



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4037

Introduced 4/7/2025, by Rep. Brandun Schweizer

SYNOPSIS AS INTRODUCED:

35 ILCS 105/2	from Ch. 120, par. 439.2
35 ILCS 105/3	from Ch. 120, par. 439.3
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	

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, on and after January 1, 2026, the inclusion of leases in the tax imposed under those Acts does not extend to sporting goods that are leased for a period of less than 10 days. Effective immediately.

LRB104 12740 HLH 24578 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 Sections
5 2 and 3 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 Beginning on January 1, 2026, the term "lease" does not
9 include the lease of sporting goods for a period of less than
10 10 days.

11 For the purposes of defining the term "lease", "sporting
12 goods" means tangible personal property that is used for
13 participation in a recreational health, fitness, or sporting
14 activity, including, but not limited to, golf, tennis,
15 basketball, baseball, softball, football, soccer, fishing,
16 pickleball, ice skating, roller skating, hockey, skiing,
17 paddle boating, kayaking, canoeing, or yoga.

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

22 "Purchase at retail" means the acquisition of the
23 ownership of, the title to, the possession or control of, the
24 right to possess or control, or a license to use, tangible
25 personal property through a sale at retail.

26 "Purchaser" means anyone who, through a sale at retail,

1 acquires the ownership of, the title to, the possession or
2 control of, the right to possess or control, or a license to
3 use, tangible personal property for a valuable consideration.

4 "Sale at retail" means any transfer of the ownership of or
5 title to tangible personal property to a purchaser, for the
6 purpose of use, and not for the purpose of resale in any form
7 as tangible personal property to the extent not first
8 subjected to a use for which it was purchased, for a valuable
9 consideration: Provided that the property purchased is deemed
10 to be purchased for the purpose of resale, despite first being
11 used, to the extent to which it is resold as an ingredient of
12 an intentionally produced product or by-product of
13 manufacturing. For this purpose, slag produced as an incident
14 to manufacturing pig iron or steel and sold is considered to be
15 an intentionally produced by-product of manufacturing. "Sale
16 at retail" includes any such transfer made for resale unless
17 made in compliance with Section 2c of the Retailers'
18 Occupation Tax Act, as incorporated by reference into Section
19 12 of this Act. Transactions whereby the possession of the
20 property is transferred but the seller retains the title as
21 security for payment of the selling price are sales.

22 "Sale at retail" shall also be construed to include any
23 Illinois florist's sales transaction in which the purchase
24 order is received in Illinois by a florist and the sale is for
25 use or consumption, but the Illinois florist has a florist in
26 another state deliver the property to the purchaser or the

1 purchaser's donee in such other state.

2 Nonreusable tangible personal property that is used by
3 persons engaged in the business of operating a restaurant,
4 cafeteria, or drive-in is a sale for resale when it is
5 transferred to customers in the ordinary course of business as
6 part of the sale of food or beverages and is used to deliver,
7 package, or consume food or beverages, regardless of where
8 consumption of the food or beverages occurs. Examples of those
9 items include, but are not limited to nonreusable, paper and
10 plastic cups, plates, baskets, boxes, sleeves, buckets or
11 other containers, utensils, straws, placemats, napkins, doggie
12 bags, and wrapping or packaging materials that are transferred
13 to customers as part of the sale of food or beverages in the
14 ordinary course of business.

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

19 "Selling price" means the consideration for a sale valued
20 in money whether received in money or otherwise, including
21 cash, credits, property other than as hereinafter provided,
22 and services, but, prior to January 1, 2020 and beginning
23 again on January 1, 2022, not including the value of or credit
24 given for traded-in tangible personal property where the item
25 that is traded-in is of like kind and character as that which
26 is being sold; beginning January 1, 2020 and until January 1,

1 2022, "selling price" includes the portion of the value of or
2 credit given for traded-in motor vehicles of the First
3 Division as defined in Section 1-146 of the Illinois Vehicle
4 Code of like kind and character as that which is being sold
5 that exceeds \$10,000. "Selling price" shall be determined
6 without any deduction on account of the cost of the property
7 sold, the cost of materials used, labor or service cost, or any
8 other expense whatsoever, but does not include interest or
9 finance charges which appear as separate items on the bill of
10 sale or sales contract nor charges that are added to prices by
11 sellers on account of the seller's tax liability under the
12 Retailers' Occupation Tax Act, or on account of the seller's
13 duty to collect, from the purchaser, the tax that is imposed by
14 this Act, or, except as otherwise provided with respect to any
15 cigarette tax imposed by a home rule unit, on account of the
16 seller's tax liability under any local occupation tax
17 administered by the Department, or, except as otherwise
18 provided with respect to any cigarette tax imposed by a home
19 rule unit on account of the seller's duty to collect, from the
20 purchasers, the tax that is imposed under any local use tax
21 administered by the Department. Effective December 1, 1985,
22 "selling price" shall include charges that are added to prices
23 by sellers on account of the seller's tax liability under the
24 Cigarette Tax Act, on account of the seller's duty to collect,
25 from the purchaser, the tax imposed under the Cigarette Use
26 Tax Act, and on account of the seller's duty to collect, from

1 the purchaser, any cigarette tax imposed by a home rule unit.

2 The provisions of this paragraph, which provides only for
3 an alternative meaning of "selling price" with respect to the
4 sale of certain motor vehicles incident to the contemporaneous
5 lease of those motor vehicles, continue in effect and are not
6 changed by the tax on leases implemented by Public Act 103-592
7 ~~this amendatory Act of the 103rd General Assembly.~~

8 Notwithstanding any law to the contrary, for any motor
9 vehicle, as defined in Section 1-146 of the Vehicle Code, that
10 is sold on or after January 1, 2015 for the purpose of leasing
11 the vehicle for a defined period that is longer than one year
12 and (1) is a motor vehicle of the second division that: (A) is
13 a self-contained motor vehicle designed or permanently
14 converted to provide living quarters for recreational,
15 camping, or travel use, with direct walk through access to the
16 living quarters from the driver's seat; (B) is of the van
17 configuration designed for the transportation of not less than
18 7 nor more than 16 passengers; or (C) has a gross vehicle
19 weight rating of 8,000 pounds or less or (2) is a motor vehicle
20 of the first division, "selling price" or "amount of sale"
21 means the consideration received by the lessor pursuant to the
22 lease contract, including amounts due at lease signing and all
23 monthly or other regular payments charged over the term of the
24 lease. Also included in the selling price is any amount
25 received by the lessor from the lessee for the leased vehicle
26 that is not calculated at the time the lease is executed,

