



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5001

by Rep. Keith R. Wheeler

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5	
35 ILCS 105/3-50	from Ch. 120, par. 439.3-50
35 ILCS 110/2	from Ch. 120, par. 439.32
35 ILCS 115/2	from Ch. 120, par. 439.102
35 ILCS 120/2-45	from Ch. 120, par. 441-45

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act to extend the Manufacturing Machinery and Equipment Exemption to production related tangible personal property. Provides that the term "production related tangible personal property" includes certain supplies and consumables used in a manufacturing facility. Effective immediately.

LRB100 16529 HLH 31661 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Sections
5 3-5 and 3-50 as follows:

6 (35 ILCS 105/3-5)

7 Sec. 3-5. Exemptions. Use of the following tangible
8 personal property is exempt from the tax imposed by this Act:

9 (1) Personal property purchased from a corporation,
10 society, association, foundation, institution, or
11 organization, other than a limited liability company, that is
12 organized and operated as a not-for-profit service enterprise
13 for the benefit of persons 65 years of age or older if the
14 personal property was not purchased by the enterprise for the
15 purpose of resale by the enterprise.

16 (2) Personal property purchased by a not-for-profit
17 Illinois county fair association for use in conducting,
18 operating, or promoting the county fair.

19 (3) Personal property purchased by a not-for-profit arts or
20 cultural organization that establishes, by proof required by
21 the Department by rule, that it has received an exemption under
22 Section 501(c)(3) of the Internal Revenue Code and that is
23 organized and operated primarily for the presentation or

1 support of arts or cultural programming, activities, or
2 services. These organizations include, but are not limited to,
3 music and dramatic arts organizations such as symphony
4 orchestras and theatrical groups, arts and cultural service
5 organizations, local arts councils, visual arts organizations,
6 and media arts organizations. On and after July 1, 2001 (the
7 effective date of Public Act 92-35) ~~this amendatory Act of the~~
8 ~~92nd General Assembly~~, however, an entity otherwise eligible
9 for this exemption shall not make tax-free purchases unless it
10 has an active identification number issued by the Department.

11 (4) Personal property purchased by a governmental body, by
12 a corporation, society, association, foundation, or
13 institution organized and operated exclusively for charitable,
14 religious, or educational purposes, or by a not-for-profit
15 corporation, society, association, foundation, institution, or
16 organization that has no compensated officers or employees and
17 that is organized and operated primarily for the recreation of
18 persons 55 years of age or older. A limited liability company
19 may qualify for the exemption under this paragraph only if the
20 limited liability company is organized and operated
21 exclusively for educational purposes. On and after July 1,
22 1987, however, no entity otherwise eligible for this exemption
23 shall make tax-free purchases unless it has an active exemption
24 identification number issued by the Department.

25 (5) Until July 1, 2003, a passenger car that is a
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

2 (6) Until July 1, 2003 and beginning again on September 1,
3 2004 through August 30, 2014, graphic arts machinery and
4 equipment, including repair and replacement parts, both new and
5 used, and including that manufactured on special order,
6 certified by the purchaser to be used primarily for graphic
7 arts production, and including machinery and equipment
8 purchased for lease. Equipment includes chemicals or chemicals
9 acting as catalysts but only if the chemicals or chemicals
10 acting as catalysts effect a direct and immediate change upon a
11 graphic arts product. Beginning on July 1, 2017, graphic arts
12 machinery and equipment is included in the manufacturing and
13 assembling machinery and equipment exemption under paragraph
14 (18).

15 (7) Farm chemicals.

16 (8) Legal tender, currency, medallions, or gold or silver
17 coinage issued by the State of Illinois, the government of the
18 United States of America, or the government of any foreign
19 country, and bullion.

20 (9) Personal property purchased from a teacher-sponsored
21 student organization affiliated with an elementary or
22 secondary school located in Illinois.

23 (10) A motor vehicle that is used for automobile renting,
24 as defined in the Automobile Renting Occupation and Use Tax
25 Act.

26 (11) Farm machinery and equipment, both new and used,

1 including that manufactured on special order, certified by the
2 purchaser to be used primarily for production agriculture or
3 State or federal agricultural programs, including individual
4 replacement parts for the machinery and equipment, including
5 machinery and equipment purchased for lease, and including
6 implements of husbandry defined in Section 1-130 of the
7 Illinois Vehicle Code, farm machinery and agricultural
8 chemical and fertilizer spreaders, and nurse wagons required to
9 be registered under Section 3-809 of the Illinois Vehicle Code,
10 but excluding other motor vehicles required to be registered
11 under the Illinois Vehicle Code. Horticultural polyhouses or
12 hoop houses used for propagating, growing, or overwintering
13 plants shall be considered farm machinery and equipment under
14 this item (11). Agricultural chemical tender tanks and dry
15 boxes shall include units sold separately from a motor vehicle
16 required to be licensed and units sold mounted on a motor
17 vehicle required to be licensed if the selling price of the
18 tender is separately stated.

19 Farm machinery and equipment shall include precision
20 farming equipment that is installed or purchased to be
21 installed on farm machinery and equipment including, but not
22 limited to, tractors, harvesters, sprayers, planters, seeders,
23 or spreaders. Precision farming equipment includes, but is not
24 limited to, soil testing sensors, computers, monitors,
25 software, global positioning and mapping systems, and other
26 such equipment.

1 Farm machinery and equipment also includes computers,
2 sensors, software, and related equipment used primarily in the
3 computer-assisted operation of production agriculture
4 facilities, equipment, and activities such as, but not limited
5 to, the collection, monitoring, and correlation of animal and
6 crop data for the purpose of formulating animal diets and
7 agricultural chemicals. This item (11) is exempt from the
8 provisions of Section 3-90.

9 (12) Until June 30, 2013, fuel and petroleum products sold
10 to or used by an air common carrier, certified by the carrier
11 to be used for consumption, shipment, or storage in the conduct
12 of its business as an air common carrier, for a flight destined
13 for or returning from a location or locations outside the
14 United States without regard to previous or subsequent domestic
15 stopovers.

16 Beginning July 1, 2013, fuel and petroleum products sold to
17 or used by an air carrier, certified by the carrier to be used
18 for consumption, shipment, or storage in the conduct of its
19 business as an air common carrier, for a flight that (i) is
20 engaged in foreign trade or is engaged in trade between the
21 United States and any of its possessions and (ii) transports at
22 least one individual or package for hire from the city of
23 origination to the city of final destination on the same
24 aircraft, without regard to a change in the flight number of
25 that aircraft.

26 (13) Proceeds of mandatory service charges separately

1 stated on customers' bills for the purchase and consumption of
2 food and beverages purchased at retail from a retailer, to the
3 extent that the proceeds of the service charge are in fact
4 turned over as tips or as a substitute for tips to the
5 employees who participate directly in preparing, serving,
6 hosting or cleaning up the food or beverage function with
7 respect to which the service charge is imposed.

