



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3710

Introduced 1/21/2022, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

30 ILCS 500/1-10	
35 ILCS 5/201	
35 ILCS 105/2	from Ch. 120, par. 439.2
35 ILCS 105/3-5	
35 ILCS 110/2	from Ch. 120, par. 439.32
35 ILCS 110/3-5	
35 ILCS 115/2	from Ch. 120, par. 439.102
35 ILCS 115/3-5	
35 ILCS 120/1	from Ch. 120, par. 440
35 ILCS 120/2-5	

Amends the Illinois Procurement Code. Provides that the Code does not apply to the leasing of State-owned facilities by a wireless carrier, a cable operator, a holder, or a provider of broadband services. Amends the Illinois Income Tax Act. Creates credit for the cost of equipment and materials used in the business of providing broadband services in a county in the State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act to exempt equipment and materials used to provide broadband services in a county in the State with a population of fewer than 40,000 people or a township in the State with a population density of less than 50 households per square mile in a county with a population of less than 300,000 people. Effective immediately.

LRB102 25683 HLH 34977 b

1 AN ACT concerning revenue.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois Broadband Investment Act.

6 Section 3. The Illinois Procurement Code is amended by
7 changing Section 1-10 as follows:

8 (30 ILCS 500/1-10)

9 Sec. 1-10. Application.

10 (a) This Code applies only to procurements for which
11 bidders, offerors, potential contractors, or contractors were
12 first solicited on or after July 1, 1998. This Code shall not
13 be construed to affect or impair any contract, or any
14 provision of a contract, entered into based on a solicitation
15 prior to the implementation date of this Code as described in
16 Article 99, including, but not limited to, any covenant
17 entered into with respect to any revenue bonds or similar
18 instruments. All procurements for which contracts are
19 solicited between the effective date of Articles 50 and 99 and
20 July 1, 1998 shall be substantially in accordance with this
21 Code and its intent.

22 (b) This Code shall apply regardless of the source of the

1 funds with which the contracts are paid, including federal
2 assistance moneys. This Code shall not apply to:

3 (1) Contracts between the State and its political
4 subdivisions or other governments, or between State
5 governmental bodies, except as specifically provided in
6 this Code.

7 (2) Grants, except for the filing requirements of
8 Section 20-80.

9 (3) Purchase of care, except as provided in Section
10 5-30.6 of the Illinois Public Aid Code and this Section.

11 (4) Hiring of an individual as an employee and not as
12 an independent contractor, whether pursuant to an
13 employment code or policy or by contract directly with
14 that individual.

15 (5) Collective bargaining contracts.

16 (6) Purchase of real estate, except that notice of
17 this type of contract with a value of more than \$25,000
18 must be published in the Procurement Bulletin within 10
19 calendar days after the deed is recorded in the county of
20 jurisdiction. The notice shall identify the real estate
21 purchased, the names of all parties to the contract, the
22 value of the contract, and the effective date of the
23 contract.

24 (7) Contracts necessary to prepare for anticipated
25 litigation, enforcement actions, or investigations,
26 provided that the chief legal counsel to the Governor

1 shall give his or her prior approval when the procuring
2 agency is one subject to the jurisdiction of the Governor,
3 and provided that the chief legal counsel of any other
4 procuring entity subject to this Code shall give his or
5 her prior approval when the procuring entity is not one
6 subject to the jurisdiction of the Governor.

7 (8) (Blank).

8 (9) Procurement expenditures by the Illinois
9 Conservation Foundation when only private funds are used.

10 (10) (Blank).

11 (11) Public-private agreements entered into according
12 to the procurement requirements of Section 20 of the
13 Public-Private Partnerships for Transportation Act and
14 design-build agreements entered into according to the
15 procurement requirements of Section 25 of the
16 Public-Private Partnerships for Transportation Act.

17 (12) (A) Contracts for legal, financial, and other
18 professional and artistic services entered into by the
19 Illinois Finance Authority in which the State of Illinois
20 is not obligated. Such contracts shall be awarded through
21 a competitive process authorized by the members of the
22 Illinois Finance Authority and are subject to Sections
23 5-30, 20-160, 50-13, 50-20, 50-35, and 50-37 of this Code,
24 as well as the final approval by the members of the
25 Illinois Finance Authority of the terms of the contract.

26 (B) Contracts for legal and financial services entered

1 into by the Illinois Housing Development Authority in
2 connection with the issuance of bonds in which the State
3 of Illinois is not obligated. Such contracts shall be
4 awarded through a competitive process authorized by the
5 members of the Illinois Housing Development Authority and
6 are subject to Sections 5-30, 20-160, 50-13, 50-20, 50-35,
7 and 50-37 of this Code, as well as the final approval by
8 the members of the Illinois Housing Development Authority
9 of the terms of the contract.

10 (13) Contracts for services, commodities, and
11 equipment to support the delivery of timely forensic
12 science services in consultation with and subject to the
13 approval of the Chief Procurement Officer as provided in
14 subsection (d) of Section 5-4-3a of the Unified Code of
15 Corrections, except for the requirements of Sections
16 20-60, 20-65, 20-70, and 20-160 and Article 50 of this
17 Code; however, the Chief Procurement Officer may, in
18 writing with justification, waive any certification
19 required under Article 50 of this Code. For any contracts
20 for services which are currently provided by members of a
21 collective bargaining agreement, the applicable terms of
22 the collective bargaining agreement concerning
23 subcontracting shall be followed.

24 On and after January 1, 2019, this paragraph (13),
25 except for this sentence, is inoperative.

26 (14) Contracts for participation expenditures required

1 by a domestic or international trade show or exhibition of
2 an exhibitor, member, or sponsor.

3 (15) Contracts with a railroad or utility that
4 requires the State to reimburse the railroad or utilities
5 for the relocation of utilities for construction or other
6 public purpose. Contracts included within this paragraph
7 (15) shall include, but not be limited to, those
8 associated with: relocations, crossings, installations,
9 and maintenance. For the purposes of this paragraph (15),
10 "railroad" means any form of non-highway ground
11 transportation that runs on rails or electromagnetic
12 guideways and "utility" means: (1) public utilities as
13 defined in Section 3-105 of the Public Utilities Act, (2)
14 telecommunications carriers as defined in Section 13-202
15 of the Public Utilities Act, (3) electric cooperatives as
16 defined in Section 3.4 of the Electric Supplier Act, (4)
17 telephone or telecommunications cooperatives as defined in
18 Section 13-212 of the Public Utilities Act, (5) rural
19 water or waste water systems with 10,000 connections or
20 less, (6) a holder as defined in Section 21-201 of the
21 Public Utilities Act, and (7) municipalities owning or
22 operating utility systems consisting of public utilities
23 as that term is defined in Section 11-117-2 of the
24 Illinois Municipal Code.

25 (16) Procurement expenditures necessary for the
26 Department of Public Health to provide the delivery of

1 timely newborn screening services in accordance with the
2 Newborn Metabolic Screening Act.

3 (17) Procurement expenditures necessary for the
4 Department of Agriculture, the Department of Financial and
5 Professional Regulation, the Department of Human Services,
6 and the Department of Public Health to implement the
7 Compassionate Use of Medical Cannabis Program and Opioid
8 Alternative Pilot Program requirements and ensure access
9 to medical cannabis for patients with debilitating medical
10 conditions in accordance with the Compassionate Use of
11 Medical Cannabis Program Act.

12 (18) This Code does not apply to any procurements
13 necessary for the Department of Agriculture, the
14 Department of Financial and Professional Regulation, the
15 Department of Human Services, the Department of Commerce
16 and Economic Opportunity, and the Department of Public
17 Health to implement the Cannabis Regulation and Tax Act if
18 the applicable agency has made a good faith determination
19 that it is necessary and appropriate for the expenditure
20 to fall within this exemption and if the process is
21 conducted in a manner substantially in accordance with the
22 requirements of Sections 20-160, 25-60, 30-22, 50-5,
23 50-10, 50-10.5, 50-12, 50-13, 50-15, 50-20, 50-21, 50-35,
24 50-36, 50-37, 50-38, and 50-50 of this Code; however, for
25 Section 50-35, compliance applies only to contracts or
26 subcontracts over \$100,000. Notice of each contract

1 entered into under this paragraph (18) that is related to
2 the procurement of goods and services identified in
3 paragraph (1) through (9) of this subsection shall be
4 published in the Procurement Bulletin within 14 calendar
5 days after contract execution. The Chief Procurement
6 Officer shall prescribe the form and content of the
7 notice. Each agency shall provide the Chief Procurement
8 Officer, on a monthly basis, in the form and content
9 prescribed by the Chief Procurement Officer, a report of
10 contracts that are related to the procurement of goods and
11 services identified in this subsection. At a minimum, this
12 report shall include the name of the contractor, a
13 description of the supply or service provided, the total
14 amount of the contract, the term of the contract, and the
15 exception to this Code utilized. A copy of any or all of
16 these contracts shall be made available to the Chief
17 Procurement Officer immediately upon request. The Chief
18 Procurement Officer shall submit a report to the Governor
19 and General Assembly no later than November 1 of each year
20 that includes, at a minimum, an annual summary of the
21 monthly information reported to the Chief Procurement
22 Officer. This exemption becomes inoperative 5 years after
23 June 25, 2022 ~~June 25, 2019 (the effective date of Public~~
24 ~~Act 101-27)~~.

25 (19) Acquisition of modifications or adjustments,
26 limited to assistive technology devices and assistive

1 technology services, adaptive equipment, repairs, and
2 replacement parts to provide reasonable accommodations (i)
3 that enable a qualified applicant with a disability to
4 complete the job application process and be considered for
5 the position such qualified applicant desires, (ii) that
6 modify or adjust the work environment to enable a
7 qualified current employee with a disability to perform
8 the essential functions of the position held by that
9 employee, (iii) to enable a qualified current employee
10 with a disability to enjoy equal benefits and privileges
11 of employment as are enjoyed by ~~its~~ other similarly
12 situated employees without disabilities, and (iv) that
13 allow a customer, client, claimant, or member of the
14 public seeking State services full use and enjoyment of
15 and access to its programs, services, or benefits.

16 For purposes of this paragraph (19):

17 "Assistive technology devices" means any item, piece
18 of equipment, or product system, whether acquired
19 commercially off the shelf, modified, or customized, that
20 is used to increase, maintain, or improve functional
21 capabilities of individuals with disabilities.

22 "Assistive technology services" means any service that
23 directly assists an individual with a disability in
24 selection, acquisition, or use of an assistive technology
25 device.

26 "Qualified" has the same meaning and use as provided

1 under the federal Americans with Disabilities Act when
2 describing an individual with a disability.

3 (20) ~~(19)~~ Procurement expenditures necessary for the
4 Illinois Commerce Commission to hire third-party
5 facilitators pursuant to Sections 16-105.17 and ~~Section~~
6 16-108.18 of the Public Utilities Act or an ombudsman
7 pursuant to Section 16-107.5 of the Public Utilities Act,
8 a facilitator pursuant to Section 16-105.17 of the Public
9 Utilities Act, or a grid auditor pursuant to Section
10 16-105.10 of the Public Utilities Act.

11 Notwithstanding any other provision of law, for contracts
12 entered into on or after October 1, 2017 under an exemption
13 provided in any paragraph of this subsection (b), except
14 paragraph (1), (2), or (5), each State agency shall post to the
15 appropriate procurement bulletin the name of the contractor, a
16 description of the supply or service provided, the total
17 amount of the contract, the term of the contract, and the
18 exception to the Code utilized. The chief procurement officer
19 shall submit a report to the Governor and General Assembly no
20 later than November 1 of each year that shall include, at a
21 minimum, an annual summary of the monthly information reported
22 to the chief procurement officer.

23 (c) This Code does not apply to the electric power
24 procurement process provided for under Section 1-75 of the
25 Illinois Power Agency Act and Section 16-111.5 of the Public
26 Utilities Act.

1 (d) Except for Section 20-160 and Article 50 of this Code,
2 and as expressly required by Section 9.1 of the Illinois
3 Lottery Law, the provisions of this Code do not apply to the
4 procurement process provided for under Section 9.1 of the
5 Illinois Lottery Law.

6 (e) This Code does not apply to the process used by the
7 Capital Development Board to retain a person or entity to
8 assist the Capital Development Board with its duties related
9 to the determination of costs of a clean coal SNG brownfield
10 facility, as defined by Section 1-10 of the Illinois Power
11 Agency Act, as required in subsection (h-3) of Section 9-220
12 of the Public Utilities Act, including calculating the range
13 of capital costs, the range of operating and maintenance
14 costs, or the sequestration costs or monitoring the
15 construction of clean coal SNG brownfield facility for the
16 full duration of construction.

17 (f) (Blank).

18 (g) (Blank).

19 (g-5) This Code does not apply to the leasing of
20 State-owned facilities by a wireless carrier, as defined in
21 Section 2 of the Emergency Telephone System Act, and does not
22 apply to the leasing of State-owned facilities by a cable
23 operator, a holder, or a provider of broadband services, as
24 those terms are defined by Section 21-201 of the Public
25 Utilities Act.

26 (h) This Code does not apply to the process to procure or

1 contracts entered into in accordance with Sections 11-5.2 and
2 11-5.3 of the Illinois Public Aid Code.

3 (i) Each chief procurement officer may access records
4 necessary to review whether a contract, purchase, or other
5 expenditure is or is not subject to the provisions of this
6 Code, unless such records would be subject to attorney-client
7 privilege.

8 (j) This Code does not apply to the process used by the
9 Capital Development Board to retain an artist or work or works
10 of art as required in Section 14 of the Capital Development
11 Board Act.

12 (k) This Code does not apply to the process to procure
13 contracts, or contracts entered into, by the State Board of
14 Elections or the State Electoral Board for hearing officers
15 appointed pursuant to the Election Code.

16 (l) This Code does not apply to the processes used by the
17 Illinois Student Assistance Commission to procure supplies and
18 services paid for from the private funds of the Illinois
19 Prepaid Tuition Fund. As used in this subsection (l), "private
20 funds" means funds derived from deposits paid into the
21 Illinois Prepaid Tuition Trust Fund and the earnings thereon.

22 (m) This Code shall apply regardless of the source of
23 funds with which contracts are paid, including federal
24 assistance moneys. Except as specifically provided in this
25 Code, this Code shall not apply to procurement expenditures
26 necessary for the Department of Public Health to conduct the

1 Healthy Illinois Survey in accordance with Section 2310-431 of
2 the Department of Public Health Powers and Duties Law of the
3 Civil Administrative Code of Illinois.

4 (Source: P.A. 101-27, eff. 6-25-19; 101-81, eff. 7-12-19;
5 101-363, eff. 8-9-19; 102-175, eff. 7-29-21; 102-483, eff
6 1-1-22; 102-558, eff. 8-20-21; 102-600, eff. 8-27-21; 102-662,
7 eff. 9-15-21; revised 11-23-21.)

