



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1458

Introduced 1/28/2025, by Rep. Norine K. Hammond

SYNOPSIS AS INTRODUCED:

35 ILCS 105/2	from Ch. 120, par. 439.2
35 ILCS 110/2	from Ch. 120, par. 439.32
35 ILCS 115/2	from Ch. 120, par. 439.102
35 ILCS 120/1	
35 ILCS 120/2-55	from Ch. 120, par. 441-55

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that motor carriers that sell items of tangible personal property to purchasers for use or consumption in addition to rendering service as a motor carrier are engaged in a profession or service occupation as a motor carrier and are not considered retailers or servicemen within the meaning of those Acts. Effective immediately.

LRB104 03259 HLH 13281 b

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section 2
5 as follows:

6 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

7 Sec. 2. Definitions. As used in this Act:

8 "Use" means the exercise by any person of any right or
9 power over tangible personal property incident to the
10 ownership of that property, or, on and after January 1, 2025,
11 incident to the possession or control of, the right to possess
12 or control, or a license to use that property through a lease,
13 except that it does not include the sale of such property in
14 any form as tangible personal property in the regular course
15 of business to the extent that such property is not first
16 subjected to a use for which it was purchased, and does not
17 include the use of such property by its owner for
18 demonstration purposes: Provided that the property purchased
19 is deemed to be purchased for the purpose of resale, despite
20 first being used, to the extent to which it is resold as an
21 ingredient of an intentionally produced product or by-product
22 of manufacturing. "Use" does not mean the demonstration use or
23 interim use of tangible personal property by a retailer before

1 he sells that tangible personal property. On and after January
2 1, 2025, the lease of tangible personal property to a lessee by
3 a retailer who is subject to tax on lease receipts under Public
4 Act 103-592 ~~this amendatory Act of the 103rd General Assembly~~
5 does not qualify as demonstration use or interim use of that
6 property. For watercraft or aircraft, if the period of
7 demonstration use or interim use by the retailer exceeds 18
8 months, the retailer shall pay on the retailers' original cost
9 price the tax imposed by this Act, and no credit for that tax
10 is permitted if the watercraft or aircraft is subsequently
11 sold by the retailer. "Use" does not mean the physical
12 incorporation of tangible personal property, to the extent not
13 first subjected to a use for which it was purchased, as an
14 ingredient or constituent, into other tangible personal
15 property (a) which is sold in the regular course of business or
16 (b) which the person incorporating such ingredient or
17 constituent therein has undertaken at the time of such
18 purchase to cause to be transported in interstate commerce to
19 destinations outside the State of Illinois: Provided that the
20 property purchased is deemed to be purchased for the purpose
21 of resale, despite first being used, to the extent to which it
22 is resold as an ingredient of an intentionally produced
23 product or by-product of manufacturing.

24 "Lease" means a transfer of the possession or control of,
25 the right to possess or control, or a license to use, but not
26 title to, tangible personal property for a fixed or

1 indeterminate term for consideration, regardless of the name
2 by which the transaction is called. "Lease" does not include a
3 lease entered into merely as a security agreement that does
4 not involve a transfer of possession or control from the
5 lessor to the lessee.

6 On and after January 1, 2025, the term "sale", when used in
7 this Act, includes a lease.

8 "Watercraft" means a Class 2, Class 3, or Class 4
9 watercraft as defined in Section 3-2 of the Boat Registration
10 and Safety Act, a personal watercraft, or any boat equipped
11 with an inboard motor.

12 "Purchase at retail" means the acquisition of the
13 ownership of, the title to, the possession or control of, the
14 right to possess or control, or a license to use, tangible
15 personal property through a sale at retail.

16 "Purchaser" means anyone who, through a sale at retail,
17 acquires the ownership of, the title to, the possession or
18 control of, the right to possess or control, or a license to
19 use, tangible personal property for a valuable consideration.

20 "Sale at retail" means any transfer of the ownership of or
21 title to tangible personal property to a purchaser, for the
22 purpose of use, and not for the purpose of resale in any form
23 as tangible personal property to the extent not first
24 subjected to a use for which it was purchased, for a valuable
25 consideration: Provided that the property purchased is deemed
26 to be purchased for the purpose of resale, despite first being

1 used, to the extent to which it is resold as an ingredient of
2 an intentionally produced product or by-product of
3 manufacturing. For this purpose, slag produced as an incident
4 to manufacturing pig iron or steel and sold is considered to be
5 an intentionally produced by-product of manufacturing. "Sale
6 at retail" includes any such transfer made for resale unless
7 made in compliance with Section 2c of the Retailers'
8 Occupation Tax Act, as incorporated by reference into Section
9 12 of this Act. Transactions whereby the possession of the
10 property is transferred but the seller retains the title as
11 security for payment of the selling price are sales.

12 "Sale at retail" shall also be construed to include any
13 Illinois florist's sales transaction in which the purchase
14 order is received in Illinois by a florist and the sale is for
15 use or consumption, but the Illinois florist has a florist in
16 another state deliver the property to the purchaser or the
17 purchaser's donee in such other state.

18 Nonreusable tangible personal property that is used by
19 persons engaged in the business of operating a restaurant,
20 cafeteria, or drive-in is a sale for resale when it is
21 transferred to customers in the ordinary course of business as
22 part of the sale of food or beverages and is used to deliver,
23 package, or consume food or beverages, regardless of where
24 consumption of the food or beverages occurs. Examples of those
25 items include, but are not limited to nonreusable, paper and
26 plastic cups, plates, baskets, boxes, sleeves, buckets or

1 other containers, utensils, straws, placemats, napkins, doggie
2 bags, and wrapping or packaging materials that are transferred
3 to customers as part of the sale of food or beverages in the
4 ordinary course of business.

5 The purchase, employment, and transfer of such tangible
6 personal property as newsprint and ink for the primary purpose
7 of conveying news (with or without other information) is not a
8 purchase, use, or sale of tangible personal property.

9 "Selling price" means the consideration for a sale valued
10 in money whether received in money or otherwise, including
11 cash, credits, property other than as hereinafter provided,
12 and services, but, prior to January 1, 2020 and beginning
13 again on January 1, 2022, not including the value of or credit
14 given for traded-in tangible personal property where the item
15 that is traded-in is of like kind and character as that which
16 is being sold; beginning January 1, 2020 and until January 1,
17 2022, "selling price" includes the portion of the value of or
18 credit given for traded-in motor vehicles of the First
19 Division as defined in Section 1-146 of the Illinois Vehicle
20 Code of like kind and character as that which is being sold
21 that exceeds \$10,000. "Selling price" shall be determined
22 without any deduction on account of the cost of the property
23 sold, the cost of materials used, labor or service cost, or any
24 other expense whatsoever, but does not include interest or
25 finance charges which appear as separate items on the bill of
26 sale or sales contract nor charges that are added to prices by

1 sellers on account of the seller's tax liability under the
2 Retailers' Occupation Tax Act, or on account of the seller's
3 duty to collect, from the purchaser, the tax that is imposed by
4 this Act, or, except as otherwise provided with respect to any
5 cigarette tax imposed by a home rule unit, on account of the
6 seller's tax liability under any local occupation tax
7 administered by the Department, or, except as otherwise
8 provided with respect to any cigarette tax imposed by a home
9 rule unit on account of the seller's duty to collect, from the
10 purchasers, the tax that is imposed under any local use tax
11 administered by the Department. Effective December 1, 1985,
12 "selling price" shall include charges that are added to prices
13 by sellers on account of the seller's tax liability under the
14 Cigarette Tax Act, on account of the seller's duty to collect,
15 from the purchaser, the tax imposed under the Cigarette Use
16 Tax Act, and on account of the seller's duty to collect, from
17 the purchaser, any cigarette tax imposed by a home rule unit.