8 (14) Until July 1, 2003, oil field exploration, drilling,
9 and production equipment, including (i) rigs and parts of rigs,
10 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
11 tubular goods, including casing and drill strings, (iii) pumps
12 and pump-jack units, (iv) storage tanks and flow lines, (v) any
13 individual replacement part for oil field exploration,
14 drilling, and production equipment, and (vi) machinery and
15 equipment purchased for lease; but excluding motor vehicles
16 required to be registered under the Illinois Vehicle Code.

17 (15) Photoprocessing machinery and equipment, including
18 repair and replacement parts, both new and used, including that
19 manufactured on special order, certified by the purchaser to be
20 used primarily for photoprocessing, and including
21 photoprocessing machinery and equipment purchased for lease.

22 (16) Coal and aggregate exploration, mining, off-highway
23 hauling, processing, maintenance, and reclamation equipment,
24 including replacement parts and equipment, and including
25 equipment purchased for lease, but excluding motor vehicles
26 required to be registered under the Illinois Vehicle Code. The

1 changes made to this Section by Public Act 97-767 apply on and
2 after July 1, 2003, but no claim for credit or refund is
3 allowed on or after August 16, 2013 (the effective date of
4 Public Act 98-456) for such taxes paid during the period
5 beginning July 1, 2003 and ending on August 16, 2013 (the
6 effective date of Public Act 98-456).

7 (17) Until July 1, 2003, distillation machinery and
8 equipment, sold as a unit or kit, assembled or installed by the
9 retailer, certified by the user to be used only for the
10 production of ethyl alcohol that will be used for consumption
11 as motor fuel or as a component of motor fuel for the personal
12 use of the user, and not subject to sale or resale.

13 (18) Manufacturing and assembling machinery and equipment
14 used primarily in the process of manufacturing or assembling
15 tangible personal property for wholesale or retail sale or
16 lease, whether that sale or lease is made directly by the
17 manufacturer or by some other person, whether the materials
18 used in the process are owned by the manufacturer or some other
19 person, or whether that sale or lease is made apart from or as
20 an incident to the seller's engaging in the service occupation
21 of producing machines, tools, dies, jigs, patterns, gauges, or
22 other similar items of no commercial value on special order for
23 a particular purchaser. The exemption provided by this
24 paragraph (18) includes production related tangible personal
25 property, as defined in Section 3-50, purchased on or after
26 July 1, 2018. The exemption provided by this paragraph (18)

1 does not include machinery and equipment used in (i) the
2 generation of electricity for wholesale or retail sale; (ii)
3 the generation or treatment of natural or artificial gas for
4 wholesale or retail sale that is delivered to customers through
5 pipes, pipelines, or mains; or (iii) the treatment of water for
6 wholesale or retail sale that is delivered to customers through
7 pipes, pipelines, or mains. The provisions of Public Act 98-583
8 are declaratory of existing law as to the meaning and scope of
9 this exemption. Beginning on July 1, 2017, the exemption
10 provided by this paragraph (18) includes, but is not limited
11 to, graphic arts machinery and equipment, as defined in
12 paragraph (6) of this Section.

13 (19) Personal property delivered to a purchaser or
14 purchaser's donee inside Illinois when the purchase order for
15 that personal property was received by a florist located
16 outside Illinois who has a florist located inside Illinois
17 deliver the personal property.

18 (20) Semen used for artificial insemination of livestock
19 for direct agricultural production.

20 (21) Horses, or interests in horses, registered with and
21 meeting the requirements of any of the Arabian Horse Club
22 Registry of America, Appaloosa Horse Club, American Quarter
23 Horse Association, United States Trotting Association, or
24 Jockey Club, as appropriate, used for purposes of breeding or
25 racing for prizes. This item (21) is exempt from the provisions
26 of Section 3-90, and the exemption provided for under this item

1 (21) applies for all periods beginning May 30, 1995, but no
2 claim for credit or refund is allowed on or after January 1,
3 2008 for such taxes paid during the period beginning May 30,
4 2000 and ending on January 1, 2008.

5 (22) Computers and communications equipment utilized for
6 any hospital purpose and equipment used in the diagnosis,
7 analysis, or treatment of hospital patients purchased by a
8 lessor who leases the equipment, under a lease of one year or
9 longer executed or in effect at the time the lessor would
10 otherwise be subject to the tax imposed by this Act, to a
11 hospital that has been issued an active tax exemption
12 identification number by the Department under Section 1g of the
13 Retailers' Occupation Tax Act. If the equipment is leased in a
14 manner that does not qualify for this exemption or is used in
15 any other non-exempt manner, the lessor shall be liable for the
16 tax imposed under this Act or the Service Use Tax Act, as the
17 case may be, based on the fair market value of the property at
18 the time the non-qualifying use occurs. No lessor shall collect
19 or attempt to collect an amount (however designated) that
20 purports to reimburse that lessor for the tax imposed by this
21 Act or the Service Use Tax Act, as the case may be, if the tax
22 has not been paid by the lessor. If a lessor improperly
23 collects any such amount from the lessee, the lessee shall have
24 a legal right to claim a refund of that amount from the lessor.
25 If, however, that amount is not refunded to the lessee for any
26 reason, the lessor is liable to pay that amount to the

1 Department.

2 (23) Personal property purchased by a lessor who leases the
3 property, under a lease of one year or longer executed or in
4 effect at the time the lessor would otherwise be subject to the
5 tax imposed by this Act, to a governmental body that has been
6 issued an active sales tax exemption identification number by
7 the Department under Section 1g of the Retailers' Occupation
8 Tax Act. If the property is leased in a manner that does not
9 qualify for this exemption or used in any other non-exempt
10 manner, the lessor shall be liable for the tax imposed under
11 this Act or the Service Use Tax Act, as the case may be, based
12 on the fair market value of the property at the time the
13 non-qualifying use occurs. No lessor shall collect or attempt
14 to collect an amount (however designated) that purports to
15 reimburse that lessor for the tax imposed by this Act or the
16 Service Use Tax Act, as the case may be, if the tax has not been
17 paid by the lessor. If a lessor improperly collects any such
18 amount from the lessee, the lessee shall have a legal right to
19 claim a refund of that amount from the lessor. If, however,
20 that amount is not refunded to the lessee for any reason, the
21 lessor is liable to pay that amount to the Department.

22 (24) Beginning with taxable years ending on or after
23 December 31, 1995 and ending with taxable years ending on or
24 before December 31, 2004, personal property that is donated for
25 disaster relief to be used in a State or federally declared
26 disaster area in Illinois or bordering Illinois by a

1 manufacturer or retailer that is registered in this State to a
2 corporation, society, association, foundation, or institution
3 that has been issued a sales tax exemption identification
4 number by the Department that assists victims of the disaster
5 who reside within the declared disaster area.

6 (25) Beginning with taxable years ending on or after
7 December 31, 1995 and ending with taxable years ending on or
8 before December 31, 2004, personal property that is used in the
9 performance of infrastructure repairs in this State, including
10 but not limited to municipal roads and streets, access roads,
11 bridges, sidewalks, waste disposal systems, water and sewer
12 line extensions, water distribution and purification
13 facilities, storm water drainage and retention facilities, and
14 sewage treatment facilities, resulting from a State or
15 federally declared disaster in Illinois or bordering Illinois
16 when such repairs are initiated on facilities located in the
17 declared disaster area within 6 months after the disaster.

