



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5252

Introduced 2/10/2026, by Rep. Dan Ugaste

SYNOPSIS AS INTRODUCED:

35 ILCS 105/2
35 ILCS 110/2
35 ILCS 120/1

from Ch. 120, par. 439.2
from Ch. 120, par. 439.32

Amends the Use Tax Act, the Service Use Tax Act, and the Retailers' Occupation Tax Act. Provides that the term "selling price" does not include any assessment imposed under the Paint Stewardship Act.

LRB104 17667 HLH 33933 b

1 AN ACT concerning revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 bags, and wrapping or packaging materials that are transferred
2 to customers as part of the sale of food or beverages in the
3 ordinary course of business.

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

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

1 Retailers' Occupation Tax Act, or on account of the seller's
2 duty to collect, from the purchaser, the tax that is imposed by
3 this Act, or, except as otherwise provided with respect to any
4 cigarette tax imposed by a home rule unit, on account of the
5 seller's tax liability under any local occupation tax
6 administered by the Department, or, except as otherwise
7 provided with respect to any cigarette tax imposed by a home
8 rule unit on account of the seller's duty to collect, from the
9 purchasers, the tax that is imposed under any local use tax
10 administered by the Department. Effective December 1, 1985,
11 "selling price" shall include charges that are added to prices
12 by sellers on account of the seller's tax liability under the
13 Cigarette Tax Act, on account of the seller's duty to collect,
14 from the purchaser, the tax imposed under the Cigarette Use
15 Tax Act, and on account of the seller's duty to collect, from
16 the purchaser, any cigarette tax imposed by a home rule unit.
17 On and after the effective date of this amendatory Act of the
18 104th General Assembly, "selling price" does not include any
19 assessment imposed under the Paint Stewardship Act.

20 The provisions of this paragraph, which provides only for
21 an alternative meaning of "selling price" with respect to the
22 sale of certain motor vehicles incident to the contemporaneous
23 lease of those motor vehicles, continue in effect and are not
24 changed by the tax on leases implemented by Public Act
25 103-592. Notwithstanding any law to the contrary, for any
26 motor vehicle, as defined in Section 1-146 of the Vehicle

1 Code, that is sold on or after January 1, 2015 for the purpose
2 of leasing the vehicle for a defined period that is longer than
3 one year and (1) is a motor vehicle of the second division
4 that: (A) is a self-contained motor vehicle designed or
5 permanently converted to provide living quarters for
6 recreational, camping, or travel use, with direct walk through
7 access to the living quarters from the driver's seat; (B) is of
8 the van configuration designed for the transportation of not
9 less than 7 nor more than 16 passengers; or (C) has a gross
10 vehicle weight rating of 8,000 pounds or less or (2) is a motor
11 vehicle of the first division, "selling price" or "amount of
12 sale" means the consideration received by the lessor pursuant
13 to the lease contract, including amounts due at lease signing
14 and all monthly or other regular payments charged over the
15 term of the lease. Also included in the selling price is any
16 amount received by the lessor from the lessee for the leased
17 vehicle that is not calculated at the time the lease is
18 executed, including, but not limited to, excess mileage
19 charges and charges for excess wear and tear. For sales that
20 occur in Illinois, with respect to any amount received by the
21 lessor from the lessee for the leased vehicle that is not
22 calculated at the time the lease is executed, the lessor who
23 purchased the motor vehicle does not incur the tax imposed by
24 the Use Tax Act on those amounts, and the retailer who makes
25 the retail sale of the motor vehicle to the lessor is not
26 required to collect the tax imposed by this Act or to pay the

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

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

1 The phrase "like kind and character" shall be liberally
2 construed (including, but not limited to, any form of motor
3 vehicle for any form of motor vehicle, or any kind of farm or
4 agricultural implement for any other kind of farm or
5 agricultural implement), while not including a kind of item
6 which, if sold at retail by that retailer, would be exempt from
7 retailers' occupation tax and use tax as an isolated or
8 occasional sale.

9 "Department" means the Department of Revenue.

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

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

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

1 only to such purchaser, if such tangible personal property so
2 produced on special order serves substantially the same
3 function as stock or standard items of tangible personal
4 property that are sold at retail.

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

25 A person who is the recipient of a grant or contract under
26 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and

1 serves meals to participants in the federal Nutrition Program
2 for the Elderly in return for contributions established in
3 amount by the individual participant pursuant to a schedule of
4 suggested fees as provided for in the federal Act is not a
5 retailer under this Act with respect to such transactions.