18 The provisions of this paragraph, which provides only for
19 an alternative meaning of "selling price" with respect to the
20 sale of certain motor vehicles incident to the contemporaneous
21 lease of those motor vehicles, continue in effect and are not
22 changed by the tax on leases implemented by Public Act 103-592
23 ~~this amendatory Act of the 103rd General Assembly.~~
24 Notwithstanding any law to the contrary, for any motor
25 vehicle, as defined in Section 1-146 of the Vehicle Code, that
26 is sold on or after January 1, 2015 for the purpose of leasing

1 the vehicle for a defined period that is longer than one year
2 and (1) is a motor vehicle of the second division that: (A) is
3 a self-contained motor vehicle designed or permanently
4 converted to provide living quarters for recreational,
5 camping, or travel use, with direct walk through access to the
6 living quarters from the driver's seat; (B) is of the van
7 configuration designed for the transportation of not less than
8 7 nor more than 16 passengers; or (C) has a gross vehicle
9 weight rating of 8,000 pounds or less or (2) is a motor vehicle
10 of the first division, "selling price" or "amount of sale"
11 means the consideration received by the lessor pursuant to the
12 lease contract, including amounts due at lease signing and all
13 monthly or other regular payments charged over the term of the
14 lease. Also included in the selling price is any amount
15 received by the lessor from the lessee for the leased vehicle
16 that is not calculated at the time the lease is executed,
17 including, but not limited to, excess mileage charges and
18 charges for excess wear and tear. For sales that occur in
19 Illinois, with respect to any amount received by the lessor
20 from the lessee for the leased vehicle that is not calculated
21 at the time the lease is executed, the lessor who purchased the
22 motor vehicle does not incur the tax imposed by the Use Tax Act
23 on those amounts, and the retailer who makes the retail sale of
24 the motor vehicle to the lessor is not required to collect the
25 tax imposed by this Act or to pay the tax imposed by the
26 Retailers' Occupation Tax Act on those amounts. However, the

1 lessor who purchased the motor vehicle assumes the liability
2 for reporting and paying the tax on those amounts directly to
3 the Department in the same form (Illinois Retailers'
4 Occupation Tax, and local retailers' occupation taxes, if
5 applicable) in which the retailer would have reported and paid
6 such tax if the retailer had accounted for the tax to the
7 Department. For amounts received by the lessor from the lessee
8 that are not calculated at the time the lease is executed, the
9 lessor must file the return and pay the tax to the Department
10 by the due date otherwise required by this Act for returns
11 other than transaction returns. If the retailer is entitled
12 under this Act to a discount for collecting and remitting the
13 tax imposed under this Act to the Department with respect to
14 the sale of the motor vehicle to the lessor, then the right to
15 the discount provided in this Act shall be transferred to the
16 lessor with respect to the tax paid by the lessor for any
17 amount received by the lessor from the lessee for the leased
18 vehicle that is not calculated at the time the lease is
19 executed; provided that the discount is only allowed if the
20 return is timely filed and for amounts timely paid. The
21 "selling price" of a motor vehicle that is sold on or after
22 January 1, 2015 for the purpose of leasing for a defined period
23 of longer than one year shall not be reduced by the value of or
24 credit given for traded-in tangible personal property owned by
25 the lessor, nor shall it be reduced by the value of or credit
26 given for traded-in tangible personal property owned by the

1 lessee, regardless of whether the trade-in value thereof is
2 assigned by the lessee to the lessor. In the case of a motor
3 vehicle that is sold for the purpose of leasing for a defined
4 period of longer than one year, the sale occurs at the time of
5 the delivery of the vehicle, regardless of the due date of any
6 lease payments. A lessor who incurs a Retailers' Occupation
7 Tax liability on the sale of a motor vehicle coming off lease
8 may not take a credit against that liability for the Use Tax
9 the lessor paid upon the purchase of the motor vehicle (or for
10 any tax the lessor paid with respect to any amount received by
11 the lessor from the lessee for the leased vehicle that was not
12 calculated at the time the lease was executed) if the selling
13 price of the motor vehicle at the time of purchase was
14 calculated using the definition of "selling price" as defined
15 in this paragraph. Notwithstanding any other provision of this
16 Act to the contrary, lessors shall file all returns and make
17 all payments required under this paragraph to the Department
18 by electronic means in the manner and form as required by the
19 Department. This paragraph does not apply to leases of motor
20 vehicles for which, at the time the lease is entered into, the
21 term of the lease is not a defined period, including leases
22 with a defined initial period with the option to continue the
23 lease on a month-to-month or other basis beyond the initial
24 defined period.

25 The phrase "like kind and character" shall be liberally
26 construed (including, but not limited to, any form of motor

1 vehicle for any form of motor vehicle, or any kind of farm or
2 agricultural implement for any other kind of farm or
3 agricultural implement), while not including a kind of item
4 which, if sold at retail by that retailer, would be exempt from
5 retailers' occupation tax and use tax as an isolated or
6 occasional sale.

7 "Department" means the Department of Revenue.

8 "Person" means any natural individual, firm, partnership,
9 association, joint stock company, joint adventure, public or
10 private corporation, limited liability company, or a receiver,
11 executor, trustee, guardian, or other representative appointed
12 by order of any court.

13 "Retailer" means and includes every person engaged in the
14 business of making sales, including, on and after January 1,
15 2025, leases, at retail as defined in this Section. With
16 respect to leases, a "retailer" also means a "lessor", except
17 as otherwise provided in this Act.

18 A person who holds himself or herself out as being engaged
19 (or who habitually engages) in selling tangible personal
20 property at retail is a retailer hereunder with respect to
21 such sales (and not primarily in a service occupation)
22 notwithstanding the fact that such person designs and produces
23 such tangible personal property on special order for the
24 purchaser and in such a way as to render the property of value
25 only to such purchaser, if such tangible personal property so
26 produced on special order serves substantially the same

1 function as stock or standard items of tangible personal
2 property that are sold at retail.

3 A person whose activities are organized and conducted
4 primarily as a not-for-profit service enterprise, and who
5 engages in selling tangible personal property at retail
6 (whether to the public or merely to members and their guests)
7 is a retailer with respect to such transactions, excepting
8 only a person organized and operated exclusively for
9 charitable, religious or educational purposes either (1) to
10 the extent of sales by such person to its members, students,
11 patients, or inmates of tangible personal property to be used
12 primarily for the purposes of such person, or (2) to the
13 extent of sales by such person of tangible personal property
14 which is not sold or offered for sale by persons organized for
15 profit. The selling of school books and school supplies by
16 schools at retail to students is not "primarily for the
17 purposes of" the school which does such selling. This
18 paragraph does not apply to nor subject to taxation occasional
19 dinners, social, or similar activities of a person organized
20 and operated exclusively for charitable, religious, or
21 educational purposes, whether or not such activities are open
22 to the public.

23 A person who is the recipient of a grant or contract under
24 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
25 serves meals to participants in the federal Nutrition Program
26 for the Elderly in return for contributions established in

1 amount by the individual participant pursuant to a schedule of
2 suggested fees as provided for in the federal Act is not a
3 retailer under this Act with respect to such transactions.

4 Persons who engage in the business of transferring
5 tangible personal property upon the redemption of trading
6 stamps are retailers hereunder when engaged in such business.

7 The isolated or occasional sale of tangible personal
8 property at retail by a person who does not hold himself out as
9 being engaged (or who does not habitually engage) in selling
10 such tangible personal property at retail or a sale through a
11 bulk vending machine does not make such person a retailer
12 hereunder. However, any person who is engaged in a business
13 which is not subject to the tax imposed by the Retailers'
14 Occupation Tax Act because of involving the sale of or a
15 contract to sell real estate or a construction contract to
16 improve real estate, but who, in the course of conducting such
17 business, transfers tangible personal property to users or
18 consumers in the finished form in which it was purchased, and
19 which does not become real estate, under any provision of a
20 construction contract or real estate sale or real estate sales
21 agreement entered into with some other person arising out of
22 or because of such nontaxable business, is a retailer to the
23 extent of the value of the tangible personal property so
24 transferred. If, in such transaction, a separate charge is
25 made for the tangible personal property so transferred, the
26 value of such property, for the purposes of this Act, is the

1 amount so separately charged, but not less than the cost of
2 such property to the transferor; if no separate charge is
3 made, the value of such property, for the purposes of this Act,
4 is the cost to the transferor of such tangible personal
5 property.

6 "Retailer maintaining a place of business in this State",
7 or any like term, means and includes any of the following
8 retailers:

9 (1) A retailer having or maintaining within this
10 State, directly or by a subsidiary, an office,
11 distribution house, sales house, warehouse, or other place
12 of business, or any agent or other representative
13 operating within this State under the authority of the
14 retailer or its subsidiary, irrespective of whether such
15 place of business or agent or other representative is
16 located here permanently or temporarily, or whether such
17 retailer or subsidiary is licensed to do business in this
18 State. However, the ownership of property that is located
19 at the premises of a printer with which the retailer has
20 contracted for printing and that consists of the final
21 printed product, property that becomes a part of the final
22 printed product, or copy from which the printed product is
23 produced shall not result in the retailer being deemed to
24 have or maintain an office, distribution house, sales
25 house, warehouse, or other place of business within this
26 State.