1 including, but not limited to, excess mileage charges and
2 charges for excess wear and tear. For sales that occur in
3 Illinois, with respect to any amount received by the lessor
4 from the lessee for the leased vehicle that is not calculated
5 at the time the lease is executed, the lessor who purchased the
6 motor vehicle does not incur the tax imposed by the Use Tax Act
7 on those amounts, and the retailer who makes the retail sale of
8 the motor vehicle to the lessor is not required to collect the
9 tax imposed by this Act or to pay the tax imposed by the
10 Retailers' Occupation Tax Act on those amounts. However, the
11 lessor who purchased the motor vehicle assumes the liability
12 for reporting and paying the tax on those amounts directly to
13 the Department in the same form (Illinois Retailers'
14 Occupation Tax, and local retailers' occupation taxes, if
15 applicable) in which the retailer would have reported and paid
16 such tax if the retailer had accounted for the tax to the
17 Department. For amounts received by the lessor from the lessee
18 that are not calculated at the time the lease is executed, the
19 lessor must file the return and pay the tax to the Department
20 by the due date otherwise required by this Act for returns
21 other than transaction returns. If the retailer is entitled
22 under this Act to a discount for collecting and remitting the
23 tax imposed under this Act to the Department with respect to
24 the sale of the motor vehicle to the lessor, then the right to
25 the discount provided in this Act shall be transferred to the
26 lessor with respect to the tax paid by the lessor for any

1 amount received by the lessor from the lessee for the leased
2 vehicle that is not calculated at the time the lease is
3 executed; provided that the discount is only allowed if the
4 return is timely filed and for amounts timely paid. The
5 "selling price" of a motor vehicle that is sold on or after
6 January 1, 2015 for the purpose of leasing for a defined period
7 of longer than one year shall not be reduced by the value of or
8 credit given for traded-in tangible personal property owned by
9 the lessor, nor shall it be reduced by the value of or credit
10 given for traded-in tangible personal property owned by the
11 lessee, regardless of whether the trade-in value thereof is
12 assigned by the lessee to the lessor. In the case of a motor
13 vehicle that is sold for the purpose of leasing for a defined
14 period of longer than one year, the sale occurs at the time of
15 the delivery of the vehicle, regardless of the due date of any
16 lease payments. A lessor who incurs a Retailers' Occupation
17 Tax liability on the sale of a motor vehicle coming off lease
18 may not take a credit against that liability for the Use Tax
19 the lessor paid upon the purchase of the motor vehicle (or for
20 any tax the lessor paid with respect to any amount received by
21 the lessor from the lessee for the leased vehicle that was not
22 calculated at the time the lease was executed) if the selling
23 price of the motor vehicle at the time of purchase was
24 calculated using the definition of "selling price" as defined
25 in this paragraph. Notwithstanding any other provision of this
26 Act to the contrary, lessors shall file all returns and make

1 all payments required under this paragraph to the Department
2 by electronic means in the manner and form as required by the
3 Department. This paragraph does not apply to leases of motor
4 vehicles for which, at the time the lease is entered into, the
5 term of the lease is not a defined period, including leases
6 with a defined initial period with the option to continue the
7 lease on a month-to-month or other basis beyond the initial
8 defined period.

9 The phrase "like kind and character" shall be liberally
10 construed (including, but not limited to, any form of motor
11 vehicle for any form of motor vehicle, or any kind of farm or
12 agricultural implement for any other kind of farm or
13 agricultural implement), while not including a kind of item
14 which, if sold at retail by that retailer, would be exempt from
15 retailers' occupation tax and use tax as an isolated or
16 occasional sale.

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 "Retailer" means and includes every person engaged in the
24 business of making sales, including, on and after January 1,
25 2025, leases, at retail as defined in this Section. With
26 respect to leases, a "retailer" also means a "lessor", except

1 as otherwise provided in this Act.

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

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

1 purposes of" the school which does such selling. This
2 paragraph does not apply to nor subject to taxation occasional
3 dinners, social, or similar activities of a person organized
4 and operated exclusively for charitable, religious, or
5 educational purposes, whether or not such activities are open
6 to the public.

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

14 Persons who engage in the business of transferring
15 tangible personal property upon the redemption of trading
16 stamps are retailers hereunder when engaged in such business.

17 The isolated or occasional sale of tangible personal
18 property at retail by a person who does not hold himself out as
19 being engaged (or who does not habitually engage) in selling
20 such tangible personal property at retail or a sale through a
21 bulk vending machine does not make such person a retailer
22 hereunder. However, any person who is engaged in a business
23 which is not subject to the tax imposed by the Retailers'
24 Occupation Tax Act because of involving the sale of or a
25 contract to sell real estate or a construction contract to
26 improve real estate, but who, in the course of conducting such

1 business, transfers tangible personal property to users or
2 consumers in the finished form in which it was purchased, and
3 which does not become real estate, under any provision of a
4 construction contract or real estate sale or real estate sales
5 agreement entered into with some other person arising out of
6 or because of such nontaxable business, is a retailer to the
7 extent of the value of the tangible personal property so
8 transferred. If, in such transaction, a separate charge is
9 made for the tangible personal property so transferred, the
10 value of such property, for the purposes of this Act, is the
11 amount so separately charged, but not less than the cost of
12 such property to the transferor; if no separate charge is
13 made, the value of such property, for the purposes of this Act,
14 is the cost to the transferor of such tangible personal
15 property.

16 "Retailer maintaining a place of business in this State",
17 or any like term, means and includes any of the following
18 retailers:

19 (1) A retailer having or maintaining within this
20 State, directly or by a subsidiary, an office,
21 distribution house, sales house, warehouse, or other place
22 of business, or any agent or other representative
23 operating within this State under the authority of the
24 retailer or its subsidiary, irrespective of whether such
25 place of business or agent or other representative is
26 located here permanently or temporarily, or whether such

1 retailer or subsidiary is licensed to do business in this
2 State. However, the ownership of property that is located
3 at the premises of a printer with which the retailer has
4 contracted for printing and that consists of the final
5 printed product, property that becomes a part of the final
6 printed product, or copy from which the printed product is
7 produced shall not result in the retailer being deemed to
8 have or maintain an office, distribution house, sales
9 house, warehouse, or other place of business within this
10 State.