18 (26) Beginning July 1, 1999, game or game birds purchased
19 at a "game breeding and hunting preserve area" as that term is
20 used in the Wildlife Code. This paragraph is exempt from the
21 provisions of Section 3-90.

22 (27) A motor vehicle, as that term is defined in Section
23 1-146 of the Illinois Vehicle Code, that is donated to a
24 corporation, limited liability company, society, association,
25 foundation, or institution that is determined by the Department
26 to be organized and operated exclusively for educational

1 purposes. For purposes of this exemption, "a corporation,
2 limited liability company, society, association, foundation,
3 or institution organized and operated exclusively for
4 educational purposes" means all tax-supported public schools,
5 private schools that offer systematic instruction in useful
6 branches of learning by methods common to public schools and
7 that compare favorably in their scope and intensity with the
8 course of study presented in tax-supported schools, and
9 vocational or technical schools or institutes organized and
10 operated exclusively to provide a course of study of not less
11 than 6 weeks duration and designed to prepare individuals to
12 follow a trade or to pursue a manual, technical, mechanical,
13 industrial, business, or commercial occupation.

14 (28) Beginning January 1, 2000, personal property,
15 including food, purchased through fundraising events for the
16 benefit of a public or private elementary or secondary school,
17 a group of those schools, or one or more school districts if
18 the events are sponsored by an entity recognized by the school
19 district that consists primarily of volunteers and includes
20 parents and teachers of the school children. This paragraph
21 does not apply to fundraising events (i) for the benefit of
22 private home instruction or (ii) for which the fundraising
23 entity purchases the personal property sold at the events from
24 another individual or entity that sold the property for the
25 purpose of resale by the fundraising entity and that profits
26 from the sale to the fundraising entity. This paragraph is

1 exempt from the provisions of Section 3-90.

2 (29) Beginning January 1, 2000 and through December 31,
3 2001, new or used automatic vending machines that prepare and
4 serve hot food and beverages, including coffee, soup, and other
5 items, and replacement parts for these machines. Beginning
6 January 1, 2002 and through June 30, 2003, machines and parts
7 for machines used in commercial, coin-operated amusement and
8 vending business if a use or occupation tax is paid on the
9 gross receipts derived from the use of the commercial,
10 coin-operated amusement and vending machines. This paragraph
11 is exempt from the provisions of Section 3-90.

12 (30) Beginning January 1, 2001 and through June 30, 2016,
13 food for human consumption that is to be consumed off the
14 premises where it is sold (other than alcoholic beverages, soft
15 drinks, and food that has been prepared for immediate
16 consumption) and prescription and nonprescription medicines,
17 drugs, medical appliances, and insulin, urine testing
18 materials, syringes, and needles used by diabetics, for human
19 use, when purchased for use by a person receiving medical
20 assistance under Article V of the Illinois Public Aid Code who
21 resides in a licensed long-term care facility, as defined in
22 the Nursing Home Care Act, or in a licensed facility as defined
23 in the ID/DD Community Care Act, the MC/DD Act, or the
24 Specialized Mental Health Rehabilitation Act of 2013.

25 (31) Beginning on August 2, 2001 (the effective date of
26 Public Act 92-227) ~~this amendatory Act of the 92nd General~~

1 ~~Assembly~~, computers and communications equipment utilized for
2 any hospital purpose and equipment used in the diagnosis,
3 analysis, or treatment of hospital patients purchased by a
4 lessor who leases the equipment, under a lease of one year or
5 longer executed or in effect at the time the lessor would
6 otherwise be subject to the tax imposed by this Act, to a
7 hospital that has been issued an active tax exemption
8 identification number by the Department under Section 1g of the
9 Retailers' Occupation Tax Act. If the equipment is leased in a
10 manner that does not qualify for this exemption or is used in
11 any other nonexempt manner, the lessor shall be liable for the
12 tax imposed under this Act or the Service Use Tax Act, as the
13 case may be, based on the fair market value of the property at
14 the time the nonqualifying use occurs. No lessor shall collect
15 or attempt to collect an amount (however designated) that
16 purports to reimburse that lessor for the tax imposed by this
17 Act or the Service Use Tax Act, as the case may be, if the tax
18 has not been paid by the lessor. If a lessor improperly
19 collects any such amount from the lessee, the lessee shall have
20 a legal right to claim a refund of that amount from the lessor.
21 If, however, that amount is not refunded to the lessee for any
22 reason, the lessor is liable to pay that amount to the
23 Department. This paragraph is exempt from the provisions of
24 Section 3-90.

25 (32) Beginning on August 2, 2001 (the effective date of
26 Public Act 92-227) ~~this amendatory Act of the 92nd General~~

1 ~~Assembly~~, personal property purchased by a lessor who leases
2 the property, under a lease of one year or longer executed or
3 in effect at the time the lessor would otherwise be subject to
4 the tax imposed by this Act, to a governmental body that has
5 been issued an active sales tax exemption identification number
6 by the Department under Section 1g of the Retailers' Occupation
7 Tax Act. If the property is leased in a manner that does not
8 qualify for this exemption or used in any other nonexempt
9 manner, the lessor shall be liable for the tax imposed under
10 this Act or the Service Use Tax Act, as the case may be, based
11 on the fair market value of the property at the time the
12 nonqualifying use occurs. No lessor shall collect or attempt to
13 collect an amount (however designated) that purports to
14 reimburse that lessor for the tax imposed by this Act or the
15 Service Use Tax Act, as the case may be, if the tax has not been
16 paid by the lessor. If a lessor improperly collects any such
17 amount from the lessee, the lessee shall have a legal right to
18 claim a refund of that amount from the lessor. If, however,
19 that amount is not refunded to the lessee for any reason, the
20 lessor is liable to pay that amount to the Department. This
21 paragraph is exempt from the provisions of Section 3-90.

22 (33) On and after July 1, 2003 and through June 30, 2004,
23 the use in this State of motor vehicles of the second division
24 with a gross vehicle weight in excess of 8,000 pounds and that
25 are subject to the commercial distribution fee imposed under
26 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July

1 1, 2004 and through June 30, 2005, the use in this State of
2 motor vehicles of the second division: (i) with a gross vehicle
3 weight rating in excess of 8,000 pounds; (ii) that are subject
4 to the commercial distribution fee imposed under Section
5 3-815.1 of the Illinois Vehicle Code; and (iii) that are
6 primarily used for commercial purposes. Through June 30, 2005,
7 this exemption applies to repair and replacement parts added
8 after the initial purchase of such a motor vehicle if that
9 motor vehicle is used in a manner that would qualify for the
10 rolling stock exemption otherwise provided for in this Act. For
11 purposes of this paragraph, the term "used for commercial
12 purposes" means the transportation of persons or property in
13 furtherance of any commercial or industrial enterprise,
14 whether for-hire or not.

15 (34) Beginning January 1, 2008, tangible personal property
16 used in the construction or maintenance of a community water
17 supply, as defined under Section 3.145 of the Environmental
18 Protection Act, that is operated by a not-for-profit
19 corporation that holds a valid water supply permit issued under
20 Title IV of the Environmental Protection Act. This paragraph is
21 exempt from the provisions of Section 3-90.

