arts
16 producer's purchase order. Manufacturer's Purchase Credit
17 certification provided by the manufacturer or graphic arts
18 producer may be used to satisfy the retailer's or serviceman's
19 liability under the Retailers' Occupation Tax Act or Service
20 Occupation Tax Act for the credit claimed, not to exceed 6.25%
21 of the receipts subject to tax from a qualifying purchase, but
22 only if the retailer or serviceman reports the Manufacturer's
23 Purchase Credit claimed as required by the Department. The
24 Manufacturer's Purchase Credit earned by purchase of exempt
25 manufacturing machinery and equipment or graphic arts
26 machinery and equipment is a non-transferable credit. A

1 manufacturer or graphic arts producer that enters into a
2 contract involving the installation of tangible personal
3 property into real estate within a manufacturing or graphic
4 arts production facility may, on or after September 1, 2004,
5 authorize a construction contractor to utilize credit
6 accumulated by the manufacturer or graphic arts producer to
7 purchase the tangible personal property. A manufacturer or
8 graphic arts producer intending to use accumulated credit to
9 purchase such tangible personal property shall execute a
10 written contract authorizing the contractor to utilize a
11 specified dollar amount of credit. The contractor shall furnish
12 the supplier with the manufacturer's or graphic arts producer's
13 name, registration or resale number, and a statement that a
14 specific amount of the Use Tax or Service Use Tax liability,
15 not to exceed 6.25% of the selling price, is being satisfied
16 with the credit. The manufacturer or graphic arts producer
17 shall remain liable to timely report all information required
18 by the annual Report of Manufacturer's Purchase Credit Used for
19 credit utilized by a construction contractor.

20 The Manufacturer's Purchase Credit may be used to satisfy
21 liability under the Use Tax Act or the Service Use Tax Act due
22 on the purchase, made on or after September 1, 2004, of
23 production related tangible personal property (including
24 purchases by a manufacturer, by a graphic arts producer, or a
25 lessor who rents or leases the use of the property to a
26 manufacturer or graphic arts producer) that does not otherwise

1 qualify for the manufacturing machinery and equipment
2 exemption or the graphic arts machinery and equipment
3 exemption. "Production related tangible personal property"
4 means (i) all tangible personal property used or consumed by
5 the purchaser in a manufacturing facility in which a
6 manufacturing process described in Section 2-45 of the
7 Retailers' Occupation Tax Act takes place, including tangible
8 personal property purchased for incorporation into real estate
9 within a manufacturing facility and including, but not limited
10 to, tangible personal property used or consumed in activities
11 such as pre-production material handling, receiving, quality
12 control, inventory control, storage, staging, and packaging
13 for shipping and transportation purposes; (ii) all tangible
14 personal property used or consumed by the purchaser in a
15 graphic arts facility in which graphic arts production as
16 described in Section 2-30 of the Retailers' Occupation Tax Act
17 takes place, including tangible personal property purchased
18 for incorporation into real estate within a graphic arts
19 facility and including, but not limited to, all tangible
20 personal property used or consumed in activities such as
21 graphic arts preliminary or pre-press production,
22 pre-production material handling, receiving, quality control,
23 inventory control, storage, staging, sorting, labeling,
24 mailing, tying, wrapping, and packaging; and (iii) all tangible
25 personal property used or consumed by the purchaser for
26 research and development. "Production related tangible

1 personal property" does not include (i) tangible personal
2 property used, within or without a manufacturing or graphic
3 arts facility, in sales, purchasing, accounting, fiscal
4 management, marketing, personnel recruitment or selection, or
5 landscaping or (ii) tangible personal property required to be
6 titled or registered with a department, agency, or unit of
7 federal, state, or local government. The Manufacturer's
8 Purchase Credit may be used to satisfy the tax arising either
9 from the purchase of machinery and equipment on or after
10 September 1, 2004 for which the manufacturing machinery and
11 equipment exemption provided by Section 2 of this Act was
12 erroneously claimed, or the purchase of machinery and equipment
13 on or after September 1, 2004 for which the exemption provided
14 by paragraph (5) of Section 3-5 of this Act was erroneously
15 claimed, but not in satisfaction of penalty, if any, and
16 interest for failure to pay the tax when due. A purchaser of
17 production related tangible personal property that is
18 purchased on or after September 1, 2004 who is required to pay
19 Illinois Use Tax or Service Use Tax on the purchase directly to
20 the Department may utilize the Manufacturer's Purchase Credit
21 in satisfaction of the tax arising from that purchase, but not
22 in satisfaction of penalty and interest. A purchaser who uses
23 the Manufacturer's Purchase Credit to purchase property on and
24 after September 1, 2004 which is later determined not to be
25 production related tangible personal property may be liable for
26 tax, penalty, and interest on the purchase of that property as

1 of the date of purchase but shall be entitled to use the
2 disallowed Manufacturer's Purchase Credit, so long as it has
3 not expired, on qualifying purchases of production related
4 tangible personal property not previously subject to credit
5 usage. The Manufacturer's Purchase Credit earned by a
6 manufacturer or graphic arts producer expires the last day of
7 the second calendar year following the calendar year in which
8 the credit arose.