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

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

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

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

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

1 house, warehouse, or other place of business within this
2 State.

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

1 within this State by such persons were not sufficient to
2 meet the nexus standards of the United States Constitution
3 during the preceding 4 quarterly periods.

4 (1.2) Beginning July 1, 2011, a retailer having a
5 contract with a person located in this State under which:

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

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

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

21 (2) (Blank).

22 (3) (Blank).

23 (4) (Blank).

24 (5) (Blank).

25 (6) (Blank).

26 (7) (Blank).

1 (8) (Blank).

2 (9) Beginning October 1, 2018 and through December 31,
3 2025, a retailer making sales of tangible personal
4 property to purchasers in Illinois from outside of
5 Illinois if:

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

9 (B) the retailer enters into 200 or more separate
10 transactions for the sale of tangible personal
11 property to purchasers in Illinois.

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

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

13 (9.1) Beginning January 1, 2026, a retailer making
14 sales of tangible personal property to purchasers in
15 Illinois from outside of Illinois if the cumulative gross
16 receipts from sales of tangible personal property to
17 purchasers in Illinois are \$100,000 or more.

18 The retailer shall determine on a quarterly basis,
19 ending on the last day of March, June, September, and
20 December, whether the retailer meets the threshold in this
21 paragraph (9.1) for the preceding 12-month period. If the
22 retailer meets the threshold for a 12-month period, the
23 retailer is considered a retailer maintaining a place of
24 business in this State and is required to collect and
25 remit the tax imposed under this Act and file returns for
26 one year. At the end of the one-year period, the retailer

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

15 Beginning January 1, 2020, neither the gross receipts
16 from nor the number of separate transactions for sales of
17 tangible personal property to purchasers in Illinois that
18 a retailer makes through a marketplace facilitator and for
19 which the retailer has received a certification from the
20 marketplace facilitator pursuant to Section 2d of this Act
21 shall be included for purposes of determining whether the
22 retailer has met the thresholds of paragraphs (9) or
23 (9.1).

24 (10) Beginning January 1, 2020, a marketplace
25 facilitator that meets a threshold set forth in subsection
26 (b) or (b-5) of Section 2d of this Act.

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

7 (Source: P.A. 103-592, eff. 1-1-25; 104-6, eff. 6-16-25;
8 104-417, eff. 8-15-25.)

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

11 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

12 Sec. 2. Definitions. In this Act:

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

1 not qualify as demonstration use or interim use of that
2 property. "Use" does not mean the physical incorporation of
3 tangible personal property, as an ingredient or constituent,
4 into other tangible personal property, (a) which is sold in
5 the regular course of business or (b) which the person
6 incorporating such ingredient or constituent therein has
7 undertaken at the time of such purchase to cause to be
8 transported in interstate commerce to destinations outside the
9 State of Illinois.

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

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

21 "Purchased from a serviceman" means the acquisition of the
22 ownership of, the title to, the possession or control of, the
23 right to possess or control, or a license to use, tangible
24 personal property through a sale of service.

25 "Purchaser" means any person who, through a sale of
26 service, acquires the ownership of, the title to, the

1 possession or control of, the right to possess or control, or a
2 license to use, any tangible personal property.

3 "Cost price" means the consideration paid by the
4 serviceman for a purchase, including, on and after January 1,
5 2025, a lease, valued in money, whether paid in money or
6 otherwise, including cash, credits and services, and shall be
7 determined without any deduction on account of the supplier's
8 cost of the property sold or on account of any other expense
9 incurred by the supplier. When a serviceman contracts out part
10 or all of the services required in his sale of service, it
11 shall be presumed that the cost price to the serviceman of the
12 property transferred to him or her by his or her subcontractor
13 is equal to 50% of the subcontractor's charges to the
14 serviceman in the absence of proof of the consideration paid
15 by the subcontractor for the purchase of such property.

16 "Selling price" means the consideration for a sale,
17 including, on and after January 1, 2025, a lease, valued in
18 money whether received in money or otherwise, including cash,
19 credits and service, and shall be determined without any
20 deduction on account of the serviceman's cost of the property
21 sold, the cost of materials used, labor or service cost or any
22 other expense whatsoever, but does not include interest or
23 finance charges which appear as separate items on the bill of
24 sale or sales contract nor charges that are added to prices by
25 sellers on account of the seller's duty to collect, from the
26 purchaser, the tax that is imposed by this Act. On and after

1 the effective date of this amendatory Act of the 104th General
2 Assembly, "selling price" does not include any assessment
3 imposed under the Paint Stewardship Act.