22 (35) Beginning January 1, 2010, materials, parts,
23 equipment, components, and furnishings incorporated into or
24 upon an aircraft as part of the modification, refurbishment,
25 completion, replacement, repair, or maintenance of the
26 aircraft. This exemption includes consumable supplies used in

1 the modification, refurbishment, completion, replacement,
2 repair, and maintenance of aircraft, but excludes any
3 materials, parts, equipment, components, and consumable
4 supplies used in the modification, replacement, repair, and
5 maintenance of aircraft engines or power plants, whether such
6 engines or power plants are installed or uninstalled upon any
7 such aircraft. "Consumable supplies" include, but are not
8 limited to, adhesive, tape, sandpaper, general purpose
9 lubricants, cleaning solution, latex gloves, and protective
10 films. This exemption applies only to the use of qualifying
11 tangible personal property by persons who modify, refurbish,
12 complete, repair, replace, or maintain aircraft and who (i)
13 hold an Air Agency Certificate and are empowered to operate an
14 approved repair station by the Federal Aviation
15 Administration, (ii) have a Class IV Rating, and (iii) conduct
16 operations in accordance with Part 145 of the Federal Aviation
17 Regulations. The exemption does not include aircraft operated
18 by a commercial air carrier providing scheduled passenger air
19 service pursuant to authority issued under Part 121 or Part 129
20 of the Federal Aviation Regulations. The changes made to this
21 paragraph (35) by Public Act 98-534 are declarative of existing
22 law.

23 (36) Tangible personal property purchased by a
24 public-facilities corporation, as described in Section
25 11-65-10 of the Illinois Municipal Code, for purposes of
26 constructing or furnishing a municipal convention hall, but

1 only if the legal title to the municipal convention hall is
2 transferred to the municipality without any further
3 consideration by or on behalf of the municipality at the time
4 of the completion of the municipal convention hall or upon the
5 retirement or redemption of any bonds or other debt instruments
6 issued by the public-facilities corporation in connection with
7 the development of the municipal convention hall. This
8 exemption includes existing public-facilities corporations as
9 provided in Section 11-65-25 of the Illinois Municipal Code.
10 This paragraph is exempt from the provisions of Section 3-90.

11 (37) Beginning January 1, 2017, menstrual pads, tampons,
12 and menstrual cups.

13 (38) Merchandise that is subject to the Rental Purchase
14 Agreement Occupation and Use Tax. The purchaser must certify
15 that the item is purchased to be rented subject to a rental
16 purchase agreement, as defined in the Rental Purchase Agreement
17 Act, and provide proof of registration under the Rental
18 Purchase Agreement Occupation and Use Tax Act. This paragraph
19 is exempt from the provisions of Section 3-90.

20 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;
21 100-22, eff. 7-6-17; 100-437, eff. 1-1-18; revised 9-27-17.)

22 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

23 Sec. 3-50. Manufacturing and assembly exemption. The
24 manufacturing and assembling machinery and equipment exemption
25 includes machinery and equipment that replaces machinery and

1 equipment in an existing manufacturing facility as well as
2 machinery and equipment that are for use in an expanded or new
3 manufacturing facility. The machinery and equipment exemption
4 also includes machinery and equipment used in the general
5 maintenance or repair of exempt machinery and equipment or for
6 in-house manufacture of exempt machinery and equipment.
7 Beginning on July 1, 2017, the manufacturing and assembling
8 machinery and equipment exemption also includes graphic arts
9 machinery and equipment, as defined in paragraph (6) of Section
10 3-5. The machinery and equipment exemption does not include
11 machinery and equipment used in (i) the generation of
12 electricity for wholesale or retail sale; (ii) the generation
13 or treatment of natural or artificial gas for wholesale or
14 retail sale that is delivered to customers through pipes,
15 pipelines, or mains; or (iii) the treatment of water for
16 wholesale or retail sale that is delivered to customers through
17 pipes, pipelines, or mains. The provisions of this amendatory
18 Act of the 98th General Assembly are declaratory of existing
19 law as to the meaning and scope of this exemption. For the
20 purposes of this exemption, terms have the following meanings:

21 (1) "Manufacturing process" means the production of an
22 article of tangible personal property, whether the article
23 is a finished product or an article for use in the process
24 of manufacturing or assembling a different article of
25 tangible personal property, by a procedure commonly
26 regarded as manufacturing, processing, fabricating, or

1 refining that changes some existing material into a
2 material with a different form, use, or name. In relation
3 to a recognized integrated business composed of a series of
4 operations that collectively constitute manufacturing, or
5 individually constitute manufacturing operations, the
6 manufacturing process commences with the first operation
7 or stage of production in the series and does not end until
8 the completion of the final product in the last operation
9 or stage of production in the series. For purposes of this
10 exemption, photoprocessing is a manufacturing process of
11 tangible personal property for wholesale or retail sale.

12 (2) "Assembling process" means the production of an
13 article of tangible personal property, whether the article
14 is a finished product or an article for use in the process
15 of manufacturing or assembling a different article of
16 tangible personal property, by the combination of existing
17 materials in a manner commonly regarded as assembling that
18 results in an article or material of a different form, use,
19 or name.

20 (3) "Machinery" means major mechanical machines or
21 major components of those machines contributing to a
22 manufacturing or assembling process.

23 (4) "Equipment" includes an independent device or tool
24 separate from machinery but essential to an integrated
25 manufacturing or assembly process; including computers
26 used primarily in a manufacturer's computer assisted

1 design, computer assisted manufacturing (CAD/CAM) system;
2 any subunit or assembly comprising a component of any
3 machinery or auxiliary, adjunct, or attachment parts of
4 machinery, such as tools, dies, jigs, fixtures, patterns,
5 and molds; and any parts that require periodic replacement
6 in the course of normal operation; but does not include
7 hand tools. Equipment includes chemicals or chemicals
8 acting as catalysts but only if the chemicals or chemicals
9 acting as catalysts effect a direct and immediate change
10 upon a product being manufactured or assembled for
11 wholesale or retail sale or lease.

12 (5) "Production related tangible personal property"
13 means all tangible personal property that is used or
14 consumed by the purchaser in a manufacturing facility in
15 which a manufacturing process takes place and includes,
16 without limitation, tangible personal property that is
17 purchased for incorporation into real estate within a
18 manufacturing facility, supplies and consumables used in a
19 manufacturing facility including fuels, coolants,
20 solvents, oils, lubricants, and adhesives, hand tools,
21 protective apparel, and fire and safety equipment used or
22 consumed within a manufacturing facility, and tangible
23 personal property that is used or consumed in activities
24 such as research and development, preproduction material
25 handling, receiving, quality control, inventory control,
26 storage, staging, and packaging for shipping and

1 transportation purposes. "Production related tangible
2 personal property" does not include (i) tangible personal
3 property that is used, within or without a manufacturing
4 facility, in sales, purchasing, accounting, fiscal
5 management, marketing, personnel recruitment or selection,
6 or landscaping or (ii) tangible personal property that is
7 required to be titled or registered with a department,
8 agency, or unit of federal, State, or local government.