8 Section 5. The Illinois Income Tax Act is amended by
9 changing Section 201 as follows:

10 (35 ILCS 5/201)

11 Sec. 201. Tax imposed.

12 (a) In general. A tax measured by net income is hereby
13 imposed on every individual, corporation, trust and estate for
14 each taxable year ending after July 31, 1969 on the privilege
15 of earning or receiving income in or as a resident of this
16 State. Such tax shall be in addition to all other occupation or
17 privilege taxes imposed by this State or by any municipal
18 corporation or political subdivision thereof.

19 (b) Rates. The tax imposed by subsection (a) of this
20 Section shall be determined as follows, except as adjusted by
21 subsection (d-1):

22 (1) In the case of an individual, trust or estate, for
23 taxable years ending prior to July 1, 1989, an amount
24 equal to 2 1/2% of the taxpayer's net income for the

1 taxable year.

2 (2) In the case of an individual, trust or estate, for
3 taxable years beginning prior to July 1, 1989 and ending
4 after June 30, 1989, an amount equal to the sum of (i) 2
5 1/2% of the taxpayer's net income for the period prior to
6 July 1, 1989, as calculated under Section 202.3, and (ii)
7 3% of the taxpayer's net income for the period after June
8 30, 1989, as calculated under Section 202.3.

9 (3) In the case of an individual, trust or estate, for
10 taxable years beginning after June 30, 1989, and ending
11 prior to January 1, 2011, an amount equal to 3% of the
12 taxpayer's net income for the taxable year.

13 (4) In the case of an individual, trust, or estate,
14 for taxable years beginning prior to January 1, 2011, and
15 ending after December 31, 2010, an amount equal to the sum
16 of (i) 3% of the taxpayer's net income for the period prior
17 to January 1, 2011, as calculated under Section 202.5, and
18 (ii) 5% of the taxpayer's net income for the period after
19 December 31, 2010, as calculated under Section 202.5.

20 (5) In the case of an individual, trust, or estate,
21 for taxable years beginning on or after January 1, 2011,
22 and ending prior to January 1, 2015, an amount equal to 5%
23 of the taxpayer's net income for the taxable year.

24 (5.1) In the case of an individual, trust, or estate,
25 for taxable years beginning prior to January 1, 2015, and
26 ending after December 31, 2014, an amount equal to the sum

1 of (i) 5% of the taxpayer's net income for the period prior
2 to January 1, 2015, as calculated under Section 202.5, and
3 (ii) 3.75% of the taxpayer's net income for the period
4 after December 31, 2014, as calculated under Section
5 202.5.

6 (5.2) In the case of an individual, trust, or estate,
7 for taxable years beginning on or after January 1, 2015,
8 and ending prior to July 1, 2017, an amount equal to 3.75%
9 of the taxpayer's net income for the taxable year.

10 (5.3) In the case of an individual, trust, or estate,
11 for taxable years beginning prior to July 1, 2017, and
12 ending after June 30, 2017, an amount equal to the sum of
13 (i) 3.75% of the taxpayer's net income for the period
14 prior to July 1, 2017, as calculated under Section 202.5,
15 and (ii) 4.95% of the taxpayer's net income for the period
16 after June 30, 2017, as calculated under Section 202.5.

17 (5.4) In the case of an individual, trust, or estate,
18 for taxable years beginning on or after July 1, 2017, an
19 amount equal to 4.95% of the taxpayer's net income for the
20 taxable year.

21 (6) In the case of a corporation, for taxable years
22 ending prior to July 1, 1989, an amount equal to 4% of the
23 taxpayer's net income for the taxable year.

24 (7) In the case of a corporation, for taxable years
25 beginning prior to July 1, 1989 and ending after June 30,
26 1989, an amount equal to the sum of (i) 4% of the

1 taxpayer's net income for the period prior to July 1,
2 1989, as calculated under Section 202.3, and (ii) 4.8% of
3 the taxpayer's net income for the period after June 30,
4 1989, as calculated under Section 202.3.

5 (8) In the case of a corporation, for taxable years
6 beginning after June 30, 1989, and ending prior to January
7 1, 2011, an amount equal to 4.8% of the taxpayer's net
8 income for the taxable year.

9 (9) In the case of a corporation, for taxable years
10 beginning prior to January 1, 2011, and ending after
11 December 31, 2010, an amount equal to the sum of (i) 4.8%
12 of the taxpayer's net income for the period prior to
13 January 1, 2011, as calculated under Section 202.5, and
14 (ii) 7% of the taxpayer's net income for the period after
15 December 31, 2010, as calculated under Section 202.5.

16 (10) In the case of a corporation, for taxable years
17 beginning on or after January 1, 2011, and ending prior to
18 January 1, 2015, an amount equal to 7% of the taxpayer's
19 net income for the taxable year.

20 (11) In the case of a corporation, for taxable years
21 beginning prior to January 1, 2015, and ending after
22 December 31, 2014, an amount equal to the sum of (i) 7% of
23 the taxpayer's net income for the period prior to January
24 1, 2015, as calculated under Section 202.5, and (ii) 5.25%
25 of the taxpayer's net income for the period after December
26 31, 2014, as calculated under Section 202.5.

1 (12) In the case of a corporation, for taxable years
2 beginning on or after January 1, 2015, and ending prior to
3 July 1, 2017, an amount equal to 5.25% of the taxpayer's
4 net income for the taxable year.

5 (13) In the case of a corporation, for taxable years
6 beginning prior to July 1, 2017, and ending after June 30,
7 2017, an amount equal to the sum of (i) 5.25% of the
8 taxpayer's net income for the period prior to July 1,
9 2017, as calculated under Section 202.5, and (ii) 7% of
10 the taxpayer's net income for the period after June 30,
11 2017, as calculated under Section 202.5.

12 (14) In the case of a corporation, for taxable years
13 beginning on or after July 1, 2017, an amount equal to 7%
14 of the taxpayer's net income for the taxable year.

15 The rates under this subsection (b) are subject to the
16 provisions of Section 201.5.

17 (b-5) Surcharge; sale or exchange of assets, properties,
18 and intangibles of organization gaming licensees. For each of
19 taxable years 2019 through 2027, a surcharge is imposed on all
20 taxpayers on income arising from the sale or exchange of
21 capital assets, depreciable business property, real property
22 used in the trade or business, and Section 197 intangibles (i)
23 of an organization licensee under the Illinois Horse Racing
24 Act of 1975 and (ii) of an organization gaming licensee under
25 the Illinois Gambling Act. The amount of the surcharge is
26 equal to the amount of federal income tax liability for the

1 taxable year attributable to those sales and exchanges. The
2 surcharge imposed shall not apply if:

3 (1) the organization gaming license, organization
4 license, or racetrack property is transferred as a result
5 of any of the following:

6 (A) bankruptcy, a receivership, or a debt
7 adjustment initiated by or against the initial
8 licensee or the substantial owners of the initial
9 licensee;

10 (B) cancellation, revocation, or termination of
11 any such license by the Illinois Gaming Board or the
12 Illinois Racing Board;

13 (C) a determination by the Illinois Gaming Board
14 that transfer of the license is in the best interests
15 of Illinois gaming;

16 (D) the death of an owner of the equity interest in
17 a licensee;

18 (E) the acquisition of a controlling interest in
19 the stock or substantially all of the assets of a
20 publicly traded company;

21 (F) a transfer by a parent company to a wholly
22 owned subsidiary; or

23 (G) the transfer or sale to or by one person to
24 another person where both persons were initial owners
25 of the license when the license was issued; or

26 (2) the controlling interest in the organization

1 gaming license, organization license, or racetrack
2 property is transferred in a transaction to lineal
3 descendants in which no gain or loss is recognized or as a
4 result of a transaction in accordance with Section 351 of
5 the Internal Revenue Code in which no gain or loss is
6 recognized; or

7 (3) live horse racing was not conducted in 2010 at a
8 racetrack located within 3 miles of the Mississippi River
9 under a license issued pursuant to the Illinois Horse
10 Racing Act of 1975.

11 The transfer of an organization gaming license,
12 organization license, or racetrack property by a person other
13 than the initial licensee to receive the organization gaming
14 license is not subject to a surcharge. The Department shall
15 adopt rules necessary to implement and administer this
16 subsection.

17 (c) Personal Property Tax Replacement Income Tax.
18 Beginning on July 1, 1979 and thereafter, in addition to such
19 income tax, there is also hereby imposed the Personal Property
20 Tax Replacement Income Tax measured by net income on every
21 corporation (including Subchapter S corporations), partnership
22 and trust, for each taxable year ending after June 30, 1979.
23 Such taxes are imposed on the privilege of earning or
24 receiving income in or as a resident of this State. The
25 Personal Property Tax Replacement Income Tax shall be in
26 addition to the income tax imposed by subsections (a) and (b)

1 of this Section and in addition to all other occupation or
2 privilege taxes imposed by this State or by any municipal
3 corporation or political subdivision thereof.

4 (d) Additional Personal Property Tax Replacement Income
5 Tax Rates. The personal property tax replacement income tax
6 imposed by this subsection and subsection (c) of this Section
7 in the case of a corporation, other than a Subchapter S
8 corporation and except as adjusted by subsection (d-1), shall
9 be an additional amount equal to 2.85% of such taxpayer's net
10 income for the taxable year, except that beginning on January
11 1, 1981, and thereafter, the rate of 2.85% specified in this
12 subsection shall be reduced to 2.5%, and in the case of a
13 partnership, trust or a Subchapter S corporation shall be an
14 additional amount equal to 1.5% of such taxpayer's net income
15 for the taxable year.

16 (d-1) Rate reduction for certain foreign insurers. In the
17 case of a foreign insurer, as defined by Section 35A-5 of the
18 Illinois Insurance Code, whose state or country of domicile
19 imposes on insurers domiciled in Illinois a retaliatory tax
20 (excluding any insurer whose premiums from reinsurance assumed
21 are 50% or more of its total insurance premiums as determined
22 under paragraph (2) of subsection (b) of Section 304, except
23 that for purposes of this determination premiums from
24 reinsurance do not include premiums from inter-affiliate
25 reinsurance arrangements), beginning with taxable years ending
26 on or after December 31, 1999, the sum of the rates of tax

1 imposed by subsections (b) and (d) shall be reduced (but not
2 increased) to the rate at which the total amount of tax imposed
3 under this Act, net of all credits allowed under this Act,
4 shall equal (i) the total amount of tax that would be imposed
5 on the foreign insurer's net income allocable to Illinois for
6 the taxable year by such foreign insurer's state or country of
7 domicile if that net income were subject to all income taxes
8 and taxes measured by net income imposed by such foreign
9 insurer's state or country of domicile, net of all credits
10 allowed or (ii) a rate of zero if no such tax is imposed on
11 such income by the foreign insurer's state of domicile. For
12 the purposes of this subsection (d-1), an inter-affiliate
13 includes a mutual insurer under common management.

14 (1) For the purposes of subsection (d-1), in no event
15 shall the sum of the rates of tax imposed by subsections
16 (b) and (d) be reduced below the rate at which the sum of:

17 (A) the total amount of tax imposed on such
18 foreign insurer under this Act for a taxable year, net
19 of all credits allowed under this Act, plus

20 (B) the privilege tax imposed by Section 409 of
21 the Illinois Insurance Code, the fire insurance
22 company tax imposed by Section 12 of the Fire
23 Investigation Act, and the fire department taxes
24 imposed under Section 11-10-1 of the Illinois
25 Municipal Code,

26 equals 1.25% for taxable years ending prior to December

1 31, 2003, or 1.75% for taxable years ending on or after
2 December 31, 2003, of the net taxable premiums written for
3 the taxable year, as described by subsection (1) of
4 Section 409 of the Illinois Insurance Code. This paragraph
5 will in no event increase the rates imposed under
6 subsections (b) and (d).

7 (2) Any reduction in the rates of tax imposed by this
8 subsection shall be applied first against the rates
9 imposed by subsection (b) and only after the tax imposed
10 by subsection (a) net of all credits allowed under this
11 Section other than the credit allowed under subsection (i)
12 has been reduced to zero, against the rates imposed by
13 subsection (d).

14 This subsection (d-1) is exempt from the provisions of
15 Section 250.

16 (e) Investment credit. A taxpayer shall be allowed a
17 credit against the Personal Property Tax Replacement Income
18 Tax for investment in qualified property.

19 (1) A taxpayer shall be allowed a credit equal to .5%
20 of the basis of qualified property placed in service
21 during the taxable year, provided such property is placed
22 in service on or after July 1, 1984. There shall be allowed
23 an additional credit equal to .5% of the basis of
24 qualified property placed in service during the taxable
25 year, provided such property is placed in service on or
26 after July 1, 1986, and the taxpayer's base employment

1 within Illinois has increased by 1% or more over the
2 preceding year as determined by the taxpayer's employment
3 records filed with the Illinois Department of Employment
4 Security. Taxpayers who are new to Illinois shall be
5 deemed to have met the 1% growth in base employment for the
6 first year in which they file employment records with the
7 Illinois Department of Employment Security. The provisions
8 added to this Section by Public Act 85-1200 (and restored
9 by Public Act 87-895) shall be construed as declaratory of
10 existing law and not as a new enactment. If, in any year,
11 the increase in base employment within Illinois over the
12 preceding year is less than 1%, the additional credit
13 shall be limited to that percentage times a fraction, the
14 numerator of which is .5% and the denominator of which is
15 1%, but shall not exceed .5%. The investment credit shall
16 not be allowed to the extent that it would reduce a
17 taxpayer's liability in any tax year below zero, nor may
18 any credit for qualified property be allowed for any year
19 other than the year in which the property was placed in
20 service in Illinois. For tax years ending on or after
21 December 31, 1987, and on or before December 31, 1988, the
22 credit shall be allowed for the tax year in which the
23 property is placed in service, or, if the amount of the
24 credit exceeds the tax liability for that year, whether it
25 exceeds the original liability or the liability as later
26 amended, such excess may be carried forward and applied to

1 the tax liability of the 5 taxable years following the
2 excess credit years if the taxpayer (i) makes investments
3 which cause the creation of a minimum of 2,000 full-time
4 equivalent jobs in Illinois, (ii) is located in an
5 enterprise zone established pursuant to the Illinois
6 Enterprise Zone Act and (iii) is certified by the
7 Department of Commerce and Community Affairs (now
8 Department of Commerce and Economic Opportunity) as
9 complying with the requirements specified in clause (i)
10 and (ii) by July 1, 1986. The Department of Commerce and
11 Community Affairs (now Department of Commerce and Economic
12 Opportunity) shall notify the Department of Revenue of all
13 such certifications immediately. For tax years ending
14 after December 31, 1988, the credit shall be allowed for
15 the tax year in which the property is placed in service,
16 or, if the amount of the credit exceeds the tax liability
17 for that year, whether it exceeds the original liability
18 or the liability as later amended, such excess may be
19 carried forward and applied to the tax liability of the 5
20 taxable years following the excess credit years. The
21 credit shall be applied to the earliest year for which
22 there is a liability. If there is credit from more than one
23 tax year that is available to offset a liability, earlier
24 credit shall be applied first.

