

TITLE 86: REVENUE
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322 AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and
 323 authorized by Sections 2505-25 and 2505-795 of the Civil Administrative Code of Illinois.
 324 (Department of Revenue Law) [20 ILCS 2505].

325

326 SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978;
 327 amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and
 328 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended
 329 at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective
 330 October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4
 331 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818,
 332 effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5
 333 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3,
 334 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229;
 335 recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982;
 336 amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April
 337 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg.
 338 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended
 339 at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective
 340 November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill.
 341 Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987;
 342 amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138,
 343 effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;
 344 amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg.

345 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an
 346 objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective
 347 November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency
 348 expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14
 349 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1,
 350 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg.
 351 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991;
 352 amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757,
 353 effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended
 354 at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October
 355 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg.
 356 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994;
 357 amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568,
 358 effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995;
 359 amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective
 360 March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg.
 361 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996;
 362 expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg.
 363 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997;
 364 amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874,
 365 effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at
 366 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29,
 367 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713,
 368 effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a
 369 maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24
 370 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8,
 371 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of
 372 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950,
 373 effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25
 374 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May
 375 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264,
 376 effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at
 377 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15,
 378 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196,
 379 effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at
 380 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24,
 381 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795,
 382 effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,
 383 for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg.
 384 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective
 385 November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at
 386 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21,
 387 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum

388 of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26,
 389 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621,
 390 effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at
 391 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March
 392 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of
 393 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June
 394 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg.
 395 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008;
 396 amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective
 397 January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill.
 398 Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20,
 399 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935,
 400 effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at
 401 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9,
 402 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421,
 403 effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38
 404 Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12,
 405 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616,
 406 effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40
 407 Ill. Reg. 13448, effective September 9, 2016; amended at 41 Ill. Reg. 10721, effective August 1,
 408 2017; amended at 42 Ill. Reg. 2850, effective January 26, 2018; amended at 43 Ill. Reg. 4201,
 409 effective March 20, 2019; amended at 43 Ill. Reg. 5069, effective April 17, 2019; amended at 43
 410 Ill. Reg. 8865, effective July 30, 2019; emergency amendment at 43 Ill. Reg. 9841, effective
 411 August 21, 2019, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 552,
 412 effective December 27, 2019, for a maximum of 150 days; emergency expired May 24, 2020;
 413 emergency amendment at 44 Ill. Reg. 2055, effective January 13, 2020, for a maximum of 180
 414 days; amended at 44 Ill. Reg. 5392, effective March 16, 2020; amended at 44 Ill. Reg. 10981,
 415 effective June 10, 2020; amended at 44 Ill. Reg. 13975, effective August 11, 2020; amended at
 416 45 Ill. Reg. 352, effective December 21, 2020; amended at 45 Ill. Reg. 7248, effective June 3,
 417 2021; amended at 45 Ill. Reg. 14464, effective November 2, 2021; amended at 45 Ill. Reg.
 418 16058, effective December 3, 2021; amended at 46 Ill. Reg. 6745, effective April 12, 2022;
 419 amended at 46 Ill. Reg. 7785, effective April 26, 2022; amended at 46 Ill. Reg. 10905, effective
 420 June 7, 2022; amended at 46 Ill. Reg. 15336, effective August 23, 2022; amended at 46 Ill. Reg.
 421 18120, effective October 25, 2022; amended at 46 Ill. Reg. 18827, effective November 1, 2022;
 422 amended at 47 Ill. Reg. 1426, effective January 17, 2023; amended at 47 Ill. Reg. 2116, effective
 423 January 24, 2023; amended at 47 Ill. Reg. 5751, effective April 4, 2023; amended at 47 Ill. Reg.
 424 6068, effective April 12, 2023; amended at 47 Ill. Reg. 6309, effective April 18, 2023; amended
 425 at 47 Ill. Reg. 19135, effective December 6, 2023; amended at 47 Ill. Reg. 19349, effective
 426 December 12, 2023; amended at 48 Ill. Reg. 1870, effective January 18, 2024; amended at 48 Ill.
 427 Reg. 2856, effective February 8, 2024; amended at 48 Ill. Reg. 10646, effective July 2, 2024;
 428 amended at 48 Ill. Reg. 14779, effective September 25, 2024; amended at 48 Ill. Reg. 16529,
 429 effective November 4, 2024; amended at 49 Ill. Reg. _____, effective _____.
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SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.305 Farm Machinery and Equipment

- a) ~~General:~~ Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act ("Act") does not apply to sales of machinery and equipment, both new and used, and including machinery and equipment~~that~~ manufactured on special order, used, or leased for use primarily in production agriculture or for use in State or ~~federal~~Federal agricultural programs, including any individual replacement part for such machinery and equipment. A purchaser must certify to the use of the equipment to obtain the exemption. For purposes of this Section, "primary use" or "primarily" means more than 50% of the time.
- b) Production agriculture. "Production agriculture" means the raising of or the propagation of livestock; crops for sale for human consumption; crops for livestock consumption; and production seed stock grown for the propagation of feed grains and the husbandry of animals or for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. "Production agriculture" also means animal husbandry, floriculture, aquaculture, horticulture, viticulture, and apiculture. [35 ILCS 120/2-35]

