

SB2256



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2256

Introduced 2/26/2021, by Sen. Craig Wilcox

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-55
35 ILCS 110/3-45

from Ch. 120, par. 439.3-55
from Ch. 120, par. 439.33-45

Amends the Use Tax Act and the Service Use Tax Act. Provides that the multistate exemption includes the return of property of an out-of-State lessor or purchaser to this State for storage, repair, or refurbishment, so long as the property is not used by a lessee or purchaser in this State. Effective immediately.

LRB102 16471 HLH 21863 b

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 Section
5 3-55 as follows:

6 (35 ILCS 105/3-55) (from Ch. 120, par. 439.3-55)

7 Sec. 3-55. Multistate exemption. To prevent actual or
8 likely multistate taxation, the tax imposed by this Act does
9 not apply to the use of tangible personal property in this
10 State under the following circumstances:

11 (a) The use, in this State, of tangible personal property
12 acquired outside this State by a nonresident individual and
13 brought into this State by the individual for his or her own
14 use while temporarily within this State or while passing
15 through this State.

16 (b) (Blank).

17 (c) The use, in this State, by owners, lessors, or
18 shippers of tangible personal property that is utilized by
19 interstate carriers for hire for use as rolling stock moving
20 in interstate commerce as long as so used by the interstate
21 carriers for hire, and equipment operated by a
22 telecommunications provider, licensed as a common carrier by
23 the Federal Communications Commission, which is permanently

1 installed in or affixed to aircraft moving in interstate
2 commerce.

3 (d) The use, in this State, of tangible personal property
4 that is acquired outside this State and caused to be brought
5 into this State by a person who has already paid a tax in
6 another State in respect to the sale, purchase, or use of that
7 property, to the extent of the amount of the tax properly due
8 and paid in the other State.

9 (e) The temporary storage, in this State, of tangible
10 personal property that is acquired outside this State and
11 that, after being brought into this State and stored here
12 temporarily, is used solely outside this State or is
13 physically attached to or incorporated into other tangible
14 personal property that is used solely outside this State, or
15 is altered by converting, fabricating, manufacturing,
16 printing, processing, or shaping, and, as altered, is used
17 solely outside this State. For purposes of this subsection,
18 use in this State does not include the return of the property
19 of a lessor or purchaser to this state for storage, repair or
20 refurbishment so long as the property is not utilized by a
21 lessee or purchaser in this State. Refurbishment includes the
22 replacement of component parts as well as upgrades.

23 (e-5) The return of property of an out-of-State lessor or
24 purchaser to this State for storage, repair, or refurbishment,
25 so long as the property is not used by a lessee or purchaser in
26 this State. As used in this subsection (e-5), refurbishment

1 includes the replacement of component parts as well as
2 upgrades.

3 (f) The temporary storage in this State of building
4 materials and fixtures that are acquired either in this State
5 or outside this State by an Illinois registered combination
6 retailer and construction contractor, and that the purchaser
7 thereafter uses outside this State by incorporating that
8 property into real estate located outside this State.

9 (g) The use or purchase of tangible personal property by a
10 common carrier by rail or motor that receives the physical
11 possession of the property in Illinois, and that transports
12 the property, or shares with another common carrier in the
13 transportation of the property, out of Illinois on a standard
14 uniform bill of lading showing the seller of the property as
15 the shipper or consignor of the property to a destination
16 outside Illinois, for use outside Illinois.

17 (h) Except as provided in subsection (h-1), the use, in
18 this State, of a motor vehicle that was sold in this State to a
19 nonresident, even though the motor vehicle is delivered to the
20 nonresident in this State, if the motor vehicle is not to be
21 titled in this State, and if a drive-away permit is issued to
22 the motor vehicle as provided in Section 3-603 of the Illinois
23 Vehicle Code or if the nonresident purchaser has vehicle
24 registration plates to transfer to the motor vehicle upon
25 returning to his or her home state. The issuance of the
26 drive-away permit or having the out-of-state registration

1 plates to be transferred shall be prima facie evidence that
2 the motor vehicle will not be titled in this State.

3 (h-1) The exemption under subsection (h) does not apply if
4 the state in which the motor vehicle will be titled does not
5 allow a reciprocal exemption for the use in that state of a
6 motor vehicle sold and delivered in that state to an Illinois
7 resident but titled in Illinois. The tax collected under this
8 Act on the sale of a motor vehicle in this State to a resident
9 of another state that does not allow a reciprocal exemption
10 shall be imposed at a rate equal to the state's rate of tax on
11 taxable property in the state in which the purchaser is a
12 resident, except that the tax shall not exceed the tax that
13 would otherwise be imposed under this Act. At the time of the
14 sale, the purchaser shall execute a statement, signed under
15 penalty of perjury, of his or her intent to title the vehicle
16 in the state in which the purchaser is a resident within 30
17 days after the sale and of the fact of the payment to the State
18 of Illinois of tax in an amount equivalent to the state's rate
19 of tax on taxable property in his or her state of residence and
20 shall submit the statement to the appropriate tax collection
21 agency in his or her state of residence. In addition, the
22 retailer must retain a signed copy of the statement in his or
23 her records. Nothing in this subsection shall be construed to
24 require the removal of the vehicle from this state following
25 the filing of an intent to title the vehicle in the purchaser's
26 state of residence if the purchaser titles the vehicle in his