25 (2) The term "qualified property" means property
26 which:

1 (A) is tangible, whether new or used, including
2 buildings and structural components of buildings and
3 signs that are real property, but not including land
4 or improvements to real property that are not a
5 structural component of a building such as
6 landscaping, sewer lines, local access roads, fencing,
7 parking lots, and other appurtenances;

8 (B) is depreciable pursuant to Section 167 of the
9 Internal Revenue Code, except that "3-year property"
10 as defined in Section 168(c)(2)(A) of that Code is not
11 eligible for the credit provided by this subsection
12 (e);

13 (C) is acquired by purchase as defined in Section
14 179(d) of the Internal Revenue Code;

15 (D) is used in Illinois by a taxpayer who is
16 primarily engaged in manufacturing, or in mining coal
17 or fluorite, or in retailing, or was placed in service
18 on or after July 1, 2006 in a River Edge Redevelopment
19 Zone established pursuant to the River Edge
20 Redevelopment Zone Act; and

21 (E) has not previously been used in Illinois in
22 such a manner and by such a person as would qualify for
23 the credit provided by this subsection (e) or
24 subsection (f).

25 (3) For purposes of this subsection (e),
26 "manufacturing" means the material staging and production

1 of tangible personal property by procedures commonly
2 regarded as manufacturing, processing, fabrication, or
3 assembling which changes some existing material into new
4 shapes, new qualities, or new combinations. For purposes
5 of this subsection (e) the term "mining" shall have the
6 same meaning as the term "mining" in Section 613(c) of the
7 Internal Revenue Code. For purposes of this subsection
8 (e), the term "retailing" means the sale of tangible
9 personal property for use or consumption and not for
10 resale, or services rendered in conjunction with the sale
11 of tangible personal property for use or consumption and
12 not for resale. For purposes of this subsection (e),
13 "tangible personal property" has the same meaning as when
14 that term is used in the Retailers' Occupation Tax Act,
15 and, for taxable years ending after December 31, 2008,
16 does not include the generation, transmission, or
17 distribution of electricity.

18 (4) The basis of qualified property shall be the basis
19 used to compute the depreciation deduction for federal
20 income tax purposes.

21 (5) If the basis of the property for federal income
22 tax depreciation purposes is increased after it has been
23 placed in service in Illinois by the taxpayer, the amount
24 of such increase shall be deemed property placed in
25 service on the date of such increase in basis.

26 (6) The term "placed in service" shall have the same

1 meaning as under Section 46 of the Internal Revenue Code.

2 (7) If during any taxable year, any property ceases to
3 be qualified property in the hands of the taxpayer within
4 48 months after being placed in service, or the situs of
5 any qualified property is moved outside Illinois within 48
6 months after being placed in service, the Personal
7 Property Tax Replacement Income Tax for such taxable year
8 shall be increased. Such increase shall be determined by
9 (i) recomputing the investment credit which would have
10 been allowed for the year in which credit for such
11 property was originally allowed by eliminating such
12 property from such computation and, (ii) subtracting such
13 recomputed credit from the amount of credit previously
14 allowed. For the purposes of this paragraph (7), a
15 reduction of the basis of qualified property resulting
16 from a redetermination of the purchase price shall be
17 deemed a disposition of qualified property to the extent
18 of such reduction.

19 (8) Unless the investment credit is extended by law,
20 the basis of qualified property shall not include costs
21 incurred after December 31, 2018, except for costs
22 incurred pursuant to a binding contract entered into on or
23 before December 31, 2018.

24 (9) Each taxable year ending before December 31, 2000,
25 a partnership may elect to pass through to its partners
26 the credits to which the partnership is entitled under

1 this subsection (e) for the taxable year. A partner may
2 use the credit allocated to him or her under this
3 paragraph only against the tax imposed in subsections (c)
4 and (d) of this Section. If the partnership makes that
5 election, those credits shall be allocated among the
6 partners in the partnership in accordance with the rules
7 set forth in Section 704(b) of the Internal Revenue Code,
8 and the rules promulgated under that Section, and the
9 allocated amount of the credits shall be allowed to the
10 partners for that taxable year. The partnership shall make
11 this election on its Personal Property Tax Replacement
12 Income Tax return for that taxable year. The election to
13 pass through the credits shall be irrevocable.

14 For taxable years ending on or after December 31,
15 2000, a partner that qualifies its partnership for a
16 subtraction under subparagraph (I) of paragraph (2) of
17 subsection (d) of Section 203 or a shareholder that
18 qualifies a Subchapter S corporation for a subtraction
19 under subparagraph (S) of paragraph (2) of subsection (b)
20 of Section 203 shall be allowed a credit under this
21 subsection (e) equal to its share of the credit earned
22 under this subsection (e) during the taxable year by the
23 partnership or Subchapter S corporation, determined in
24 accordance with the determination of income and
25 distributive share of income under Sections 702 and 704
26 and Subchapter S of the Internal Revenue Code. This

1 paragraph is exempt from the provisions of Section 250.

2 (f) Investment credit; Enterprise Zone; River Edge
3 Redevelopment Zone.

4 (1) A taxpayer shall be allowed a credit against the
5 tax imposed by subsections (a) and (b) of this Section for
6 investment in qualified property which is placed in
7 service in an Enterprise Zone created pursuant to the
8 Illinois Enterprise Zone Act or, for property placed in
9 service on or after July 1, 2006, a River Edge
10 Redevelopment Zone established pursuant to the River Edge
11 Redevelopment Zone Act. For partners, shareholders of
12 Subchapter S corporations, and owners of limited liability
13 companies, if the liability company is treated as a
14 partnership for purposes of federal and State income
15 taxation, there shall be allowed a credit under this
16 subsection (f) to be determined in accordance with the
17 determination of income and distributive share of income
18 under Sections 702 and 704 and Subchapter S of the
19 Internal Revenue Code. The credit shall be .5% of the
20 basis for such property. The credit shall be available
21 only in the taxable year in which the property is placed in
22 service in the Enterprise Zone or River Edge Redevelopment
23 Zone and shall not be allowed to the extent that it would
24 reduce a taxpayer's liability for the tax imposed by
25 subsections (a) and (b) of this Section to below zero. For
26 tax years ending on or after December 31, 1985, the credit

1 shall be allowed for the tax year in which the property is
2 placed in service, or, if the amount of the credit exceeds
3 the tax liability for that year, whether it exceeds the
4 original liability or the liability as later amended, such
5 excess may be carried forward and applied to the tax
6 liability of the 5 taxable years following the excess
7 credit year. The credit shall be applied to the earliest
8 year for which there is a liability. If there is credit
9 from more than one tax year that is available to offset a
10 liability, the credit accruing first in time shall be
11 applied first.

12 (2) The term qualified property means property which:

13 (A) is tangible, whether new or used, including
14 buildings and structural components of buildings;

15 (B) is depreciable pursuant to Section 167 of the
16 Internal Revenue Code, except that "3-year property"
17 as defined in Section 168(c)(2)(A) of that Code is not
18 eligible for the credit provided by this subsection
19 (f);

20 (C) is acquired by purchase as defined in Section
21 179(d) of the Internal Revenue Code;

22 (D) is used in the Enterprise Zone or River Edge
23 Redevelopment Zone by the taxpayer; and

24 (E) has not been previously used in Illinois in
25 such a manner and by such a person as would qualify for
26 the credit provided by this subsection (f) or

1 subsection (e).

2 (3) The basis of qualified property shall be the basis
3 used to compute the depreciation deduction for federal
4 income tax purposes.

5 (4) If the basis of the property for federal income
6 tax depreciation purposes is increased after it has been
7 placed in service in the Enterprise Zone or River Edge
8 Redevelopment Zone by the taxpayer, the amount of such
9 increase shall be deemed property placed in service on the
10 date of such increase in basis.

11 (5) The term "placed in service" shall have the same
12 meaning as under Section 46 of the Internal Revenue Code.

13 (6) If during any taxable year, any property ceases to
14 be qualified property in the hands of the taxpayer within
15 48 months after being placed in service, or the situs of
16 any qualified property is moved outside the Enterprise
17 Zone or River Edge Redevelopment Zone within 48 months
18 after being placed in service, the tax imposed under
19 subsections (a) and (b) of this Section for such taxable
20 year shall be increased. Such increase shall be determined
21 by (i) recomputing the investment credit which would have
22 been allowed for the year in which credit for such
23 property was originally allowed by eliminating such
24 property from such computation, and (ii) subtracting such
25 recomputed credit from the amount of credit previously
26 allowed. For the purposes of this paragraph (6), a

1 reduction of the basis of qualified property resulting
2 from a redetermination of the purchase price shall be
3 deemed a disposition of qualified property to the extent
4 of such reduction.

5 (7) There shall be allowed an additional credit equal
6 to 0.5% of the basis of qualified property placed in
7 service during the taxable year in a River Edge
8 Redevelopment Zone, provided such property is placed in
9 service on or after July 1, 2006, and the taxpayer's base
10 employment within Illinois has increased by 1% or more
11 over the preceding year as determined by the taxpayer's
12 employment records filed with the Illinois Department of
13 Employment Security. Taxpayers who are new to Illinois
14 shall be deemed to have met the 1% growth in base
15 employment for the first year in which they file
16 employment records with the Illinois Department of
17 Employment Security. If, in any year, the increase in base
18 employment within Illinois over the preceding year is less
19 than 1%, the additional credit shall be limited to that
20 percentage times a fraction, the numerator of which is
21 0.5% and the denominator of which is 1%, but shall not
22 exceed 0.5%.

23 (8) For taxable years beginning on or after January 1,
24 2021, there shall be allowed an Enterprise Zone
25 construction jobs credit against the taxes imposed under
26 subsections (a) and (b) of this Section as provided in

1 Section 13 of the Illinois Enterprise Zone Act.

2 The credit or credits may not reduce the taxpayer's
3 liability to less than zero. If the amount of the credit or
4 credits exceeds the taxpayer's liability, the excess may
5 be carried forward and applied against the taxpayer's
6 liability in succeeding calendar years in the same manner
7 provided under paragraph (4) of Section 211 of this Act.
8 The credit or credits shall be applied to the earliest
9 year for which there is a tax liability. If there are
10 credits from more than one taxable year that are available
11 to offset a liability, the earlier credit shall be applied
12 first.

13 For partners, shareholders of Subchapter S
14 corporations, and owners of limited liability companies,
15 if the liability company is treated as a partnership for
16 the purposes of federal and State income taxation, there
17 shall be allowed a credit under this Section to be
18 determined in accordance with the determination of income
19 and distributive share of income under Sections 702 and
20 704 and Subchapter S of the Internal Revenue Code.

21 The total aggregate amount of credits awarded under
22 the Blue Collar Jobs Act (Article 20 of Public Act 101-9)
23 shall not exceed \$20,000,000 in any State fiscal year.

24 This paragraph (8) is exempt from the provisions of
25 Section 250.

26 (g) (Blank).

1 (h) Investment credit; High Impact Business.

2 (1) Subject to subsections (b) and (b-5) of Section
3 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall
4 be allowed a credit against the tax imposed by subsections
5 (a) and (b) of this Section for investment in qualified
6 property which is placed in service by a Department of
7 Commerce and Economic Opportunity designated High Impact
8 Business. The credit shall be .5% of the basis for such
9 property. The credit shall not be available (i) until the
10 minimum investments in qualified property set forth in
11 subdivision (a)(3)(A) of Section 5.5 of the Illinois
12 Enterprise Zone Act have been satisfied or (ii) until the
13 time authorized in subsection (b-5) of the Illinois
14 Enterprise Zone Act for entities designated as High Impact
15 Businesses under subdivisions (a)(3)(B), (a)(3)(C), and
16 (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone
17 Act, and shall not be allowed to the extent that it would
18 reduce a taxpayer's liability for the tax imposed by
19 subsections (a) and (b) of this Section to below zero. The
20 credit applicable to such investments shall be taken in
21 the taxable year in which such investments have been
22 completed. The credit for additional investments beyond
23 the minimum investment by a designated high impact
24 business authorized under subdivision (a)(3)(A) of Section
25 5.5 of the Illinois Enterprise Zone Act shall be available
26 only in the taxable year in which the property is placed in

1 service and shall not be allowed to the extent that it
2 would reduce a taxpayer's liability for the tax imposed by
3 subsections (a) and (b) of this Section to below zero. For
4 tax years ending on or after December 31, 1987, the credit
5 shall be allowed for the tax year in which the property is
6 placed in service, or, if the amount of the credit exceeds
7 the tax liability for that year, whether it exceeds the
8 original liability or the liability as later amended, such
9 excess may be carried forward and applied to the tax
10 liability of the 5 taxable years following the excess
11 credit year. The credit shall be applied to the earliest
12 year for which there is a liability. If there is credit
13 from more than one tax year that is available to offset a
14 liability, the credit accruing first in time shall be
15 applied first.

16 Changes made in this subdivision (h) (1) by Public Act
17 88-670 restore changes made by Public Act 85-1182 and
18 reflect existing law.

19 (2) The term qualified property means property which:

20 (A) is tangible, whether new or used, including
21 buildings and structural components of buildings;

22 (B) is depreciable pursuant to Section 167 of the
23 Internal Revenue Code, except that "3-year property"
24 as defined in Section 168(c) (2) (A) of that Code is not
25 eligible for the credit provided by this subsection

26 (h);

1 (C) is acquired by purchase as defined in Section
2 179(d) of the Internal Revenue Code; and

3 (D) is not eligible for the Enterprise Zone
4 Investment Credit provided by subsection (f) of this
5 Section.

6 (3) The basis of qualified property shall be the basis
7 used to compute the depreciation deduction for federal
8 income tax purposes.

9 (4) If the basis of the property for federal income
10 tax depreciation purposes is increased after it has been
11 placed in service in a federally designated Foreign Trade
12 Zone or Sub-Zone located in Illinois by the taxpayer, the
13 amount of such increase shall be deemed property placed in
14 service on the date of such increase in basis.

15 (5) The term "placed in service" shall have the same
16 meaning as under Section 46 of the Internal Revenue Code.