11 (1.1) A retailer having a contract with a person
12 located in this State under which the person, for a
13 commission or other consideration based upon the sale of
14 tangible personal property by the retailer, directly or
15 indirectly refers potential customers to the retailer by
16 providing to the potential customers a promotional code or
17 other mechanism that allows the retailer to track
18 purchases referred by such persons. Examples of mechanisms
19 that allow the retailer to track purchases referred by
20 such persons include, but are not limited to, the use of a
21 link on the person's Internet website, promotional codes
22 distributed through the person's hand-delivered or mailed
23 material, and promotional codes distributed by the person
24 through radio or other broadcast media. The provisions of
25 this paragraph (1.1) shall apply only if the cumulative
26 gross receipts from sales of tangible personal property by

1 the retailer to customers who are referred to the retailer
2 by all persons in this State under such contracts exceed
3 \$10,000 during the preceding 4 quarterly periods ending on
4 the last day of March, June, September, and December. A
5 retailer meeting the requirements of this paragraph (1.1)
6 shall be presumed to be maintaining a place of business in
7 this State but may rebut this presumption by submitting
8 proof that the referrals or other activities pursued
9 within this State by such persons were not sufficient to
10 meet the nexus standards of the United States Constitution
11 during the preceding 4 quarterly periods.

12 (1.2) Beginning July 1, 2011, a retailer having a
13 contract with a person located in this State under which:

14 (A) the retailer sells the same or substantially
15 similar line of products as the person located in this
16 State and does so using an identical or substantially
17 similar name, trade name, or trademark as the person
18 located in this State; and

19 (B) the retailer provides a commission or other
20 consideration to the person located in this State
21 based upon the sale of tangible personal property by
22 the retailer.

23 The provisions of this paragraph (1.2) shall apply
24 only if the cumulative gross receipts from sales of
25 tangible personal property by the retailer to customers in
26 this State under all such contracts exceed \$10,000 during

1 the preceding 4 quarterly periods ending on the last day
2 of March, June, September, and December.

3 (2) (Blank).

4 (3) (Blank).

5 (4) (Blank).

6 (5) (Blank).

7 (6) (Blank).

8 (7) (Blank).

9 (8) (Blank).

10 (9) Beginning October 1, 2018, a retailer making sales
11 of tangible personal property to purchasers in Illinois
12 from outside of Illinois if:

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

16 (B) the retailer enters into 200 or more separate
17 transactions for the sale of tangible personal
18 property to purchasers in Illinois.

19 The retailer shall determine on a quarterly basis,
20 ending on the last day of March, June, September, and
21 December, whether he or she meets the criteria of either
22 subparagraph (A) or (B) of this paragraph (9) for the
23 preceding 12-month period. If the retailer meets the
24 threshold of either subparagraph (A) or (B) for a 12-month
25 period, he or she is considered a retailer maintaining a
26 place of business in this State and is required to collect

1 and remit the tax imposed under this Act and file returns
2 for one year. At the end of that one-year period, the
3 retailer shall determine whether he or she met the
4 threshold of either subparagraph (A) or (B) during the
5 preceding 12-month period. If the retailer met the
6 criteria in either subparagraph (A) or (B) for the
7 preceding 12-month period, he or she is considered a
8 retailer maintaining a place of business in this State and
9 is required to collect and remit the tax imposed under
10 this Act and file returns for the subsequent year. If at
11 the end of a one-year period a retailer that was required
12 to collect and remit the tax imposed under this Act
13 determines that he or she did not meet the threshold in
14 either subparagraph (A) or (B) during the preceding
15 12-month period, the retailer shall subsequently determine
16 on a quarterly basis, ending on the last day of March,
17 June, September, and December, whether he or she meets the
18 threshold of either subparagraph (A) or (B) for the
19 preceding 12-month period.

20 Beginning January 1, 2020, neither the gross receipts
21 from nor the number of separate transactions for sales of
22 tangible personal property to purchasers in Illinois that
23 a retailer makes through a marketplace facilitator and for
24 which the retailer has received a certification from the
25 marketplace facilitator pursuant to Section 2d of this Act
26 shall be included for purposes of determining whether he

1 or she has met the thresholds of this paragraph (9).

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

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

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

13 (35 ILCS 105/3) (from Ch. 120, par. 439.3)

14 Sec. 3. Tax imposed. A tax is imposed upon the privilege of
15 using in this State tangible personal property purchased,
16 which, on and after January 1, 2025, includes leased, at
17 retail from a retailer, including computer software, and
18 including photographs, negatives, and positives that are the
19 product of photoprocessing, but not including products of
20 photoprocessing produced for use in motion pictures for
21 commercial exhibition. Beginning January 1, 2001, prepaid
22 telephone calling arrangements shall be considered tangible
23 personal property subject to the tax imposed under this Act
24 regardless of the form in which those arrangements may be
25 embodied, transmitted, or fixed by any method now known or

1 hereafter developed. Purchases of (1) electricity delivered to
2 customers by wire; (2) natural or artificial gas that is
3 delivered to customers through pipes, pipelines, or mains; and
4 (3) water that is delivered to customers through pipes,
5 pipelines, or mains are not subject to tax under this Act. The
6 provisions of this amendatory Act of the 98th General Assembly
7 are declaratory of existing law as to the meaning and scope of
8 this Act.

9 The imposition of the tax under this Act on the privilege
10 of using tangible personal property leased at retail applies
11 to leases of tangible personal property in effect, entered
12 into, or renewed on or after January 1, 2025. In the case of
13 leases, except as otherwise provided in this Act, the lessor,
14 in collecting the tax, may collect for each tax return period,
15 only the tax applicable to that part of the selling price
16 actually received during such tax return period.

17 The inclusion of leases in the tax imposed under this Act
18 by this amendatory Act of the 103rd General Assembly does not,
19 however, extend to motor vehicles, watercraft, aircraft, and
20 semitrailers, as defined in Section 1-187 of the Illinois
21 Vehicle Code, that are required to be registered with an
22 agency of this State. The taxation of these items shall
23 continue in effect as prior to the effective date of the
24 changes made to this Section by this amendatory Act of the
25 103rd General Assembly (i.e. dealers owe retailers' occupation
26 tax, lessors owe use tax, and lessees are not subject to

1 retailers' occupation or use tax).

2 On and after January 1, 2026, the inclusion of leases in
3 the tax imposed under this Act does not extend to sporting
4 goods that are leased for a period of less than 10 days.

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

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

8 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

9 Sec. 2. Definitions. In this Act:

10 "Use" means the exercise by any person of any right or
11 power over tangible personal property incident to the
12 ownership of that property, or, on and after January 1, 2025,
13 incident to the possession or control of, the right to possess
14 or control, or a license to use that property through a lease,
15 but does not include the sale or use for demonstration by him
16 of that property in any form as tangible personal property in
17 the regular course of business. "Use" does not mean the
18 interim use of tangible personal property. On and after
19 January 1, 2025, the lease of tangible personal property to a
20 lessee by a serviceman who is subject to tax on lease receipts
21 under this amendatory Act of the 103rd General Assembly does
22 not qualify as demonstration use or interim use of that
23 property. "Use" does not mean the physical incorporation of
24 tangible personal property, as an ingredient or constituent,

1 into other tangible personal property, (a) which is sold in
2 the regular course of business or (b) which the person
3 incorporating such ingredient or constituent therein has
4 undertaken at the time of such purchase to cause to be
5 transported in interstate commerce to destinations outside the
6 State of Illinois.