1 (1.1) A retailer having a contract with a person
2 located in this State under which the person, for a
3 commission or other consideration based upon the sale of
4 tangible personal property by the retailer, directly or
5 indirectly refers potential customers to the retailer by
6 providing to the potential customers a promotional code or
7 other mechanism that allows the retailer to track
8 purchases referred by such persons. Examples of mechanisms
9 that allow the retailer to track purchases referred by
10 such persons include, but are not limited to, the use of a
11 link on the person's Internet website, promotional codes
12 distributed through the person's hand-delivered or mailed
13 material, and promotional codes distributed by the person
14 through radio or other broadcast media. The provisions of
15 this paragraph (1.1) shall apply only if the cumulative
16 gross receipts from sales of tangible personal property by
17 the retailer to customers who are referred to the retailer
18 by all persons in this State under such contracts exceed
19 \$10,000 during the preceding 4 quarterly periods ending on
20 the last day of March, June, September, and December. A
21 retailer meeting the requirements of this paragraph (1.1)
22 shall be presumed to be maintaining a place of business in
23 this State but may rebut this presumption by submitting
24 proof that the referrals or other activities pursued
25 within this State by such persons were not sufficient to
26 meet the nexus standards of the United States Constitution

1 during the preceding 4 quarterly periods.

2 (1.2) Beginning July 1, 2011, a retailer having a
3 contract with a person located in this State under which:

4 (A) the retailer sells the same or substantially
5 similar line of products as the person located in this
6 State and does so using an identical or substantially
7 similar name, trade name, or trademark as the person
8 located in this State; and

9 (B) the retailer provides a commission or other
10 consideration to the person located in this State
11 based upon the sale of tangible personal property by
12 the retailer.

13 The provisions of this paragraph (1.2) shall apply
14 only if the cumulative gross receipts from sales of
15 tangible personal property by the retailer to customers in
16 this State under all such contracts exceed \$10,000 during
17 the preceding 4 quarterly periods ending on the last day
18 of March, June, September, and December.

19 (2) (Blank).

20 (3) (Blank).

21 (4) (Blank).

22 (5) (Blank).

23 (6) (Blank).

24 (7) (Blank).

25 (8) (Blank).

26 (9) Beginning October 1, 2018, a retailer making sales

1 of tangible personal property to purchasers in Illinois
2 from outside of Illinois if:

3 (A) the cumulative gross receipts from sales of
4 tangible personal property to purchasers in Illinois
5 are \$100,000 or more; or

6 (B) the retailer enters into 200 or more separate
7 transactions for the sale of tangible personal
8 property to purchasers in Illinois.

9 The retailer shall determine on a quarterly basis,
10 ending on the last day of March, June, September, and
11 December, whether he or she meets the criteria of either
12 subparagraph (A) or (B) of this paragraph (9) for the
13 preceding 12-month period. If the retailer meets the
14 threshold of either subparagraph (A) or (B) for a 12-month
15 period, he or she is considered a retailer maintaining a
16 place of business in this State and is required to collect
17 and remit the tax imposed under this Act and file returns
18 for one year. At the end of that one-year period, the
19 retailer shall determine whether he or she met the
20 threshold of either subparagraph (A) or (B) during the
21 preceding 12-month period. If the retailer met the
22 criteria in either subparagraph (A) or (B) for the
23 preceding 12-month period, he or she is considered a
24 retailer maintaining a place of business in this State and
25 is required to collect and remit the tax imposed under
26 this Act and file returns for the subsequent year. If at

1 the end of a one-year period a retailer that was required
2 to collect and remit the tax imposed under this Act
3 determines that he or she did not meet the threshold in
4 either subparagraph (A) or (B) during the preceding
5 12-month period, the retailer shall subsequently determine
6 on a quarterly basis, ending on the last day of March,
7 June, September, and December, whether he or she meets the
8 threshold of either subparagraph (A) or (B) for the
9 preceding 12-month period.

10 Beginning January 1, 2020, neither the gross receipts
11 from nor the number of separate transactions for sales of
12 tangible personal property to purchasers in Illinois that
13 a retailer makes through a marketplace facilitator and for
14 which the retailer has received a certification from the
15 marketplace facilitator pursuant to Section 2d of this Act
16 shall be included for purposes of determining whether he
17 or she has met the thresholds of this paragraph (9).

18 (10) Beginning January 1, 2020, a marketplace
19 facilitator that meets a threshold set forth in subsection
20 (b) of Section 2d of this Act.

21 Motor carriers, as defined in Section 18c-1104 of the
22 Vehicle Code, that sell items of tangible personal property to
23 purchasers for use or consumption in addition to rendering
24 service as a motor carrier are engaged in a profession or
25 service occupation as a motor carrier and are not retailers
26 maintaining a place of business in this State within the

1 meaning of this Act when they sell items of tangible personal
2 property to purchasers incident to the rendering of service as
3 a motor carrier. Those motor carriers are not required to
4 collect or remit the tax imposed by this Act on the sale of
5 that tangible personal property.

6 "Bulk vending machine" means a vending machine, containing
7 unsorted confections, nuts, toys, or other items designed
8 primarily to be used or played with by children which, when a
9 coin or coins of a denomination not larger than \$0.50 are
10 inserted, are dispensed in equal portions, at random and
11 without selection by the customer.

12 (Source: P.A. 102-353, eff. 1-1-22; 103-592, eff. 1-1-25;
13 revised 11-22-24.)

14 Section 10. The Service Use Tax Act is amended by changing
15 Section 2 as follows:

16 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

17 Sec. 2. Definitions. In this Act:

18 "Use" means the exercise by any person of any right or
19 power over tangible personal property incident to the
20 ownership of that property, or, on and after January 1, 2025,
21 incident to the possession or control of, the right to possess
22 or control, or a license to use that property through a lease,
23 but does not include the sale or use for demonstration by him
24 of that property in any form as tangible personal property in

1 the regular course of business. "Use" does not mean the
2 interim use of tangible personal property. On and after
3 January 1, 2025, the lease of tangible personal property to a
4 lessee by a serviceman who is subject to tax on lease receipts
5 under this amendatory Act of the 103rd General Assembly does
6 not qualify as demonstration use or interim use of that
7 property. "Use" does not mean the physical incorporation of
8 tangible personal property, as an ingredient or constituent,
9 into other tangible personal property, (a) which is sold in
10 the regular course of business or (b) which the person
11 incorporating such ingredient or constituent therein has
12 undertaken at the time of such purchase to cause to be
13 transported in interstate commerce to destinations outside the
14 State of Illinois.

15 "Lease" means a transfer of the possession or control of,
16 the right to possess or control, or a license to use, but not
17 title to, tangible personal property for a fixed or
18 indeterminate term for consideration, regardless of the name
19 by which the transaction is called. "Lease" does not include a
20 lease entered into merely as a security agreement that does
21 not involve a transfer of possession from the lessor to the
22 lessee.

23 On and after January 1, 2025, the term "sale", when used in
24 this Act with respect to tangible personal property, includes
25 a lease.

26 "Purchased from a serviceman" means the acquisition of the

1 ownership of, the title to, the possession or control of, the
2 right to possess or control, or a license to use, tangible
3 personal property through a sale of service.

4 "Purchaser" means any person who, through a sale of
5 service, acquires the ownership of, the title to, the
6 possession or control of, the right to possess or control, or a
7 license to use, any tangible personal property.

8 "Cost price" means the consideration paid by the
9 serviceman for a purchase, including, on and after January 1,
10 2025, a lease, valued in money, whether paid in money or
11 otherwise, including cash, credits and services, and shall be
12 determined without any deduction on account of the supplier's
13 cost of the property sold or on account of any other expense
14 incurred by the supplier. When a serviceman contracts out part
15 or all of the services required in his sale of service, it
16 shall be presumed that the cost price to the serviceman of the
17 property transferred to him or her by his or her subcontractor
18 is equal to 50% of the subcontractor's charges to the
19 serviceman in the absence of proof of the consideration paid
20 by the subcontractor for the purchase of such property.

21 "Selling price" means the consideration for a sale,
22 including, on and after January 1, 2025, a lease, valued in
23 money whether received in money or otherwise, including cash,
24 credits and service, and shall be determined without any
25 deduction on account of the serviceman's cost of the property
26 sold, the cost of materials used, labor or service cost or any

1 other expense whatsoever, but does not include interest or
2 finance charges which appear as separate items on the bill of
3 sale or sales contract nor charges that are added to prices by
4 sellers on account of the seller's duty to collect, from the
5 purchaser, the tax that is imposed by this Act.

6 "Department" means the Department of Revenue.