17 (6) If during any taxable year ending on or before
18 December 31, 1996, any property ceases to be qualified
19 property in the hands of the taxpayer within 48 months
20 after being placed in service, or the situs of any
21 qualified property is moved outside Illinois within 48
22 months after being placed in service, the tax imposed
23 under subsections (a) and (b) of this Section for such
24 taxable year shall be increased. Such increase shall be
25 determined by (i) recomputing the investment credit which
26 would have been allowed for the year in which credit for

1 such property was originally allowed by eliminating such
2 property from such computation, and (ii) subtracting such
3 recomputed credit from the amount of credit previously
4 allowed. For the purposes of this paragraph (6), a
5 reduction of the basis of qualified property resulting
6 from a redetermination of the purchase price shall be
7 deemed a disposition of qualified property to the extent
8 of such reduction.

9 (7) Beginning with tax years ending after December 31,
10 1996, if a taxpayer qualifies for the credit under this
11 subsection (h) and thereby is granted a tax abatement and
12 the taxpayer relocates its entire facility in violation of
13 the explicit terms and length of the contract under
14 Section 18-183 of the Property Tax Code, the tax imposed
15 under subsections (a) and (b) of this Section shall be
16 increased for the taxable year in which the taxpayer
17 relocated its facility by an amount equal to the amount of
18 credit received by the taxpayer under this subsection (h).

19 (h-5) High Impact Business construction jobs credit. For
20 taxable years beginning on or after January 1, 2021, there
21 shall also be allowed a High Impact Business construction jobs
22 credit against the tax imposed under subsections (a) and (b)
23 of this Section as provided in subsections (i) and (j) of
24 Section 5.5 of the Illinois Enterprise Zone Act.

25 The credit or credits may not reduce the taxpayer's
26 liability to less than zero. If the amount of the credit or

1 credits exceeds the taxpayer's liability, the excess may be
2 carried forward and applied against the taxpayer's liability
3 in succeeding calendar years in the manner provided under
4 paragraph (4) of Section 211 of this Act. The credit or credits
5 shall be applied to the earliest year for which there is a tax
6 liability. If there are credits from more than one taxable
7 year that are available to offset a liability, the earlier
8 credit shall be applied first.

9 For partners, shareholders of Subchapter S corporations,
10 and owners of limited liability companies, if the liability
11 company is treated as a partnership for the purposes of
12 federal and State income taxation, there shall be allowed a
13 credit under this Section to be determined in accordance with
14 the determination of income and distributive share of income
15 under Sections 702 and 704 and Subchapter S of the Internal
16 Revenue Code.

17 The total aggregate amount of credits awarded under the
18 Blue Collar Jobs Act (Article 20 of Public Act 101-9) shall not
19 exceed \$20,000,000 in any State fiscal year.

20 This subsection (h-5) is exempt from the provisions of
21 Section 250.

22 (i) Credit for Personal Property Tax Replacement Income
23 Tax. For tax years ending prior to December 31, 2003, a credit
24 shall be allowed against the tax imposed by subsections (a)
25 and (b) of this Section for the tax imposed by subsections (c)
26 and (d) of this Section. This credit shall be computed by

1 multiplying the tax imposed by subsections (c) and (d) of this
2 Section by a fraction, the numerator of which is base income
3 allocable to Illinois and the denominator of which is Illinois
4 base income, and further multiplying the product by the tax
5 rate imposed by subsections (a) and (b) of this Section.

6 Any credit earned on or after December 31, 1986 under this
7 subsection which is unused in the year the credit is computed
8 because it exceeds the tax liability imposed by subsections
9 (a) and (b) for that year (whether it exceeds the original
10 liability or the liability as later amended) may be carried
11 forward and applied to the tax liability imposed by
12 subsections (a) and (b) of the 5 taxable years following the
13 excess credit year, provided that no credit may be carried
14 forward to any year ending on or after December 31, 2003. This
15 credit shall be applied first to the earliest year for which
16 there is a liability. If there is a credit under this
17 subsection from more than one tax year that is available to
18 offset a liability the earliest credit arising under this
19 subsection shall be applied first.

20 If, during any taxable year ending on or after December
21 31, 1986, the tax imposed by subsections (c) and (d) of this
22 Section for which a taxpayer has claimed a credit under this
23 subsection (i) is reduced, the amount of credit for such tax
24 shall also be reduced. Such reduction shall be determined by
25 recomputing the credit to take into account the reduced tax
26 imposed by subsections (c) and (d). If any portion of the

1 reduced amount of credit has been carried to a different
2 taxable year, an amended return shall be filed for such
3 taxable year to reduce the amount of credit claimed.

4 (j) Training expense credit. Beginning with tax years
5 ending on or after December 31, 1986 and prior to December 31,
6 2003, a taxpayer shall be allowed a credit against the tax
7 imposed by subsections (a) and (b) under this Section for all
8 amounts paid or accrued, on behalf of all persons employed by
9 the taxpayer in Illinois or Illinois residents employed
10 outside of Illinois by a taxpayer, for educational or
11 vocational training in semi-technical or technical fields or
12 semi-skilled or skilled fields, which were deducted from gross
13 income in the computation of taxable income. The credit
14 against the tax imposed by subsections (a) and (b) shall be
15 1.6% of such training expenses. For partners, shareholders of
16 subchapter S corporations, and owners of limited liability
17 companies, if the liability company is treated as a
18 partnership for purposes of federal and State income taxation,
19 there shall be allowed a credit under this subsection (j) to be
20 determined in accordance with the determination of income and
21 distributive share of income under Sections 702 and 704 and
22 subchapter S of the Internal Revenue Code.

23 Any credit allowed under this subsection which is unused
24 in the year the credit is earned may be carried forward to each
25 of the 5 taxable years following the year for which the credit
26 is first computed until it is used. This credit shall be

1 applied first to the earliest year for which there is a
2 liability. If there is a credit under this subsection from
3 more than one tax year that is available to offset a liability,
4 the earliest credit arising under this subsection shall be
5 applied first. No carryforward credit may be claimed in any
6 tax year ending on or after December 31, 2003.

7 (k) Research and development credit. For tax years ending
8 after July 1, 1990 and prior to December 31, 2003, and
9 beginning again for tax years ending on or after December 31,
10 2004, and ending prior to January 1, 2027, a taxpayer shall be
11 allowed a credit against the tax imposed by subsections (a)
12 and (b) of this Section for increasing research activities in
13 this State. The credit allowed against the tax imposed by
14 subsections (a) and (b) shall be equal to 6 1/2% of the
15 qualifying expenditures for increasing research activities in
16 this State. For partners, shareholders of subchapter S
17 corporations, and owners of limited liability companies, if
18 the liability company is treated as a partnership for purposes
19 of federal and State income taxation, there shall be allowed a
20 credit under this subsection to be determined in accordance
21 with the determination of income and distributive share of
22 income under Sections 702 and 704 and subchapter S of the
23 Internal Revenue Code.

24 For purposes of this subsection, "qualifying expenditures"
25 means the qualifying expenditures as defined for the federal
26 credit for increasing research activities which would be

1 allowable under Section 41 of the Internal Revenue Code and
2 which are conducted in this State, "qualifying expenditures
3 for increasing research activities in this State" means the
4 excess of qualifying expenditures for the taxable year in
5 which incurred over qualifying expenditures for the base
6 period, "qualifying expenditures for the base period" means
7 the average of the qualifying expenditures for each year in
8 the base period, and "base period" means the 3 taxable years
9 immediately preceding the taxable year for which the
10 determination is being made.

11 Any credit in excess of the tax liability for the taxable
12 year may be carried forward. A taxpayer may elect to have the
13 unused credit shown on its final completed return carried over
14 as a credit against the tax liability for the following 5
15 taxable years or until it has been fully used, whichever
16 occurs first; provided that no credit earned in a tax year
17 ending prior to December 31, 2003 may be carried forward to any
18 year ending on or after December 31, 2003.

19 If an unused credit is carried forward to a given year from
20 2 or more earlier years, that credit arising in the earliest
21 year will be applied first against the tax liability for the
22 given year. If a tax liability for the given year still
23 remains, the credit from the next earliest year will then be
24 applied, and so on, until all credits have been used or no tax
25 liability for the given year remains. Any remaining unused
26 credit or credits then will be carried forward to the next

1 following year in which a tax liability is incurred, except
2 that no credit can be carried forward to a year which is more
3 than 5 years after the year in which the expense for which the
4 credit is given was incurred.

5 No inference shall be drawn from Public Act 91-644 in
6 construing this Section for taxable years beginning before
7 January 1, 1999.

8 It is the intent of the General Assembly that the research
9 and development credit under this subsection (k) shall apply
10 continuously for all tax years ending on or after December 31,
11 2004 and ending prior to January 1, 2027, including, but not
12 limited to, the period beginning on January 1, 2016 and ending
13 on July 6, 2017 (the effective date of Public Act 100-22). All
14 actions taken in reliance on the continuation of the credit
15 under this subsection (k) by any taxpayer are hereby
16 validated.

17 (l) Environmental Remediation Tax Credit.

18 (i) For tax years ending after December 31, 1997 and
19 on or before December 31, 2001, a taxpayer shall be
20 allowed a credit against the tax imposed by subsections
21 (a) and (b) of this Section for certain amounts paid for
22 unreimbursed eligible remediation costs, as specified in
23 this subsection. For purposes of this Section,
24 "unreimbursed eligible remediation costs" means costs
25 approved by the Illinois Environmental Protection Agency
26 ("Agency") under Section 58.14 of the Environmental

1 Protection Act that were paid in performing environmental
2 remediation at a site for which a No Further Remediation
3 Letter was issued by the Agency and recorded under Section
4 58.10 of the Environmental Protection Act. The credit must
5 be claimed for the taxable year in which Agency approval
6 of the eligible remediation costs is granted. The credit
7 is not available to any taxpayer if the taxpayer or any
8 related party caused or contributed to, in any material
9 respect, a release of regulated substances on, in, or
10 under the site that was identified and addressed by the
11 remedial action pursuant to the Site Remediation Program
12 of the Environmental Protection Act. After the Pollution
13 Control Board rules are adopted pursuant to the Illinois
14 Administrative Procedure Act for the administration and
15 enforcement of Section 58.9 of the Environmental
16 Protection Act, determinations as to credit availability
17 for purposes of this Section shall be made consistent with
18 those rules. For purposes of this Section, "taxpayer"
19 includes a person whose tax attributes the taxpayer has
20 succeeded to under Section 381 of the Internal Revenue
21 Code and "related party" includes the persons disallowed a
22 deduction for losses by paragraphs (b), (c), and (f)(1) of
23 Section 267 of the Internal Revenue Code by virtue of
24 being a related taxpayer, as well as any of its partners.
25 The credit allowed against the tax imposed by subsections
26 (a) and (b) shall be equal to 25% of the unreimbursed

1 eligible remediation costs in excess of \$100,000 per site,
2 except that the \$100,000 threshold shall not apply to any
3 site contained in an enterprise zone as determined by the
4 Department of Commerce and Community Affairs (now
5 Department of Commerce and Economic Opportunity). The
6 total credit allowed shall not exceed \$40,000 per year
7 with a maximum total of \$150,000 per site. For partners
8 and shareholders of subchapter S corporations, there shall
9 be allowed a credit under this subsection to be determined
10 in accordance with the determination of income and
11 distributive share of income under Sections 702 and 704
12 and subchapter S of the Internal Revenue Code.

13 (ii) A credit allowed under this subsection that is
14 unused in the year the credit is earned may be carried
15 forward to each of the 5 taxable years following the year
16 for which the credit is first earned until it is used. The
17 term "unused credit" does not include any amounts of
18 unreimbursed eligible remediation costs in excess of the
19 maximum credit per site authorized under paragraph (i).
20 This credit shall be applied first to the earliest year
21 for which there is a liability. If there is a credit under
22 this subsection from more than one tax year that is
23 available to offset a liability, the earliest credit
24 arising under this subsection shall be applied first. A
25 credit allowed under this subsection may be sold to a
26 buyer as part of a sale of all or part of the remediation

1 site for which the credit was granted. The purchaser of a
2 remediation site and the tax credit shall succeed to the
3 unused credit and remaining carry-forward period of the
4 seller. To perfect the transfer, the assignor shall record
5 the transfer in the chain of title for the site and provide
6 written notice to the Director of the Illinois Department
7 of Revenue of the assignor's intent to sell the
8 remediation site and the amount of the tax credit to be
9 transferred as a portion of the sale. In no event may a
10 credit be transferred to any taxpayer if the taxpayer or a
11 related party would not be eligible under the provisions
12 of subsection (i).

13 (iii) For purposes of this Section, the term "site"
14 shall have the same meaning as under Section 58.2 of the
15 Environmental Protection Act.

16 (m) Education expense credit. Beginning with tax years
17 ending after December 31, 1999, a taxpayer who is the
18 custodian of one or more qualifying pupils shall be allowed a
19 credit against the tax imposed by subsections (a) and (b) of
20 this Section for qualified education expenses incurred on
21 behalf of the qualifying pupils. The credit shall be equal to
22 25% of qualified education expenses, but in no event may the
23 total credit under this subsection claimed by a family that is
24 the custodian of qualifying pupils exceed (i) \$500 for tax
25 years ending prior to December 31, 2017, and (ii) \$750 for tax
26 years ending on or after December 31, 2017. In no event shall a

1 credit under this subsection reduce the taxpayer's liability
2 under this Act to less than zero. Notwithstanding any other
3 provision of law, for taxable years beginning on or after
4 January 1, 2017, no taxpayer may claim a credit under this
5 subsection (m) if the taxpayer's adjusted gross income for the
6 taxable year exceeds (i) \$500,000, in the case of spouses
7 filing a joint federal tax return or (ii) \$250,000, in the case
8 of all other taxpayers. This subsection is exempt from the
9 provisions of Section 250 of this Act.

10 For purposes of this subsection:

11 "Qualifying pupils" means individuals who (i) are
12 residents of the State of Illinois, (ii) are under the age of
13 21 at the close of the school year for which a credit is
14 sought, and (iii) during the school year for which a credit is
15 sought were full-time pupils enrolled in a kindergarten
16 through twelfth grade education program at any school, as
17 defined in this subsection.

18 "Qualified education expense" means the amount incurred on
19 behalf of a qualifying pupil in excess of \$250 for tuition,
20 book fees, and lab fees at the school in which the pupil is
21 enrolled during the regular school year.

22 "School" means any public or nonpublic elementary or
23 secondary school in Illinois that is in compliance with Title
24 VI of the Civil Rights Act of 1964 and attendance at which
25 satisfies the requirements of Section 26-1 of the School Code,
26 except that nothing shall be construed to require a child to

1 attend any particular public or nonpublic school to qualify
2 for the credit under this Section.

3 "Custodian" means, with respect to qualifying pupils, an
4 Illinois resident who is a parent, the parents, a legal
5 guardian, or the legal guardians of the qualifying pupils.