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

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

18 Beginning on January 1, 2026, the term "lease" does not
19 include the lease of sporting goods for a period of less than
20 10 days.

21 For the purposes of defining the term "lease", "sporting
22 goods" means tangible personal property that is used for
23 participation in a recreational health, fitness, or sporting
24 activity, including, but not limited to, golf, tennis,
25 basketball, baseball, softball, football, soccer, fishing,
26 pickleball, ice skating, roller skating, hockey, skiing,

1 paddle boating, kayaking, canoeing, or yoga.

2 "Purchased from a serviceman" means the acquisition of the
3 ownership of, the title to, the possession or control of, the
4 right to possess or control, or a license to use, tangible
5 personal property through a sale of service.

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

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

23 "Selling price" means the consideration for a sale,
24 including, on and after January 1, 2025, a lease, valued in
25 money whether received in money or otherwise, including cash,
26 credits and service, and shall be determined without any

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

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

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

21 (3) except as hereinafter provided, a sale or transfer
22 of tangible personal property as an incident to the
23 rendering of service for or by any governmental body, or
24 for or by any corporation, society, association,
25 foundation or institution organized and operated
26 exclusively for charitable, religious or educational

1 purposes or any not-for-profit corporation, society,
2 association, foundation, institution or organization which
3 has no compensated officers or employees and which is
4 organized and operated primarily for the recreation of
5 persons 55 years of age or older. A limited liability
6 company may qualify for the exemption under this paragraph
7 only if the limited liability company is organized and
8 operated exclusively for educational purposes.

9 (4) (blank).

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

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

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

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

1 Occupation Tax. The exemption provided by this paragraph
2 (5) includes production related tangible personal
3 property, as defined in Section 3-50 of the Use Tax Act,
4 purchased on or after July 1, 2019. The exemption provided
5 by this paragraph (5) 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
8 of natural or artificial gas for wholesale or retail sale
9 that is delivered to customers through pipes, pipelines,
10 or mains; or (iii) the treatment of water for wholesale or
11 retail sale that is delivered to customers through pipes,
12 pipelines, or mains. The provisions of Public Act 98-583
13 are declaratory of existing law as to the meaning and
14 scope of this exemption. The exemption under this
15 paragraph (5) is exempt from the provisions of Section
16 3-75.

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

1 destination outside Illinois, for use outside Illinois.

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

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

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

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

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

21 Exemption (5) also includes machinery and equipment used
22 in the general maintenance or repair of such exempt machinery
23 and equipment or for in-house manufacture of exempt machinery
24 and equipment. On and after July 1, 2017, exemption (5) also
25 includes graphic arts machinery and equipment, as defined in
26 paragraph (5) of Section 3-5. The machinery and equipment

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

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

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

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

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

25 The purchase, employment and transfer of such tangible
26 personal property as newsprint and ink for the primary purpose

1 of conveying news (with or without other information) is not a
2 purchase, use or sale of service or of tangible personal
3 property within the meaning of this Act.

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

6 "Sale at retail" means "sale at retail" as defined in the
7 Retailers' Occupation Tax Act, which, on and after January 1,
8 2025, is defined to include leases.

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

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

14 (1) having or maintaining within this State, directly
15 or by a subsidiary, an office, distribution house, sales
16 house, warehouse or other place of business, or any agent
17 or other representative operating within this State under
18 the authority of the serviceman or its subsidiary,
19 irrespective of whether such place of business or agent or
20 other representative is located here permanently or
21 temporarily, or whether such serviceman or subsidiary is
22 licensed to do business in this State;

23 (1.1) having a contract with a person located in this
24 State under which the person, for a commission or other
25 consideration based on the sale of service by the
26 serviceman, directly or indirectly refers potential

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

24 (1.2) beginning July 1, 2011, having a contract with a
25 person located in this State under which:

26 (A) the serviceman sells the same or substantially

1 similar line of services as the person located in this
2 State and does so using an identical or substantially
3 similar name, trade name, or trademark as the person
4 located in this State; and

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

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

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

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

25 (4) soliciting orders for tangible personal property
26 by mail if the solicitations are substantial and recurring

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

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

9 (6) having a franchisee or licensee operating under
10 its trade name if the franchisee or licensee is required
11 to collect the tax under this Section;

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

17 (8) engaging in activities in Illinois, which
18 activities in the state in which the supply business
19 engaging in such activities is located would constitute
20 maintaining a place of business in that state; or

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

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

26 (B) the serviceman enters into 200 or more

1 separate transactions for sales of service to
2 purchasers in Illinois.

3 The serviceman shall determine on a quarterly basis,
4 ending on the last day of March, June, September, and
5 December, whether he or she meets the criteria of either
6 subparagraph (A) or (B) of this paragraph (9) for the
7 preceding 12-month period. If the serviceman meets the
8 criteria of either subparagraph (A) or (B) for a 12-month
9 period, he or she is considered a serviceman maintaining a
10 place of business in this State and is required to collect
11 and remit the tax imposed under this Act and file returns
12 for one year. At the end of that one-year period, the
13 serviceman shall determine whether the serviceman met the
14 criteria of either subparagraph (A) or (B) during the
15 preceding 12-month period. If the serviceman met the
16 criteria in either subparagraph (A) or (B) for the
17 preceding 12-month period, he or she is considered a
18 serviceman maintaining a place of business in this State
19 and is required to collect and remit the tax imposed under
20 this Act and file returns for the subsequent year. If at
21 the end of a one-year period a serviceman that was
22 required to collect and remit the tax imposed under this
23 Act determines that he or she did not meet the criteria in
24 either subparagraph (A) or (B) during the preceding
25 12-month period, the serviceman subsequently shall
26 determine on a quarterly basis, ending on the last day of

1 March, June, September, and December, whether he or she
2 meets the criteria of either subparagraph (A) or (B) for
3 the preceding 12-month period.

4 Beginning January 1, 2020, neither the gross receipts
5 from nor the number of separate transactions for sales of
6 service to purchasers in Illinois that a serviceman makes
7 through a marketplace facilitator and for which the
8 serviceman has received a certification from the
9 marketplace facilitator pursuant to Section 2d of this Act
10 shall be included for purposes of determining whether he
11 or she has met the thresholds of this paragraph (9).

