

AN ACT in relation to vehicles.

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

(35 ILCS 5/215 rep.)

Section 5. The Illinois Income Tax Act is amended by repealing Section 215.

Section 10. The Use Tax Act is amended by changing Sections 3-5 and 3-61 as follows:

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

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

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

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

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

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

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

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

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

(7) Farm chemicals.

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

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

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

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

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not

limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

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

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

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

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

required to be registered under the Illinois Vehicle Code.

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

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

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

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

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

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

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

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

(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not

qualify for this exemption or used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

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

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

(26) Beginning July 1, 1999, game or game birds purchased

at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-90.

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

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

exempt from the provisions of Section 3-90.

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

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

(31) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect

or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

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

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that

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

(Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

(35 ILCS 105/3-61)

Sec. 3-61. Motor vehicles; trailers; use as rolling stock definition.

(a) Through June 30, 2003, "use as rolling stock moving in interstate commerce" in subsections (b) and (c) of Section 3-55 means for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, and trailers, as defined in Section 1-209 of the Illinois Vehicle Code, when on 15 or more occasions in a 12-month period the motor vehicle and trailer has carried persons or property for hire in interstate commerce, even just between points in Illinois, if the motor vehicle and trailer transports persons whose journeys or property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof.

(b) On and after July 1, 2003 and through June 30, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (b) and (c) of Section 3-55 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for 51% of its total trips and transports persons whose journeys or property whose shipments originate or terminate outside Illinois. Trips that are only between points in Illinois shall not be counted as interstate trips when calculating whether the tangible personal property qualifies for the exemption but such trips shall be included in total trips taken.

(c) Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (b) and (c) of Section 3-55 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased motor vehicles prior to July 1, 2004 shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. Any election to use either the trips or mileage method will remain in effect for that motor vehicle for any period for which the Department may issue a notice of tax liability under this Act.

For purposes of determining qualifying trips or miles, motor vehicles that carry persons or property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the motor vehicle transports persons whose journeys or property whose shipments originate or terminate outside Illinois. The exemption for motor vehicles

used as rolling stock moving in interstate commerce may be claimed only for motor vehicles whose gross vehicle weight rating exceeds 16,000 pounds. This definition applies to all property purchased for the purpose of being attached to those motor vehicles as a part thereof.

(d) Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (b) and (c) of Section 3-55 occurs for trailers, as defined in Section 1-209 of the Illinois Vehicle Code, semitrailers as defined in Section 1-187 of the Illinois Vehicle Code, and pole trailers as defined in Section 1-161 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption for a trailer or trailers that will not be dedicated to a motor vehicle or group of motor vehicles shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased trailers prior to July 1, 2004 that are not dedicated to a motor vehicle or group of motor vehicles shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. Any election to use either the trips or mileage method will remain in effect for that trailer for any period for which the Department may issue a notice of tax liability under this Act.

For purposes of determining qualifying trips or miles, trailers, semitrailers, or pole trailers that carry property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the trailers, semitrailers, or pole trailers transport property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those trailers, semitrailers, or pole

trailers as a part thereof. In lieu of a person providing documentation regarding the qualifying use of each individual trailer, semitrailer, or pole trailer, that person may document such qualifying use by providing documentation of the following:

(1) If a trailer, semitrailer, or pole trailer is dedicated to a motor vehicle that qualifies as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(2) If a trailer, semitrailer, or pole trailer is dedicated to a group of motor vehicles that all qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(3) If one or more trailers, semitrailers, or pole trailers are dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then the percentage of those trailers, semitrailers, or pole trailers that qualifies as rolling stock moving in interstate commerce under this subsection is equal to the percentage of those motor vehicles in that group that qualify as rolling stock moving in interstate commerce under subsection (c) of this Section to which those trailers, semitrailers, or pole trailers are dedicated. However, to determine the qualification for the exemption provided under this item (3), the mathematical application of the qualifying percentage to one or more trailers, semitrailers, or pole trailers under this subpart shall not be allowed as to any fraction of a trailer, semitrailer, or pole trailer.