9 The manufacturing and assembling machinery and equipment
10 exemption includes production related tangible personal
11 property that is purchased on or after July 1, 2007 and on or
12 before June 30, 2008 and on or after July 1, 2018. The
13 exemption for production related tangible personal property
14 purchased on or after July 1, 2007 and on or before June 30,
15 2008 is subject to both of the following limitations:

16 (1) The maximum amount of the exemption for any one
17 taxpayer may not exceed 5% of the purchase price of
18 production related tangible personal property that is
19 purchased on or after July 1, 2007 and on or before June
20 30, 2008. A credit under Section 3-85 of this Act may not
21 be earned by the purchase of production related tangible
22 personal property for which an exemption is received under
23 this Section.

24 (2) The maximum aggregate amount of the exemptions for
25 production related tangible personal property purchased on
26 or after July 1, 2007 and on or before June 30, 2008

1 awarded under this Act and the Retailers' Occupation Tax
2 Act to all taxpayers may not exceed \$10,000,000. If the
3 claims for the exemption exceed \$10,000,000, then the
4 Department shall reduce the amount of the exemption to each
5 taxpayer on a pro rata basis.

6 The Department shall ~~may~~ adopt rules to implement and
7 administer the exemption for production related tangible
8 personal property.

9 The manufacturing and assembling machinery and equipment
10 exemption includes the sale of materials to a purchaser who
11 produces exempted types of machinery, equipment, or tools and
12 who rents or leases that machinery, equipment, or tools to a
13 manufacturer of tangible personal property. This exemption
14 also includes the sale of materials to a purchaser who
15 manufactures those materials into an exempted type of
16 machinery, equipment, or tools that the purchaser uses himself
17 or herself in the manufacturing of tangible personal property.
18 This exemption includes the sale of exempted types of machinery
19 or equipment to a purchaser who is not the manufacturer, but
20 who rents or leases the use of the property to a manufacturer.
21 The purchaser of the machinery and equipment who has an active
22 resale registration number shall furnish that number to the
23 seller at the time of purchase. A user of the machinery,
24 equipment, or tools without an active resale registration
25 number shall prepare a certificate of exemption for each
26 transaction stating facts establishing the exemption for that

1 transaction, and that certificate shall be available to the
2 Department for inspection or audit. The Department shall
3 prescribe the form of the certificate. Informal rulings,
4 opinions, or letters issued by the Department in response to an
5 inquiry or request for an opinion from any person regarding the
6 coverage and applicability of this exemption to specific
7 devices shall be published, maintained as a public record, and
8 made available for public inspection and copying. If the
9 informal ruling, opinion, or letter contains trade secrets or
10 other confidential information, where possible, the Department
11 shall delete that information before publication. Whenever
12 informal rulings, opinions, or letters contain a policy of
13 general applicability, the Department shall formulate and
14 adopt that policy as a rule in accordance with the Illinois
15 Administrative Procedure Act.

16 The manufacturing and assembling machinery and equipment
17 exemption is exempt from the provisions of Section 3-90.

18 (Source: P.A. 100-22, eff. 7-6-17.)

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

21 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

22 Sec. 2. Definitions. In this Act:

23 "Use" means the exercise by any person of any right or
24 power over tangible personal property incident to the ownership

1 of that property, but does not include the sale or use for
2 demonstration by him of that property in any form as tangible
3 personal property in the regular course of business. "Use" does
4 not mean the interim use of tangible personal property nor the
5 physical incorporation of tangible personal property, as an
6 ingredient or constituent, into other tangible personal
7 property, (a) which is sold in the regular course of business
8 or (b) which the person incorporating such ingredient or
9 constituent therein has undertaken at the time of such purchase
10 to cause to be transported in interstate commerce to
11 destinations outside the State of Illinois.

12 "Purchased from a serviceman" means the acquisition of the
13 ownership of, or title to, tangible personal property through a
14 sale of service.

15 "Purchaser" means any person who, through a sale of
16 service, acquires the ownership of, or title to, any tangible
17 personal property.

18 "Cost price" means the consideration paid by the serviceman
19 for a purchase valued in money, whether paid in money or
20 otherwise, including cash, credits and services, and shall be
21 determined without any deduction on account of the supplier's
22 cost of the property sold or on account of any other expense
23 incurred by the supplier. When a serviceman contracts out part
24 or all of the services required in his sale of service, it
25 shall be presumed that the cost price to the serviceman of the
26 property transferred to him or her by his or her subcontractor

1 is equal to 50% of the subcontractor's charges to the
2 serviceman in the absence of proof of the consideration paid by
3 the subcontractor for the purchase of such property.

4 "Selling price" means the consideration for a sale valued
5 in money whether received in money or otherwise, including
6 cash, credits and service, and shall be determined without any
7 deduction on account of the serviceman's cost of the property
8 sold, the cost of materials used, labor or service cost or any
9 other expense whatsoever, but does not include interest or
10 finance charges which appear as separate items on the bill of
11 sale or sales contract nor charges that are added to prices by
12 sellers on account of the seller's duty to collect, from the
13 purchaser, the tax that is imposed by this Act.

14 "Department" means the Department of Revenue.

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

20 "Sale of service" means any transaction except:

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

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

1 (3) except as hereinafter provided, a sale or transfer
2 of tangible personal property as an incident to the
3 rendering of service for or by any governmental body, or
4 for or by any corporation, society, association,
5 foundation or institution organized and operated
6 exclusively for charitable, religious or educational
7 purposes or any not-for-profit corporation, society,
8 association, foundation, institution or organization which
9 has no compensated officers or employees and which is
10 organized and operated primarily for the recreation of
11 persons 55 years of age or older. A limited liability
12 company may qualify for the exemption under this paragraph
13 only if the limited liability company is organized and
14 operated exclusively for educational purposes.

15 (4) (blank).

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

26 (4a-5) on and after July 1, 2003 and through June 30,

1 2004, a sale or transfer of a motor vehicle of the second
2 division with a gross vehicle weight in excess of 8,000
3 pounds as an incident to the rendering of service if that
4 motor vehicle is subject to the commercial distribution fee
5 imposed under Section 3-815.1 of the Illinois Vehicle Code.
6 Beginning on July 1, 2004 and through June 30, 2005, the
7 use in this State of motor vehicles of the second division:
8 (i) with a gross vehicle weight rating in excess of 8,000
9 pounds; (ii) that are subject to the commercial
10 distribution fee imposed under Section 3-815.1 of the
11 Illinois Vehicle Code; and (iii) that are primarily used
12 for commercial purposes. Through June 30, 2005, this
13 exemption applies to repair and replacement parts added
14 after the initial purchase of such a motor vehicle if that
15 motor vehicle is used in a manner that would qualify for
16 the rolling stock exemption otherwise provided for in this
17 Act. For purposes of this paragraph, "used for commercial
18 purposes" means the transportation of persons or property
19 in furtherance of any commercial or industrial enterprise
20 whether for-hire or not.