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

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

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

17 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

18 Sec. 2. In this Act:

19 "Transfer" means any transfer of the title to property or
20 of the ownership of property whether or not the transferor
21 retains title as security for the payment of amounts due him
22 from the transferee. On and after January 1, 2025, "transfer"
23 also means any transfer of the possession or control of, the
24 right to possess or control, or a license to use, but not title

1 to, tangible personal property.

2 "Lease" means a transfer of the possession or control of,
3 the right to possess or control, or a license to use, but not
4 title to, tangible personal property for a fixed or
5 indeterminate term for consideration, regardless of the name
6 by which the transaction is called. "Lease" does not include a
7 lease entered into merely as a security agreement that does
8 not involve a transfer of possession or control from the
9 lessor to the lessee.

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

13 Beginning on January 1, 2026, the term "lease" does not
14 include the lease of sporting goods for a period of less than
15 10 days.

16 For the purposes of defining the term "lease", "sporting
17 goods" means tangible personal property that is used for
18 participation in a recreational health, fitness, or sporting
19 activity, including, but not limited to, golf, tennis,
20 basketball, baseball, softball, football, soccer, fishing,
21 pickleball, ice skating, roller skating, hockey, skiing,
22 paddle boating, kayaking, canoeing, or yoga.

23 "Cost Price" means the consideration paid by the
24 serviceman for a purchase, including, on and after January 1,
25 2025, a lease, valued in money, whether paid in money or
26 otherwise, including cash, credits and services, and shall be

1 determined without any deduction on account of the supplier's
2 cost of the property sold or on account of any other expense
3 incurred by the supplier. When a serviceman contracts out part
4 or all of the services required in his sale of service, it
5 shall be presumed that the cost price to the serviceman of the
6 property transferred to him by his or her subcontractor is
7 equal to 50% of the subcontractor's charges to the serviceman
8 in the absence of proof of the consideration paid by the
9 subcontractor for the purchase of such property.

10 "Department" means the Department of Revenue.

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

16 "Sale of Service" means any transaction except:

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

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

23 (c) Except as hereinafter provided, a sale or transfer of
24 tangible personal property as an incident to the rendering of
25 service for or by any governmental body or for or by any
26 corporation, society, association, foundation or institution

1 organized and operated exclusively for charitable, religious
2 or educational purposes or any not-for-profit corporation,
3 society, association, foundation, institution or organization
4 which has no compensated officers or employees and which is
5 organized and operated primarily for the recreation of persons
6 55 years of age or older. A limited liability company may
7 qualify for the exemption under this paragraph only if the
8 limited liability company is organized and operated
9 exclusively for educational purposes.

10 (d) (Blank).

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

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

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

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

25 (d-3) A sale or transfer of tangible personal property
26 which is produced by the seller thereof on special order in

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

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

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

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

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

25 (g) At the election of any serviceman not required to be
26 otherwise registered as a retailer under Section 2a of the

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

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

22 Exemption (e) also includes machinery and equipment used
23 in the general maintenance or repair of such exempt machinery
24 and equipment or for in-house manufacture of exempt machinery
25 and equipment. On and after July 1, 2017, exemption (e) also
26 includes graphic arts machinery and equipment, as defined in

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

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

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

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

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

1 Illinois Administrative Procedure Act.

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

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

8 "Sale at Retail" means "sale at retail" as defined in the
9 Retailers' Occupation Tax Act, which, on and after January 1,
10 2025, is defined to include leases.

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

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

15 Section 20. The Retailers' Occupation Tax Act is amended
16 by changing Sections 1 and 2 as follows:

17 (35 ILCS 120/1)

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

19 "Sale at retail" means any transfer of the ownership of,
20 the title to, the possession or control of, the right to
21 possess or control, or a license to use tangible personal
22 property to a purchaser, for the purpose of use or
23 consumption, and not for the purpose of resale in any form as
24 tangible personal property to the extent not first subjected

1 to a use for which it was purchased, for a valuable
2 consideration: Provided that the property purchased is deemed
3 to be purchased for the purpose of resale, despite first being
4 used, to the extent to which it is resold as an ingredient of
5 an intentionally produced product or byproduct of
6 manufacturing. For this purpose, slag produced as an incident
7 to manufacturing pig iron or steel and sold is considered to be
8 an intentionally produced byproduct of manufacturing.
9 Transactions whereby the possession of the property is
10 transferred but the seller retains the title as security for
11 payment of the selling price shall be deemed to be sales.

12 "Sale at retail" shall be construed to include any
13 transfer of the ownership of, the title to, the possession or
14 control of, the right to possess or control, or a license to
15 use tangible personal property to a purchaser, for use or
16 consumption by any other person to whom such purchaser may
17 transfer the tangible personal property without a valuable
18 consideration, and to include any transfer, whether made for
19 or without a valuable consideration, for resale in any form as
20 tangible personal property unless made in compliance with
21 Section 2c of this Act.

22 Sales of tangible personal property, which property, to
23 the extent not first subjected to a use for which it was
24 purchased, as an ingredient or constituent, goes into and
25 forms a part of tangible personal property subsequently the
26 subject of a "Sale at retail", are not sales at retail as

1 defined in this Act: Provided that the property purchased is
2 deemed to be purchased for the purpose of resale, despite
3 first being used, to the extent to which it is resold as an
4 ingredient of an intentionally produced product or byproduct
5 of manufacturing.

6 "Sale at retail" shall be construed to include any
7 Illinois florist's sales transaction in which the purchase
8 order is received in Illinois by a florist and the sale is for
9 use or consumption, but the Illinois florist has a florist in
10 another state deliver the property to the purchaser or the
11 purchaser's donee in such other state.

12 Nonreusable tangible personal property that is used by
13 persons engaged in the business of operating a restaurant,
14 cafeteria, or drive-in is a sale for resale when it is
15 transferred to customers in the ordinary course of business as
16 part of the sale of food or beverages and is used to deliver,
17 package, or consume food or beverages, regardless of where
18 consumption of the food or beverages occurs. Examples of those
19 items include, but are not limited to nonreusable, paper and
20 plastic cups, plates, baskets, boxes, sleeves, buckets or
21 other containers, utensils, straws, placemats, napkins, doggie
22 bags, and wrapping or packaging materials that are transferred
23 to customers as part of the sale of food or beverages in the
24 ordinary course of business.

25 The purchase, employment and transfer of such tangible
26 personal property as newsprint and ink for the primary purpose

1 of conveying news (with or without other information) is not a
2 purchase, use or sale of tangible personal property.