(Source: P.A. 93-23, eff. 6-20-03.)

Section 15. The Service Use Tax Act is amended by changing Sections 2 and 3-51 as follows:

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

Sec. 2. "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property, (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.

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

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

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

"Selling price" means the consideration for a sale valued

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

"Department" means the Department of Revenue.

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

"Sale of service" means any transaction except:

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

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

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

(4) a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or by lessors under a lease of one year or longer, executed or in effect at the time of purchase of personal property, to interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by such interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

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

(4a-5) on and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this ~~This~~ exemption applies to repair and replacement parts added

after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(5) a sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Use Tax or Service Occupation Tax, rather than Use Tax or Retailers' Occupation Tax.

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

(5b) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of

such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

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

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

Tangible personal property transferred incident to the

completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (5) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. For the purposes of exemption (5), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further, for purposes of exemption (5), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including

computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The user of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.

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

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

number issued by the Department.

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

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

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

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

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

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

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

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

4. soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and

if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;

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

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

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

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

(Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 8-21-03.)

(35 ILCS 110/3-51)

Sec. 3-51. Motor vehicles; trailers; use as rolling stock definition.

(a) Through June 30, 2003, "use as rolling stock moving in interstate commerce" in subsection (b) of Section 3-45 means for motor vehicles, as defined in Section 1-46 of the Illinois Vehicle Code, and trailers, as defined in Section 1-209 of the Illinois Vehicle Code, when on 15 or more occasions in a 12-month period the motor vehicle and trailer has carried persons or property for hire in interstate commerce, even just between points in Illinois, if the motor vehicle and trailer transports persons whose journeys or property whose shipments originate or terminate outside Illinois. This definition

applies to all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof.

(b) On and after July 1, 2003 and through June 30, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (4) and (4a) of the definition of "sale of service" in Section 2 and subsection (b) of Section 3-45 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for 51% of its total trips and transports persons whose journeys or property whose shipments originate or terminate outside Illinois. Trips that are only between points in Illinois shall not be counted as interstate trips when calculating whether the tangible personal property qualifies for the exemption but such trips shall be included in total trips taken.

(c) Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (4) and (4a) of the definition of "sale of service" in Section 2 and subsection (b) of Section 3-45 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased motor vehicles prior to July 1, 2004 shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. Any election to use either the trips or mileage method will remain in effect for that motor vehicle for any period for which the Department may issue a notice of tax liability under this Act.

For purposes of determining qualifying trips or miles,

motor vehicles that carry persons or property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the motor vehicle transports persons whose journeys or property whose shipments originate or terminate outside Illinois. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed only for motor vehicles whose gross vehicle weight rating exceeds 16,000 pounds. This definition applies to all property purchased for the purpose of being attached to those motor vehicles as a part thereof.

(d) Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (4) and (4a) of the definition of "sale of service" in Section 2 and subsection (b) of Section 3-45 occurs for trailers, as defined in Section 1-209 of the Illinois Vehicle Code, semitrailers as defined in Section 1-187 of the Illinois Vehicle Code, and pole trailers as defined in Section 1-161 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption for a trailer or trailers that will not be dedicated to a motor vehicle or group of motor vehicles shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased trailers prior to July 1, 2004 that are not dedicated to a motor vehicle or group of motor vehicles shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. Any election to use either the trips or mileage method will remain in effect for that trailer for any period for which the Department may issue a notice of tax liability under this Act.

For purposes of determining qualifying trips or miles, trailers, semitrailers, or pole trailers that carry property

for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the trailers, semitrailers, or pole trailers transport property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those trailers, semitrailers, or pole trailers as a part thereof. In lieu of a person providing documentation regarding the qualifying use of each individual trailer, semitrailer, or pole trailer, that person may document such qualifying use by providing documentation of the following:

(1) If a trailer, semitrailer, or pole trailer is dedicated to a motor vehicle that qualifies as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(2) If a trailer, semitrailer, or pole trailer is dedicated to a group of motor vehicles that all qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(3) If one or more trailers, semitrailers, or pole trailers are dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then the percentage of those trailers, semitrailers, or pole trailers that qualifies as rolling stock moving in interstate commerce under this subsection is equal to the percentage of those motor vehicles in that group that qualify as rolling stock moving in interstate commerce under subsection (c) of this Section to which those trailers, semitrailers, or pole trailers are dedicated. However, to determine the qualification for the exemption provided under this item

(3), the mathematical application of the qualifying percentage to one or more trailers, semitrailers, or pole trailers under this subpart shall not be allowed as to any fraction of a trailer, semitrailer, or pole trailer.

