**Section 160.110 Kinds of Uses And Users Not Taxed**

a) *To prevent actual or likely multistate taxation, the tax does not apply to the use of tangible personal property in this State under the following circumstances:*

1) the *use, in this State, of property acquired outside this State by a nonresident individual and brought into this State by the individual for* that individual's *own use while temporarily within this State or while passing through this State;*

2) *the use, in this State, of property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase or use of that property, to the extent of the amount of the tax properly due and paid in the other state;*

3) *the temporary storage, in this State, of property that is acquired outside this State and that after being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State;*

4) *the use, in this State, of property that is acquired outside this State and that is moved into this State for use as rolling stock moving in interstate commerce; and*

5) *the use, in this State, of fuel acquired outside this State and brought into this State in the fuel supply tanks of locomotives engaged in freight hauling and passenger service for interstate commerce.* [35 ILCS 110/3-45]

b) Since the exemptions in subsections (a)(1) through (5) immediately above, do not exist as far as the Service Occupation Tax is concerned, and since it would therefore serve no purpose to say that the exemptions exist for Service Use Tax purposes insofar as the serviceman is merely collecting Service Use Tax to reimburse himself for Service Occupation Tax on the same property, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is Service Use Tax liability. Therefore, the exemptions in subsections (a)(1) through (5) above would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no Service Occupation Tax liability on the part of the serviceman in the same transaction.

c) The Service Use Tax *does not apply to the use, in this State, of property which is acquired outside this State by a nonresident individual who then brings the property to this State for use here, and who has used the property outside this State for at least 3 months before bringing the property to this State*. [35 ILCS 110/3-60]

d) *Where a business that is not operated in Illinois, but is operated in another state, is moved to Illinois or opens up an office, plant or other business facility in Illinois, that business shall not be taxed on its use, in Illinois, of used property that the business bought outside Illinois and used outside Illinois in the operation of the business for at least 3 months before moving such used property to Illinois for use in this State*. [35 ILCS 110/3-60]

e) The Service Use Tax will not apply to the following entities as long as such entities have an active exemption identification number issued by the Department. "Sale of service" does not include:

1) *a sale or transfer of tangible personal property as an incident to the rendering of service for or* *by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes*, in accordance with the provisions of 86 Ill. Adm. Code 130.2005, which is effective as if fully set forth in this subsection (e)(1). *A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes*;

2) *a sale or transfer of tangible personal property as an incident to the rendering of service for or by any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers and employees and which is organized and operated primarily for the recreation of persons 55 years of age or older*, in accordance with the provisions of 86 Ill. Adm. Code 130.2005, which is effective as if fully set forth in this subsection (e)(2); and

3) *a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body*, in accordance with the provisions of 86 Ill. Adm. Code 130.2055 and 130.2080, which are effective as if fully set forth in this subsection (e)(3). [35 ILCS 110/2(3)]

f) The Service Use Tax does not apply to the use of *game or game birds purchased at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code* [520 ILCS 5/3.27]. [35 ILCS 110/3-5(19)]

g) Since transfers of tangible personal property by de minimis servicemen who incur Use Tax as described in 86 Ill. Adm. Code 140.108 do not constitute sales of service under Section 2(g) of the Service Occupation Tax Act, customers of such de minimis servicemen do not incur Service Use Tax liability on such transfers.

h) The Service Use Tax does not apply to *a sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Use Tax or Service Occupation Tax, rather than Use Tax or Retailers' Occupation Tax,* and includes *production related tangible personal property, as defined in Section 3-50 of the Use Tax Act, purchased on or after July 1, 2019;* but *does not include machinery and equipment used in the generation of electricity for wholesale or retail sale; the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains.*

1) The exemption in subsection (h) *also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. On and after July 1, 2017, the exemption also includes graphic arts machinery and equipment, as defined in* 35 ILCS 110/3-5(5).

2) For the purposes of the exemption in subsection (h)*, each of these terms shall have the following meanings:*

A) *"manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further, for purposes* this exemption, *photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale;*

B) *"assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name;*

C) *"machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and*

D) *"equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease.*

3) *The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption stating facts establishing the exemption, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.* [35 ILCS 110/2]

4) For more information on the Manufacturing, Machinery, and Equipment Exemption, see 86 Ill. Adm. Code 130.330.

i) The Service Use Tax does not apply to *farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code*. Farm machinery and equipment shall include the following:

1) *horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment;*

2) *agricultural chemical tender tanks and dry boxes* including *units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated;*