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 engaged in the business of selling tangible personal
8 property at retail with respect to such transactions,
9 excepting only a person organized and operated exclusively for
10 charitable, religious or educational purposes either (1), to
11 the extent of sales by such person to its members, students,
12 patients or inmates of tangible personal property to be used
13 primarily for the purposes of such person, or (2), to the
14 extent of sales by such person of tangible personal property
15 which is not sold or offered for sale by persons organized for
16 profit. The selling of school books and school supplies by
17 schools at retail to students is not "primarily for the
18 purposes of" the school which does such selling. The
19 provisions of this paragraph shall not apply to nor subject to
20 taxation occasional dinners, socials or similar activities of
21 a person organized and operated exclusively for charitable,
22 religious or educational purposes, whether or not such
23 activities are open to the public.

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

1 for the Elderly in return for contributions established in
2 amount by the individual participant pursuant to a schedule of
3 suggested fees as provided for in the federal Act is not
4 engaged in the business of selling tangible personal property
5 at retail with respect to such transactions.

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

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

16 Beginning on January 1, 2026, the term "lease" does not
17 include the lease of sporting goods for a period of less than
18 10 days.

19 For the purposes of defining the term "lease", "sporting
20 goods" means tangible personal property that is used for
21 participation in a recreational health, fitness, or sporting
22 activity, including, but not limited to, golf, tennis,
23 basketball, baseball, softball, football, soccer, fishing,
24 pickleball, ice skating, roller skating, hockey, skiing,
25 paddle boating, kayaking, canoeing, or yoga.

26 "Purchaser" means anyone who, through a sale at retail,

1 acquires the ownership of, the title to, the possession or
2 control of, the right to possess or control, or a license to
3 use tangible personal property for a valuable consideration.

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

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

1 sellers on account of the seller's tax liability under this
2 Act, or on account of the seller's duty to collect, from the
3 purchaser, the tax that is imposed by the Use Tax Act, or,
4 except as otherwise provided with respect to any cigarette tax
5 imposed by a home rule unit, on account of the seller's tax
6 liability under any local occupation tax administered by the
7 Department, or, except as otherwise provided with respect to
8 any cigarette tax imposed by a home rule unit on account of the
9 seller's duty to collect, from the purchasers, the tax that is
10 imposed under any local use tax administered by the
11 Department. Effective December 1, 1985, "selling price" shall
12 include charges that are added to prices by sellers on account
13 of the seller's tax liability under the Cigarette Tax Act, on
14 account of the sellers' duty to collect, from the purchaser,
15 the tax imposed under the Cigarette Use Tax Act, and on account
16 of the seller's duty to collect, from the purchaser, any
17 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 Illinois Vehicle
26 Code, that is sold on or after January 1, 2015 for the purpose

1 of leasing the vehicle for a defined period that is longer than
2 one year and (1) is a motor vehicle of the second division
3 that: (A) is a self-contained motor vehicle designed or
4 permanently converted to provide living quarters for
5 recreational, camping, or travel use, with direct walk through
6 access to the living quarters from the driver's seat; (B) is of
7 the van configuration designed for the transportation of not
8 less than 7 nor more than 16 passengers; or (C) has a gross
9 vehicle weight rating of 8,000 pounds or less or (2) is a motor
10 vehicle of the first division, "selling price" or "amount of
11 sale" means the consideration received by the lessor pursuant
12 to the lease contract, including amounts due at lease signing
13 and all monthly or other regular payments charged over the
14 term of the lease. Also included in the selling price is 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, including, but not limited to, excess mileage
18 charges and charges for excess wear and tear. For sales that
19 occur in Illinois, with respect to any amount received by the
20 lessor from the lessee for the leased vehicle that is not
21 calculated at the time the lease is executed, the lessor who
22 purchased the motor vehicle does not incur the tax imposed by
23 the Use Tax Act on those amounts, and the retailer who makes
24 the retail sale of the motor vehicle to the lessor is not
25 required to collect the tax imposed by the Use Tax Act or to
26 pay the tax imposed by this 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 "Gross receipts" from the sales of tangible personal
8 property at retail means the total selling price or the amount
9 of such sales, as hereinbefore defined. In the case of charge
10 and time sales, the amount thereof shall be included only as
11 and when payments are received by the seller. In the case of
12 leases, except as otherwise provided in this Act, the amount
13 thereof shall be included only as and when gross receipts are
14 received by the lessor. Receipts or other consideration
15 derived by a seller from the sale, transfer or assignment of
16 accounts receivable to a wholly owned subsidiary will not be
17 deemed payments prior to the time the purchaser makes payment
18 on such accounts.

19 "Department" means the Department of Revenue.

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

25 The isolated or occasional sale of tangible personal
26 property at retail by a person who does not hold himself out as

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

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

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

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

26 "Bulk vending machine" means a vending machine, containing

1 unsorted confections, nuts, toys, or other items designed
2 primarily to be used or played with by children which, when a
3 coin or coins of a denomination not larger than \$0.50 are
4 inserted, are dispensed in equal portions, at random and
5 without selection by the customer.

6 "Remote retailer" means a retailer that does not maintain
7 within this State, directly or by a subsidiary, an office,
8 distribution house, sales house, warehouse or other place of
9 business, or any agent or other representative operating
10 within this State under the authority of the retailer or its
11 subsidiary, irrespective of whether such place of business or
12 agent is located here permanently or temporarily or whether
13 such retailer or subsidiary is licensed to do business in this
14 State.

15 "Retailer maintaining a place of business in this State"
16 has the meaning given to that term in Section 2 of the Use Tax
17 Act.

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

21 "Marketplace facilitator" means a person who, pursuant to
22 an agreement with an unrelated third-party marketplace seller,
23 directly or indirectly through one or more affiliates
24 facilitates a retail sale by an unrelated third-party ~~third~~
25 ~~party~~ marketplace seller by:

26 (1) listing or advertising for sale by the marketplace

1 seller in a marketplace, tangible personal property that
2 is subject to tax under this Act; and

3 (2) either directly or indirectly, through agreements
4 or arrangements with third parties, collecting payment
5 from the customer and transmitting that payment to the
6 marketplace seller regardless of whether the marketplace
7 facilitator receives compensation or other consideration
8 in exchange for its services.

9 A person who provides advertising services, including
10 listing products for sale, is not considered a marketplace
11 facilitator, so long as the advertising service platform or
12 forum does not engage, directly or indirectly through one or
13 more affiliated persons, in the activities described in
14 paragraph (2) of this definition of "marketplace facilitator".