(Source: P.A. 93-23, eff. 6-20-03.)

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

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

Sec. 2. "Transfer" means any transfer of the title to property or of the ownership of property whether or not the transferor retains title as security for the payment of amounts due him from the transferee.

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

"Department" means the Department of Revenue.

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

"Sale of Service" means any transaction except:

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

(b) A sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

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

(d) A sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

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

(d-1.1) On and after July 1, 2003 and through June 30,

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

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

(d-3) A sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such

property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

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

(e) A sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Occupation Tax or Service Use Tax, rather than Retailers' Occupation Tax or Use Tax.

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

(g) At the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of

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

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

Exemption (e) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. For the purposes of exemption (e), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production

in the series; and further for purposes of exemption (e), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall furnish to the seller a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit.

Except as provided in Section 2d of this Act, the rolling stock exemption applies to rolling stock used by an interstate

carrier for hire, even just between points in Illinois, if such rolling stock transports, for hire, persons whose journeys or property whose shipments originate or terminate outside Illinois.

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

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

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

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

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

(Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 8-21-03.)

(35 ILCS 115/2d)

Sec. 2d. Motor vehicles; trailers; use as rolling stock definition.

(a) Through June 30, 2003, "use as rolling stock moving in interstate commerce" in subsections (d) and (d-1) of the

definition of "sale of service" in Section 2 means for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, and trailers, as defined in Section 1-209 of the Illinois Vehicle Code, when on 15 or more occasions in a 12-month period the motor vehicle and trailer has carried persons or property for hire in interstate commerce, even just between points in Illinois, if the motor vehicle and trailer transports persons whose journeys or property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof.

(b) On and after July 1, 2003 and through June 30, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (d) and (d-1) of the definition of "sale of service" in Section 2 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for 51% of its total trips and transports persons whose journeys or property whose shipments originate or terminate outside Illinois. Trips that are only between points in Illinois will not be counted as interstate trips when calculating whether the tangible personal property qualifies for the exemption but such trips will be included in total trips taken.

(c) Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (d) and (d-1) of the definition of "sale of service" in Section 2 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased motor vehicles prior to July 1, 2004 shall make an election to use either the trips or mileage method and document

that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. Any election to use either the trips or mileage method will remain in effect for that motor vehicle for any period for which the Department may issue a notice of tax liability under this Act.

For purposes of determining qualifying trips or miles, motor vehicles that carry persons or property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the motor vehicle transports persons whose journeys or property whose shipments originate or terminate outside Illinois. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed only for motor vehicles whose gross vehicle weight rating exceeds 16,000 pounds. This definition applies to all property purchased for the purpose of being attached to those motor vehicles as a part thereof.

(d) Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (d) and (d-1) of the definition of "sale of service" in Section 2 occurs for trailers, as defined in Section 1-209 of the Illinois Vehicle Code, semitrailers as defined in Section 1-187 of the Illinois Vehicle Code, and pole trailers as defined in Section 1-161 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption for a trailer or trailers that will not be dedicated to a motor vehicle or group of motor vehicles shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased trailers prior to July 1, 2004 that are not dedicated to a motor vehicle or group of motor vehicles shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is

made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. Any election to use either the trips or mileage method will remain in effect for that trailer for any period for which the Department may issue a notice of tax liability under this Act.