 - 1) Animal husbandry means the raising and propagation of livestock to produce offspring, meat, fiber, milk, eggs, or other products.
 - 2) Floriculture means the business of producing flowers, Christmas trees or other decorative trees, plants, shrubs, or sod, including the operation of greenhouses.
 - 3) Aquaculture or aqua farming means the controlled breeding, hatching, propagation or raising of aquatic life, such as fish, mollusks, crustaceans, algae, and other aquatic plants and invertebrates. See 17 Ill. Adm. Code 870.5.
 - 4) Horticulture means the business of producing vegetables, vegetable plants, or nursery stock, including the operation of nurseries and orchards.
 - 5) Viticulture means the business of growing grapes or operating vineyards.
 - 6) Apiculture means the business of maintaining bees and hives for the production of beeswax, honey, or other edible bee products, crop pollination services, and the sale of bees to other beekeepers.

474 7) Production agriculture, with respect to crops, is limited to activities
475 necessary in tilling the soil, planting, irrigating, cultivating, applying
476 herbicide, insecticide, or fertilizer, and harvesting or drying of crops.
477 Specialized food production operations that produce plants under
478 controlled environments in growing media other than soil, also qualify as
479 production agriculture.

480
481 8) Production agriculture, with respect to animals, is limited to the raising of
482 or the propagation of livestock and husbandry of animals. To qualify as
483 the propagation of livestock and husbandry of animals, the animals must
484 be raised for resale or retail sale.

485
486 9) Production agriculture does not include the following:

487
488 A) Activities such as the clearing of land, mowing of fence rows or
489 ditches, and creating ponds or drainage facilities.

490
491 B) Operations involved in the storing of crops and produce or in the
492 transporting of crops and produce to storage or to sale.

493
494 C) The processing of crops into food or other products. However, see
495 Section 130.330(b), Manufacturing Machinery and Equipment
496 regarding any processing exemption.

497
498 D) The raising of wild animals, game birds, and house pets.

499
500 AGENCY NOTE: The purchase of game birds may qualify for an
501 exemption under the Retailers' Occupation Tax Act [35 ILCS
502 120/2-5(32)].

503
504 E) The transport, slaughter, and processing of animals or animal food
505 products. However, see Section 130.330, Manufacturing
506 Machinery and Equipment regarding any slaughtering or
507 processing exemption.

508
509 ~~Production Agriculture is the raising of or the propagation of: Livestock, crops~~
510 ~~for sale for human consumption; crops for livestock consumption; and production~~
511 ~~seed stock grown for the propagation of feed grains and the husbandry of animals~~
512 ~~or, for the purpose of providing a food product, including the husbandry of blood~~
513 ~~stock as a main source of providing a food product. Production Agriculture also~~
514 ~~includes animal husbandry, floriculture, aquaculture, horticulture and viticulture.~~
515 ~~(Section 2-35 of the Act)~~
516

- 517 e) Horticulture means the business of producing vegetables, vegetable plants,
518 nursery stock, including the operation of nurseries and orchards, but not the sale
519 of plants by retail outlets which do not grow the plant stock.
520
- 521 d) Floriculture means the business of producing flowers, Christmas trees or other
522 decorative trees, plants, shrubs, sod, including such operations as greenhouses but
523 not the sale of plants by retail outlets which do not grow plant stock.
524
- 525 e) Viticulture means the business of growing grapes or operating vineyards.
526
- 527 f) Production Agriculture, with respect to crops, is limited to activities necessary in
528 tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide or
529 fertilizer, harvesting and drying of crops. Specialized food production operations
530 which produce plants under controlled environments in growing media other than
531 soil, qualify as production agriculture. Activities such as the clearing of land,
532 mowing of fence rows, creation of ponds or drainage facilities are not included,
533 nor are the operations involved in the storing or transporting of crops and
534 produce. The processing of crops into food or other products is not production
535 agriculture. With respect to the raising of or propagation of livestock and
536 husbandry of animals, the animals must be domestic farm animals raised for
537 profit. The raising of wild animals, game birds and house pets would not be
538 considered to be production agriculture.
539
- 540 g) The transport, slaughter and processing of animals or animal food products are
541 not considered to be production agriculture.
542
- 543 c)h) Farm machinery and equipment. The exemption applies only to items of *farm*
544 *machinery and equipment, both new and used, certified by the purchaser to be*
545 *used primarily for production agriculture or State or federal agricultural*
546 *programs, including individual replacement parts for the machinery and*
547 *equipment, including machinery and equipment purchased for lease, and*
548 *including implements of husbandry defined in Section 1-130 of the Illinois Vehicle*
549 *Code [625 ILCS 5], farm machinery and agricultural chemical and fertilizer*
550 *spreaders, and nurse wagons required to be registered under Section 3-809 of the*
551 *Illinois Vehicle Code, but excluding other motor vehicles required to be*
552 *registered under the Illinois Vehicle Code. [35 ILCS 120/2-5(2)]*~~farm machinery~~
553 ~~and equipment, either new or used, certified by the purchaser to be used primarily~~
554 ~~for production agriculture or State or Federal agricultural programs, and including~~
555 ~~machinery and equipment purchased for lease. Included in this exemption are~~
556 ~~implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code,~~
557 ~~fertilizer spreaders, and nurse wagons required to be registered under Section 3-~~
558 ~~809 of the Illinois Vehicle Code. Excluded from this exemption are other motor~~
559 ~~vehicles required to be registered pursuant to the Illinois Vehicle Code.~~