4 "Department" means the Department of Revenue.

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

10 "Sale of service" means any transaction except:

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

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

17 (3) except as hereinafter provided, a sale or transfer
18 of tangible personal property as an incident to the
19 rendering of service for or by any governmental body, or
20 for or by any corporation, society, association,
21 foundation or institution organized and operated
22 exclusively for charitable, religious or educational
23 purposes or any not-for-profit corporation, society,
24 association, foundation, institution or organization which
25 has no compensated officers or employees and which is
26 organized and operated primarily for the recreation of

1 persons 55 years of age or older. A limited liability
2 company may qualify for the exemption under this paragraph
3 only if the limited liability company is organized and
4 operated exclusively for educational purposes.

5 (4) (blank).

6 (4a) a sale or transfer of tangible personal property
7 as an incident to the rendering of service for owners or
8 lessors, lessees, or shippers of tangible personal
9 property which is utilized by interstate carriers for hire
10 for use as rolling stock moving in interstate commerce so
11 long as so used by interstate carriers for hire, and
12 equipment operated by a telecommunications provider,
13 licensed as a common carrier by the Federal Communications
14 Commission, which is permanently installed in or affixed
15 to aircraft moving in interstate commerce.

16 (4a-5) on and after July 1, 2003 and through June 30,
17 2004, a sale or transfer of a motor vehicle of the second
18 division with a gross vehicle weight in excess of 8,000
19 pounds as an incident to the rendering of service if that
20 motor vehicle is subject to the commercial distribution
21 fee imposed under Section 3-815.1 of the Illinois Vehicle
22 Code. Beginning on July 1, 2004 and through June 30, 2005,
23 the use in this State of motor vehicles of the second
24 division: (i) with a gross vehicle weight rating in excess
25 of 8,000 pounds; (ii) that are subject to the commercial
26 distribution fee imposed under Section 3-815.1 of the

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

11 (5) a sale or transfer of machinery and equipment used
12 primarily in the process of the manufacturing or
13 assembling, either in an existing, an expanded or a new
14 manufacturing facility, of tangible personal property for
15 wholesale or retail sale or lease, whether such sale or
16 lease is made directly by the manufacturer or by some
17 other person, whether the materials used in the process
18 are owned by the manufacturer or some other person, or
19 whether such sale or lease is made apart from or as an
20 incident to the seller's engaging in a service occupation
21 and the applicable tax is a Service Use Tax or Service
22 Occupation Tax, rather than Use Tax or Retailers'
23 Occupation Tax. The exemption provided by this paragraph
24 (5) includes production related tangible personal
25 property, as defined in Section 3-50 of the Use Tax Act,
26 purchased on or after July 1, 2019. The exemption provided

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

13 (5a) the repairing, reconditioning or remodeling, for
14 a common carrier by rail, of tangible personal property
15 which belongs to such carrier for hire, and as to which
16 such carrier receives the physical possession of the
17 repaired, reconditioned or remodeled item of tangible
18 personal property in Illinois, and which such carrier
19 transports, or shares with another common carrier in the
20 transportation of such property, out of Illinois on a
21 standard uniform bill of lading showing the person who
22 repaired, reconditioned or remodeled the property to a
23 destination outside Illinois, for use outside Illinois.

24 (5b) a sale or transfer of tangible personal property
25 which is produced by the seller thereof on special order
26 in such a way as to have made the applicable tax the

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

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

19 (7) at the election for each fiscal year of any
20 serviceman not required to be otherwise registered as a
21 retailer under Section 2a of the Retailers' Occupation Tax
22 Act or, beginning January 1, 2026, any serviceman
23 maintaining a place of business in this State who does not
24 make any retail sales of tangible personal property to
25 purchasers in Illinois, sales of service in which the
26 aggregate annual cost price of tangible personal property

1 transferred as an incident to the sales of service is less
2 than 35%, or 75% in the case of servicemen transferring
3 prescription drugs or servicemen engaged in graphic arts
4 production, of the aggregate annual total gross receipts
5 from all sales of service. The purchase of such tangible
6 personal property by the serviceman shall be subject to
7 tax under the Retailers' Occupation Tax Act and the Use
8 Tax Act. However, if a primary serviceman who has made the
9 election described in this paragraph subcontracts service
10 work to a secondary serviceman who has also made the
11 election described in this paragraph, the primary
12 serviceman does not incur a Use Tax liability if the
13 secondary serviceman (i) has paid or will pay Use Tax on
14 his or her cost price of any tangible personal property
15 transferred to the primary serviceman and (ii) certifies
16 that fact in writing to the primary serviceman. Beginning
17 January 1, 2026, this election shall not apply to any sale
18 of service through a marketplace that has met the
19 threshold in subsection (b-5) of Section 2d of this Act.
20 All transactions over such a marketplace shall be subject
21 to the tax imposed under Section 3-10 of this Act.