6 (n) River Edge Redevelopment Zone site remediation tax
7 credit.

8 (i) For tax years ending on or after December 31,
9 2006, a taxpayer shall be allowed a credit against the tax
10 imposed by subsections (a) and (b) of this Section for
11 certain amounts paid for unreimbursed eligible remediation
12 costs, as specified in this subsection. For purposes of
13 this Section, "unreimbursed eligible remediation costs"
14 means costs approved by the Illinois Environmental
15 Protection Agency ("Agency") under Section 58.14a of the
16 Environmental Protection Act that were paid in performing
17 environmental remediation at a site within a River Edge
18 Redevelopment Zone for which a No Further Remediation
19 Letter was issued by the Agency and recorded under Section
20 58.10 of the Environmental Protection Act. The credit must
21 be claimed for the taxable year in which Agency approval
22 of the eligible remediation costs is granted. The credit
23 is not available to any taxpayer if the taxpayer or any
24 related party caused or contributed to, in any material
25 respect, a release of regulated substances on, in, or
26 under the site that was identified and addressed by the

1 remedial action pursuant to the Site Remediation Program
2 of the Environmental Protection Act. Determinations as to
3 credit availability for purposes of this Section shall be
4 made consistent with rules adopted by the Pollution
5 Control Board pursuant to the Illinois Administrative
6 Procedure Act for the administration and enforcement of
7 Section 58.9 of the Environmental Protection Act. For
8 purposes of this Section, "taxpayer" includes a person
9 whose tax attributes the taxpayer has succeeded to under
10 Section 381 of the Internal Revenue Code and "related
11 party" includes the persons disallowed a deduction for
12 losses by paragraphs (b), (c), and (f)(1) of Section 267
13 of the Internal Revenue Code by virtue of being a related
14 taxpayer, as well as any of its partners. The credit
15 allowed against the tax imposed by subsections (a) and (b)
16 shall be equal to 25% of the unreimbursed eligible
17 remediation costs in excess of \$100,000 per site.

18 (ii) A credit allowed under this subsection that is
19 unused in the year the credit is earned may be carried
20 forward to each of the 5 taxable years following the year
21 for which the credit is first earned until it is used. This
22 credit shall be applied first to the earliest year for
23 which there is a liability. If there is a credit under this
24 subsection from more than one tax year that is available
25 to offset a liability, the earliest credit arising under
26 this subsection shall be applied first. A credit allowed

1 under this subsection may be sold to a buyer as part of a
2 sale of all or part of the remediation site for which the
3 credit was granted. The purchaser of a remediation site
4 and the tax credit shall succeed to the unused credit and
5 remaining carry-forward period of the seller. To perfect
6 the transfer, the assignor shall record the transfer in
7 the chain of title for the site and provide written notice
8 to the Director of the Illinois Department of Revenue of
9 the assignor's intent to sell the remediation site and the
10 amount of the tax credit to be transferred as a portion of
11 the sale. In no event may a credit be transferred to any
12 taxpayer if the taxpayer or a related party would not be
13 eligible under the provisions of subsection (i).

14 (iii) For purposes of this Section, the term "site"
15 shall have the same meaning as under Section 58.2 of the
16 Environmental Protection Act.

17 (n-5) For taxable years beginning on or after the earlier
18 of: (i) January 1, 2025; or (ii) January 1 of the calendar year
19 immediately following the calendar year in which the State
20 reports to the United States Department of the Treasury that
21 all federal funds received under the American Rescue Plan Act
22 of 2021 have been fully expended, a taxpayer shall be allowed
23 an annual credit against the tax imposed by subsections (a)
24 and (b) of this Section of an amount equal to 15% of the cost
25 of equipment and materials incorporated into or used in the
26 business of providing broadband services in a county in the

1 State with a population of fewer than 40,000 people or a
2 township in the State with a population density of less than 50
3 households per square mile in a county with a population of
4 less than 300,000 people during that year. For partners,
5 shareholders of Subchapter S corporations, and owners of
6 limited liability companies, if the liability company is
7 treated as a partnership for purposes of federal and State
8 income taxation, there shall be allowed a credit under this
9 subsection to be determined in accordance with the
10 determination of income and distributive share of income under
11 Sections 702 and 704 and Subchapter S of the Internal Revenue
12 Code. Such annual credits shall be allowed commencing with the
13 taxable year in which such property is placed in service and
14 continue for 9 consecutive years thereafter. The aggregate
15 credit established by the subsection taken in any one tax year
16 shall not reduce taxpayer's tax liability under subsections
17 (a) and (b) of Section 201 by more than 50%; provided, however,
18 that any tax credit claimed under this subsection but not used
19 in any taxable year may be carried forward for 10 consecutive
20 years from the close of the tax year in which the credits were
21 earned. The maximum aggregate amount of credits that may be
22 claimed under this subsection shall not exceed the original
23 investment made by the taxpayer in the qualifying equipment.

24 For purposes this subsection: (i) "broadband service"
25 means a service provided by wireline or wireless means capable
26 of delivering high-speed internet access at speeds of at least

1 25 megabits per second of download speed and 3 megabits per
2 second of upload speed; and (ii) "equipment, and materials
3 incorporated into or used in the business of providing
4 broadband services", means all equipment and materials
5 machinery, software, or other tangible personal property
6 deployed in Illinois on or after January 1, 2023 that is used
7 in whole or in part in producing, broadcasting, distributing,
8 sending, receiving, storing, transmitting, retransmitting,
9 amplifying, switching, or routing broadband services,
10 including the monitoring, testing, maintaining, enabling, or
11 facilitating of such equipment, machinery, software, or other
12 infrastructure. Such property includes, but is not limited to,
13 wires, cables including fiber optic cables, antennas, poles,
14 switches, routers, amplifiers, rectifiers, repeaters,
15 receivers, multiplexers, duplexers, transmitters, power
16 equipment, backup power equipment, diagnostic equipment,
17 storage devices, modems, and other general central office
18 equipment, such as channel cards, frames, and cabinets.

19 The Department may award no more than \$25,000,000 in
20 credits under this subsection (n-5) in any taxable year. The
21 credit under this subsection (n-5) may be taken for property
22 placed in service on or after January 1, 2023; however, the
23 credit may not be taken until a taxable year beginning on or
24 after the earlier of: (i) January 1, 2025; or (ii) January 1 of
25 the calendar year immediately following the calendar year in
26 which the State reports to the United States Department of the

1 Treasury that all federal funds received under the American
2 Rescue Plan Act of 2021 have been fully expended. The credit
3 under this subsection (n-5) does not apply to property placed
4 in service on or after December 31 of the seventh calendar year
5 to occur after the earlier of: (i) January 1, 2025; or (ii)
6 January 1 of the calendar year immediately following the
7 calendar year in which the State reports to the United States
8 Department of the Treasury that all federal funds received
9 under the American Rescue Plan Act of 2021 have been fully
10 expended.

11 (o) For each of taxable years during the Compassionate Use
12 of Medical Cannabis Program, a surcharge is imposed on all
13 taxpayers on income arising from the sale or exchange of
14 capital assets, depreciable business property, real property
15 used in the trade or business, and Section 197 intangibles of
16 an organization registrant under the Compassionate Use of
17 Medical Cannabis Program Act. The amount of the surcharge is
18 equal to the amount of federal income tax liability for the
19 taxable year attributable to those sales and exchanges. The
20 surcharge imposed does not apply if:

21 (1) the medical cannabis cultivation center
22 registration, medical cannabis dispensary registration, or
23 the property of a registration is transferred as a result
24 of any of the following:

25 (A) bankruptcy, a receivership, or a debt
26 adjustment initiated by or against the initial

1 registration or the substantial owners of the initial
2 registration;

3 (B) cancellation, revocation, or termination of
4 any registration by the Illinois Department of Public
5 Health;

6 (C) a determination by the Illinois Department of
7 Public Health that transfer of the registration is in
8 the best interests of Illinois qualifying patients as
9 defined by the Compassionate Use of Medical Cannabis
10 Program Act;

11 (D) the death of an owner of the equity interest in
12 a registrant;

13 (E) the acquisition of a controlling interest in
14 the stock or substantially all of the assets of a
15 publicly traded company;

16 (F) a transfer by a parent company to a wholly
17 owned subsidiary; or

18 (G) the transfer or sale to or by one person to
19 another person where both persons were initial owners
20 of the registration when the registration was issued;
21 or

22 (2) the cannabis cultivation center registration,
23 medical cannabis dispensary registration, or the
24 controlling interest in a registrant's property is
25 transferred in a transaction to lineal descendants in
26 which no gain or loss is recognized or as a result of a

1 transaction in accordance with Section 351 of the Internal
2 Revenue Code in which no gain or loss is recognized.

3 (p) Pass-through entity tax.

4 (1) For taxable years ending on or after December 31,
5 2021 and beginning prior to January 1, 2026, a partnership
6 (other than a publicly traded partnership under Section
7 7704 of the Internal Revenue Code) or Subchapter S
8 corporation may elect to apply the provisions of this
9 subsection. A separate election shall be made for each
10 taxable year. Such election shall be made at such time,
11 and in such form and manner as prescribed by the
12 Department, and, once made, is irrevocable.

13 (2) Entity-level tax. A partnership or Subchapter S
14 corporation electing to apply the provisions of this
15 subsection shall be subject to a tax for the privilege of
16 earning or receiving income in this State in an amount
17 equal to 4.95% of the taxpayer's net income for the
18 taxable year.

19 (3) Net income defined.

20 (A) In general. For purposes of paragraph (2), the
21 term net income has the same meaning as defined in
22 Section 202 of this Act, except that the following
23 provisions shall not apply:

24 (i) the standard exemption allowed under
25 Section 204;

26 (ii) the deduction for net losses allowed

1 under Section 207;

2 (iii) in the case of an S corporation, the
3 modification under Section 203(b)(2)(S); and

4 (iv) in the case of a partnership, the
5 modifications under Section 203(d)(2)(H) and
6 Section 203(d)(2)(I).

7 (B) Special rule for tiered partnerships. If a
8 taxpayer making the election under paragraph (1) is a
9 partner of another taxpayer making the election under
10 paragraph (1), net income shall be computed as
11 provided in subparagraph (A), except that the taxpayer
12 shall subtract its distributive share of the net
13 income of the electing partnership (including its
14 distributive share of the net income of the electing
15 partnership derived as a distributive share from
16 electing partnerships in which it is a partner).

17 (4) Credit for entity level tax. Each partner or
18 shareholder of a taxpayer making the election under this
19 Section shall be allowed a credit against the tax imposed
20 under subsections (a) and (b) of Section 201 of this Act
21 for the taxable year of the partnership or Subchapter S
22 corporation for which an election is in effect ending
23 within or with the taxable year of the partner or
24 shareholder in an amount equal to 4.95% times the partner
25 or shareholder's distributive share of the net income of
26 the electing partnership or Subchapter S corporation, but

1 not to exceed the partner's or shareholder's share of the
2 tax imposed under paragraph (1) which is actually paid by
3 the partnership or Subchapter S corporation. If the
4 taxpayer is a partnership or Subchapter S corporation that
5 is itself a partner of a partnership making the election
6 under paragraph (1), the credit under this paragraph shall
7 be allowed to the taxpayer's partners or shareholders (or
8 if the partner is a partnership or Subchapter S
9 corporation then its partners or shareholders) in
10 accordance with the determination of income and
11 distributive share of income under Sections 702 and 704
12 and Subchapter S of the Internal Revenue Code. If the
13 amount of the credit allowed under this paragraph exceeds
14 the partner's or shareholder's liability for tax imposed
15 under subsections (a) and (b) of Section 201 of this Act
16 for the taxable year, such excess shall be treated as an
17 overpayment for purposes of Section 909 of this Act.

18 (5) Nonresidents. A nonresident individual who is a
19 partner or shareholder of a partnership or Subchapter S
20 corporation for a taxable year for which an election is in
21 effect under paragraph (1) shall not be required to file
22 an income tax return under this Act for such taxable year
23 if the only source of net income of the individual (or the
24 individual and the individual's spouse in the case of a
25 joint return) is from an entity making the election under
26 paragraph (1) and the credit allowed to the partner or

1 shareholder under paragraph (4) equals or exceeds the
2 individual's liability for the tax imposed under
3 subsections (a) and (b) of Section 201 of this Act for the
4 taxable year.

5 (6) Liability for tax. Except as provided in this
6 paragraph, a partnership or Subchapter S making the
7 election under paragraph (1) is liable for the
8 entity-level tax imposed under paragraph (2). If the
9 electing partnership or corporation fails to pay the full
10 amount of tax deemed assessed under paragraph (2), the
11 partners or shareholders shall be liable to pay the tax
12 assessed (including penalties and interest). Each partner
13 or shareholder shall be liable for the unpaid assessment
14 based on the ratio of the partner's or shareholder's share
15 of the net income of the partnership over the total net
16 income of the partnership. If the partnership or
17 Subchapter S corporation fails to pay the tax assessed
18 (including penalties and interest) and thereafter an
19 amount of such tax is paid by the partners or
20 shareholders, such amount shall not be collected from the
21 partnership or corporation.

22 (7) Foreign tax. For purposes of the credit allowed
23 under Section 601(b)(3) of this Act, tax paid by a
24 partnership or Subchapter S corporation to another state
25 which, as determined by the Department, is substantially
26 similar to the tax imposed under this subsection, shall be

1 considered tax paid by the partner or shareholder to the
2 extent that the partner's or shareholder's share of the
3 income of the partnership or Subchapter S corporation
4 allocated and apportioned to such other state bears to the
5 total income of the partnership or Subchapter S
6 corporation allocated or apportioned to such other state.

7 (8) Suspension of withholding. The provisions of
8 Section 709.5 of this Act shall not apply to a partnership
9 or Subchapter S corporation for the taxable year for which
10 an election under paragraph (1) is in effect.

11 (9) Requirement to pay estimated tax. For each taxable
12 year for which an election under paragraph (1) is in
13 effect, a partnership or Subchapter S corporation is
14 required to pay estimated tax for such taxable year under
15 Sections 803 and 804 of this Act if the amount payable as
16 estimated tax can reasonably be expected to exceed \$500.

17 (10) The provisions of this subsection shall apply
18 only with respect to taxable years for which the
19 limitation on individual deductions applies under Section
20 164(b)(6) of the Internal Revenue Code.

21 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;
22 101-207, eff. 8-2-19; 101-363, eff. 8-9-19; 102-558, eff.
23 8-20-21; 102-658, eff. 8-27-21.)

24 Section 10. The Use Tax Act is amended by changing
25 Sections 2 and 3-5 as follows:

1 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

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

3 "Broadband service" means a service provided by wireline
4 or wireless means capable of delivering high-speed internet
5 access at speeds of at least 25 megabits per second of download
6 speed and 3 megabits per second of upload speed.