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- 1) Registered vehicles other than motor vehicles and unmanned aerial vehicles, commonly referred to as "drones" or "UAVs", may qualify for the exemption if they are used primarily in production agriculture rather than in transportation or other nonexempt activities.
 - A) Examples ~~of this~~ include: implements of husbandry used primarily to supply and apply farm chemicals; ~~trailers and~~ nurse tanks and their trailers used primarily to supply spreaders in the fields; ~~and~~ aircraft used primarily to apply farm chemicals; drones or UAVs; and combine header carts/trailers used to transport combine grain-heads.
 - B) The above registered vehicles in subsection (A) and all-terrain~~AT-terrain~~ vehicles ("ATVs") that are not required to be registered under the Illinois Vehicle Code may qualify if they are used primarily in production agriculture activities~~such as pulling sprayers while they apply chemicals to fields or collecting and mapping soil samples.~~
 - C) The use of the registered vehicles described in subsection (A) above and ATVs that are not required to be registered under the Illinois Vehicle Code for farm transportation or recreation purposes does not constitute production agriculture.
 - D) When the registered vehicles described in subsection (A) above and ATVs that are not required to be registered under the Illinois Vehicle Code are used in both production agriculture and non-qualifying~~nonqualifying~~ activities, the primary use of each vehicle will determine if it qualifies~~they qualify~~ for exemption.
- 2) Qualifying uses include, but not limited to:
 - A) collecting and mapping soil samples;
 - B) mapping fields;
 - C) pulling sprayers while they apply farm chemicals to fields;
 - D) applying farm chemicals to a targeted area;
 - E) transporting seeds to fields;

- 603 F) cleaning livestock waste;
- 604
- 605 G) hauling and properly disposing of dead livestock, including any
- 606 digging and burying; and
- 607
- 608 H) hauling injured or ill livestock or livestock necessities, such as
- 609 medication, feed, and water.
- 610
- 611 3) Non-qualifying uses include, but not limited to:
- 612
- 613 A) mowing;
- 614
- 615 B) scouting crops;
- 616
- 617 C) checking fences;
- 618
- 619 D) mapping tile lines;
- 620
- 621 E) herding livestock;
- 622
- 623 F) checking livestock;
- 624
- 625 G) hauling debris;
- 626
- 627 H) traveling to inaccessible areas;
- 628
- 629 I) transporting items such as seed, feed, chemicals, or straw to be
- 630 stored prior to its use in production agriculture; and
- 631
- 632 J) transporting tools, persons, or equipment to repair fences or to
- 633 mow fence rows or ditches.
- 634
- 635 4) Beginning January 1, 2024, farm machinery and equipment also includes
- 636 electrical power generation equipment used primarily for production
- 637 agriculture. [35 ILCS 120/2-5(2)]
- 638
- 639 A) Electrical power generation equipment used to generate electricity
- 640 for specialty heating or lighting equipment specifically required by
- 641 the production process (e.g., ultra-violet lights or special heaters
- 642 for incubation) would qualify for the exemption.
- 643

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- Fj) A tractor or other machinery ~~that~~^{which} qualifies for the exemption may include options or accessories ~~that~~^{which} are not farm equipment. Except for precision farming equipment, these items must be installed and sold both as an integral part of the qualifying machine and in a single transaction. *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.* [35 ILCS 120/2-5(2)]~~(Section 2-5 of the Act)~~

 - 7k) Equipment means any independent device or apparatus separate from any machinery, but essential to production agriculture.
 - A) Equipment does not include ordinary building materials to be permanently affixed to real estate. However, certain items of equipment can qualify for the exemption even though they are installed as realty improvements. Such items of equipment include, but are not limited to, farrowing crates, gestation stalls, poultry cages, portable panels for confinement facilities, and flooring used in conjunction with waste disposal machinery. *Horticulture polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment.* [35 ILCS 120/2-5(2)]~~Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants are considered farm machinery and equipment.~~

 - B) Wheeled, wire-mesh tables and wheeled, non-motorized, multiple-tray carts used primarily in floricultural or horticultural growing operations, such as those described in *Mid-American Growers v. Department of Revenue*, ~~143 Ill.App.3d 600~~ (3d Dist. 1986), are considered farm machinery and equipment.

 - C) *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.* [35 ILCS 120/2-5(2)]~~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.~~

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- i) Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems ("GPS"), and other such equipment. [35 ILCS 120/2-5(2)] ~~Precision farming equipment includes, but is not limited to, soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guidance systems, modems, and data communications equipment.~~ It shall also include necessary mounting hardware, wiring, and antennas.