1 or her state of residence within 30 days after the date of
2 sale. The tax collected under this Act in accordance with this
3 subsection (h-1) shall be proportionately distributed as if
4 the tax were collected at the 6.25% general rate imposed under
5 this Act.

6 (h-2) The following exemptions apply with respect to
7 certain aircraft:

8 (1) Beginning on July 1, 2007, no tax is imposed under
9 this Act on the purchase of an aircraft, as defined in
10 Section 3 of the Illinois Aeronautics Act, if all of the
11 following conditions are met:

12 (A) the aircraft leaves this State within 15 days
13 after the later of either the issuance of the final
14 billing for the purchase of the aircraft or the
15 authorized approval for return to service, completion
16 of the maintenance record entry, and completion of the
17 test flight and ground test for inspection, as
18 required by 14 C.F.R. 91.407;

19 (B) the aircraft is not based or registered in
20 this State after the purchase of the aircraft; and

21 (C) the purchaser provides the Department with a
22 signed and dated certification, on a form prescribed
23 by the Department, certifying that the requirements of
24 this item (1) are met. The certificate must also
25 include the name and address of the purchaser, the
26 address of the location where the aircraft is to be

1 titled or registered, the address of the primary
2 physical location of the aircraft, and other
3 information that the Department may reasonably
4 require.

5 (2) Beginning on July 1, 2007, no tax is imposed under
6 this Act on the use of an aircraft, as defined in Section 3
7 of the Illinois Aeronautics Act, that is temporarily
8 located in this State for the purpose of a prepurchase
9 evaluation if all of the following conditions are met:

10 (A) the aircraft is not based or registered in
11 this State after the prepurchase evaluation; and

12 (B) the purchaser provides the Department with a
13 signed and dated certification, on a form prescribed
14 by the Department, certifying that the requirements of
15 this item (2) are met. The certificate must also
16 include the name and address of the purchaser, the
17 address of the location where the aircraft is to be
18 titled or registered, the address of the primary
19 physical location of the aircraft, and other
20 information that the Department may reasonably
21 require.

22 (3) Beginning on July 1, 2007, no tax is imposed under
23 this Act on the use of an aircraft, as defined in Section 3
24 of the Illinois Aeronautics Act, that is temporarily
25 located in this State for the purpose of a post-sale
26 customization if all of the following conditions are met:

1 (A) the aircraft leaves this State within 15 days
2 after the authorized approval for return to service,
3 completion of the maintenance record entry, and
4 completion of the test flight and ground test for
5 inspection, as required by 14 C.F.R. 91.407;

6 (B) the aircraft is not based or registered in
7 this State either before or after the post-sale
8 customization; and

9 (C) the purchaser provides the Department with a
10 signed and dated certification, on a form prescribed
11 by the Department, certifying that the requirements of
12 this item (3) are met. The certificate must also
13 include the name and address of the purchaser, the
14 address of the location where the aircraft is to be
15 titled or registered, the address of the primary
16 physical location of the aircraft, and other
17 information that the Department may reasonably
18 require.

19 If tax becomes due under this subsection (h-2) because of
20 the purchaser's use of the aircraft in this State, the
21 purchaser shall file a return with the Department and pay the
22 tax on the fair market value of the aircraft. This return and
23 payment of the tax must be made no later than 30 days after the
24 aircraft is used in a taxable manner in this State. The tax is
25 based on the fair market value of the aircraft on the date that
26 it is first used in a taxable manner in this State.

1 For purposes of this subsection (h-2):

2 "Based in this State" means hangared, stored, or otherwise
3 used, excluding post-sale customizations as defined in this
4 Section, for 10 or more days in each 12-month period
5 immediately following the date of the sale of the aircraft.

6 "Post-sale customization" means any improvement,
7 maintenance, or repair that is performed on an aircraft
8 following a transfer of ownership of the aircraft.

9 "Prepurchase evaluation" means an examination of an
10 aircraft to provide a potential purchaser with information
11 relevant to the potential purchase.

12 "Registered in this State" means an aircraft registered
13 with the Department of Transportation, Aeronautics Division,
14 or titled or registered with the Federal Aviation
15 Administration to an address located in this State.