15 "Marketplace facilitator" does not include any person
16 licensed under the Auction License Act. This exemption does
17 not apply to any person who is an Internet auction listing
18 service, as defined by the Auction License Act.

19 "Marketplace seller" means a person who ~~that~~ makes sales
20 through a marketplace operated by an unrelated third-party
21 ~~third-party~~ marketplace facilitator.

22 (Source: P.A. 102-353, eff. 1-1-22; 102-634, eff. 8-27-21;
23 102-813, eff. 5-13-22; 103-592, eff. 1-1-25; 103-983, eff.
24 1-1-25; revised 11-26-24.)

1 Sec. 2. Tax imposed.

2 (a) A tax is imposed upon persons engaged in the business
3 of selling at retail, which, on and after January 1, 2025,
4 includes leasing, tangible personal property, including
5 computer software, and including photographs, negatives, and
6 positives that are the product of photoprocessing, but not
7 including products of photoprocessing produced for use in
8 motion pictures for public commercial exhibition. Beginning
9 January 1, 2001, prepaid telephone calling arrangements shall
10 be considered tangible personal property subject to the tax
11 imposed under this Act regardless of the form in which those
12 arrangements may be embodied, transmitted, or fixed by any
13 method now known or hereafter developed.

14 The imposition of the tax under this Act on persons
15 engaged in the business of leasing tangible personal property
16 applies to leases in effect, entered into, or renewed on or
17 after January 1, 2025. In the case of leases, except as
18 otherwise provided in this Act, the lessor must remit, for
19 each tax return period, only the tax applicable to that part of
20 the selling price actually received during such tax return
21 period.

22 The inclusion of leases in the tax imposed under this Act
23 by Public Act 103-592 ~~this amendatory Act of the 103rd General~~
24 ~~Assembly~~ does not, however, extend to motor vehicles,
25 watercraft, aircraft, and semitrailers, as defined in Section
26 1-187 of the Illinois Vehicle Code, that are required to be

1 registered with an agency of this State. The taxation of these
2 items shall continue in effect as prior to the effective date
3 of the changes made to this Section by Public Act 103-592 ~~this~~
4 ~~amendatory Act of the 103rd General Assembly~~ (i.e., dealers
5 owe retailers' occupation tax, lessors owe use tax, and
6 lessees are not subject to retailers' occupation or use tax).

7 Sales of (1) electricity delivered to customers by wire;
8 (2) natural or artificial gas that is delivered to customers
9 through pipes, pipelines, or mains; and (3) water that is
10 delivered to customers through pipes, pipelines, or mains are
11 not subject to tax under this Act. The provisions of Public Act
12 98-583 ~~this amendatory Act of the 98th General Assembly~~ are
13 declaratory of existing law as to the meaning and scope of this
14 Act.

15 On and after January 1, 2026, the inclusion of leases in
16 the tax imposed under this Act does not extend to sporting
17 goods that are leased for a period of less than 10 days.

18 (b) Beginning on January 1, 2021, a remote retailer is
19 engaged in the occupation of selling at retail in Illinois for
20 purposes of this Act, if:

21 (1) the cumulative gross receipts from sales of
22 tangible personal property to purchasers in Illinois are
23 \$100,000 or more; or

24 (2) the retailer enters into 200 or more separate
25 transactions for the sale of tangible personal property to
26 purchasers in Illinois.

1 Remote retailers that meet or exceed the threshold in
2 either paragraph (1) or (2) above shall be liable for all
3 applicable State retailers' and locally imposed retailers'
4 occupation taxes administered by the Department on all retail
5 sales to Illinois purchasers.

6 The remote retailer shall determine on a quarterly basis,
7 ending on the last day of March, June, September, and
8 December, whether he or she meets the criteria of either
9 paragraph (1) or (2) of this subsection for the preceding
10 12-month period. If the retailer meets the criteria of either
11 paragraph (1) or (2) for a 12-month period, he or she is
12 considered a retailer maintaining a place of business in this
13 State and is required to collect and remit the tax imposed
14 under this Act and all retailers' occupation tax imposed by
15 local taxing jurisdictions in Illinois, provided such local
16 taxes are administered by the Department, and to file all
17 applicable returns for one year. At the end of that one-year
18 period, the retailer shall determine whether the retailer met
19 the criteria of either paragraph (1) or (2) for the preceding
20 12-month period. If the retailer met the criteria in either
21 paragraph (1) or (2) for the preceding 12-month period, he or
22 she is considered a retailer maintaining a place of business
23 in this State and is required to collect and remit all
24 applicable State and local retailers' occupation taxes and
25 file returns for the subsequent year. If, at the end of a
26 one-year period, a retailer that was required to collect and

1 remit the tax imposed under this Act determines that he or she
2 did not meet the criteria in either paragraph (1) or (2) during
3 the preceding 12-month period, then the retailer shall
4 subsequently determine on a quarterly basis, ending on the
5 last day of March, June, September, and December, whether he
6 or she meets the criteria of either paragraph (1) or (2) for
7 the preceding 12-month period.

8 (b-2) Beginning on January 1, 2025, a retailer maintaining
9 a place of business in this State that makes retail sales of
10 tangible personal property to Illinois customers from a
11 location or locations outside of Illinois is engaged in the
12 occupation of selling at retail in Illinois for the purposes
13 of this Act. Those retailers are liable for all applicable
14 State and locally imposed retailers' occupation taxes
15 administered by the Department on retail sales made by those
16 retailers to Illinois customers from locations outside of
17 Illinois.

18 (b-5) For the purposes of this Section, neither the gross
19 receipts from nor the number of separate transactions for
20 sales of tangible personal property to purchasers in Illinois
21 that a remote retailer makes through a marketplace facilitator
22 shall be included for the purposes of determining whether he
23 or she has met the thresholds of subsection (b) of this Section
24 so long as the remote retailer has received certification from
25 the marketplace facilitator that the marketplace facilitator
26 is legally responsible for payment of tax on such sales.

1 (b-10) A remote retailer that is required to collect taxes
2 imposed under the Use Tax Act on retail sales made to Illinois
3 purchasers or a retailer maintaining a place of business in
4 this State that is required to collect taxes imposed under the
5 Use Tax Act on retail sales made to Illinois purchasers shall
6 be liable to the Department for such taxes, except when the
7 remote retailer or retailer maintaining a place of business in
8 this State is relieved of the duty to remit such taxes by
9 virtue of having paid to the Department taxes imposed by this
10 Act in accordance with this Section upon his or her gross
11 receipts from such sales.