For purposes of determining qualifying trips or miles, trailers, semitrailers, or pole trailers that carry property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the trailers, semitrailers, or pole trailers transport property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those trailers, semitrailers, or pole trailers as a part thereof. In lieu of a person providing documentation regarding the qualifying use of each individual trailer, semitrailer, or pole trailer, that person may document such qualifying use by providing documentation of the following:

(1) If a trailer, semitrailer, or pole trailer is dedicated to a motor vehicle that qualifies as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(2) If a trailer, semitrailer, or pole trailer is dedicated to a group of motor vehicles that all qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(3) If one or more trailers, semitrailers, or pole trailers are dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then the percentage of those trailers, semitrailers, or pole trailers that

qualifies as rolling stock moving in interstate commerce under this subsection is equal to the percentage of those motor vehicles in that group that qualify as rolling stock moving in interstate commerce under subsection (c) of this Section to which those trailers, semitrailers, or pole trailers are dedicated. However, to determine the qualification for the exemption provided under this item (3), the mathematical application of the qualifying percentage to one or more trailers, semitrailers, or pole trailers under this subpart shall not be allowed as to any fraction of a trailer, semitrailer, or pole trailer.

(Source: P.A. 93-23, eff. 6-20-03.)

Section 25. The Retailers' Occupation Tax Act is amended by changing Sections 2-5 and 2-51 as follows:

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

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

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes

shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

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

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

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

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

(5) A motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle

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

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

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

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

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

(10) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and

operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

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

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

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of

the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this ~~This~~ exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

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

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

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

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

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

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

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

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

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

(22) Fuel and petroleum products sold to or used by an air

carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

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

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

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

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

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

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis,

analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

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

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

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

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or

at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 2-70.

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

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

(35) Beginning January 1, 2000 and through December 31,

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

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

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

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

(38) Beginning on January 1, 2002, tangible personal

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

(Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff. 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

(35 ILCS 120/2-51)

Sec. 2-51. Motor vehicles; trailers; use as rolling stock definition.

(a) Through June 30, 2003, "use as rolling stock moving in interstate commerce" in paragraphs (12) and (13) of Section 2-5 means for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, and trailers, as defined in Section 1-209 of the Illinois Vehicle Code, when on 15 or more occasions in a 12-month period the motor vehicle and trailer

has carried persons or property for hire in interstate commerce, even just between points in Illinois, if the motor vehicle and trailer transports persons whose journeys or property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof.

(b) On and after July 1, 2003 and through June 30, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (12) and (13) of Section 2-5 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for 51% of its total trips and transports persons whose journeys or property whose shipments originate or terminate outside Illinois. Trips that are only between points in Illinois shall not be counted as interstate trips when calculating whether the tangible personal property qualifies for the exemption but such trips shall be included in total trips taken.

(c) Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (12) and (13) of Section 2-5 occurs for motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased motor vehicles prior to July 1, 2004 shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. Any election to use either the trips or mileage method will remain in effect for that motor vehicle for any period for which the Department may issue a notice of

tax liability under this Act.

For purposes of determining qualifying trips or miles, motor vehicles that carry persons or property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the motor vehicle transports persons whose journeys or property whose shipments originate or terminate outside Illinois. The exemption for motor vehicles used as rolling stock moving in interstate commerce may be claimed only for motor vehicles whose gross vehicle weight rating exceeds 16,000 pounds. This definition applies to all property purchased for the purpose of being attached to those motor vehicles as a part thereof.

(d) Beginning July 1, 2004, "use as rolling stock moving in interstate commerce" in paragraphs (12) and (13) of Section 2-5 occurs for trailers, as defined in Section 1-209 of the Illinois Vehicle Code, semitrailers as defined in Section 1-187 of the Illinois Vehicle Code, and pole trailers as defined in Section 1-161 of the Illinois Vehicle Code, when during a 12-month period the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the exemption for a trailer or trailers that will not be dedicated to a motor vehicle or group of motor vehicles shall make an election at the time of purchase to use either the trips or mileage method. Persons who purchased trailers prior to July 1, 2004 that are not dedicated to a motor vehicle or group of motor vehicles shall make an election to use either the trips or mileage method and document that election in their books and records. If no election is made under this subsection to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. Any election to use either the trips or mileage method will remain in effect for that trailer for any period for which the Department may issue a notice of tax liability under this Act.