21 (5) a sale or transfer of machinery and equipment used
22 primarily in the process of the manufacturing or
23 assembling, either in an existing, an expanded or a new
24 manufacturing facility, of tangible personal property for
25 wholesale or retail sale or lease, whether such sale or
26 lease is made directly by the manufacturer or by some other

1 person, whether the materials used in the process are owned
2 by the manufacturer or some other person, or whether such
3 sale or lease is made apart from or as an incident to the
4 seller's engaging in a service occupation and the
5 applicable tax is a Service Use Tax or Service Occupation
6 Tax, rather than Use Tax or Retailers' Occupation Tax. The
7 exemption provided by this paragraph (5) includes
8 production related tangible personal property, as defined
9 in Section 3-50 of the Use Tax Act, purchased on or after
10 July 1, 2018. The exemption provided by this paragraph (5)
11 does not include machinery and equipment used in (i) the
12 generation of electricity for wholesale or retail sale;
13 (ii) the generation or treatment of natural or artificial
14 gas for wholesale or retail sale that is delivered to
15 customers through pipes, pipelines, or mains; or (iii) the
16 treatment of water for wholesale or retail sale that is
17 delivered to customers through pipes, pipelines, or mains.
18 The provisions of Public Act 98-583 ~~this amendatory Act of~~
19 ~~the 98th General Assembly~~ are declaratory of existing law
20 as to the meaning and scope of this exemption. The
21 exemption under this paragraph (5) is exempt from the
22 provisions of Section 3-75.

23 (5a) the repairing, reconditioning or remodeling, for
24 a common carrier by rail, of tangible personal property
25 which belongs to such carrier for hire, and as to which
26 such carrier receives the physical possession of the

1 repaired, reconditioned or remodeled item of tangible
2 personal property in Illinois, and which such carrier
3 transports, or shares with another common carrier in the
4 transportation of such property, out of Illinois on a
5 standard uniform bill of lading showing the person who
6 repaired, reconditioned or remodeled the property to a
7 destination outside Illinois, for use outside Illinois.

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

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

1 or resale.

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

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

26 Exemption (5) also includes machinery and equipment used in

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

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

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

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

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

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

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

12 "Sale at retail" means "sale at retail" as defined in the
13 Retailers' Occupation Tax Act.

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

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

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

1 licensed to do business in this State;

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

1 United States Constitution during the preceding 4
2 quarterly periods;

3 1.2. beginning July 1, 2011, having a contract with a
4 person located in this State under which:

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

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

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

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

24 3. pursuant to a contract with a broadcaster or
25 publisher located in this State, soliciting orders for
26 tangible personal property by means of advertising which is

1 disseminated primarily to consumers located in this State
2 and only secondarily to bordering jurisdictions;

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

10 5. being owned or controlled by the same interests
11 which own or control any retailer engaging in business in
12 the same or similar line of business in this State;

13 6. having a franchisee or licensee operating under its
14 trade name if the franchisee or licensee is required to
15 collect the tax under this Section;

16 7. pursuant to a contract with a cable television
17 operator located in this State, soliciting orders for
18 tangible personal property by means of advertising which is
19 transmitted or distributed over a cable television system
20 in this State; or

21 8. engaging in activities in Illinois, which
22 activities in the state in which the supply business
23 engaging in such activities is located would constitute
24 maintaining a place of business in that state.

25 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
26 revised 9-27-17.)

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

3 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

4 Sec. 2. In this Act:

5 "Transfer" means any transfer of the title to property or
6 of the ownership of property whether or not the transferor
7 retains title as security for the payment of amounts due him
8 from the transferee.

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

21 "Department" means the Department of Revenue.

22 "Person" means any natural individual, firm, partnership,
23 association, joint stock company, joint venture, public or
24 private corporation, limited liability company, and any

1 receiver, executor, trustee, guardian or other representative
2 appointed by order of any court.

3 "Sale of Service" means any transaction except:

4 (a) A retail sale of tangible personal property taxable
5 under the Retailers' Occupation Tax Act or under the Use Tax
6 Act.

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

10 (c) Except as hereinafter provided, a sale or transfer of
11 tangible personal property as an incident to the rendering of
12 service for or by any governmental body or for or by any
13 corporation, society, association, foundation or institution
14 organized and operated exclusively for charitable, religious
15 or educational purposes or any not-for-profit corporation,
16 society, association, foundation, institution or organization
17 which has no compensated officers or employees and which is
18 organized and operated primarily for the recreation of persons
19 55 years of age or older. A limited liability company may
20 qualify for the exemption under this paragraph only if the
21 limited liability company is organized and operated
22 exclusively for educational purposes.

23 (d) (Blank).

24 (d-1) A sale or transfer of tangible personal property as
25 an incident to the rendering of service for owners, lessors or
26 shippers of tangible personal property which is utilized by

1 interstate carriers for hire for use as rolling stock moving in
2 interstate commerce, and equipment operated by a
3 telecommunications provider, licensed as a common carrier by
4 the Federal Communications Commission, which is permanently
5 installed in or affixed to aircraft moving in interstate
6 commerce.

7 (d-1.1) On and after July 1, 2003 and through June 30,
8 2004, a sale or transfer of a motor vehicle of the second
9 division with a gross vehicle weight in excess of 8,000 pounds
10 as an incident to the rendering of service if that motor
11 vehicle is subject to the commercial distribution fee imposed
12 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
13 on July 1, 2004 and through June 30, 2005, the use in this
14 State of motor vehicles of the second division: (i) with a
15 gross vehicle weight rating in excess of 8,000 pounds; (ii)
16 that are subject to the commercial distribution fee imposed
17 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
18 that are primarily used for commercial purposes. Through June
19 30, 2005, this exemption applies to repair and replacement
20 parts added after the initial purchase of such a motor vehicle
21 if that motor vehicle is used in a manner that would qualify
22 for the rolling stock exemption otherwise provided for in this
23 Act. For purposes of this paragraph, "used for commercial
24 purposes" means the transportation of persons or property in
25 furtherance of any commercial or industrial enterprise whether
26 for-hire or not.

1 (d-2) The repairing, reconditioning or remodeling, for a
2 common carrier by rail, of tangible personal property which
3 belongs to such carrier for hire, and as to which such carrier
4 receives the physical possession of the repaired,
5 reconditioned or remodeled item of tangible personal property
6 in Illinois, and which such carrier transports, or shares with
7 another common carrier in the transportation of such property,
8 out of Illinois on a standard uniform bill of lading showing
9 the person who repaired, reconditioned or remodeled the
10 property as the shipper or consignor of such property to a
11 destination outside Illinois, for use outside Illinois.

12 (d-3) A sale or transfer of tangible personal property
13 which is produced by the seller thereof on special order in
14 such a way as to have made the applicable tax the Service
15 Occupation Tax or the Service Use Tax, rather than the
16 Retailers' Occupation Tax or the Use Tax, for an interstate
17 carrier by rail which receives the physical possession of such
18 property in Illinois, and which transports such property, or
19 shares with another common carrier in the transportation of
20 such property, out of Illinois on a standard uniform bill of
21 lading showing the seller of the property as the shipper or
22 consignor of such property to a destination outside Illinois,
23 for use outside Illinois.