12 (c) Marketplace facilitators engaged in the business of
13 selling at retail tangible personal property in Illinois.
14 Beginning January 1, 2021, a marketplace facilitator is
15 engaged in the occupation of selling at retail tangible
16 personal property in Illinois for purposes of this Act if,
17 during the previous 12-month period:

18 (1) the cumulative gross receipts from sales of
19 tangible personal property on its own behalf or on behalf
20 of marketplace sellers to purchasers in Illinois equals
21 \$100,000 or more; or

22 (2) the marketplace facilitator enters into 200 or
23 more separate transactions on its own behalf or on behalf
24 of marketplace sellers for the sale of tangible personal
25 property to purchasers in Illinois, regardless of whether
26 the marketplace facilitator or marketplace sellers for

1 whom such sales are facilitated are registered as
2 retailers in this State.

3 A marketplace facilitator who meets either paragraph (1)
4 or (2) of this subsection is required to remit the applicable
5 State retailers' occupation taxes under this Act and local
6 retailers' occupation taxes administered by the Department on
7 all taxable sales of tangible personal property made by the
8 marketplace facilitator or facilitated for marketplace sellers
9 to customers in this State. A marketplace facilitator selling
10 or facilitating the sale of tangible personal property to
11 customers in this State is subject to all applicable
12 procedures and requirements of this Act.

13 The marketplace facilitator shall determine on a quarterly
14 basis, ending on the last day of March, June, September, and
15 December, whether he or she meets the criteria of either
16 paragraph (1) or (2) of this subsection for the preceding
17 12-month period. If the marketplace facilitator meets the
18 criteria of either paragraph (1) or (2) for a 12-month period,
19 he or she is considered a retailer maintaining a place of
20 business in this State and is required to remit the tax imposed
21 under this Act and all retailers' occupation tax imposed by
22 local taxing jurisdictions in Illinois, provided such local
23 taxes are administered by the Department, and to file all
24 applicable returns for one year. At the end of that one-year
25 period, the marketplace facilitator shall determine whether it
26 met the criteria of either paragraph (1) or (2) for the

1 preceding 12-month period. If the marketplace facilitator met
2 the criteria in either paragraph (1) or (2) for the preceding
3 12-month period, it is considered a retailer maintaining a
4 place of business in this State and is required to collect and
5 remit all applicable State and local retailers' occupation
6 taxes and file returns for the subsequent year. If at the end
7 of a one-year period a marketplace facilitator that was
8 required to collect and remit the tax imposed under this Act
9 determines that he or she did not meet the criteria in either
10 paragraph (1) or (2) during the preceding 12-month period, the
11 marketplace facilitator shall subsequently determine on a
12 quarterly basis, ending on the last day of March, June,
13 September, and December, whether he or she meets the criteria
14 of either paragraph (1) or (2) for the preceding 12-month
15 period.

16 A marketplace facilitator shall be entitled to any
17 credits, deductions, or adjustments to the sales price
18 otherwise provided to the marketplace seller, in addition to
19 any such adjustments provided directly to the marketplace
20 facilitator. This Section pertains to, but is not limited to,
21 adjustments such as discounts, coupons, and rebates. In
22 addition, a marketplace facilitator shall be entitled to the
23 retailers' discount provided in Section 3 of the Retailers'
24 Occupation Tax Act on all marketplace sales, and the
25 marketplace seller shall not include sales made through a
26 marketplace facilitator when computing any retailers' discount

1 on remaining sales. Marketplace facilitators shall report and
2 remit the applicable State and local retailers' occupation
3 taxes on sales facilitated for marketplace sellers separately
4 from any sales or use tax collected on taxable retail sales
5 made directly by the marketplace facilitator or its
6 affiliates.

7 The marketplace facilitator is liable for the remittance
8 of all applicable State retailers' occupation taxes under this
9 Act and local retailers' occupation taxes administered by the
10 Department on sales through the marketplace and is subject to
11 audit on all such sales. The Department shall not audit
12 marketplace sellers for their marketplace sales where a
13 marketplace facilitator remitted the applicable State and
14 local retailers' occupation taxes unless the marketplace
15 facilitator seeks relief as a result of incorrect information
16 provided to the marketplace facilitator by a marketplace
17 seller as set forth in this Section. The marketplace
18 facilitator shall not be held liable for tax on any sales made
19 by a marketplace seller that take place outside of the
20 marketplace and which are not a part of any agreement between a
21 marketplace facilitator and a marketplace seller. In addition,
22 marketplace facilitators shall not be held liable to State and
23 local governments of Illinois for having charged and remitted
24 an incorrect amount of State and local retailers' occupation
25 tax if, at the time of the sale, the tax is computed based on
26 erroneous data provided by the State in database files on tax

1 rates, boundaries, or taxing jurisdictions or incorrect
2 information provided to the marketplace facilitator by the
3 marketplace seller.

4 (d) A marketplace facilitator shall:

5 (1) certify to each marketplace seller that the
6 marketplace facilitator assumes the rights and duties of a
7 retailer under this Act with respect to sales made by the
8 marketplace seller through the marketplace; and

9 (2) remit taxes imposed by this Act as required by
10 this Act for sales made through the marketplace.

11 (e) A marketplace seller shall retain books and records
12 for all sales made through a marketplace in accordance with
13 the requirements of this Act.

14 (f) A marketplace facilitator is subject to audit on all
15 marketplace sales for which it is considered to be the
16 retailer, but shall not be liable for tax or subject to audit
17 on sales made by marketplace sellers outside of the
18 marketplace.

19 (g) A marketplace facilitator required to collect taxes
20 imposed under the Use Tax Act on marketplace sales made to
21 Illinois purchasers shall be liable to the Department for such
22 taxes, except when the marketplace facilitator is relieved of
23 the duty to remit such taxes by virtue of having paid to the
24 Department taxes imposed by this Act in accordance with this
25 Section upon his or her gross receipts from such sales.

26 (h) Nothing in this Section shall allow the Department to

1 collect retailers' occupation taxes from both the marketplace
2 facilitator and marketplace seller on the same transaction.

3 (i) If, for any reason, the Department is prohibited from
4 enforcing the marketplace facilitator's duty under this Act to
5 remit taxes pursuant to this Section, the duty to remit such
6 taxes remains with the marketplace seller.

7 (j) Nothing in this Section affects the obligation of any
8 consumer to remit use tax for any taxable transaction for
9 which a certified service provider acting on behalf of a
10 remote retailer or a marketplace facilitator does not collect
11 and remit the appropriate tax.

12 (k) Nothing in this Section shall allow the Department to
13 collect the retailers' occupation tax from both the
14 marketplace facilitator and the marketplace seller.

15 (Source: P.A. 103-592, eff. 1-1-25; 103-983, eff. 1-1-25;
16 revised 11-26-24.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.