7 "Use" means the exercise by any person of any right or
8 power over tangible personal property incident to the
9 ownership of that property, except that it does not include
10 the sale of such property in any form as tangible personal
11 property in the regular course of business to the extent that
12 such property is not first subjected to a use for which it was
13 purchased, and does not include the use of such property by its
14 owner for demonstration purposes: Provided that the property
15 purchased is deemed to be purchased for the purpose of resale,
16 despite first being used, to the extent to which it is resold
17 as an ingredient of an intentionally produced product or
18 by-product of manufacturing. "Use" does not mean the
19 demonstration use or interim use of tangible personal property
20 by a retailer before he sells that tangible personal property.
21 For watercraft or aircraft, if the period of demonstration use
22 or interim use by the retailer exceeds 18 months, the retailer
23 shall pay on the retailers' original cost price the tax
24 imposed by this Act, and no credit for that tax is permitted if
25 the watercraft or aircraft is subsequently sold by the

1 retailer. "Use" does not mean the physical incorporation of
2 tangible personal property, to the extent not first subjected
3 to a use for which it was purchased, as an ingredient or
4 constituent, into other tangible personal property (a) which
5 is sold in the regular course of business or (b) which the
6 person incorporating such ingredient or constituent therein
7 has undertaken at the time of such purchase to cause to be
8 transported in interstate commerce to destinations outside the
9 State of Illinois: Provided that the property purchased is
10 deemed to be purchased for the purpose of resale, despite
11 first being used, to the extent to which it is resold as an
12 ingredient of an intentionally produced product or by-product
13 of manufacturing.

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

18 "Purchase at retail" means the acquisition of the
19 ownership of or title to tangible personal property through a
20 sale at retail.

21 "Purchaser" means anyone who, through a sale at retail,
22 acquires the ownership of tangible personal property for a
23 valuable consideration.

24 "Sale at retail" means any transfer of the ownership of or
25 title to tangible personal property to a purchaser, for the
26 purpose of use, and not for the purpose of resale in any form

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

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

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

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

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

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

1 sold, the cost of materials used, labor or service cost or any
2 other expense whatsoever, but does not include interest or
3 finance charges which appear as separate items on the bill of
4 sale or sales contract nor charges that are added to prices by
5 sellers on account of the seller's tax liability under the
6 Retailers' Occupation Tax Act, or on account of the seller's
7 duty to collect, from the purchaser, the tax that is imposed by
8 this Act, or, except as otherwise provided with respect to any
9 cigarette tax imposed by a home rule unit, on account of the
10 seller's tax liability under any local occupation tax
11 administered by the Department, or, except as otherwise
12 provided with respect to any cigarette tax imposed by a home
13 rule unit on account of the seller's duty to collect, from the
14 purchasers, the tax that is imposed under any local use tax
15 administered by the Department. Effective December 1, 1985,
16 "selling price" shall include charges that are added to prices
17 by sellers on account of the seller's tax liability under the
18 Cigarette Tax Act, on account of the seller's duty to collect,
19 from the purchaser, the tax imposed under the Cigarette Use
20 Tax Act, and on account of the seller's duty to collect, from
21 the purchaser, any cigarette tax imposed by a home rule unit.

22 Notwithstanding any law to the contrary, for any motor
23 vehicle, as defined in Section 1-146 of the Vehicle Code, that
24 is sold on or after January 1, 2015 for the purpose of leasing
25 the vehicle for a defined period that is longer than one year
26 and (1) is a motor vehicle of the second division that: (A) is

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

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

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

23 The phrase "like kind and character" shall be liberally
24 construed (including but not limited to any form of motor
25 vehicle for any form of motor vehicle, or any kind of farm or
26 agricultural implement for any other kind of farm or

1 agricultural implement), while not including a kind of item
2 which, if sold at retail by that retailer, would be exempt from
3 retailers' occupation tax and use tax as an isolated or
4 occasional sale.

5 "Department" means the Department of Revenue.

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

11 "Retailer" means and includes every person engaged in the
12 business of making sales at retail as defined in this Section.

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

24 A person whose activities are organized and conducted
25 primarily as a not-for-profit service enterprise, and who
26 engages in selling tangible personal property at retail

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

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

25 Persons who engage in the business of transferring
26 tangible personal property upon the redemption of trading

1 stamps are retailers hereunder when engaged in such business.

2 The isolated or occasional sale of tangible personal
3 property at retail by a person who does not hold himself out as
4 being engaged (or who does not habitually engage) in selling
5 such tangible personal property at retail or a sale through a
6 bulk vending machine does not make such person a retailer
7 hereunder. However, any person who is engaged in a business
8 which is not subject to the tax imposed by the Retailers'
9 Occupation Tax Act because of involving the sale of or a
10 contract to sell real estate or a construction contract to
11 improve real estate, but who, in the course of conducting such
12 business, transfers tangible personal property to users or
13 consumers in the finished form in which it was purchased, and
14 which does not become real estate, under any provision of a
15 construction contract or real estate sale or real estate sales
16 agreement entered into with some other person arising out of
17 or because of such nontaxable business, is a retailer to the
18 extent of the value of the tangible personal property so
19 transferred. If, in such transaction, a separate charge is
20 made for the tangible personal property so transferred, the
21 value of such property, for the purposes of this Act, is the
22 amount so separately charged, but not less than the cost of
23 such property to the transferor; if no separate charge is
24 made, the value of such property, for the purposes of this Act,
25 is the cost to the transferor of such tangible personal
26 property.

1 "Retailer maintaining a place of business in this State",
2 or any like term, means and includes any of the following
3 retailers:

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

22 (1.1) A retailer having a contract with a person
23 located in this State under which the person, for a
24 commission or other consideration based upon the sale of
25 tangible personal property by the retailer, directly or
26 indirectly refers potential customers to the retailer by

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

23 (1.2) Beginning July 1, 2011, a retailer having a
24 contract with a person located in this State under which:

25 (A) the retailer sells the same or substantially
26 similar line of products as the person located in this

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

4 (B) the retailer provides a commission or other
5 consideration to the person located in this State
6 based upon the sale of tangible personal property by
7 the retailer.

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

14 (2) (Blank).

15 (3) (Blank).

16 (4) (Blank).

17 (5) (Blank).

18 (6) (Blank).

19 (7) (Blank).

20 (8) (Blank).

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

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

1 (B) the retailer enters into 200 or more separate
2 transactions for the sale of tangible personal
3 property to purchasers in Illinois.

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

1 on a quarterly basis, ending on the last day of March,
2 June, September, and December, whether he or she meets the
3 threshold of either subparagraph (A) or (B) for the
4 preceding 12-month period.

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

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

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

22 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 1-1-20;
23 101-604, eff. 1-1-20; 102-353, eff. 1-1-22.)

24 (35 ILCS 105/3-5)

25 Sec. 3-5. Exemptions. Use of the following tangible

1 personal property is exempt from the tax imposed by this Act:

2 (1) Personal property purchased from a corporation,
3 society, association, foundation, institution, or
4 organization, other than a limited liability company, that is
5 organized and operated as a not-for-profit service enterprise
6 for the benefit of persons 65 years of age or older if the
7 personal property was not purchased by the enterprise for the
8 purpose of resale by the enterprise.

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

12 (3) Personal property purchased by a not-for-profit arts
13 or cultural organization that establishes, by proof required
14 by the Department by rule, that it has received an exemption
15 under Section 501(c)(3) of the Internal Revenue Code and that
16 is organized and operated primarily for the presentation or
17 support of arts or cultural programming, activities, or
18 services. These organizations include, but are not limited to,
19 music and dramatic arts organizations such as symphony
20 orchestras and theatrical groups, arts and cultural service
21 organizations, local arts councils, visual arts organizations,
22 and media arts organizations. On and after July 1, 2001 (the
23 effective date of Public Act 92-35), however, an entity
24 otherwise eligible for this exemption shall not make tax-free
25 purchases unless it has an active identification number issued
26 by the Department.

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

15 (5) Until July 1, 2003, a passenger car that is a
16 replacement vehicle to the extent that the purchase price of
17 the car is subject to the Replacement Vehicle Tax.

18 (6) Until July 1, 2003 and beginning again on September 1,
19 2004 through August 30, 2014, graphic arts machinery and
20 equipment, including repair and replacement parts, both new
21 and used, and including that manufactured on special order,
22 certified by the purchaser to be used primarily for graphic
23 arts production, and including machinery and equipment
24 purchased for lease. Equipment includes chemicals or chemicals
25 acting as catalysts but only if the chemicals or chemicals
26 acting as catalysts effect a direct and immediate change upon

1 a graphic arts product. Beginning on July 1, 2017, graphic
2 arts machinery and equipment is included in the manufacturing
3 and assembling machinery and equipment exemption under
4 paragraph (18).

5 (7) Farm chemicals.

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

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

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

16 (11) Farm machinery and equipment, both new and used,
17 including that manufactured on special order, certified by the
18 purchaser to be used primarily for production agriculture or
19 State or federal agricultural programs, including individual
20 replacement parts for the machinery and equipment, including
21 machinery and equipment purchased for lease, and including
22 implements of husbandry defined in Section 1-130 of the
23 Illinois Vehicle Code, farm machinery and agricultural
24 chemical and fertilizer spreaders, and nurse wagons required
25 to be registered under Section 3-809 of the Illinois Vehicle
26 Code, but excluding other motor vehicles required to be

1 registered under the Illinois Vehicle Code. Horticultural
2 polyhouses or hoop houses used for propagating, growing, or
3 overwintering plants shall be considered farm machinery and
4 equipment under this item (11). Agricultural chemical tender
5 tanks and dry boxes shall include units sold separately from a
6 motor vehicle required to be licensed and units sold mounted
7 on a motor vehicle required to be licensed if the selling price
8 of the tender is separately stated.

9 Farm machinery and equipment shall include precision
10 farming equipment that is installed or purchased to be
11 installed on farm machinery and equipment including, but not
12 limited to, tractors, harvesters, sprayers, planters, seeders,
13 or spreaders. Precision farming equipment includes, but is not
14 limited to, soil testing sensors, computers, monitors,
15 software, global positioning and mapping systems, and other
16 such equipment.

17 Farm machinery and equipment also includes computers,
18 sensors, software, and related equipment used primarily in the
19 computer-assisted operation of production agriculture
20 facilities, equipment, and activities such as, but not limited
21 to, the collection, monitoring, and correlation of animal and
22 crop data for the purpose of formulating animal diets and
23 agricultural chemicals. This item (11) is exempt from the
24 provisions of Section 3-90.

25 (12) Until June 30, 2013, fuel and petroleum products sold
26 to or used by an air common carrier, certified by the carrier

1 to be used for consumption, shipment, or storage in the
2 conduct of its business as an air common carrier, for a flight
3 destined for or returning from a location or locations outside
4 the United States without regard to previous or subsequent
5 domestic stopovers.

6 Beginning July 1, 2013, fuel and petroleum products sold
7 to or used by an air carrier, certified by the carrier to be
8 used for consumption, shipment, or storage in the conduct of
9 its business as an air common carrier, for a flight that (i) is
10 engaged in foreign trade or is engaged in trade between the
11 United States and any of its possessions and (ii) transports
12 at least one individual or package for hire from the city of
13 origination to the city of final destination on the same
14 aircraft, without regard to a change in the flight number of
15 that aircraft.

16 (13) Proceeds of mandatory service charges separately
17 stated on customers' bills for the purchase and consumption of
18 food and beverages purchased at retail from a retailer, to the
19 extent that the proceeds of the service charge are in fact
20 turned over as tips or as a substitute for tips to the
21 employees who participate directly in preparing, serving,
22 hosting or cleaning up the food or beverage function with
23 respect to which the service charge is imposed.

24 (14) Until July 1, 2003, oil field exploration, drilling,
25 and production equipment, including (i) rigs and parts of
26 rigs, rotary rigs, cable tool rigs, and workover rigs, (ii)

1 pipe and tubular goods, including casing and drill strings,
2 (iii) pumps and pump-jack units, (iv) storage tanks and flow
3 lines, (v) any individual replacement part for oil field
4 exploration, drilling, and production equipment, and (vi)
5 machinery and equipment purchased for lease; but excluding
6 motor vehicles required to be registered under the Illinois
7 Vehicle Code.

8 (15) Photoprocessing machinery and equipment, including
9 repair and replacement parts, both new and used, including
10 that manufactured on special order, certified by the purchaser
11 to be used primarily for photoprocessing, and including
12 photoprocessing machinery and equipment purchased for lease.

13 (16) Until July 1, 2023, coal and aggregate exploration,
14 mining, off-highway hauling, processing, maintenance, and
15 reclamation equipment, including replacement parts and
16 equipment, and including equipment purchased for lease, but
17 excluding motor vehicles required to be registered under the
18 Illinois Vehicle Code. The changes made to this Section by
19 Public Act 97-767 apply on and after July 1, 2003, but no claim
20 for credit or refund is allowed on or after August 16, 2013
21 (the effective date of Public Act 98-456) for such taxes paid
22 during the period beginning July 1, 2003 and ending on August
23 16, 2013 (the effective date of Public Act 98-456).

24 (17) Until July 1, 2003, distillation machinery and
25 equipment, sold as a unit or kit, assembled or installed by the
26 retailer, certified by the user to be used only for the

1 production of ethyl alcohol that will be used for consumption
2 as motor fuel or as a component of motor fuel for the personal
3 use of the user, and not subject to sale or resale.

4 (18) Manufacturing and assembling machinery and equipment
5 used primarily in the process of manufacturing or assembling
6 tangible personal property for wholesale or retail sale or
7 lease, whether that sale or lease is made directly by the
8 manufacturer or by some other person, whether the materials
9 used in the process are owned by the manufacturer or some other
10 person, or whether that sale or lease is made apart from or as
11 an incident to the seller's engaging in the service occupation
12 of producing machines, tools, dies, jigs, patterns, gauges, or
13 other similar items of no commercial value on special order
14 for a particular purchaser. The exemption provided by this
15 paragraph (18) includes production related tangible personal
16 property, as defined in Section 3-50, purchased on or after
17 July 1, 2019. The exemption provided by this paragraph (18)
18 does not include machinery and equipment used in (i) the
19 generation of electricity for wholesale or retail sale; (ii)
20 the generation or treatment of natural or artificial gas for
21 wholesale or retail sale that is delivered to customers
22 through pipes, pipelines, or mains; or (iii) the treatment of
23 water for wholesale or retail sale that is delivered to
24 customers through pipes, pipelines, or mains. The provisions
25 of Public Act 98-583 are declaratory of existing law as to the
26 meaning and scope of this exemption. Beginning on July 1,

1 2017, the exemption provided by this paragraph (18) includes,
2 but is not limited to, graphic arts machinery and equipment,
3 as defined in paragraph (6) of this Section.