24 (d-4) Until January 1, 1997, a sale, by a registered
25 serviceman paying tax under this Act to the Department, of
26 special order printed materials delivered outside Illinois and

1 which are not returned to this State, if delivery is made by
2 the seller or agent of the seller, including an agent who
3 causes the product to be delivered outside Illinois by a common
4 carrier or the U.S. postal service.

5 (e) A sale or transfer of machinery and equipment used
6 primarily in the process of the manufacturing or assembling,
7 either in an existing, an expanded or a new manufacturing
8 facility, of tangible personal property for wholesale or retail
9 sale or lease, whether such sale or lease is made directly by
10 the manufacturer or by some other person, whether the materials
11 used in the process are owned by the manufacturer or some other
12 person, or whether such sale or lease is made apart from or as
13 an incident to the seller's engaging in a service occupation
14 and the applicable tax is a Service Occupation Tax or Service
15 Use Tax, rather than Retailers' Occupation Tax or Use Tax. The
16 exemption provided by this paragraph (e) includes production
17 related tangible personal property, as defined in Section 3-50
18 of the Use Tax Act, purchased on or after July 1, 2018. The
19 exemption provided by this paragraph (e) does not include
20 machinery and equipment used in (i) the generation of
21 electricity for wholesale or retail sale; (ii) the generation
22 or treatment of natural or artificial gas for wholesale or
23 retail sale that is delivered to customers through pipes,
24 pipelines, or mains; or (iii) the treatment of water for
25 wholesale or retail sale that is delivered to customers through
26 pipes, pipelines, or mains. The provisions of Public Act 98-583

1 ~~this amendatory Act of the 98th General Assembly~~ are
2 declaratory of existing law as to the meaning and scope of this
3 exemption. The exemption under this subsection (e) is exempt
4 from the provisions of Section 3-75.

5 (f) Until July 1, 2003, the sale or transfer of
6 distillation machinery and equipment, sold as a unit or kit and
7 assembled or installed by the retailer, which machinery and
8 equipment is certified by the user to be used only for the
9 production of ethyl alcohol that will be used for consumption
10 as motor fuel or as a component of motor fuel for the personal
11 use of such user and not subject to sale or resale.

12 (g) At the election of any serviceman not required to be
13 otherwise registered as a retailer under Section 2a of the
14 Retailers' Occupation Tax Act, made for each fiscal year sales
15 of service in which the aggregate annual cost price of tangible
16 personal property transferred as an incident to the sales of
17 service is less than 35% (75% in the case of servicemen
18 transferring prescription drugs or servicemen engaged in
19 graphic arts production) of the aggregate annual total gross
20 receipts from all sales of service. The purchase of such
21 tangible personal property by the serviceman shall be subject
22 to tax under the Retailers' Occupation Tax Act and the Use Tax
23 Act. However, if a primary serviceman who has made the election
24 described in this paragraph subcontracts service work to a
25 secondary serviceman who has also made the election described
26 in this paragraph, the primary serviceman does not incur a Use

1 Tax liability if the secondary serviceman (i) has paid or will
2 pay Use Tax on his or her cost price of any tangible personal
3 property transferred to the primary serviceman and (ii)
4 certifies that fact in writing to the primary serviceman.

5 Tangible personal property transferred incident to the
6 completion of a maintenance agreement is exempt from the tax
7 imposed pursuant to this Act.

8 Exemption (e) also includes machinery and equipment used in
9 the general maintenance or repair of such exempt machinery and
10 equipment or for in-house manufacture of exempt machinery and
11 equipment. On and after July 1, 2017, exemption (e) also
12 includes graphic arts machinery and equipment, as defined in
13 paragraph (5) of Section 3-5. The machinery and equipment
14 exemption does not include machinery and equipment used in (i)
15 the generation of electricity for wholesale or retail sale;
16 (ii) the generation or treatment of natural or artificial gas
17 for wholesale or retail sale that is delivered to customers
18 through pipes, pipelines, or mains; or (iii) the treatment of
19 water for wholesale or retail sale that is delivered to
20 customers through pipes, pipelines, or mains. The provisions of
21 Public Act 98-583 ~~this amendatory Act of the 98th General~~
22 ~~Assembly~~ are declaratory of existing law as to the meaning and
23 scope of this exemption. For the purposes of exemption (e),
24 each of these terms shall have the following meanings: (1)
25 "manufacturing process" shall mean the production of any
26 article of tangible personal property, whether such article is

1 a finished product or an article for use in the process of
2 manufacturing or assembling a different article of tangible
3 personal property, by procedures commonly regarded as
4 manufacturing, processing, fabricating, or refining which
5 changes some existing material or materials into a material
6 with a different form, use or name. In relation to a recognized
7 integrated business composed of a series of operations which
8 collectively constitute manufacturing, or individually
9 constitute manufacturing operations, the manufacturing process
10 shall be deemed to commence with the first operation or stage
11 of production in the series, and shall not be deemed to end
12 until the completion of the final product in the last operation
13 or stage of production in the series; and further for purposes
14 of exemption (e), photoprocessing is deemed to be a
15 manufacturing process of tangible personal property for
16 wholesale or retail sale; (2) "assembling process" shall mean
17 the production of any article of tangible personal property,
18 whether such article is a finished product or an article for
19 use in the process of manufacturing or assembling a different
20 article of tangible personal property, by the combination of
21 existing materials in a manner commonly regarded as assembling
22 which results in a material of a different form, use or name;
23 (3) "machinery" shall mean major mechanical machines or major
24 components of such machines contributing to a manufacturing or
25 assembling process; and (4) "equipment" shall include any
26 independent device or tool separate from any machinery but

1 essential to an integrated manufacturing or assembly process;
2 including computers used primarily in a manufacturer's
3 computer assisted design, computer assisted manufacturing
4 (CAD/CAM) system; or any subunit or assembly comprising a
5 component of any machinery or auxiliary, adjunct or attachment
6 parts of machinery, such as tools, dies, jigs, fixtures,
7 patterns and molds; or any parts which require periodic
8 replacement in the course of normal operation; but shall not
9 include hand tools. Equipment includes chemicals or chemicals
10 acting as catalysts but only if the chemicals or chemicals
11 acting as catalysts effect a direct and immediate change upon a
12 product being manufactured or assembled for wholesale or retail
13 sale or lease. The purchaser of such machinery and equipment
14 who has an active resale registration number shall furnish such
15 number to the seller at the time of purchase. The purchaser of
16 such machinery and equipment and tools without an active resale
17 registration number shall furnish to the seller a certificate
18 of exemption for each transaction stating facts establishing
19 the exemption for that transaction, which certificate shall be
20 available to the Department for inspection or audit.

21 Except as provided in Section 2d of this Act, the rolling
22 stock exemption applies to rolling stock used by an interstate
23 carrier for hire, even just between points in Illinois, if such
24 rolling stock transports, for hire, persons whose journeys or
25 property whose shipments originate or terminate outside
26 Illinois.

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

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

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

20 "Sale at Retail" means "sale at retail" as defined in the
21 Retailers' Occupation Tax Act.

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

25 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
26 revised 9-27-17.)