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

12 "Sale of service" means any transaction except:

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

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

19 (3) except as hereinafter provided, a sale or transfer
20 of tangible personal property as an incident to the
21 rendering of service for or by any governmental body, or
22 for or by any corporation, society, association,
23 foundation or institution organized and operated
24 exclusively for charitable, religious or educational
25 purposes or any not-for-profit corporation, society,
26 association, foundation, institution or organization which

1 has no compensated officers or employees and which is
2 organized and operated primarily for the recreation of
3 persons 55 years of age or older. A limited liability
4 company may qualify for the exemption under this paragraph
5 only if the limited liability company is organized and
6 operated exclusively for educational purposes.

7 (4) (blank).

8 (4a) a sale or transfer of tangible personal property
9 as an incident to the rendering of service for owners or
10 lessors, lessees, or shippers of tangible personal
11 property which is utilized by interstate carriers for hire
12 for use as rolling stock moving in interstate commerce so
13 long as so used by interstate carriers for hire, and
14 equipment operated by a telecommunications provider,
15 licensed as a common carrier by the Federal Communications
16 Commission, which is permanently installed in or affixed
17 to aircraft moving in interstate commerce.

18 (4a-5) on and after July 1, 2003 and through June 30,
19 2004, a sale or transfer of a motor vehicle of the second
20 division with a gross vehicle weight in excess of 8,000
21 pounds as an incident to the rendering of service if that
22 motor vehicle is subject to the commercial distribution
23 fee imposed under Section 3-815.1 of the Illinois Vehicle
24 Code. Beginning on July 1, 2004 and through June 30, 2005,
25 the use in this State of motor vehicles of the second
26 division: (i) with a gross vehicle weight rating in excess

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

13 (5) a sale or transfer of machinery and equipment used
14 primarily in the process of the manufacturing or
15 assembling, either in an existing, an expanded or a new
16 manufacturing facility, of tangible personal property for
17 wholesale or retail sale or lease, whether such sale or
18 lease is made directly by the manufacturer or by some
19 other person, whether the materials used in the process
20 are owned by the manufacturer or some other person, or
21 whether such sale or lease is made apart from or as an
22 incident to the seller's engaging in a service occupation
23 and the applicable tax is a Service Use Tax or Service
24 Occupation Tax, rather than Use Tax or Retailers'
25 Occupation Tax. The exemption provided by this paragraph
26 (5) includes production related tangible personal

1 property, as defined in Section 3-50 of the Use Tax Act,
2 purchased on or after July 1, 2019. The exemption provided
3 by this paragraph (5) does not include machinery and
4 equipment used in (i) the generation of electricity for
5 wholesale or retail sale; (ii) the generation or treatment
6 of natural or artificial gas for wholesale or retail sale
7 that is delivered to customers through pipes, pipelines,
8 or mains; or (iii) the treatment of water for wholesale or
9 retail sale that is delivered to customers through pipes,
10 pipelines, or mains. The provisions of Public Act 98-583
11 are declaratory of existing law as to the meaning and
12 scope of this exemption. The exemption under this
13 paragraph (5) is exempt from the provisions of Section
14 3-75.

15 (5a) the repairing, reconditioning or remodeling, for
16 a common carrier by rail, of tangible personal property
17 which belongs to such carrier for hire, and as to which
18 such carrier receives the physical possession of the
19 repaired, reconditioned or remodeled item of tangible
20 personal property in Illinois, and which such carrier
21 transports, or shares with another common carrier in the
22 transportation of such property, out of Illinois on a
23 standard uniform bill of lading showing the person who
24 repaired, reconditioned or remodeled the property to a
25 destination outside Illinois, for use outside Illinois.

26 (5b) a sale or transfer of tangible personal property

1 which is produced by the seller thereof on special order
2 in such a way as to have made the applicable tax the
3 Service Occupation Tax or the Service Use Tax, rather than
4 the Retailers' Occupation Tax or the Use Tax, for an
5 interstate carrier by rail which receives the physical
6 possession of such property in Illinois, and which
7 transports such property, or shares with another common
8 carrier in the transportation of such property, out of
9 Illinois on a standard uniform bill of lading showing the
10 seller of the property as the shipper or consignor of such
11 property to a destination outside Illinois, for use
12 outside Illinois.

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

21 (7) at the election of any serviceman not required to
22 be otherwise registered as a retailer under Section 2a of
23 the Retailers' Occupation Tax Act, made for each fiscal
24 year sales of service in which the aggregate annual cost
25 price of tangible personal property transferred as an
26 incident to the sales of service is less than 35%, or 75%

1 in the case of servicemen transferring prescription drugs
2 or servicemen engaged in graphic arts production, of the
3 aggregate annual total gross receipts from all sales of
4 service. The purchase of such tangible personal property
5 by the serviceman shall be subject to tax under the
6 Retailers' Occupation Tax Act and the Use Tax Act.
7 However, if a primary serviceman who has made the election
8 described in this paragraph subcontracts service work to a
9 secondary serviceman who has also made the election
10 described in this paragraph, the primary serviceman does
11 not incur a Use Tax liability if the secondary serviceman
12 (i) has paid or will pay Use Tax on his or her cost price
13 of any tangible personal property transferred to the
14 primary serviceman and (ii) certifies that fact in writing
15 to the primary serviceman.

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

19 Exemption (5) also includes machinery and equipment used
20 in the general maintenance or repair of such exempt machinery
21 and equipment or for in-house manufacture of exempt machinery
22 and equipment. On and after July 1, 2017, exemption (5) also
23 includes graphic arts machinery and equipment, as defined in
24 paragraph (5) of Section 3-5. The machinery and equipment
25 exemption does not include machinery and equipment used in (i)
26 the generation of electricity for wholesale or retail sale;

1 (ii) the generation or treatment of natural or artificial gas
2 for wholesale or retail sale that is delivered to customers
3 through pipes, pipelines, or mains; or (iii) the treatment of
4 water for wholesale or retail sale that is delivered to
5 customers through pipes, pipelines, or mains. The provisions
6 of Public Act 98-583 are declaratory of existing law as to the
7 meaning and scope of this exemption. For the purposes of
8 exemption (5), each of these terms shall have the following
9 meanings: (1) "manufacturing process" shall mean the
10 production of any article of tangible personal property,
11 whether such article is a finished product or an article for
12 use in the process of manufacturing or assembling a different
13 article of tangible personal property, by procedures commonly
14 regarded as manufacturing, processing, fabricating, or
15 refining which changes some existing material or materials
16 into a material with a different form, use or name. In relation
17 to a recognized integrated business composed of a series of
18 operations which collectively constitute manufacturing, or
19 individually constitute manufacturing operations, the
20 manufacturing process shall be deemed to commence with the
21 first operation or stage of production in the series, and
22 shall not be deemed to end until the completion of the final
23 product in the last operation or stage of production in the
24 series; and further, for purposes of exemption (5),
25 photoprocessing is deemed to be a manufacturing process of
26 tangible personal property for wholesale or retail sale; (2)

1 "assembling process" shall mean the production of any article
2 of tangible personal property, whether such article is a
3 finished product or an article for use in the process of
4 manufacturing or assembling a different article of tangible
5 personal property, by the combination of existing materials in
6 a manner commonly regarded as assembling which results in a
7 material of a different form, use or name; (3) "machinery"
8 shall mean major mechanical machines or major components of
9 such machines contributing to a manufacturing or assembling
10 process; and (4) "equipment" shall include any independent
11 device or tool separate from any machinery but essential to an
12 integrated manufacturing or assembly process; including
13 computers used primarily in a manufacturer's computer assisted
14 design, computer assisted manufacturing (CAD/CAM) system; or
15 any subunit or assembly comprising a component of any
16 machinery or auxiliary, adjunct or attachment parts of
17 machinery, such as tools, dies, jigs, fixtures, patterns and
18 molds; or any parts which require periodic replacement in the
19 course of normal operation; but shall not include hand tools.
20 Equipment includes chemicals or chemicals acting as catalysts
21 but only if the chemicals or chemicals acting as catalysts
22 effect a direct and immediate change upon a product being
23 manufactured or assembled for wholesale or retail sale or
24 lease. The purchaser of such machinery and equipment who has
25 an active resale registration number shall furnish such number
26 to the seller at the time of purchase. The purchaser of such

1 machinery and equipment and tools without an active resale
2 registration number shall prepare a certificate of exemption
3 stating facts establishing the exemption, which certificate
4 shall be available to the Department for inspection or audit.
5 The Department shall prescribe the form of the certificate.

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

19 On and after July 1, 1987, no entity otherwise eligible
20 under exemption (3) of this Section shall make tax-free
21 purchases unless it has an active exemption identification
22 number issued by the Department.