- ii) 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. [35 ILCS 120/2-5(2)] ~~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.~~

- iii) The use of computers to record and process land information about soil types and slope as well as pesticide, herbicide, and fertilizer application also constitutes precision farming.

- iv) When a computer is used for both precision farming and nonqualifying purposes, the primary use of the computer will determine if it qualifies for the exemption.

EXAMPLE 1 ~~Example~~: Precision farming and computer assisted operation of production agriculture facilities includes the collection of crop and soil data, the processing of that data, and the use of that data or its products in production agriculture. Thus, machinery and equipment such as soil sensors, moisture sensors, and yield monitors would collect data on a particular field. This information would be precisely correlated to a specific location by use of

773 satellite GPS ~~systems~~ linked to a computer. These devices would
 774 typically be mounted on a tractor or combine. These devices could
 775 also be ~~hand-held~~ ~~hand-held~~ or mounted on drones or UAVs, or
 776 other types of vehicles even though those vehicles, such as pick-up
 777 trucks, do not qualify for the exemption. The data collected from
 778 the farm field would then be transferred to a base station computer
 779 electronically ~~by modem, or via magnetic media or CD-ROM disk.~~
 780 The data would be processed by the base station computer and
 781 integrated into or overlaid on digital maps of the farm field. The
 782 farmer could use the information to make decisions about what
 783 types of crops to plant and the type, formula, and application rate
 784 of fertilizer, pesticide, or other agricultural chemical to apply to the
 785 field. The processed and integrated data would then be available
 786 for use by the farmer in planting or could be transferred to a
 787 fertilizer dealer who applies farm chemicals. The fertilizer dealer
 788 would use the information about the farmer's field and the digital
 789 map to determine the type and formula of chemical to be applied to
 790 the farmer's field and the rate of application. That information
 791 would be transferred to the computer in the fertilizer spreader.
 792 With the aid of ~~a GPS-system~~ linked to the computer in the
 793 fertilizer spreader, the fertilizer dealer would be able to precisely
 794 apply the necessary chemicals and vary the application rate to meet
 795 crop needs across the field. All of the sensors, computers,
 796 software, and accessories described above would qualify for the
 797 exemption.

798
 799 EXAMPLE 2: A livestock farmer ~~using~~ ~~would use~~ microchips and
 800 sensors to identify specific animals and determine individual
 801 growth information for animals qualify as precision farming. This
 802 information would be used by computers to determine the
 803 optimum feed or diet ~~feed/diet~~ for the animal and could then be
 804 used to dispense the proper type and amount of feed to the animal.

805
 806 EXAMPLE 3: In confinement buildings, precision farming would
 807 include temperature and moisture sensors ~~may be~~ linked through
 808 computers to control heating, ventilation, and lighting for livestock
 809 as well as regulating the automatic stock feeders and waterers.

810
 811 EXAMPLE 4: Precision farming equipment would include the
 812 microchips, sensors, computers, and computer-controlled ~~computer~~
 813 ~~controlled~~ feeding equipment and environmental controls. The use
 814 of computers to record and process crop and livestock management
 815 information gathered through the use of these types of sensors or

816 monitors constitutes precision farming. However, the use of
817 computers to record and process other farm related information
818 such as accounts payable, correspondence, or marketing does not
819 constitute precision farming.

820
821 D) The exemption includes hand-operated equipment such as
822 wheelbarrows, hoes, rakes, pitchforks, and shovels so long as they
823 are used in production agriculture as that term is defined in
824 subsection (b) of this Section.

825
826 E) In general, equipment and supplies that have a useful life of less
827 than one year do not qualify for the exemption.

828
829 F) Items that do not qualify as equipment, include, but are not limited
830 to, the following:

831
832 i) Equipment used in farm management such as radios and
833 office equipment, in repair and servicing of equipment, in
834 security and fire protection, farm maintenance,
835 administration, selling, marketing, or the exhibition of
836 products.

837
838 ii) Hand tools used in maintenance activities, such as
839 wrenches, pliers, wire stretchers, grease guns, hammers,
840 and screwdrivers.

841
842 iii) Supplies, such as baling wire, baling twine, work gloves,
843 boots, overshoes, and chemicals for effluent systems.

844
845 ~~When a computer is used for both precision farming and~~
846 ~~nonqualifying purposes, the primary use of the computer~~
847 ~~will determine if it qualifies for the exemption. The use of~~
848 ~~computers to record and process land information about~~
849 ~~soil types and slope and pesticide, herbicide and fertilizer~~
850 ~~application also constitutes precision farming. Equipment~~
851 ~~used in farm management such as radios and office~~
852 ~~equipment, in repair and servicing of equipment, in security~~
853 ~~and fire protection, is not farm equipment; nor does the~~
854 ~~exemption apply to equipment used in farm maintenance,~~
855 ~~administration, selling, marketing or the exhibition of~~
856 ~~products. The exemption does include hand-operated~~
857 ~~equipment such as wheelbarrows, hoes, rakes, pitchforks~~
858 ~~and shovels so long as they are used in production~~

859 ~~agriculture as that term is defined in subsection (b) of this~~
860 ~~Section. Hand tools used in maintenance activities, such as~~
861 ~~wrenches, pliers, wire stretchers, grease guns, hammers and~~
862 ~~screwdrivers, are not used in production and do not qualify~~
863 ~~for the exemption. Supplies, such as baling wire, baling~~
864 ~~twine, work gloves, boots, overshoes and chemicals for~~
865 ~~effluent systems are not exempt.~~

866
867 G) Corrugated plastic pipe and other water management products used
868 in production agriculture for drainage are not considered
869 equipment under the farm machinery and equipment exemption.