9 A purchaser earning Manufacturer's Purchase Credit shall
10 sign and file an annual Report of Manufacturer's Purchase
11 Credit Earned for each calendar year no later than the last day
12 of the sixth month following the calendar year in which a
13 Manufacturer's Purchase Credit is earned. A Report of
14 Manufacturer's Purchase Credit Earned shall be filed on forms
15 as prescribed or approved by the Department and shall state,
16 for each month of the calendar year: (i) the total purchase
17 price of all purchases of exempt manufacturing or graphic arts
18 machinery on which the credit was earned; (ii) the total State
19 Use Tax or Service Use Tax which would have been due on those
20 items; (iii) the percentage used to calculate the amount of
21 credit earned; (iv) the amount of credit earned; and (v) such
22 other information as the Department may reasonably require. A
23 purchaser earning Manufacturer's Purchase Credit shall
24 maintain records which identify, as to each purchase of
25 manufacturing or graphic arts machinery and equipment on which
26 the purchaser earned Manufacturer's Purchase Credit, the

1 vendor (including, if applicable, either the vendor's
2 registration number or Federal Employer Identification
3 Number), the purchase price, and the amount of Manufacturer's
4 Purchase Credit earned on each purchase.

5 A purchaser using Manufacturer's Purchase Credit shall
6 sign and file an annual Report of Manufacturer's Purchase
7 Credit Used for each calendar year no later than the last day
8 of the sixth month following the calendar year in which a
9 Manufacturer's Purchase Credit is used. A Report of
10 Manufacturer's Purchase Credit Used shall be filed on forms as
11 prescribed or approved by the Department and shall state, for
12 each month of the calendar year: (i) the total purchase price
13 of production related tangible personal property purchased
14 from Illinois suppliers; (ii) the total purchase price of
15 production related tangible personal property purchased from
16 out-of-state suppliers; (iii) the total amount of credit used
17 during such month; and (iv) such other information as the
18 Department may reasonably require. A purchaser using
19 Manufacturer's Purchase Credit shall maintain records that
20 identify, as to each purchase of production related tangible
21 personal property on which the purchaser used Manufacturer's
22 Purchase Credit, the vendor (including, if applicable, either
23 the vendor's registration number or Federal Employer
24 Identification Number), the purchase price, and the amount of
25 Manufacturer's Purchase Credit used on each purchase.

26 A purchaser that fails to file an annual Report of

1 Manufacturer's Purchase Credit Earned or an annual Report of
2 Manufacturer's Purchase Credit Used by the last day of the
3 sixth month following the end of the calendar year shall
4 forfeit all Manufacturer's Purchase Credit for that calendar
5 year unless it establishes that its failure to file was due to
6 reasonable cause. Manufacturer's Purchase Credit reports may
7 be amended to report and claim credit on qualifying purchases
8 not previously reported at any time before the credit would
9 have expired, unless both the Department and the purchaser have
10 agreed to an extension of the statute of limitations for the
11 issuance of a notice of tax liability as provided in Section 4
12 of the Retailers' Occupation Tax Act. If the time for
13 assessment or refund has been extended, then amended reports
14 for a calendar year may be filed at any time prior to the date
15 to which the statute of limitations for the calendar year or
16 portion thereof has been extended. Manufacturer's Purchase
17 Credit claimed on an amended report may be used to satisfy tax
18 liability under the Use Tax Act or the Service Use Tax Act (i)
19 on qualifying purchases of production related tangible
20 personal property made after the date the amended report is
21 filed or (ii) assessed by the Department on qualifying
22 production related tangible personal property purchased on or
23 after September 1, 2004.

24 If the purchaser is not the manufacturer or a graphic arts
25 producer, but rents or leases the use of the property to a
26 manufacturer or a graphic arts producer, the purchaser may

1 earn, report, and use Manufacturer's Purchase Credit in the
2 same manner as a manufacturer or graphic arts producer. A
3 purchaser shall not be entitled to any Manufacturer's Purchase
4 Credit for a purchase that is required to be reported and is
5 not timely reported as provided in this Section. A purchaser
6 remains liable for (i) any tax that was satisfied by use of a
7 Manufacturer's Purchase Credit, as of the date of purchase, if
8 that use is not timely reported as required in this Section and
9 (ii) for any applicable penalties and interest for failing to
10 pay the tax when due.

11 (Source: P.A. 96-116, eff. 7-31-09.)

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