23 The purchase, employment and transfer of such tangible
24 personal property as newsprint and ink for the primary purpose
25 of conveying news (with or without other information) is not a
26 purchase, use or sale of service or of tangible personal

1 property within the meaning of this Act.

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

4 Motor carriers, as defined in Section 18c-1104 of the
5 Vehicle Code, that sell items of tangible personal property to
6 purchasers for use or consumption in addition to rendering
7 service as a motor carrier are engaged in a profession or
8 service occupation as a motor carrier and are not servicemen
9 within the meaning of this Act when they sell items of tangible
10 personal property to purchasers incident to the rendering of
11 service as a motor carrier. Those motor carriers are not
12 required to collect or remit the tax imposed by this Act on the
13 sale of that tangible personal property.

14 "Sale at retail" means "sale at retail" as defined in the
15 Retailers' Occupation Tax Act, which, on and after January 1,
16 2025, is defined to include leases.

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

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

22 (1) having or maintaining within this State, directly
23 or by a subsidiary, an office, distribution house, sales
24 house, warehouse or other place of business, or any agent
25 or other representative operating within this State under
26 the authority of the serviceman or its subsidiary,

1 irrespective of whether such place of business or agent or
2 other representative is located here permanently or
3 temporarily, or whether such serviceman or subsidiary is
4 licensed to do business in this State;

5 (1.1) having a contract with a person located in this
6 State under which the person, for a commission or other
7 consideration based on the sale of service by the
8 serviceman, directly or indirectly refers potential
9 customers to the serviceman by providing to the potential
10 customers a promotional code or other mechanism that
11 allows the serviceman to track purchases referred by such
12 persons. Examples of mechanisms that allow the serviceman
13 to track purchases referred by such persons include but
14 are not limited to the use of a link on the person's
15 Internet website, promotional codes distributed through
16 the person's hand-delivered or mailed material, and
17 promotional codes distributed by the person through radio
18 or other broadcast media. The provisions of this paragraph
19 (1.1) shall apply only if the cumulative gross receipts
20 from sales of service by the serviceman to customers who
21 are referred to the serviceman by all persons in this
22 State under such contracts exceed \$10,000 during the
23 preceding 4 quarterly periods ending on the last day of
24 March, June, September, and December; a serviceman meeting
25 the requirements of this paragraph (1.1) shall be presumed
26 to be maintaining a place of business in this State but may

1 rebut this presumption by submitting proof that the
2 referrals or other activities pursued within this State by
3 such persons were not sufficient to meet the nexus
4 standards of the United States Constitution during the
5 preceding 4 quarterly periods;

6 (1.2) beginning July 1, 2011, having a contract with a
7 person located in this State under which:

8 (A) the serviceman sells the same or substantially
9 similar line of services as the person located in this
10 State and does so using an identical or substantially
11 similar name, trade name, or trademark as the person
12 located in this State; and

13 (B) the serviceman provides a commission or other
14 consideration to the person located in this State
15 based upon the sale of services by the serviceman.

16 The provisions of this paragraph (1.2) shall apply only if
17 the cumulative gross receipts from sales of service by the
18 serviceman to customers in this State under all such
19 contracts exceed \$10,000 during the preceding 4 quarterly
20 periods ending on the last day of March, June, September,
21 and December;

22 (2) soliciting orders for tangible personal property
23 by means of a telecommunication or television shopping
24 system (which utilizes toll free numbers) which is
25 intended by the retailer to be broadcast by cable
26 television or other means of broadcasting, to consumers

1 located in this State;

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

7 (4) soliciting orders for tangible personal property
8 by mail if the solicitations are substantial and recurring
9 and if the retailer benefits from any banking, financing,
10 debt collection, telecommunication, or marketing
11 activities occurring in this State or benefits from the
12 location in this State of authorized installation,
13 servicing, or repair facilities;

14 (5) being owned or controlled by the same interests
15 which own or control any retailer engaging in business in
16 the same or similar line of business in this State;

17 (6) having a franchisee or licensee operating under
18 its trade name if the franchisee or licensee is required
19 to collect the tax under this Section;

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

25 (8) engaging in activities in Illinois, which
26 activities in the state in which the supply business

1 engaging in such activities is located would constitute
2 maintaining a place of business in that state; or

3 (9) beginning October 1, 2018, making sales of service
4 to purchasers in Illinois from outside of Illinois if:

5 (A) the cumulative gross receipts from sales of
6 service to purchasers in Illinois are \$100,000 or
7 more; or

8 (B) the serviceman enters into 200 or more
9 separate transactions for sales of service to
10 purchasers in Illinois.

11 The serviceman shall determine on a quarterly basis,
12 ending on the last day of March, June, September, and
13 December, whether he or she meets the criteria of either
14 subparagraph (A) or (B) of this paragraph (9) for the
15 preceding 12-month period. If the serviceman meets the
16 criteria of either subparagraph (A) or (B) for a 12-month
17 period, he or she is considered a serviceman maintaining a
18 place of business in this State and is required to collect
19 and remit the tax imposed under this Act and file returns
20 for one year. At the end of that one-year period, the
21 serviceman shall determine whether the serviceman met the
22 criteria of either subparagraph (A) or (B) during the
23 preceding 12-month period. If the serviceman met the
24 criteria in either subparagraph (A) or (B) for the
25 preceding 12-month period, he or she is considered a
26 serviceman maintaining a place of business in this State

1 and is required to collect and remit the tax imposed under
2 this Act and file returns for the subsequent year. If at
3 the end of a one-year period a serviceman that was
4 required to collect and remit the tax imposed under this
5 Act determines that he or she did not meet the criteria in
6 either subparagraph (A) or (B) during the preceding
7 12-month period, the serviceman subsequently shall
8 determine on a quarterly basis, ending on the last day of
9 March, June, September, and December, whether he or she
10 meets the criteria of either subparagraph (A) or (B) for
11 the preceding 12-month period.

12 Beginning January 1, 2020, neither the gross receipts
13 from nor the number of separate transactions for sales of
14 service to purchasers in Illinois that a serviceman makes
15 through a marketplace facilitator and for which the
16 serviceman has received a certification from the
17 marketplace facilitator pursuant to Section 2d of this Act
18 shall be included for purposes of determining whether he
19 or she has met the thresholds of this paragraph (9).

20 (10) Beginning January 1, 2020, a marketplace
21 facilitator, as defined in Section 2d of this Act.

22 (Source: P.A. 103-592, eff. 1-1-25.)

23 Section 15. The Service Occupation Tax Act is amended by
24 changing Section 2 as follows:

1 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

2 Sec. 2. In this Act:

3 "Transfer" means any transfer of the title to property or
4 of the ownership of property whether or not the transferor
5 retains title as security for the payment of amounts due him
6 from the transferee. On and after January 1, 2025, "transfer"
7 also means any transfer of the possession or control of, the
8 right to possess or control, or a license to use, but not title
9 to, tangible personal property.

10 "Lease" means a transfer of the possession or control of,
11 the right to possess or control, or a license to use, but not
12 title to, tangible personal property for a fixed or
13 indeterminate term for consideration, regardless of the name
14 by which the transaction is called. "Lease" does not include a
15 lease entered into merely as a security agreement that does
16 not involve a transfer of possession or control from the
17 lessor to the lessee.

18 On and after January 1, 2025, the term "sale", when used in
19 this Act with respect to tangible personal property, includes
20 a lease.

21 "Cost Price" means the consideration paid by the
22 serviceman for a purchase, including, on and after January 1,
23 2025, a lease, valued in money, whether paid in money or
24 otherwise, including cash, credits and services, and shall be
25 determined without any deduction on account of the supplier's
26 cost of the property sold or on account of any other expense

1 incurred by the supplier. When a serviceman contracts out part
2 or all of the services required in his sale of service, it
3 shall be presumed that the cost price to the serviceman of the
4 property transferred to him by his or her subcontractor is
5 equal to 50% of the subcontractor's charges to the serviceman
6 in the absence of proof of the consideration paid by the
7 subcontractor for the purchase of such property.

8 "Department" means the Department of Revenue.

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

14 "Sale of Service" means any transaction except:

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

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

21 (c) Except as hereinafter provided, a sale or transfer of
22 tangible personal property as an incident to the rendering of
23 service for or by any governmental body or for or by any
24 corporation, society, association, foundation or institution
25 organized and operated exclusively for charitable, religious
26 or educational purposes or any not-for-profit corporation,

1 society, association, foundation, institution or organization
2 which has no compensated officers or employees and which is
3 organized and operated primarily for the recreation of persons
4 55 years of age or older. A limited liability company may
5 qualify for the exemption under this paragraph only if the
6 limited liability company is organized and operated
7 exclusively for educational purposes.