16 This subsection (h-2) is exempt from the provisions of
17 Section 3-90.

18 (i) Beginning July 1, 1999, the use, in this State, of fuel
19 acquired outside this State and brought into this State in the
20 fuel supply tanks of locomotives engaged in freight hauling
21 and passenger service for interstate commerce. This subsection
22 is exempt from the provisions of Section 3-90.

23 (j) Beginning on January 1, 2002 and through June 30,
24 2016, the use of tangible personal property purchased from an
25 Illinois retailer by a taxpayer engaged in centralized
26 purchasing activities in Illinois who will, upon receipt of

1 the property in Illinois, temporarily store the property in
2 Illinois (i) for the purpose of subsequently transporting it
3 outside this State for use or consumption thereafter solely
4 outside this State or (ii) for the purpose of being processed,
5 fabricated, or manufactured into, attached to, or incorporated
6 into other tangible personal property to be transported
7 outside this State and thereafter used or consumed solely
8 outside this State. The Director of Revenue shall, pursuant to
9 rules adopted in accordance with the Illinois Administrative
10 Procedure Act, issue a permit to any taxpayer in good standing
11 with the Department who is eligible for the exemption under
12 this subsection (j). The permit issued under this subsection
13 (j) shall authorize the holder, to the extent and in the manner
14 specified in the rules adopted under this Act, to purchase
15 tangible personal property from a retailer exempt from the
16 taxes imposed by this Act. Taxpayers shall maintain all
17 necessary books and records to substantiate the use and
18 consumption of all such tangible personal property outside of
19 the State of Illinois.

20 (Source: P.A. 100-321, eff. 8-24-17.)

21 Section 10. The Service Use Tax Act is amended by changing
22 Section 3-45 as follows:

23 (35 ILCS 110/3-45) (from Ch. 120, par. 439.33-45)

24 Sec. 3-45. Multistate exemption. To prevent actual or

1 likely multistate taxation, the tax imposed by this Act does
2 not apply to the use of tangible personal property in this
3 State under the following circumstances:

4 (a) The use, in this State, of property acquired outside
5 this State by a nonresident individual and brought into this
6 State by the individual for his or her own use while
7 temporarily within this State or while passing through this
8 State.

9 (b) The use, in this State, of property that is acquired
10 outside this State and that is moved into this State for use as
11 rolling stock moving in interstate commerce.

12 (c) The use, in this State, of property that is acquired
13 outside this State and caused to be brought into this State by
14 a person who has already paid a tax in another state in respect
15 to the sale, purchase, or use of that property, to the extent
16 of the amount of the tax properly due and paid in the other
17 state.

18 (d) The temporary storage, in this State, of property that
19 is acquired outside this State and that after being brought
20 into this State and stored here temporarily, is used solely
21 outside this State or is physically attached to or
22 incorporated into other property that is used solely outside
23 this State, or is altered by converting, fabricating,
24 manufacturing, printing, processing, or shaping, and, as
25 altered, is used solely outside this State.

26 (d-5) The return of property of an out-of-State lessor or

1 purchaser to this State for storage, repair, or refurbishment,
2 so long as the property is not used by a lessee or purchaser in
3 this State. As used in this subsection (d-5), refurbishment
4 includes the replacement of component parts as well as
5 upgrades.

6 (e) Beginning July 1, 1999, the use, in this State, of fuel
7 acquired outside this State and brought into this State in the
8 fuel supply tanks of locomotives engaged in freight hauling
9 and passenger service for interstate commerce. This subsection
10 is exempt from the provisions of Section 3-75.

11 (f) Beginning on January 1, 2002 and through June 30,
12 2016, the use of tangible personal property purchased from an
13 Illinois retailer by a taxpayer engaged in centralized
14 purchasing activities in Illinois who will, upon receipt of
15 the property in Illinois, temporarily store the property in
16 Illinois (i) for the purpose of subsequently transporting it
17 outside this State for use or consumption thereafter solely
18 outside this State or (ii) for the purpose of being processed,
19 fabricated, or manufactured into, attached to, or incorporated
20 into other tangible personal property to be transported
21 outside this State and thereafter used or consumed solely
22 outside this State. The Director of Revenue shall, pursuant to
23 rules adopted in accordance with the Illinois Administrative
24 Procedure Act, issue a permit to any taxpayer in good standing
25 with the Department who is eligible for the exemption under
26 this subsection (f). The permit issued under this subsection

1 (f) shall authorize the holder, to the extent and in the manner
2 specified in the rules adopted under this Act, to purchase
3 tangible personal property from a retailer exempt from the
4 taxes imposed by this Act. Taxpayers shall maintain all
5 necessary books and records to substantiate the use and
6 consumption of all such tangible personal property outside of
7 the State of Illinois.

8 (Source: P.A. 97-73, eff. 6-30-11.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.