870
871 8) When an item of farm machinery and equipment is used both in a
872 qualifying and nonqualifying manner, the burden of demonstrating
873 primary use is on the taxpayer claiming the exemption. One method to
874 demonstrate primary use is for the taxpayer to provide a log, documenting
875 machine hours by qualifying and nonqualifying uses. See also 86 Ill.
876 Adm. Code 130.810.

877
878 d) New or used repair or replacement parts, necessary for the operation of the
879 machine used in production agriculture or in State or ~~federal~~~~Federal~~ agricultural
880 programs, qualify for the exemption. With the exception of precision farming
881 items, accessories or replacements not essential to the operation of the machinery
882 itself, except when sold as an integral part of a qualified machine at the time of
883 purchase, such as radios, and tool or utility boxes, do not qualify for the
884 exemption. Repair or replacement parts include, but are not limited to,~~Included in~~
885 ~~the repair or replacement parts category are:-~~ batteries, tires, fan belts, mufflers,
886 spark plugs, plow points, standard type motors, and cutting parts. Consumable
887 supplies such as fuel, grease, oil, and anti-freeze are not repair or replacement
888 parts.

889
890 e) Exemption certifications must be executed by the purchaser. The certificate must
891 include the seller's name and address, the purchaser's name and address, and a
892 statement that the property purchased will be used primarily in production
893 agriculture or in State or ~~federal~~~~Federal~~ agricultural programs, including the name
894 of the specific agricultural program. Retailers may accept blanket certificates but
895 have the responsibility to obtain and must maintain the certificates as a part of
896 their books and records. Retailers are required to exercise good faith in accepting
897 exemption certificates. If, however, a retailer reasonably believes that the
898 purchaser will use farm machinery or equipment in production agriculture or in
899 State or ~~federal~~~~Federal~~ agricultural programs and accepts the certificate in good
900 faith and the purchaser does not, in fact, use the machinery or equipment in

901 production agriculture or in State or ~~federal~~**Federal** agricultural programs, the
902 purchaser will be liable to the Department for the tax, not the retailer.

903
904 f) An item of farm machinery and equipment ~~that~~**which** is initially used primarily in
905 production agriculture and having been so used for less than one-half of its useful
906 life, is converted to primarily nonexempt uses, will become subject to tax at the
907 time of the conversion. Such tax will be collected on ~~the~~**such** portion of the price
908 of the machinery and equipment ~~that~~**as** was excluded from tax at the time the sale
909 or purchase was made.

910
911 gn) Leasing. Farm machinery and equipment purchased for lease to be used by the
912 lessee primarily in production agriculture or in State or ~~federal~~**Federal** agricultural
913 programs qualifies for the exemption. The lessor purchasing such equipment
914 must certify that the equipment will be so used. Should a purchaser-lessor
915 subsequently lease the machinery or equipment primarily to lessees who do not
916 use it in a manner that would qualify for the exemption, the purchaser-lessor will
917 become liable for the tax from which ~~the purchaser-lessor~~**he** was previously
918 exempted.

919
920 he) Custom farmers or special service operators, ~~i.e., crop dusting, fertilizer spraying,~~
921 ~~combining or corn shelling,~~ who provide a service-for-hire, such as crop dusting,
922 pollinating, fertilizer spraying, combining, or corn shelling, that is an integral part
923 of production agriculture on farms other than their own ~~which is an integral part~~
924 ~~of production agriculture~~ may also claim the exemption if the equipment is used
925 primarily in production agriculture.

926
927 i) State and federal agricultural programs. The State or federal agricultural
928 programs can include agricultural programs administered by the United States
929 Department of Agriculture or state agriculture agencies (e.g., Illinois Department
930 of Agriculture) under which government cost-share funds are provided to
931 agricultural producers for expenditure for land treatment structures or devices
932 such as terraces or grass waterways. This exemption can be claimed by any
933 person, including subcontractors, who will use machinery or equipment primarily
934 in State or federal agricultural programs.

935
936 j) No item qualifies for the exemption in and of itself, and no transaction is exempt
937 unless the seller obtains a certification that contains the information required by
938 subsection (e). Machinery and equipment that is used both in qualifying and non-
939 qualifying activities must be used primarily in a qualifying activity for the
940 exemption to apply.