8 (d) (Blank).

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

18 (d-1.1) On and after July 1, 2003 and through June 30,
19 2004, a sale or transfer of a motor vehicle of the second
20 division with a gross vehicle weight in excess of 8,000 pounds
21 as an incident to the rendering of service if that motor
22 vehicle is subject to the commercial distribution fee imposed
23 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
24 on July 1, 2004 and through June 30, 2005, the use in this
25 State of motor vehicles of the second division: (i) with a
26 gross vehicle weight rating in excess of 8,000 pounds; (ii)

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

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

23 (d-3) A sale or transfer of tangible personal property
24 which is produced by the seller thereof on special order in
25 such a way as to have made the applicable tax the Service
26 Occupation Tax or the Service Use Tax, rather than the

1 Retailers' Occupation Tax or the Use Tax, for an interstate
2 carrier by rail which receives the physical possession of such
3 property in Illinois, and which transports such property, or
4 shares with another common carrier in the transportation of
5 such property, out of Illinois on a standard uniform bill of
6 lading showing the seller of the property as the shipper or
7 consignor of such property to a destination outside Illinois,
8 for use outside Illinois.

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

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

1 Retailers' Occupation Tax or Use Tax. The exemption provided
2 by this paragraph (e) includes production related tangible
3 personal property, as defined in Section 3-50 of the Use Tax
4 Act, purchased on or after July 1, 2019. The exemption
5 provided by this paragraph (e) does not include machinery and
6 equipment used in (i) the generation of electricity for
7 wholesale or retail sale; (ii) the generation or treatment of
8 natural or artificial gas for wholesale or retail sale that is
9 delivered to customers through pipes, pipelines, or mains; or
10 (iii) the treatment of water for wholesale or retail sale that
11 is delivered to customers through pipes, pipelines, or mains.
12 The provisions of Public Act 98-583 are declaratory of
13 existing law as to the meaning and scope of this exemption. The
14 exemption under this subsection (e) is exempt from the
15 provisions of Section 3-75.

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

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

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

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

20 Exemption (e) also includes machinery and equipment used
21 in the general maintenance or repair of such exempt machinery
22 and equipment or for in-house manufacture of exempt machinery
23 and equipment. On and after July 1, 2017, exemption (e) also
24 includes graphic arts machinery and equipment, as defined in
25 paragraph (5) of Section 3-5. The machinery and equipment
26 exemption does not include machinery and equipment used in (i)

1 the generation of electricity for wholesale or retail sale;
2 (ii) the generation or treatment of natural or artificial gas
3 for wholesale or retail sale that is delivered to customers
4 through pipes, pipelines, or mains; or (iii) the treatment of
5 water for wholesale or retail sale that is delivered to
6 customers through pipes, pipelines, or mains. The provisions
7 of Public Act 98-583 are declaratory of existing law as to the
8 meaning and scope of this exemption. For the purposes of
9 exemption (e), each of these terms shall have the following
10 meanings: (1) "manufacturing process" shall mean the
11 production of any article of tangible personal property,
12 whether such article is a finished product or an article for
13 use in the process of manufacturing or assembling a different
14 article of tangible personal property, by procedures commonly
15 regarded as manufacturing, processing, fabricating, or
16 refining which changes some existing material or materials
17 into a material with a different form, use or name. In relation
18 to a recognized integrated business composed of a series of
19 operations which collectively constitute manufacturing, or
20 individually constitute manufacturing operations, the
21 manufacturing process shall be deemed to commence with the
22 first operation or stage of production in the series, and
23 shall not be deemed to end until the completion of the final
24 product in the last operation or stage of production in the
25 series; and further for purposes of exemption (e),
26 photoprocessing is deemed to be a manufacturing process of

1 tangible personal property for wholesale or retail sale; (2)
2 "assembling process" shall mean the production of any article
3 of tangible personal property, whether such article is a
4 finished product or an article for use in the process of
5 manufacturing or assembling a different article of tangible
6 personal property, by the combination of existing materials in
7 a manner commonly regarded as assembling which results in a
8 material of a different form, use or name; (3) "machinery"
9 shall mean major mechanical machines or major components of
10 such machines contributing to a manufacturing or assembling
11 process; and (4) "equipment" shall include any independent
12 device or tool separate from any machinery but essential to an
13 integrated manufacturing or assembly process; including
14 computers used primarily in a manufacturer's computer assisted
15 design, computer assisted manufacturing (CAD/CAM) system; or
16 any subunit or assembly comprising a component of any
17 machinery or auxiliary, adjunct or attachment parts of
18 machinery, such as tools, dies, jigs, fixtures, patterns and
19 molds; or any parts which require periodic replacement in the
20 course of normal operation; but shall not include hand tools.
21 Equipment includes chemicals or chemicals acting as catalysts
22 but only if the chemicals or chemicals acting as catalysts
23 effect a direct and immediate change upon a product being
24 manufactured or assembled for wholesale or retail sale or
25 lease. The purchaser of such machinery and equipment who has
26 an active resale registration number shall furnish such number

1 to the seller at the time of purchase. The purchaser of such
2 machinery and equipment and tools without an active resale
3 registration number shall furnish to the seller a certificate
4 of exemption stating facts establishing the exemption, which
5 certificate shall be available to the Department for
6 inspection or audit.

7 Except as provided in Section 2d of this Act, the rolling
8 stock exemption applies to rolling stock used by an interstate
9 carrier for hire, even just between points in Illinois, if
10 such rolling stock transports, for hire, persons whose
11 journeys or property whose shipments originate or terminate
12 outside Illinois.

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

26 On and after July 1, 1987, no entity otherwise eligible

1 under exemption (c) of this Section shall make tax-free
2 purchases unless it has an active exemption identification
3 number issued by the Department.

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

6 Motor carriers, as defined in Section 18c-1104 of the
7 Vehicle Code, that sell items of tangible personal property to
8 purchasers for use or consumption in addition to rendering
9 service as a motor carrier are engaged in a profession or
10 service occupation as a motor carrier and are not servicemen
11 within the meaning of this Act when they sell items of tangible
12 personal property to purchasers incident to the rendering of
13 service as a motor carrier. Those motor carriers are not
14 required to collect or remit the tax imposed by this Act on the
15 sale of that tangible personal property.

16 "Sale at Retail" means "sale at retail" as defined in the
17 Retailers' Occupation Tax Act, which, on and after January 1,
18 2025, is defined to include leases.

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

22 (Source: P.A. 103-592, eff. 1-1-25.)

23 Section 20. The Retailers' Occupation Tax Act is amended
24 by changing Sections 1 and 2-55 as follows:

1 (35 ILCS 120/1)

2 Sec. 1. Definitions. As used in this Act:

3 "Sale at retail" means any transfer of the ownership of,
4 the title to, the possession or control of, the right to
5 possess or control, or a license to use tangible personal
6 property to a purchaser, for the purpose of use or
7 consumption, and not for the purpose of resale in any form as
8 tangible personal property to the extent not first subjected
9 to a use for which it was purchased, for a valuable
10 consideration: Provided that the property purchased is deemed
11 to be purchased for the purpose of resale, despite first being
12 used, to the extent to which it is resold as an ingredient of
13 an intentionally produced product or byproduct of
14 manufacturing. For this purpose, slag produced as an incident
15 to manufacturing pig iron or steel and sold is considered to be
16 an intentionally produced byproduct of manufacturing.
17 Transactions whereby the possession of the property is
18 transferred but the seller retains the title as security for
19 payment of the selling price shall be deemed to be sales.

20 "Sale at retail" shall be construed to include any
21 transfer of the ownership of, the title to, the possession or
22 control of, the right to possess or control, or a license to
23 use tangible personal property to a purchaser, for use or
24 consumption by any other person to whom such purchaser may
25 transfer the tangible personal property without a valuable
26 consideration, and to include any transfer, whether made for

1 or without a valuable consideration, for resale in any form as
2 tangible personal property unless made in compliance with
3 Section 2c of this Act.

4 Sales of tangible personal property, which property, to
5 the extent not first subjected to a use for which it was
6 purchased, as an ingredient or constituent, goes into and
7 forms a part of tangible personal property subsequently the
8 subject of a "Sale at retail", are not sales at retail as
9 defined in this Act: Provided that the property purchased is
10 deemed to be purchased for the purpose of resale, despite
11 first being used, to the extent to which it is resold as an
12 ingredient of an intentionally produced product or byproduct
13 of manufacturing.

14 "Sale at retail" shall be construed to include any
15 Illinois florist's sales transaction in which the purchase
16 order is received in Illinois by a florist and the sale is for
17 use or consumption, but the Illinois florist has a florist in
18 another state deliver the property to the purchaser or the
19 purchaser's donee in such other state.