For purposes of determining qualifying trips or miles,

trailers, semitrailers, or pole trailers that carry property for hire, even just between points in Illinois, will be considered used for hire in interstate commerce if the trailers, semitrailers, or pole trailers transport property whose shipments originate or terminate outside Illinois. This definition applies to all property purchased for the purpose of being attached to those trailers, semitrailers, or pole trailers as a part thereof. In lieu of a person providing documentation regarding the qualifying use of each individual trailer, semitrailer, or pole trailer, that person may document such qualifying use by providing documentation of the following:

(1) If a trailer, semitrailer, or pole trailer is dedicated to a motor vehicle that qualifies as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(2) If a trailer, semitrailer, or pole trailer is dedicated to a group of motor vehicles that all qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then that trailer, semitrailer, or pole trailer qualifies as rolling stock moving in interstate commerce under this subsection.

(3) If one or more trailers, semitrailers, or pole trailers are dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (c) of this Section, then the percentage of those trailers, semitrailers, or pole trailers that qualifies as rolling stock moving in interstate commerce under this subsection is equal to the percentage of those motor vehicles in that group that qualify as rolling stock moving in interstate commerce under subsection (c) of this Section to which those trailers, semitrailers, or pole trailers are dedicated. However, to determine the

qualification for the exemption provided under this item (3), the mathematical application of the qualifying percentage to one or more trailers, semitrailers, or pole trailers under this subpart shall not be allowed as to any fraction of a trailer, semitrailer, or pole trailer.

(Source: P.A. 93-23, eff. 6-20-03.)

Section 30. The Illinois Vehicle Code is amended by changing Section 3-815.1 as follows:

(625 ILCS 5/3-815.1)

Sec. 3-815.1. Commercial distribution fee. Beginning July 1, 2003, in addition to any tax or fee imposed under this Code:

(a) Vehicles of the second division with a gross vehicle weight that exceeds 8,000 pounds and that incur any tax or fee under subsection (a) of Section 3-815 of this Code or subsection (a) of Section 3-818 of this Code, as applicable, ~~and~~ shall pay to the Secretary of State a commercial distribution fee, for each registration year, for the use of the public highways, State infrastructure, and State services, in an amount equal to: (i) for a registration year beginning on or after July 1, 2003 and before July 1, 2005, 36% of the taxes and fees incurred under subsection (a) of Section 3-815 of this Code, or subsection (a) of Section 3-818 of this Code, as applicable, rounded up to the nearest whole dollar; (ii) for a registration year beginning on or after July 1, 2005 and before July 1, 2006, 21.5% of the taxes and fees incurred under subsection (a) of Section 3-815 of this Code, or subsection (a) of Section 3-818 of this Code, as applicable, rounded up to the nearest whole dollar; and (iii) for a registration year beginning on or after July 1, 2006, 14.35% of the taxes and fees incurred under subsection (a) of Section 3-815 of this Code, or subsection (a) of Section 3-818 of this Code, as applicable, rounded up to the nearest whole dollar.

(b) Until June 30, 2004, vehicles ~~Vehicles~~ of the second division with a gross vehicle weight of 8,000 pounds or less and that incur any tax or fee under subsection (a) of Section 3-815 of this Code or subsection (a) of Section 3-818 of this Code, as applicable, and have claimed the rolling stock exemption under the Retailers' Occupation Tax Act, Use Tax Act, Service Occupation Tax Act, or Service Use Tax Act shall pay to the Illinois Department of Revenue (or the Secretary of State under an intergovernmental agreement) a commercial distribution fee, for each registration year, for the use of the public highways, State infrastructure, and State services, in an amount equal to 36% of the taxes and fees incurred under subsection (a) of Section 3-815 of this Code or subsection (a) of Section 3-818 of this Code, as applicable, rounded up to the nearest whole dollar.

The fees paid under this Section shall be deposited by the Secretary of State into the General Revenue Fund.

(Source: P.A. 93-23, eff. 6-20-03; revised 10-9-03.)

Section 99. Effective date. This Act takes effect on July 1, 2004.