941
942 (Source: Amended at 49 Ill. Reg. _____, effective _____)

943

SUBPART N: SALES FOR RESALE

Section 130.1415 Resale Number – When Required and How Obtained

- a) If the purchaser is not registered with the Department as a taxpayer, but claims to be a reseller of the tangible personal property in such a way that such resales are not taxable under the Retailers' Occupation Tax Act ("Act") or under some other tax law ~~that which~~ the Department ~~administers~~~~may administer~~, such purchaser, ~~(except in the case of an out-of-State purchaser who will always resell and deliver the property to his customers outside Illinois),~~ shall apply to the Department for a resale number. Such applicant shall state facts ~~detailing which will show the Department~~ why such applicant is not liable for tax under the Act or under some other tax law ~~that which~~ the Department ~~administers~~~~may administer~~ on any of ~~its~~~~his~~ resales and shall furnish such additional information as the Department may reasonably require.
- b) Examples of purchasers for resale who would need a resale number from the Department are persons who resell only to schools and other totally exempt purchasers and persons who resell only to purchasers who in turn resell the property apart from engaging in a service occupation.
- c) Upon approval of the application, the Department will assign a resale number to the applicant and will certify such number to ~~the applicant~~~~him~~. The Department may cancel any such number ~~that which~~ is obtained through misrepresentation, ~~or that which~~ is used to make a purchase ~~tax free~~~~tax-free~~ when the purchase, in fact, is not a purchase for resale, or ~~that which~~ no longer applies because the ~~purchaser has~~~~purchaser's having~~ discontinued ~~the making~~ ~~tax-exempt~~~~of tax-exempt~~ resales of the property.
- d) The Department may restrict the use of the number to one year at a time or to some other definite period if the Department finds it impracticable or otherwise inadvisable to issue such numbers for indefinite periods.
- e) Except as provided in this ~~Section~~~~Subpart~~, a sale shall be made ~~tax free~~~~tax-free~~ on the ground of being a sale for resale if the purchaser has an active registration number or resale number from the Department and furnishes that number to the seller ~~when in connection with~~ certifying to the seller that any sale to such purchaser is nontaxable because of being a sale for resale.
- f) For the purpose of enabling agricultural producers to buy feed, seed, fertilizer, and baby chicks for resale to the extent permitted by Sections 130.1970, 130.2100, and 130.2110 of this Part and still be in compliance with Section 2c of the ~~Retailers' Occupation Tax~~ Act, such agricultural producers who are not

987 registered with the Department as retailers will be given a resale number as a
988 class, without making application, individually, to the Department ~~therefor~~, with
989 all such persons being assigned the same resale number by the Department.
990

- 991 g) The Department will assign Resale Number 0000-0110 to all such buyers of feed,
992 seed, fertilizer, and baby chicks for this purpose.
993
994 h) Nothing that is stated hereinabove changes anything contained in Sections
995 130.1970, 130.2100, and 130.2110 of this Part.
996

997 (Source: Amended at 49 Ill. Reg. _____, effective _____)
998

999 **SUBPART S: SPECIFIC APPLICATIONS**

1000
1001 **Section 130.1955 Farm Chemicals**

- 1002
1003 a) ~~Vendors~~~~Effective October 1, 1975, vendors~~ of farm chemicals are exempt from
1004 Retailers' Occupation Tax on their receipts from such sales. [\[35 ILCS 120/2-5\(a\)\]](#)
1005
1006 b) Farm chemicals include any chemical product used in production agriculture, the
1007 products of which are to be sold, or in the production or care of animals that are to
1008 be sold or the products of which are to be sold. Examples of exempted items
1009 ~~include, but are not limited to,~~ ~~are~~ stock sprays, disinfectants and the like, stock
1010 tonics, serums, vaccines, poultry remedies and other medicinal preparations and
1011 conditioners, water purifying products, insecticides, ~~and~~ weed killers and the like.
1012 ~~(For a definition of production agriculture, see Section 2-35 of the Act.)~~
1013
1014 c) Specific examples include:
1015
1016 1) Chemicals applied to crops or fields to control disease, pests, and weeds
1017 qualify for the exemption as well as chemicals applied to farm animals to
1018 control disease or pests as long as they are used in conjunction with
1019 animals to be sold or the products of which are to be sold.
1020
1021 2) Chemicals used to reduce the hardness of water and to increase water
1022 penetration into the soil are exempt.
1023
1024 3) Shading chemicals sprayed on greenhouse windows qualify because they
1025 are used in connection with the raising of crops by regulating the amount
1026 of sunlight exposure on the plants. See Mid-American Growers, Inc v.
1027 Department of Revenue, 143 Ill. App. 3d 600, 606 (3d Dist. 1986).
1028

1029 4) The retail sale of nematodes qualifies for the farm chemical exemption if
1030 the nematodes are used in production agriculture. Nematodes are tiny
1031 worms that kill insects and fleas when applied to agricultural fields, lawns,
1032 etc. However, the production of nematodes does not qualify for the farm
1033 chemical exemption, the manufacturing machinery and equipment
1034 exemption, or the farm machinery and equipment exemption.