20 Nonreusable tangible personal property that is used by
21 persons engaged in the business of operating a restaurant,
22 cafeteria, or drive-in is a sale for resale when it is
23 transferred to customers in the ordinary course of business as
24 part of the sale of food or beverages and is used to deliver,
25 package, or consume food or beverages, regardless of where
26 consumption of the food or beverages occurs. Examples of those

1 items include, but are not limited to nonreusable, paper and
2 plastic cups, plates, baskets, boxes, sleeves, buckets or
3 other containers, utensils, straws, placemats, napkins, doggie
4 bags, and wrapping or packaging materials that are transferred
5 to customers as part of the sale of food or beverages in the
6 ordinary course of business.

7 The purchase, employment and transfer of such tangible
8 personal property as newsprint and ink for the primary purpose
9 of conveying news (with or without other information) is not a
10 purchase, use or sale of tangible personal property.

11 A person whose activities are organized and conducted
12 primarily as a not-for-profit service enterprise, and who
13 engages in selling tangible personal property at retail
14 (whether to the public or merely to members and their guests)
15 is engaged in the business of selling tangible personal
16 property at retail with respect to such transactions,
17 excepting only a person organized and operated exclusively for
18 charitable, religious or educational purposes either (1), to
19 the extent of sales by such person to its members, students,
20 patients or inmates of tangible personal property to be used
21 primarily for the purposes of such person, or (2), to the
22 extent of sales by such person of tangible personal property
23 which is not sold or offered for sale by persons organized for
24 profit. The selling of school books and school supplies by
25 schools at retail to students is not "primarily for the
26 purposes of" the school which does such selling. The

1 provisions of this paragraph shall not apply to nor subject to
2 taxation occasional dinners, socials or similar activities of
3 a person organized and operated exclusively for charitable,
4 religious or educational purposes, whether or not such
5 activities are open to the public.

6 A person who is the recipient of a grant or contract under
7 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
8 serves meals to participants in the federal Nutrition Program
9 for the Elderly in return for contributions established in
10 amount by the individual participant pursuant to a schedule of
11 suggested fees as provided for in the federal Act is not
12 engaged in the business of selling tangible personal property
13 at retail with respect to such transactions.

14 "Lease" means a transfer of the possession or control of,
15 the right to possess or control, or a license to use, but not
16 title to, tangible personal property for a fixed or
17 indeterminate term for consideration, regardless of the name
18 by which the transaction is called. "Lease" does not include a
19 lease entered into merely as a security agreement that does
20 not involve a transfer of possession or control from the
21 lessor to the lessee.

22 On and after January 1, 2025, the term "sale", when used in
23 this Act, includes a lease.

24 "Purchaser" means anyone who, through a sale at retail,
25 acquires the ownership of, the title to, the possession or
26 control of, the right to possess or control, or a license to

1 use tangible personal property for a valuable consideration.

2 "Reseller of motor fuel" means any person engaged in the
3 business of selling or delivering or transferring title of
4 motor fuel to another person other than for use or
5 consumption. No person shall act as a reseller of motor fuel
6 within this State without first being registered as a reseller
7 pursuant to Section 2c or a retailer pursuant to Section 2a.

8 "Selling price" or the "amount of sale" means the
9 consideration for a sale valued in money whether received in
10 money or otherwise, including cash, credits, property, other
11 than as hereinafter provided, and services, but, prior to
12 January 1, 2020 and beginning again on January 1, 2022, not
13 including the value of or credit given for traded-in tangible
14 personal property where the item that is traded-in is of like
15 kind and character as that which is being sold; beginning
16 January 1, 2020 and until January 1, 2022, "selling price"
17 includes the portion of the value of or credit given for
18 traded-in motor vehicles of the First Division as defined in
19 Section 1-146 of the Illinois Vehicle Code of like kind and
20 character as that which is being sold that exceeds \$10,000.
21 "Selling price" shall be determined without any deduction on
22 account of the cost of the property sold, the cost of materials
23 used, labor or service cost or any other expense whatsoever,
24 but does not include charges that are added to prices by
25 sellers on account of the seller's tax liability under this
26 Act, or on account of the seller's duty to collect, from the

1 purchaser, the tax that is imposed by the Use Tax Act, or,
2 except as otherwise provided with respect to any cigarette tax
3 imposed by a home rule unit, on account of the seller's tax
4 liability under any local occupation tax administered by the
5 Department, or, except as otherwise provided with respect to
6 any cigarette tax imposed by a home rule unit on account of the
7 seller's duty to collect, from the purchasers, the tax that is
8 imposed under any local use tax administered by the
9 Department. Effective December 1, 1985, "selling price" shall
10 include charges that are added to prices by sellers on account
11 of the seller's tax liability under the Cigarette Tax Act, on
12 account of the sellers' duty to collect, from the purchaser,
13 the tax imposed under the Cigarette Use Tax Act, and on account
14 of the seller's duty to collect, from the purchaser, any
15 cigarette tax imposed by a home rule unit.

16 The provisions of this paragraph, which provides only for
17 an alternative meaning of "selling price" with respect to the
18 sale of certain motor vehicles incident to the contemporaneous
19 lease of those motor vehicles, continue in effect and are not
20 changed by the tax on leases implemented by Public Act 103-592
21 ~~this amendatory Act of the 103rd General Assembly.~~
22 Notwithstanding any law to the contrary, for any motor
23 vehicle, as defined in Section 1-146 of the Illinois Vehicle
24 Code, that is sold on or after January 1, 2015 for the purpose
25 of leasing the vehicle for a defined period that is longer than
26 one year and (1) is a motor vehicle of the second division

1 that: (A) is a self-contained motor vehicle designed or
2 permanently converted to provide living quarters for
3 recreational, camping, or travel use, with direct walk through
4 access to the living quarters from the driver's seat; (B) is of
5 the van configuration designed for the transportation of not
6 less than 7 nor more than 16 passengers; or (C) has a gross
7 vehicle weight rating of 8,000 pounds or less or (2) is a motor
8 vehicle of the first division, "selling price" or "amount of
9 sale" means the consideration received by the lessor pursuant
10 to the lease contract, including amounts due at lease signing
11 and all monthly or other regular payments charged over the
12 term of the lease. Also included in the selling price is any
13 amount received by the lessor from the lessee for the leased
14 vehicle that is not calculated at the time the lease is
15 executed, including, but not limited to, excess mileage
16 charges and charges for excess wear and tear. For sales that
17 occur in Illinois, with respect to any amount received by the
18 lessor from the lessee for the leased vehicle that is not
19 calculated at the time the lease is executed, the lessor who
20 purchased the motor vehicle does not incur the tax imposed by
21 the Use Tax Act on those amounts, and the retailer who makes
22 the retail sale of the motor vehicle to the lessor is not
23 required to collect the tax imposed by the Use Tax Act or to
24 pay the tax imposed by this Act on those amounts. However, the
25 lessor who purchased the motor vehicle assumes the liability
26 for reporting and paying the tax on those amounts directly to

1 the Department in the same form (Illinois Retailers'
2 Occupation Tax, and local retailers' occupation taxes, if
3 applicable) in which the retailer would have reported and paid
4 such tax if the retailer had accounted for the tax to the
5 Department. For amounts received by the lessor from the lessee
6 that are not calculated at the time the lease is executed, the
7 lessor must file the return and pay the tax to the Department
8 by the due date otherwise required by this Act for returns
9 other than transaction returns. If the retailer is entitled
10 under this Act to a discount for collecting and remitting the
11 tax imposed under this Act to the Department with respect to
12 the sale of the motor vehicle to the lessor, then the right to
13 the discount provided in this Act shall be transferred to the
14 lessor with respect to the tax paid by the lessor for any
15 amount received by the lessor from the lessee for the leased
16 vehicle that is not calculated at the time the lease is
17 executed; provided that the discount is only allowed if the
18 return is timely filed and for amounts timely paid. The
19 "selling price" of a motor vehicle that is sold on or after
20 January 1, 2015 for the purpose of leasing for a defined period
21 of longer than one year shall not be reduced by the value of or
22 credit given for traded-in tangible personal property owned by
23 the lessor, nor shall it be reduced by the value of or credit
24 given for traded-in tangible personal property owned by the
25 lessee, regardless of whether the trade-in value thereof is
26 assigned by the lessee to the lessor. In the case of a motor

1 vehicle that is sold for the purpose of leasing for a defined
2 period of longer than one year, the sale occurs at the time of
3 the delivery of the vehicle, regardless of the due date of any
4 lease payments. A lessor who incurs a Retailers' Occupation
5 Tax liability on the sale of a motor vehicle coming off lease
6 may not take a credit against that liability for the Use Tax
7 the lessor paid upon the purchase of the motor vehicle (or for
8 any tax the lessor paid with respect to any amount received by
9 the lessor from the lessee for the leased vehicle that was not
10 calculated at the time the lease was executed) if the selling
11 price of the motor vehicle at the time of purchase was
12 calculated using the definition of "selling price" as defined
13 in this paragraph. Notwithstanding any other provision of this
14 Act to the contrary, lessors shall file all returns and make
15 all payments required under this paragraph to the Department
16 by electronic means in the manner and form as required by the
17 Department. This paragraph does not apply to leases of motor
18 vehicles for which, at the time the lease is entered into, the
19 term of the lease is not a defined period, including leases
20 with a defined initial period with the option to continue the
21 lease on a month-to-month or other basis beyond the initial
22 defined period.