4 (19) Personal property delivered to a purchaser or
5 purchaser's donee inside Illinois when the purchase order for
6 that personal property was received by a florist located
7 outside Illinois who has a florist located inside Illinois
8 deliver the personal property.

9 (20) Semen used for artificial insemination of livestock
10 for direct agricultural production.

11 (21) Horses, or interests in horses, registered with and
12 meeting the requirements of any of the Arabian Horse Club
13 Registry of America, Appaloosa Horse Club, American Quarter
14 Horse Association, United States Trotting Association, or
15 Jockey Club, as appropriate, used for purposes of breeding or
16 racing for prizes. This item (21) is exempt from the
17 provisions of Section 3-90, and the exemption provided for
18 under this item (21) applies for all periods beginning May 30,
19 1995, but no claim for credit or refund is allowed on or after
20 January 1, 2008 for such taxes paid during the period
21 beginning May 30, 2000 and ending on January 1, 2008.

22 (22) Computers and communications equipment utilized for
23 any hospital purpose and equipment used in the diagnosis,
24 analysis, or treatment of hospital patients purchased by a
25 lessor who leases the equipment, under a lease of one year or
26 longer executed or in effect at the time the lessor would

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

19 (23) Personal property purchased by a lessor who leases
20 the property, under a lease of one year or longer executed or
21 in effect at the time the lessor would otherwise be subject to
22 the tax imposed by this Act, to a governmental body that has
23 been issued an active sales tax exemption identification
24 number by the Department under Section 1g of the Retailers'
25 Occupation Tax Act. If the property is leased in a manner that
26 does not qualify for this exemption or used in any other

1 non-exempt manner, the lessor shall be liable for the tax
2 imposed under this Act or the Service Use Tax Act, as the case
3 may be, based on the fair market value of the property at the
4 time the non-qualifying use occurs. No lessor shall collect or
5 attempt to collect an amount (however designated) that
6 purports to reimburse that lessor for the tax imposed by this
7 Act or the Service Use Tax Act, as the case may be, if the tax
8 has not been paid by the lessor. If a lessor improperly
9 collects any such amount from the lessee, the lessee shall
10 have a legal right to claim a refund of that amount from the
11 lessor. If, however, that amount is not refunded to the lessee
12 for any reason, the lessor is liable to pay that amount to the
13 Department.

14 (24) Beginning with taxable years ending on or after
15 December 31, 1995 and ending with taxable years ending on or
16 before December 31, 2004, personal property that is donated
17 for disaster relief to be used in a State or federally declared
18 disaster area in Illinois or bordering Illinois by a
19 manufacturer or retailer that is registered in this State to a
20 corporation, society, association, foundation, or institution
21 that has been issued a sales tax exemption identification
22 number by the Department that assists victims of the disaster
23 who reside within the declared disaster area.

24 (25) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is used in

1 the performance of infrastructure repairs in this State,
2 including but not limited to municipal roads and streets,
3 access roads, bridges, sidewalks, waste disposal systems,
4 water and sewer line extensions, water distribution and
5 purification facilities, storm water drainage and retention
6 facilities, and sewage treatment facilities, resulting from a
7 State or federally declared disaster in Illinois or bordering
8 Illinois when such repairs are initiated on facilities located
9 in the declared disaster area within 6 months after the
10 disaster.

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

15 (27) A motor vehicle, as that term is defined in Section
16 1-146 of the Illinois Vehicle Code, that is donated to a
17 corporation, limited liability company, society, association,
18 foundation, or institution that is determined by the
19 Department to be organized and operated exclusively for
20 educational purposes. For purposes of this exemption, "a
21 corporation, limited liability company, society, association,
22 foundation, or institution organized and operated exclusively
23 for educational purposes" means all tax-supported public
24 schools, private schools that offer systematic instruction in
25 useful branches of learning by methods common to public
26 schools and that compare favorably in their scope and

1 intensity with the course of study presented in tax-supported
2 schools, and vocational or technical schools or institutes
3 organized and operated exclusively to provide a course of
4 study of not less than 6 weeks duration and designed to prepare
5 individuals to follow a trade or to pursue a manual,
6 technical, mechanical, industrial, business, or commercial
7 occupation.

8 (28) Beginning January 1, 2000, personal property,
9 including food, purchased through fundraising events for the
10 benefit of a public or private elementary or secondary school,
11 a group of those schools, or one or more school districts if
12 the events are sponsored by an entity recognized by the school
13 district that consists primarily of volunteers and includes
14 parents and teachers of the school children. This paragraph
15 does not apply to fundraising events (i) for the benefit of
16 private home instruction or (ii) for which the fundraising
17 entity purchases the personal property sold at the events from
18 another individual or entity that sold the property for the
19 purpose of resale by the fundraising entity and that profits
20 from the sale to the fundraising entity. This paragraph is
21 exempt from the provisions of Section 3-90.

22 (29) Beginning January 1, 2000 and through December 31,
23 2001, new or used automatic vending machines that prepare and
24 serve hot food and beverages, including coffee, soup, and
25 other items, and replacement parts for these machines.
26 Beginning January 1, 2002 and through June 30, 2003, machines

1 and parts for machines used in commercial, coin-operated
2 amusement and vending business if a use or occupation tax is
3 paid on the gross receipts derived from the use of the
4 commercial, coin-operated amusement and vending machines. This
5 paragraph is exempt from the provisions of Section 3-90.

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

19 (31) Beginning on August 2, 2001 (the effective date of
20 Public Act 92-227), computers and communications equipment
21 utilized for any hospital purpose and equipment used in the
22 diagnosis, analysis, or treatment of hospital patients
23 purchased by a lessor who leases the equipment, under a lease
24 of one year or longer executed or in effect at the time the
25 lessor would otherwise be subject to the tax imposed by this
26 Act, to a hospital that has been issued an active tax exemption

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

18 (32) Beginning on August 2, 2001 (the effective date of
19 Public Act 92-227), personal property purchased by a lessor
20 who leases the property, under a lease of one year or longer
21 executed or in effect at the time the lessor would otherwise be
22 subject to the tax imposed by this Act, to a governmental body
23 that has been issued an active sales tax exemption
24 identification number by the Department under Section 1g of
25 the Retailers' Occupation Tax Act. If the property is leased
26 in a manner that does not qualify for this exemption or used in

1 any other nonexempt manner, the lessor shall be liable for the
2 tax imposed under this Act or the Service Use Tax Act, as the
3 case may be, based on the fair market value of the property at
4 the time the nonqualifying use occurs. No lessor shall collect
5 or attempt to collect an amount (however designated) that
6 purports to reimburse that lessor for the tax imposed by this
7 Act or the Service Use Tax Act, as the case may be, if the tax
8 has not been paid by the lessor. If a lessor improperly
9 collects any such amount from the lessee, the lessee shall
10 have a legal right to claim a refund of that amount from the
11 lessor. If, however, that amount is not refunded to the lessee
12 for any reason, the lessor is liable to pay that amount to the
13 Department. This paragraph is exempt from the provisions of
14 Section 3-90.

15 (33) On and after July 1, 2003 and through June 30, 2004,
16 the use in this State of motor vehicles of the second division
17 with a gross vehicle weight in excess of 8,000 pounds and that
18 are subject to the commercial distribution fee imposed under
19 Section 3-815.1 of the Illinois Vehicle Code. Beginning on
20 July 1, 2004 and through June 30, 2005, the use in this State
21 of motor vehicles of the second division: (i) with a gross
22 vehicle weight rating in excess of 8,000 pounds; (ii) that are
23 subject to the commercial distribution fee imposed under
24 Section 3-815.1 of the Illinois Vehicle Code; and (iii) that
25 are primarily used for commercial purposes. Through June 30,
26 2005, this exemption applies to repair and replacement parts

1 added after the initial purchase of such a motor vehicle if
2 that motor vehicle is used in a manner that would qualify for
3 the rolling stock exemption otherwise provided for in this
4 Act. For purposes of this paragraph, the term "used for
5 commercial purposes" means the transportation of persons or
6 property in furtherance of any commercial or industrial
7 enterprise, whether for-hire or not.

8 (34) Beginning January 1, 2008, tangible personal property
9 used in the construction or maintenance of a community water
10 supply, as defined under Section 3.145 of the Environmental
11 Protection Act, that is operated by a not-for-profit
12 corporation that holds a valid water supply permit issued
13 under Title IV of the Environmental Protection Act. This
14 paragraph is exempt from the provisions of Section 3-90.

15 (35) Beginning January 1, 2010 and continuing through
16 December 31, 2024, materials, parts, equipment, components,
17 and furnishings incorporated into or upon an aircraft as part
18 of the modification, refurbishment, completion, replacement,
19 repair, or maintenance of the aircraft. This exemption
20 includes consumable supplies used in the modification,
21 refurbishment, completion, replacement, repair, and
22 maintenance of aircraft, but excludes any materials, parts,
23 equipment, components, and consumable supplies used in the
24 modification, replacement, repair, and maintenance of aircraft
25 engines or power plants, whether such engines or power plants
26 are installed or uninstalled upon any such aircraft.

1 "Consumable supplies" include, but are not limited to,
2 adhesive, tape, sandpaper, general purpose lubricants,
3 cleaning solution, latex gloves, and protective films. This
4 exemption applies only to the use of qualifying tangible
5 personal property by persons who modify, refurbish, complete,
6 repair, replace, or maintain aircraft and who (i) hold an Air
7 Agency Certificate and are empowered to operate an approved
8 repair station by the Federal Aviation Administration, (ii)
9 have a Class IV Rating, and (iii) conduct operations in
10 accordance with Part 145 of the Federal Aviation Regulations.
11 The exemption does not include aircraft operated by a
12 commercial air carrier providing scheduled passenger air
13 service pursuant to authority issued under Part 121 or Part
14 129 of the Federal Aviation Regulations. The changes made to
15 this paragraph (35) by Public Act 98-534 are declarative of
16 existing law. It is the intent of the General Assembly that the
17 exemption under this paragraph (35) applies continuously from
18 January 1, 2010 through December 31, 2024; however, no claim
19 for credit or refund is allowed for taxes paid as a result of
20 the disallowance of this exemption on or after January 1, 2015
21 and prior to the effective date of this amendatory Act of the
22 101st General Assembly.

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
6 instruments issued by the public-facilities corporation in
7 connection with the development of the municipal convention
8 hall. This exemption includes existing public-facilities
9 corporations as provided in Section 11-65-25 of the Illinois
10 Municipal Code. This paragraph is exempt from the provisions
11 of Section 3-90.

12 (37) Beginning January 1, 2017 and through December 31,
13 2026, menstrual pads, tampons, and menstrual cups.

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

21 (39) Tangible personal property purchased by a purchaser
22 who is exempt from the tax imposed by this Act by operation of
23 federal law. This paragraph is exempt from the provisions of
24 Section 3-90.

25 (40) Qualified tangible personal property used in the
26 construction or operation of a data center that has been

1 granted a certificate of exemption by the Department of
2 Commerce and Economic Opportunity, whether that tangible
3 personal property is purchased by the owner, operator, or
4 tenant of the data center or by a contractor or subcontractor
5 of the owner, operator, or tenant. Data centers that would
6 have qualified for a certificate of exemption prior to January
7 1, 2020 had Public Act 101-31 been in effect may apply for and
8 obtain an exemption for subsequent purchases of computer
9 equipment or enabling software purchased or leased to upgrade,
10 supplement, or replace computer equipment or enabling software
11 purchased or leased in the original investment that would have
12 qualified.

13 The Department of Commerce and Economic Opportunity shall
14 grant a certificate of exemption under this item (40) to
15 qualified data centers as defined by Section 605-1025 of the
16 Department of Commerce and Economic Opportunity Law of the
17 Civil Administrative Code of Illinois.

18 For the purposes of this item (40):

19 "Data center" means a building or a series of
20 buildings rehabilitated or constructed to house working
21 servers in one physical location or multiple sites within
22 the State of Illinois.

23 "Qualified tangible personal property" means:
24 electrical systems and equipment; climate control and
25 chilling equipment and systems; mechanical systems and
26 equipment; monitoring and secure systems; emergency

1 generators; hardware; computers; servers; data storage
2 devices; network connectivity equipment; racks; cabinets;
3 telecommunications cabling infrastructure; raised floor
4 systems; peripheral components or systems; software;
5 mechanical, electrical, or plumbing systems; battery
6 systems; cooling systems and towers; temperature control
7 systems; other cabling; and other data center
8 infrastructure equipment and systems necessary to operate
9 qualified tangible personal property, including fixtures;
10 and component parts of any of the foregoing, including
11 installation, maintenance, repair, refurbishment, and
12 replacement of qualified tangible personal property to
13 generate, transform, transmit, distribute, or manage
14 electricity necessary to operate qualified tangible
15 personal property; and all other tangible personal
16 property that is essential to the operations of a computer
17 data center. The term "qualified tangible personal
18 property" also includes building materials physically
19 incorporated in to the qualifying data center. To document
20 the exemption allowed under this Section, the retailer
21 must obtain from the purchaser a copy of the certificate
22 of eligibility issued by the Department of Commerce and
23 Economic Opportunity.

24 This item (40) is exempt from the provisions of Section
25 3-90.

26 (41) Beginning on the earlier of: (i) January 1, 2025; or

1 (ii) January 1 of the calendar year immediately following the
2 calendar year in which the State reports to the United States
3 Department of the Treasury that all federal funds received
4 under the American Rescue Plan Act of 2021 have been fully
5 expended, and continuing through December 31 of the fifth
6 calendar year to occur after the earlier of: (i) January 1,
7 2025; or (ii) January 1 of the calendar year immediately
8 following the calendar year in which the State reports to the
9 United States Department of the Treasury that all federal
10 funds received under the American Rescue Plan Act of 2021 have
11 been fully expended, equipment and material deployed after
12 January 1, 2023 in a county in the State with a population of
13 fewer than 40,000 people or a township in the State with a
14 population density of less than 50 households per square mile
15 in a county with a population of less than 300,000 people
16 during that year that is incorporated into or used in the
17 business of providing broadband services, including all
18 equipment and material, machinery, software, or other tangible
19 personal property that is used in whole or in part in
20 producing, broadcasting, distributing, sending, receiving,
21 storing, transmitting, retransmitting, amplifying, switching,
22 or routing broadband services, including the monitoring,
23 testing, maintaining, enabling, or facilitating of such
24 equipment, machinery, software, or other infrastructure. Such
25 property includes, but is not limited to, wires, cables
26 including fiber optic cables, antennas, poles, switches,

1 routers, amplifiers, rectifiers, repeaters, receivers,
2 multiplexers, duplexers, transmitters, power equipment, backup
3 power equipment, diagnostic equipment, storage devices,
4 modems, and other general central office equipment, such as
5 channel cards, frames, and cabinets. The exemption under this
6 item (41) may be taken for property placed in service on or
7 after January 1, 2023; however, the credit may not be taken
8 until a taxable year beginning on or after the earlier of: (i)
9 January 1, 2025; or (ii) January 1 of the calendar year
10 immediately following the calendar year in which the State
11 reports to the United States Department of the Treasury that
12 all federal funds received under the American Rescue Plan Act
13 of 2021 have been fully expended.