1035
1036 d) Chemicals and disinfectants used for general farm maintenance, such as to clean
1037 milking machines and pipelines do not qualify for the farm chemical exemption.
1038

1039 (Source: Amended at 49 Ill. Reg. _____, effective _____)
1040

1041 Section 130.1970 Hatcheries

1042
1043 a) When Liable ~~for~~ Tax
1044

1045 1) Sales of baby chicks ~~that~~~~which~~ are purchased for the buyer's consumption;
1046 and ~~which~~ are consumed by such buyer ~~or lost~~ and not subsequently resold
1047 on the market, constitute retail sales, the receipts from which are subject to
1048 the Retailers' Occupation Tax.

1049
1050 2) Hatchery operators~~Hatcherymen~~ also incur retailers' occupation
1051 tax~~Retailers' Occupation Tax~~ liability when selling~~they sell~~ brooders,
1052 water troughs, and other poultry-raising equipment to purchasers for use
1053 or consumption unless the item qualifies for the farm machinery and
1054 equipment exemption~~such sale is exempt by virtue of 86 Ill. Adm. Code~~
1055 ~~130.305 (Farm Machinery and Equipment). See 86 Ill. Adm. Code~~
1056 130.305.
1057

1058 b) When Not Liable ~~for~~ Tax
1059

1060 1) Persons selling baby chicks to purchasers for resale on the market as
1061 poultry and not to be consumed by such purchaser, or for the production of
1062 eggs for sale, are deemed to be sales for purposes of resale by the hatchery
1063 operator.~~Baby chicks which are purchased by the buyer for resale on the~~
1064 ~~market as poultry and which are not consumed by such buyer, or which~~
1065 ~~are purchased by the buyer for the production of eggs for sale, are deemed~~
1066 ~~to be sold for resale by the hatcheryman, notwithstanding the fact that~~
1067 ~~some of the chicks so purchased may die before they are resold.~~ The
1068 hatchery operator~~hatcheryman~~ is not liable for tax with respect to the~~his~~
1069 receipts from such sales of baby chicks for resale.

1070
1071 2) Persons~~Also, persons~~ engaged in the business of operating incubators or

1072 hatcherries, who hatch baby chicks for other persons from eggs belonging
1073 to such persons (i.e., custom hatching), are deemed to render service with
1074 respect to such transactions, and they are not required to remit retailers'
1075 occupation tax~~Retailers' Occupation Tax~~ measured by their gross receipts
1076 from their rendering of such service.
1077

- 1078 c) Records of Sales of Baby Chicks
1079 If a seller of baby chicks has adequate records to establish which ~~of his~~ sales of
1080 baby chicks are at retail and which ~~of such~~ sales are for resale, such records will
1081 control. See 86 Ill. Adm. Code 130.805, 130.810, and 130.1415 regarding what
1082 constitutes minimum records.
1083

1084 (Source: Amended at 49 Ill. Reg. _____, effective _____)
1085

1086 **Section 130.2100 Sellers of FeedFeeds and Breeding Livestock**
1087

- 1088 a) Sellers of Feed – When Liable for Tax
1089 The sale of feed to purchasers for feeding livestock or poultry that will be used or
1090 consumed by the purchaser or where the products of such livestock or poultry are
1091 to be used or consumed for purposes other than for resale or sale at retail,
1092 constitutes a "sale at retail" within the meaning of the Retailers' Occupation Tax
1093 Act [35 ILCS 120]. See also 86 Ill. Adm. Code 130.210. In such case, gross
1094 receipts of the seller from this source must be included in computing retailers'
1095 occupation tax liability. For purposes of this Section, "feed" means and includes
1096 salt, grains, tankage, oyster shells, mineral supplements, vitamins, limestone, and
1097 other generally recognized animal feeds. The sale of straw or other materials used
1098 for bedding or other non-feed purposes, is subject to tax as a consumable supply.
1099

1100 ~~Illustrations~~

1101 ~~The term "feed" includes salt, grains, tankage, oyster shells, mineral supplements,~~
1102 ~~vitamins, limestone and other generally recognized animal feeds.~~
1103

- 1104 b) Sellers of Feed – When Not Liable for Tax
1105 The sale of feed to purchasers for feeding livestock or poultry that will be sold for
1106 resale or at retail or the products of such livestock or poultry will be sold for
1107 resale or at retail, is not a sale for use or consumption. Such sales of feed are
1108 deemed to be sales for purposes of resale, "as an ingredient or constituent, goes
1109 into and forms a part of tangible personal property subsequently the subject of a
1110 'sale at retail'". 86 Ill. Adm. Code 130.210(b).
1111

1112 ~~Sellers of Feeds—When Liable For Tax~~

1113 ~~The sale of feeds to a purchaser for use in feeding horses, livestock or poultry that~~
1114 ~~are used, employed or consumed, and the products (if any) of which are used,~~

1115 ~~employed or consumed, for purposes other than sale at market, constitutes a "sale~~
1116 ~~at retail" within the meaning of the Retailers' Occupation Tax Act. In such case,~~
1117 ~~gross receipts of the seller from this source must be included in computing tax~~
1118 ~~liability.~~

1119
1120 c) Sellers of Breeding Livestock – When Not Liable for Tax
1121 Farmers or producers of breeding livestock are not liable for retailers' occupation
1122 tax with respect to gross receipts realized from the sale of bulls, stallions, or other
1123 animals for breeding purposes. In addition, sellers of semen used for artificial
1124 insemination of livestock for direct agricultural production are not liable for
1125 retailers' occupation tax with respect to gross receipts realized from such sales.