23 The phrase "like kind and character" shall be liberally
24 construed (including but not limited to any form of motor
25 vehicle for any form of motor vehicle, or any kind of farm or
26 agricultural implement for any other kind of farm or

1 agricultural implement), while not including a kind of item
2 which, if sold at retail by that retailer, would be exempt from
3 retailers' occupation tax and use tax as an isolated or
4 occasional sale.

5 "Gross receipts" from the sales of tangible personal
6 property at retail means the total selling price or the amount
7 of such sales, as hereinbefore defined. In the case of charge
8 and time sales, the amount thereof shall be included only as
9 and when payments are received by the seller. In the case of
10 leases, except as otherwise provided in this Act, the amount
11 thereof shall be included only as and when gross receipts are
12 received by the lessor. Receipts or other consideration
13 derived by a seller from the sale, transfer or assignment of
14 accounts receivable to a wholly owned subsidiary will not be
15 deemed payments prior to the time the purchaser makes payment
16 on such accounts.

17 "Department" means the Department of Revenue.

18 "Person" means any natural individual, firm, partnership,
19 association, joint stock company, joint adventure, public or
20 private corporation, limited liability company, or a receiver,
21 executor, trustee, guardian or other representative appointed
22 by order of any court.

23 The isolated or occasional sale of tangible personal
24 property at retail by a person who does not hold himself out as
25 being engaged (or who does not habitually engage) in selling
26 such tangible personal property at retail, or a sale through a

1 bulk vending machine, does not constitute engaging in a
2 business of selling such tangible personal property at retail
3 within the meaning of this Act; provided that any person who is
4 engaged in a business which is not subject to the tax imposed
5 by this Act because of involving the sale of or a contract to
6 sell real estate or a construction contract to improve real
7 estate or a construction contract to engineer, install, and
8 maintain an integrated system of products, but who, in the
9 course of conducting such business, transfers tangible
10 personal property to users or consumers in the finished form
11 in which it was purchased, and which does not become real
12 estate or was not engineered and installed, under any
13 provision of a construction contract or real estate sale or
14 real estate sales agreement entered into with some other
15 person arising out of or because of such nontaxable business,
16 is engaged in the business of selling tangible personal
17 property at retail to the extent of the value of the tangible
18 personal property so transferred. If, in such a transaction, a
19 separate charge is made for the tangible personal property so
20 transferred, the value of such property, for the purpose of
21 this Act, shall be the amount so separately charged, but not
22 less than the cost of such property to the transferor; if no
23 separate charge is made, the value of such property, for the
24 purposes of this Act, is the cost to the transferor of such
25 tangible personal property. Construction contracts for the
26 improvement of real estate consisting of engineering,

1 installation, and maintenance of voice, data, video, security,
2 and all telecommunication systems do not constitute engaging
3 in a business of selling tangible personal property at retail
4 within the meaning of this Act if they are sold at one
5 specified contract price.

6 A person who holds himself or herself out as being engaged
7 (or who habitually engages) in selling tangible personal
8 property at retail is a person engaged in the business of
9 selling tangible personal property at retail hereunder with
10 respect to such sales (and not primarily in a service
11 occupation) notwithstanding the fact that such person designs
12 and produces such tangible personal property on special order
13 for the purchaser and in such a way as to render the property
14 of value only to such purchaser, if such tangible personal
15 property so produced on special order serves substantially the
16 same function as stock or standard items of tangible personal
17 property that are sold at retail.

18 Persons who engage in the business of transferring
19 tangible personal property upon the redemption of trading
20 stamps are engaged in the business of selling such property at
21 retail and shall be liable for and shall pay the tax imposed by
22 this Act on the basis of the retail value of the property
23 transferred upon redemption of such stamps.

24 Motor carriers, as defined in Section 18c-1104 of the
25 Vehicle Code, that sell items of tangible personal property to
26 purchasers for use or consumption in addition to rendering

1 service as a motor carrier are engaged in a profession or
2 service occupation as a motor carrier and are not considered
3 persons engaged in the business of selling tangible personal
4 property at retail within the meaning of this Act when they
5 sell items of tangible personal property to purchasers
6 incident to the rendering of service as a motor carrier. Those
7 motor carriers are not required to collect or remit the tax
8 imposed by this Act on the sale of that tangible personal
9 property.

10 "Bulk vending machine" means a vending machine, containing
11 unsorted confections, nuts, toys, or other items designed
12 primarily to be used or played with by children which, when a
13 coin or coins of a denomination not larger than \$0.50 are
14 inserted, are dispensed in equal portions, at random and
15 without selection by the customer.

16 "Remote retailer" means a retailer that does not maintain
17 within this State, directly or by a subsidiary, an office,
18 distribution house, sales house, warehouse or other place of
19 business, or any agent or other representative operating
20 within this State under the authority of the retailer or its
21 subsidiary, irrespective of whether such place of business or
22 agent is located here permanently or temporarily or whether
23 such retailer or subsidiary is licensed to do business in this
24 State.

25 "Retailer maintaining a place of business in this State"
26 has the meaning given to that term in Section 2 of the Use Tax

1 Act.

2 "Marketplace" means a physical or electronic place, forum,
3 platform, application, or other method by which a marketplace
4 seller sells or offers to sell items.

5 "Marketplace facilitator" means a person who, pursuant to
6 an agreement with an unrelated third-party marketplace seller,
7 directly or indirectly through one or more affiliates
8 facilitates a retail sale by an unrelated third-party ~~third~~
9 ~~party~~ marketplace seller by:

10 (1) listing or advertising for sale by the marketplace
11 seller in a marketplace, tangible personal property that
12 is subject to tax under this Act; and

13 (2) either directly or indirectly, through agreements
14 or arrangements with third parties, collecting payment
15 from the customer and transmitting that payment to the
16 marketplace seller regardless of whether the marketplace
17 facilitator receives compensation or other consideration
18 in exchange for its services.

19 A person who provides advertising services, including
20 listing products for sale, is not considered a marketplace
21 facilitator, so long as the advertising service platform or
22 forum does not engage, directly or indirectly through one or
23 more affiliated persons, in the activities described in
24 paragraph (2) of this definition of "marketplace facilitator".

25 "Marketplace facilitator" does not include any person
26 licensed under the Auction License Act. This exemption does

1 not apply to any person who is an Internet auction listing
2 service, as defined by the Auction License Act.

3 "Marketplace seller" means a person who ~~that~~ makes sales
4 through a marketplace operated by an unrelated third-party
5 ~~third-party~~ marketplace facilitator.

6 (Source: P.A. 102-353, eff. 1-1-22; 102-634, eff. 8-27-21;
7 102-813, eff. 5-13-22; 103-592, eff. 1-1-25; 103-983, eff.
8 1-1-25; revised 11-26-24.)

9 (35 ILCS 120/2-55) (from Ch. 120, par. 441-55)

10 Sec. 2-55. Serviceman transfer. Tangible personal property
11 purchased by a serviceman, as defined in Section 2 of the
12 Service Occupation Tax Act, is subject to the tax imposed by
13 this Act when purchased for transfer by the serviceman
14 incidental to completion of a maintenance agreement.

15 Motor carriers, as defined in Section 18c-1104 of the
16 Vehicle Code, that sell items of tangible personal property to
17 purchasers for use or consumption in addition to rendering
18 service as a motor carrier are engaged in a profession or
19 service occupation as a motor carrier and are not engaged in
20 the business of selling tangible personal property to
21 purchasers for use or consumption within the meaning of this
22 Act. Those motor carriers are not required to collect or remit
23 the tax under this Act with respect to that tangible personal
24 property.

25 (Source: P.A. 91-51, eff. 6-30-99.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.