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

25 Exemption (5) also includes machinery and equipment used
26 in the general maintenance or repair of such exempt machinery

1 and equipment or for in-house manufacture of exempt machinery
2 and equipment. On and after July 1, 2017, exemption (5) also
3 includes graphic arts machinery and equipment, as defined in
4 paragraph (5) of Section 3-5. The machinery and equipment
5 exemption does not include machinery and equipment used in (i)
6 the generation of electricity for wholesale or retail sale;
7 (ii) the generation or treatment of natural or artificial gas
8 for wholesale or retail sale that is delivered to customers
9 through pipes, pipelines, or mains; or (iii) the treatment of
10 water for wholesale or retail sale that is delivered to
11 customers through pipes, pipelines, or mains. The provisions
12 of Public Act 98-583 are declaratory of existing law as to the
13 meaning and scope of this exemption. For the purposes of
14 exemption (5), each of these terms shall have the following
15 meanings: (1) "manufacturing process" shall mean the
16 production of any article of tangible personal property,
17 whether such article is a finished product or an article for
18 use in the process of manufacturing or assembling a different
19 article of tangible personal property, by procedures commonly
20 regarded as manufacturing, processing, fabricating, or
21 refining which changes some existing material or materials
22 into a material with a different form, use or name. In relation
23 to a recognized integrated business composed of a series of
24 operations which collectively constitute manufacturing, or
25 individually constitute manufacturing operations, the
26 manufacturing process shall be deemed to commence with the

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

1 but only if the chemicals or chemicals acting as catalysts
2 effect a direct and immediate change upon a product being
3 manufactured or assembled for wholesale or retail sale or
4 lease. The purchaser of such machinery and equipment who has
5 an active resale registration number shall furnish such number
6 to the seller at the time of purchase. The purchaser of such
7 machinery and equipment and tools without an active resale
8 registration number shall prepare a certificate of exemption
9 stating facts establishing the exemption, which certificate
10 shall be available to the Department for inspection or audit.
11 The Department shall prescribe the form of the certificate.

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

25 On and after July 1, 1987, no entity otherwise eligible
26 under exemption (3) of this Section shall make tax-free

1 purchases unless it has an active exemption identification
2 number issued by the Department.

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

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

10 "Sale at retail" means "sale at retail" as defined in the
11 Retailers' Occupation Tax Act, which, on and after January 1,
12 2025, is defined to include leases.

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

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

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

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

1 preceding 4 quarterly periods;

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

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

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

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

18 (2) (Blank).

19 (3) (Blank).

20 (4) (Blank).

21 (5) (Blank).

22 (6) (Blank).

23 (7) (Blank).

24 (8) (Blank).

25 (9) Beginning October 1, 2018 and through December 31,
26 2025, making sales of service to purchasers in Illinois

1 from outside of Illinois if:

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

5 (B) the serviceman enters into 200 or more
6 separate transactions for sales of service to
7 purchasers in Illinois.

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

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

9 (9.1) Beginning January 1, 2026, making sales of
10 service to purchasers in Illinois from outside of Illinois
11 if the cumulative gross receipts from sales of service to
12 purchasers in Illinois are \$100,000 or more.

13 The serviceman shall determine on a quarterly basis,
14 ending on the last day of March, June, September, and
15 December, whether the serviceman meets the threshold in
16 this paragraph (9.1) for the preceding 12-month period. If
17 the serviceman meets the threshold for a 12-month period,
18 the serviceman is considered a serviceman maintaining a
19 place of business in this State and is required to collect
20 and remit the tax imposed under this Act and file returns
21 for one year. At the end of the one-year period, the
22 serviceman shall determine whether the serviceman met the
23 threshold during the preceding 12-month period. If the
24 serviceman met the threshold for the preceding 12-month
25 period, the serviceman is considered a serviceman
26 maintaining a place of business in this State and is

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

11 Beginning January 1, 2020, neither the gross receipts
12 from nor the number of separate transactions for sales of
13 service to purchasers in Illinois that a serviceman makes
14 through a marketplace facilitator and for which the
15 serviceman has received a certification from the
16 marketplace facilitator pursuant to Section 2d of this Act
17 shall be included for purposes of determining whether he
18 or she has met a threshold of paragraph (9) or this
19 paragraph (9.1).