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

4) *computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals;* and

5) *beginning on January 1, 2024, farm machinery and equipment also includes electrical power generation equipment used primarily for production agriculture.* [35 ILCS 110/3-5(7)]

j) The Service Use Tax does not apply to s*emen used for artificial insemination of livestock for direct agricultural production.* [35 ILCS 3-5(13)]

k) The Service Use Tax does not apply to *horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes*. [35 ILCS 110/3-5(14)]

l) The Service Use Tax does not apply to *computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by* the Act*, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act*. [35 ILCS 110/3-5(24)]

m) The Service Use Tax does not apply to *personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by* the Act*, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.* [35 ILCS 110/3-5(25)]

n) The Service Use Tax does not apply to *tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act.* [35 ILCS 110/3-5(26)]

o) *Beginning January 1, 2010 and continuing through December 31, 2029, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft.* The *exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft. However, until January 1, 2024, the exemption excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films.*

1) *Beginning January 1, 2010 and continuing through December 31, 2023, the exemption applies only to the use of qualifying tangible personal property transferred incident to the modification, refurbishment, completion, replacement, repair, or maintenance of aircraft by persons who hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, have a Class IV Rating, and conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.*

2) *From January 1, 2024 through December 31, 2029, the exemption applies only to the use of qualifying tangible personal property by:*

A) *persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who:*

i) *hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration;*

ii) *have a Class IV Rating; and*

iii) *conduct operations in accordance with Part 145 of the Federal Aviation Regulations* (14 CFR 145)*; and*

B) *persons who engage in the modification, replacement, repair, and maintenance of aircraft engines or power plants without regard to whether or not those persons meet the qualifications of* subsection (o)(2)(A).

3) *The exemption applies continuously from January 1, 2010 through December 31, 2024; however, no claim for credit or refund is allowed for taxes paid as a result of the disallowance of this exemption on or after January 1, 2015 and prior to* February 5, 2020, the effective date of Public Act 101-629. [35 ILCS 110/3-5(27)]

p) *Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as provided in Section 11-65-25 of the Illinois Municipal Code.* [35 ILCS 110/3-5(28)]

q) *Beginning January 1, 2017 and through December 31, 2026, menstrual pads, tampons, and menstrual cups.*  [35 ILCS 10/3-5(29)]

r) *The Service Use Tax does not apply to tangible personal property transferred to a purchaser who is exempt from the tax imposed by* the Act *by operation of federal law.*  [35 ILCS 110/3-5(30)]

s) The Service Use Tax does not apply to *qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020, had* P.A.101-31 *been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified. For the purposes of this* subsection:

1) *"Data center" means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois.*

2) *"Qualified tangible personal property" means:*

A) *Electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center.*

B) *The term "qualified tangible personal property" also includes building materials physically incorporated into the qualifying data center.*

3) *To document the exemption allowed under this* subsection*, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department of Commerce and Economic Opportunity,* the agency responsible for granting certificates of exemption to qualified data centers pursuant to Section 605-1025 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois [20 ILCS 605/605-1025]. [35 ILCS 110/3-5(31)]

t) *Beginning July 1, 2022, breast pumps, breast pump collection and storage supplies, and breast pump kits. As used in this* subsection (t)*:*

1) *Breast pump" means an electrically controlled or manually controlled pump device designed or marketed to be used to express milk from a human breast during lactation, including the pump device and any battery, AC adapter, or other power supply unit that is used to power the pump device and is packaged and sold with the pump device at the time of sale.*

2) *"Breast pump collection and storage supplies" means items of tangible personal property designed or marketed to be used in conjunction with a breast pump to collect milk expressed from a human breast and to store collected milk until it is ready for consumption.*

3) *"Breast pump collection and storage supplies" includes, but is not limited to: breast shields and breast shield connectors; breast pump tubes and tubing adapters; breast pump valves and membranes; backflow protectors and backflow protector adaptors; bottles and bottle caps specific to the operation of the breast pump; and breast milk storage bags.*

4) *"Breast pump collection and storage supplies" does not include: bottles and bottle caps not specific to the operation of the breast pump; breast pump travel bags and other similar carrying accessories, including ice packs, labels, and other similar products; breast pump cleaning supplies; nursing bras, bra pads, breast shells, and other similar products; and creams, ointments, and other similar products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples, unless sold as part of a breast pump kit that is pre-packaged by the breast pump manufacturer or distributor.*

5) *"Breast pump kit" means a kit that: contains no more than a breast pump, breast pump collection and storage supplies, a rechargeable battery for operating the breast pump, a breastmilk cooler, bottle stands, ice packs, and a breast pump carrying case; and is pre-packaged as a breast pump kit by the breast pump manufacturer or distributor.* [35 ILCS 110/3-5(32)]

u) *Tangible personal property sold by or on behalf of the State Treasurer pursuant to the Revised Uniform Unclaimed Property Act.* [35 ILCS 110/3-5(33)]

v) *If the serviceman would not be taxable under the Service Occupation Tax Act despite all elements of his sale of service occurring in Illinois, then the tax imposed by* the *Act does not apply to the use in this State of the property transferred as a necessary incident to the sale of service.* [35 ILCS 110/3-55]

(Source: Amended at 48 Ill. Reg. 10710, effective July 2, 2024)