1 Section 20. The Retailers' Occupation Tax Act is amended by
2 changing Section 2-45 as follows:

3 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

4 Sec. 2-45. Manufacturing and assembly exemption. The
5 manufacturing and assembly machinery and equipment exemption
6 includes machinery and equipment that replaces machinery and
7 equipment in an existing manufacturing facility as well as
8 machinery and equipment that are for use in an expanded or new
9 manufacturing facility.

10 The machinery and equipment exemption also includes
11 machinery and equipment used in the general maintenance or
12 repair of exempt machinery and equipment or for in-house
13 manufacture of exempt machinery and equipment. Beginning on
14 July 1, 2017, the manufacturing and assembling machinery and
15 equipment exemption also includes graphic arts machinery and
16 equipment, as defined in paragraph (4) of Section 2-5. The
17 machinery and equipment exemption does not include machinery
18 and equipment used in (i) the generation of electricity for
19 wholesale or retail sale; (ii) the generation or treatment of
20 natural or artificial gas for wholesale or retail sale that is
21 delivered to customers through pipes, pipelines, or mains; or
22 (iii) the treatment of water for wholesale or retail sale that
23 is delivered to customers through pipes, pipelines, or mains.
24 The provisions of this amendatory Act of the 98th General

1 Assembly are declaratory of existing law as to the meaning and
2 scope of this exemption. For the purposes of this exemption,
3 terms have the following meanings:

4 (1) "Manufacturing process" means the production of an
5 article of tangible personal property, whether the article
6 is a finished product or an article for use in the process
7 of manufacturing or assembling a different article of
8 tangible personal property, by a procedure commonly
9 regarded as manufacturing, processing, fabricating, or
10 refining that changes some existing material or materials
11 into a material with a different form, use, or name. In
12 relation to a recognized integrated business composed of a
13 series of operations that collectively constitute
14 manufacturing, or individually constitute manufacturing
15 operations, the manufacturing process commences with the
16 first operation or stage of production in the series and
17 does not end until the completion of the final product in
18 the last operation or stage of production in the series.
19 For purposes of this exemption, photoprocessing is a
20 manufacturing process of tangible personal property for
21 wholesale or retail sale.

22 (2) "Assembling process" means the production of an
23 article of tangible personal property, whether the article
24 is a finished product or an article for use in the process
25 of manufacturing or assembling a different article of
26 tangible personal property, by the combination of existing

1 materials in a manner commonly regarded as assembling that
2 results in a material of a different form, use, or name.

3 (3) "Machinery" means major mechanical machines or
4 major components of those machines contributing to a
5 manufacturing or assembling process.

6 (4) "Equipment" includes an independent device or tool
7 separate from machinery but essential to an integrated
8 manufacturing or assembly process; including computers
9 used primarily in a manufacturer's computer assisted
10 design, computer assisted manufacturing (CAD/CAM) system;
11 any subunit or assembly comprising a component of any
12 machinery or auxiliary, adjunct, or attachment parts of
13 machinery, such as tools, dies, jigs, fixtures, patterns,
14 and molds; and any parts that require periodic replacement
15 in the course of normal operation; but does not include
16 hand tools. Equipment includes chemicals or chemicals
17 acting as catalysts but only if the chemicals or chemicals
18 acting as catalysts effect a direct and immediate change
19 upon a product being manufactured or assembled for
20 wholesale or retail sale or lease.

21 (5) "Production related tangible personal property"
22 means all tangible personal property that is used or
23 consumed by the purchaser in a manufacturing facility in
24 which a manufacturing process takes place and includes,
25 without limitation, tangible personal property that is
26 purchased for incorporation into real estate within a

1 manufacturing facility, supplies and consumables used in a
2 manufacturing facility including fuels, coolants,
3 solvents, oils, lubricants, and adhesives, hand tools,
4 protective apparel, and fire and safety equipment used or
5 consumed within a manufacturing facility, and tangible
6 personal property that is used or consumed in activities
7 such as research and development, preproduction material
8 handling, receiving, quality control, inventory control,
9 storage, staging, and packaging for shipping and
10 transportation purposes. "Production related tangible
11 personal property" does not include (i) tangible personal
12 property that is used, within or without a manufacturing
13 facility, in sales, purchasing, accounting, fiscal
14 management, marketing, personnel recruitment or selection,
15 or landscaping or (ii) tangible personal property that is
16 required to be titled or registered with a department,
17 agency, or unit of federal, State, or local government.

18 The manufacturing and assembling machinery and equipment
19 exemption includes production related tangible personal
20 property that is purchased on or after July 1, 2007 and on or
21 before June 30, 2008 and on or after July 1, 2018. The
22 exemption for production related tangible personal property
23 purchased on or after July 1, 2007 and before June 30, 2008 is
24 subject to both of the following limitations:

- 25 (1) The maximum amount of the exemption for any one
26 taxpayer may not exceed 5% of the purchase price of

1 production related tangible personal property that is
2 purchased on or after July 1, 2007 and on or before June
3 30, 2008. A credit under Section 3-85 of this Act may not
4 be earned by the purchase of production related tangible
5 personal property for which an exemption is received under
6 this Section.

7 (2) The maximum aggregate amount of the exemptions for
8 production related tangible personal property awarded
9 under this Act and the Use Tax Act to all taxpayers may not
10 exceed \$10,000,000. If the claims for the exemption exceed
11 \$10,000,000, then the Department shall reduce the amount of
12 the exemption to each taxpayer on a pro rata basis.

13 The Department shall ~~may~~ adopt rules to implement and
14 administer the exemption for production related tangible
15 personal property.

16 The manufacturing and assembling machinery and equipment
17 exemption includes the sale of materials to a purchaser who
18 produces exempted types of machinery, equipment, or tools and
19 who rents or leases that machinery, equipment, or tools to a
20 manufacturer of tangible personal property. This exemption
21 also includes the sale of materials to a purchaser who
22 manufactures those materials into an exempted type of
23 machinery, equipment, or tools that the purchaser uses himself
24 or herself in the manufacturing of tangible personal property.
25 The purchaser of the machinery and equipment who has an active
26 resale registration number shall furnish that number to the

1 seller at the time of purchase. A purchaser of the machinery,
2 equipment, and tools without an active resale registration
3 number shall furnish to the seller a certificate of exemption
4 for each transaction stating facts establishing the exemption
5 for that transaction, and that certificate shall be available
6 to the Department for inspection or audit. Informal rulings,
7 opinions, or letters issued by the Department in response to an
8 inquiry or request for an opinion from any person regarding the
9 coverage and applicability of this exemption to specific
10 devices shall be published, maintained as a public record, and
11 made available for public inspection and copying. If the
12 informal ruling, opinion, or letter contains trade secrets or
13 other confidential information, where possible, the Department
14 shall delete that information before publication. Whenever
15 informal rulings, opinions, or letters contain a policy of
16 general applicability, the Department shall formulate and
17 adopt that policy as a rule in accordance with the Illinois
18 Administrative Procedure Act.

19 The manufacturing and assembling machinery and equipment
20 exemption is exempt from the provisions of Section 2-70.

21 (Source: P.A. 100-22, eff. 7-6-17.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.