1126
1127 ~~Sellers of Feeds—When Not Liable For Tax~~
1128 ~~Persons selling feeds to purchasers for feeding livestock or poultry for marketing,~~
1129 ~~or for producing dairy products or eggs for marketing, are not making sales for~~
1130 ~~use or consumption. Such sales of feeds are deemed to be sales, for purposes of~~
1131 ~~resale, of the property which, "as an ingredient or constituent goes into and forms~~
1132 ~~a part of tangible personal property subsequently the subject of a 'sale at retail'".~~

1133
1134 d) ~~Sellers of Breeding Livestock—When Not Liable For Tax~~
1135 ~~Farmers or producers of breeding livestock are not liable for Retailers' Occupation~~
1136 ~~Tax with respect to gross receipts realized from the sale of bulls, stallions or other~~
1137 ~~servicing animals for breeding purposes. In addition, sellers of semen used for~~
1138 ~~artificial insemination of livestock for direct agricultural production are not liable~~
1139 ~~for Retailers' Occupation Tax with respect to gross receipts realized from such~~
1140 ~~sales.~~

1141
1142 (Source: Amended at 49 Ill. Reg. _____, effective _____)

1143
1144 **Section 130.2110 Sellers of Seeds and Fertilizer**

1145
1146 a) Sellers of Seeds – When Liable ~~for~~For Tax
1147 ~~Persons~~Persons~~When persons who are~~ engaged in the business of selling seeds ~~sell seeds~~
1148 to purchasers who use the seeds in raising lawn grass, vegetables, crops, or other
1149 plants ~~that~~which they will use or consume and not resell, ~~such vendors~~
1150 are engaged in the business of selling tangible personal property to purchasers for use
1151 or consumption and are required to remit retailers' occupation tax~~Retailers'~~
1152 ~~Occupation Tax~~ to the Department on their gross receipts from such sales.

1153
1154 b) Sellers of Seeds – When Not Liable ~~for~~For Tax
1155 Persons selling~~who sell~~ seeds to purchasers who employ such seeds in raising
1156 vegetables, crops, or other plants for sale are selling seeds to purchasers for
1157 purposes of resale and are not required to remit retailers' occupation tax to the

1158 Department on~~Retailers' Occupation Tax measured by~~ their gross receipts from
1159 such sales.

1160

1161 c) Sellers of Fertilizer – When Liable for Tax
1162 Persons engaged in the business of selling fertilizer to purchasers who use such
1163 fertilizer on lawns, home or private gardens, parks, boulevards, and the like are
1164 engaged in the business of selling tangible personal property to purchasers for use
1165 or consumption and are required to remit retailers' occupation tax to the
1166 Department on their gross receipts from such sales. For purposes of this Section,
1167 "fertilizer" means a commodity that contains one or more substances to increase
1168 the available plant food content of the soil and becomes a part of the products
1169 grown.

1170

1171 Definition of Fertilizer

1172 ~~The word "fertilizer", as used in this Section, means a commodity which contains~~
1173 ~~one or more substances to increase the available plant food content of the soil and~~
1174 ~~which becomes a part of the products grown therein.~~

1175

1176 d) Sellers of Fertilizer – When Not Liable for Tax
1177 Persons selling fertilizer to purchasers who are regularly engaged in the business
1178 of producing agricultural products for sale are considered to be making sales for
1179 purposes of resale because, in such cases, the fertilizer becomes a part of products
1180 that are subsequently sold. Such sellers of fertilizer, therefore, are not required to
1181 remit retailers' occupation tax measured by their gross receipts from such sales.

1182

1183 ~~Sellers of Fertilizer—When Liable For Tax~~

1184 ~~When persons who are engaged in the business of selling fertilizer sell fertilizer to~~
1185 ~~purchasers who use such fertilizer on lawns, home or private gardens, parks,~~
1186 ~~boulevards and the like, such vendors are engaged in the business of selling~~
1187 ~~tangible personal property to purchasers for use or consumption and are required~~
1188 ~~to remit Retailers' Occupation Tax to the Department on their gross receipts from~~
1189 ~~such sales.~~

1190

1191 e) ~~Sellers of Fertilizer—When Not Liable For Tax~~
1192 ~~Persons who sell fertilizer to purchasers who are regularly engaged in the business~~
1193 ~~of producing agricultural products for sale are considered to be making sales for~~
1194 ~~purposes of resale because, in such cases, the fertilizer becomes a part of products~~
1195 ~~which are subsequently sold. Such sellers of fertilizer, therefore, are not required~~
1196 ~~to remit Retailers' Occupation Tax measured by their gross receipts from such~~
1197 ~~sales.~~

1198

1199 (Source: Amended at 49 Ill. Reg. _____, effective _____)