20 (10) Beginning January 1, 2020, a marketplace
21 facilitator that meets a threshold set forth in either
22 subsection (b) or (b-5) of Section 2d of this Act.

23 (Source: P.A. 103-592, eff. 1-1-25; 104-6, eff. 6-16-25.)

24 Section 15. The Retailers' Occupation Tax Act is amended
25 by changing Section 1 as follows:

1 (35 ILCS 120/1)

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

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

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

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

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

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

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

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

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

12 A person whose activities are organized and conducted
13 primarily as a not-for-profit service enterprise, and who
14 engages in selling tangible personal property at retail
15 (whether to the public or merely to members and their guests)
16 is engaged in the business of selling tangible personal
17 property at retail with respect to such transactions,
18 excepting 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 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. The
2 provisions of this paragraph shall not apply to nor subject to
3 taxation occasional dinners, socials or similar activities of
4 a person organized and operated exclusively for charitable,
5 religious or educational purposes, whether or not such
6 activities are open 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
13 engaged in the business of selling tangible personal property
14 at retail with respect to such transactions.

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

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

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

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

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

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

1 Act, or on account of the seller's duty to collect, from the
2 purchaser, the tax that is imposed by the Use Tax Act, or,
3 except as otherwise provided with respect to any cigarette tax
4 imposed by a home rule unit, on account of the seller's tax
5 liability under any local occupation tax administered by the
6 Department, or, except as otherwise provided with respect to
7 any cigarette tax imposed by a home rule unit on account of the
8 seller's duty to collect, from the purchasers, the tax that is
9 imposed under any local use tax administered by the
10 Department. Effective December 1, 1985, "selling price" shall
11 include charges that are added to prices by sellers on account
12 of the seller's tax liability under the Cigarette Tax Act, on
13 account of the sellers' duty to collect, from the purchaser,
14 the tax imposed under the Cigarette Use Tax Act, and on account
15 of the seller's duty to collect, from the purchaser, any
16 cigarette tax imposed by a home rule unit. On and after the
17 effective date of this amendatory Act of the 104th General
18 Assembly, "selling price" does not include any assessment
19 imposed under the Paint Stewardship Act.

20 The provisions of this paragraph, which provides only for
21 an alternative meaning of "selling price" with respect to the
22 sale of certain motor vehicles incident to the contemporaneous
23 lease of those motor vehicles, continue in effect and are not
24 changed by the tax on leases implemented by Public Act
25 103-592. Notwithstanding any law to the contrary, for any
26 motor vehicle, as defined in Section 1-146 of the Illinois

1 Vehicle Code, that is sold on or after January 1, 2015 for the
2 purpose of leasing the vehicle for a defined period that is
3 longer than one year and (1) is a motor vehicle of the second
4 division that: (A) is a self-contained motor vehicle designed
5 or permanently converted to provide living quarters for
6 recreational, camping, or travel use, with direct walk through
7 access to the living quarters from the driver's seat; (B) is of
8 the van configuration designed for the transportation of not
9 less than 7 nor more than 16 passengers; or (C) has a gross
10 vehicle weight rating of 8,000 pounds or less or (2) is a motor
11 vehicle of the first division, "selling price" or "amount of
12 sale" means the consideration received by the lessor pursuant
13 to the lease contract, including amounts due at lease signing
14 and all monthly or other regular payments charged over the
15 term of the lease. Also included in the selling price is any
16 amount received by the lessor from the lessee for the leased
17 vehicle that is not calculated at the time the lease is
18 executed, including, but not limited to, excess mileage
19 charges and charges for excess wear and tear. For sales that
20 occur in Illinois, with respect to any amount received by the
21 lessor from the lessee for the leased vehicle that is not
22 calculated at the time the lease is executed, the lessor who
23 purchased the motor vehicle does not incur the tax imposed by
24 the Use Tax Act on those amounts, and the retailer who makes
25 the retail sale of the motor vehicle to the lessor is not
26 required to collect the tax imposed by the Use Tax Act or to

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

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

26 The phrase "like kind and character" shall be liberally

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

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

20 "Department" means the Department of Revenue.

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

26 The isolated or occasional sale of tangible personal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (Source: P.A. 103-592, eff. 1-1-25; 103-983, eff. 1-1-25;
24 104-417, eff. 8-15-25.)