14 (Source: P.A. 101-9, eff. 6-5-19; 101-31, eff. 6-28-19;
15 101-81, eff. 7-12-19; 101-629, eff. 2-5-20; 102-16, eff.
16 6-17-21.)

17 Section 15. The Service Use Tax Act is amended by changing
18 Sections 2 and 3-5 as follows:

19 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

20 Sec. 2. Definitions. In this Act:

21 "Broadband service" means a service provided by wireline
22 or wireless means capable of delivering high-speed internet
23 access at speeds of at least 25 megabits per second of download
24 speed and 3 megabits per second of upload speed.

1 "Use" means the exercise by any person of any right or
2 power over tangible personal property incident to the
3 ownership of that property, but does not include the sale or
4 use for demonstration by him of that property in any form as
5 tangible personal property in the regular course of business.

6 "Use" does not mean the interim use of tangible personal
7 property nor the physical incorporation of tangible personal
8 property, as an ingredient or constituent, into other tangible
9 personal property, (a) which is sold in the regular course of
10 business or (b) which the person incorporating such ingredient
11 or constituent therein has undertaken at the time of such
12 purchase to cause to be transported in interstate commerce to
13 destinations outside the State of Illinois.

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

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

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

1 service, it shall be presumed that the cost price to the
2 serviceman of the property transferred to him or her by his or
3 her subcontractor is equal to 50% of the subcontractor's
4 charges to the serviceman in the absence of proof of the
5 consideration paid by the subcontractor for the purchase of
6 such property.

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

17 "Department" means the Department of Revenue.

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

23 "Sale of service" means any transaction except:

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

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

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

18 (4) (blank).

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

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

3 (4a-5) on and after July 1, 2003 and through June 30,
4 2004, a sale or transfer of a motor vehicle of the second
5 division with a gross vehicle weight in excess of 8,000
6 pounds as an incident to the rendering of service if that
7 motor vehicle is subject to the commercial distribution
8 fee imposed under Section 3-815.1 of the Illinois Vehicle
9 Code. Beginning on July 1, 2004 and through June 30, 2005,
10 the use in this State of motor vehicles of the second
11 division: (i) with a gross vehicle weight rating in excess
12 of 8,000 pounds; (ii) that are subject to the commercial
13 distribution fee imposed under Section 3-815.1 of the
14 Illinois Vehicle Code; and (iii) that are primarily used
15 for commercial purposes. Through June 30, 2005, this
16 exemption applies to repair and replacement parts added
17 after the initial purchase of such a motor vehicle if that
18 motor vehicle is used in a manner that would qualify for
19 the rolling stock exemption otherwise provided for in this
20 Act. For purposes of this paragraph, "used for commercial
21 purposes" means the transportation of persons or property
22 in furtherance of any commercial or industrial enterprise
23 whether for-hire or not.

24 (5) a sale or transfer of machinery and equipment used
25 primarily in the process of the manufacturing or
26 assembling, either in an existing, an expanded or a new

1 manufacturing facility, of tangible personal property for
2 wholesale or retail sale or lease, whether such sale or
3 lease is made directly by the manufacturer or by some
4 other person, whether the materials used in the process
5 are owned by the manufacturer or some other person, or
6 whether such sale or lease is made apart from or as an
7 incident to the seller's engaging in a service occupation
8 and the applicable tax is a Service Use Tax or Service
9 Occupation Tax, rather than Use Tax or Retailers'
10 Occupation Tax. The exemption provided by this paragraph
11 (5) includes production related tangible personal
12 property, as defined in Section 3-50 of the Use Tax Act,
13 purchased on or after July 1, 2019. The exemption provided
14 by this paragraph (5) does not include machinery and
15 equipment used in (i) the generation of electricity for
16 wholesale or retail sale; (ii) the generation or treatment
17 of natural or artificial gas for wholesale or retail sale
18 that is delivered to customers through pipes, pipelines,
19 or mains; or (iii) the treatment of water for wholesale or
20 retail sale that is delivered to customers through pipes,
21 pipelines, or mains. The provisions of Public Act 98-583
22 are declaratory of existing law as to the meaning and
23 scope of this exemption. The exemption under this
24 paragraph (5) is exempt from the provisions of Section
25 3-75.

26 (5a) the repairing, reconditioning or remodeling, for

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

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

24 (6) until July 1, 2003, a sale or transfer of
25 distillation machinery and equipment, sold as a unit or
26 kit and assembled or installed by the retailer, which

1 machinery and equipment is certified by the user to be
2 used only for the production of ethyl alcohol that will be
3 used for consumption as motor fuel or as a component of
4 motor fuel for the personal use of such user and not
5 subject to sale or resale.

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

1 Tangible personal property transferred incident to the
2 completion of a maintenance agreement is exempt from the tax
3 imposed pursuant to this Act.

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

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

1 machinery or auxiliary, adjunct or attachment parts of
2 machinery, such as tools, dies, jigs, fixtures, patterns and
3 molds; or any parts which require periodic replacement in the
4 course of normal operation; but shall not include hand tools.
5 Equipment includes chemicals or chemicals acting as catalysts
6 but only if the chemicals or chemicals acting as catalysts
7 effect a direct and immediate change upon a product being
8 manufactured or assembled for wholesale or retail sale or
9 lease. The purchaser of such machinery and equipment who has
10 an active resale registration number shall furnish such number
11 to the seller at the time of purchase. The purchaser of such
12 machinery and equipment and tools without an active resale
13 registration number shall prepare a certificate of exemption
14 stating facts establishing the exemption, which certificate
15 shall be available to the Department for inspection or audit.
16 The Department shall prescribe the form of the certificate.

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

1 applicability, the Department shall formulate and adopt such
2 policy as a rule in accordance with the provisions of the
3 Illinois Administrative Procedure Act.

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

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

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

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

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

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

22 (1) having or maintaining within this State, directly
23 or by a subsidiary, an office, distribution house, sales
24 house, warehouse or other place of business, or any agent
25 or other representative operating within this State under
26 the authority of the serviceman or its subsidiary,

1 irrespective of whether such place of business or agent or
2 other representative is located here permanently or
3 temporarily, or whether such serviceman or subsidiary is
4 licensed to do business in this State;

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

1 rebut this presumption by submitting proof that the
2 referrals or other activities pursued within this State by
3 such persons were not sufficient to meet the nexus
4 standards of the United States Constitution during the
5 preceding 4 quarterly periods;

6 (1.2) beginning July 1, 2011, having a contract with a
7 person located in this State under which:

8 (A) the serviceman sells the same or substantially
9 similar line of services as the person located in this
10 State and does so using an identical or substantially
11 similar name, trade name, or trademark as the person
12 located in this State; and

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

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

22 (2) soliciting orders for tangible personal property
23 by means of a telecommunication or television shopping
24 system (which utilizes toll free numbers) which is
25 intended by the retailer to be broadcast by cable
26 television or other means of broadcasting, to consumers

1 located in this State;

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

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

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

17 (6) having a franchisee or licensee operating under
18 its trade name if the franchisee or licensee is required
19 to collect the tax under this Section;

20 (7) pursuant to a contract with a cable television
21 operator located in this State, soliciting orders for
22 tangible personal property by means of advertising which
23 is transmitted or distributed over a cable television
24 system in this State;

25 (8) engaging in activities in Illinois, which
26 activities in the state in which the supply business

1 engaging in such activities is located would constitute
2 maintaining a place of business in that state; or

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

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

8 (B) the serviceman enters into 200 or more
9 separate transactions for sales of service to
10 purchasers in Illinois.

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

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

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

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

22 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
23 100-587, eff. 6-4-18; 100-863, eff. 8-14-18; 101-9, Article
24 10, Section 10-15, eff. 6-5-19; 101-9, Article 25, Section
25 25-10, eff. 6-5-19; 101-604, eff. 12-13-19.)

1 (35 ILCS 110/3-5)

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

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

11 (2) Personal property purchased by a non-profit Illinois
12 county fair association for use in conducting, operating, or
13 promoting the county fair.

14 (3) Personal property purchased by a not-for-profit arts
15 or cultural organization that establishes, by proof required
16 by the Department by rule, that it has received an exemption
17 under Section 501(c)(3) of the Internal Revenue Code and that
18 is organized and operated primarily for the presentation or
19 support of arts or cultural programming, activities, or
20 services. These organizations include, but are not limited to,
21 music and dramatic arts organizations such as symphony
22 orchestras and theatrical groups, arts and cultural service
23 organizations, local arts councils, visual arts organizations,
24 and media arts organizations. On and after July 1, 2001 (the
25 effective date of Public Act 92-35), however, an entity
26 otherwise eligible for this exemption shall not make tax-free

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

3 (4) Legal tender, currency, medallions, or gold or silver
4 coinage issued by the State of Illinois, the government of the
5 United States of America, or the government of any foreign
6 country, and bullion.

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

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

22 (7) Farm machinery and equipment, both new and used,
23 including that manufactured on special order, certified by the
24 purchaser to be used primarily for production agriculture or
25 State or federal agricultural programs, including individual
26 replacement parts for the machinery and equipment, including

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

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

23 Farm machinery and equipment also includes computers,
24 sensors, software, and related equipment used primarily in the
25 computer-assisted operation of production agriculture
26 facilities, equipment, and activities such as, but not limited

1 to, the collection, monitoring, and correlation of animal and
2 crop data for the purpose of formulating animal diets and
3 agricultural chemicals. This item (7) is exempt from the
4 provisions of Section 3-75.

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

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

22 (9) Proceeds of mandatory service charges separately
23 stated on customers' bills for the purchase and consumption of
24 food and beverages acquired as an incident to the purchase of a
25 service from a serviceman, to the extent that the proceeds of
26 the service charge are in fact turned over as tips or as a

1 substitute for tips to the employees who participate directly
2 in preparing, serving, hosting or cleaning up the food or
3 beverage function with respect to which the service charge is
4 imposed.

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

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

21 (12) Until July 1, 2023, coal and aggregate exploration,
22 mining, off-highway hauling, processing, maintenance, and
23 reclamation equipment, including replacement parts and
24 equipment, and including equipment purchased for lease, but
25 excluding motor vehicles required to be registered under the
26 Illinois Vehicle Code. The changes made to this Section by

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

6 (13) Semen used for artificial insemination of livestock
7 for direct agricultural production.

8 (14) Horses, or interests in horses, registered with and
9 meeting the requirements of any of the Arabian Horse Club
10 Registry of America, Appaloosa Horse Club, American Quarter
11 Horse Association, United States Trotting Association, or
12 Jockey Club, as appropriate, used for purposes of breeding or
13 racing for prizes. This item (14) is exempt from the
14 provisions of Section 3-75, and the exemption provided for
15 under this item (14) applies for all periods beginning May 30,
16 1995, but no claim for credit or refund is allowed on or after
17 January 1, 2008 (the effective date of Public Act 95-88) for
18 such taxes paid during the period beginning May 30, 2000 and
19 ending on January 1, 2008 (the effective date of Public Act
20 95-88).

21 (15) Computers and communications equipment utilized for
22 any hospital purpose and equipment used in the diagnosis,
23 analysis, or treatment of hospital patients purchased by a
24 lessor who leases the equipment, under a lease of one year or
25 longer executed or in effect at the time the lessor would
26 otherwise be subject to the tax imposed by this Act, to a

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

18 (16) Personal property purchased by a lessor who leases
19 the property, under a lease of one year or longer executed or
20 in effect at the time the lessor would otherwise be subject to
21 the tax imposed by this Act, to a governmental body that has
22 been issued an active tax exemption identification number by
23 the Department under Section 1g of the Retailers' Occupation
24 Tax Act. If the property is leased in a manner that does not
25 qualify for this exemption or is used in any other non-exempt
26 manner, the lessor shall be liable for the tax imposed under

1 this Act or the Use Tax Act, as the case may be, based on the
2 fair market value of the property at the time the
3 non-qualifying use occurs. No lessor shall collect or attempt
4 to collect an amount (however designated) that purports to
5 reimburse that lessor for the tax imposed by this Act or the
6 Use Tax Act, as the case may be, if the tax has not been paid
7 by the lessor. If a lessor improperly collects any such amount
8 from the lessee, the lessee shall have a legal right to claim a
9 refund of that amount from the lessor. If, however, that
10 amount is not refunded to the lessee for any reason, the lessor
11 is liable to pay that amount to the Department.

12 (17) Beginning with taxable years ending on or after
13 December 31, 1995 and ending with taxable years ending on or
14 before December 31, 2004, personal property that is donated
15 for disaster relief to be used in a State or federally declared
16 disaster area in Illinois or bordering Illinois by a
17 manufacturer or retailer that is registered in this State to a
18 corporation, society, association, foundation, or institution
19 that has been issued a sales tax exemption identification
20 number by the Department that assists victims of the disaster
21 who reside within the declared disaster area.

22 (18) 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 used in
25 the performance of infrastructure repairs in this State,
26 including but not limited to municipal roads and streets,

1 access roads, bridges, sidewalks, waste disposal systems,
2 water and sewer line extensions, water distribution and
3 purification facilities, storm water drainage and retention
4 facilities, and sewage treatment facilities, resulting from a
5 State or federally declared disaster in Illinois or bordering
6 Illinois when such repairs are initiated on facilities located
7 in the declared disaster area within 6 months after the
8 disaster.

9 (19) Beginning July 1, 1999, game or game birds purchased
10 at a "game breeding and hunting preserve area" as that term is
11 used in the Wildlife Code. This paragraph is exempt from the
12 provisions of Section 3-75.

13 (20) A motor vehicle, as that term is defined in Section
14 1-146 of the Illinois Vehicle Code, that is donated to a
15 corporation, limited liability company, society, association,
16 foundation, or institution that is determined by the
17 Department to be organized and operated exclusively for
18 educational purposes. For purposes of this exemption, "a
19 corporation, limited liability company, society, association,
20 foundation, or institution organized and operated exclusively
21 for educational purposes" means all tax-supported public
22 schools, private schools that offer systematic instruction in
23 useful branches of learning by methods common to public
24 schools and that compare favorably in their scope and
25 intensity with the course of study presented in tax-supported
26 schools, and vocational or technical schools or institutes

1 organized and operated exclusively to provide a course of
2 study of not less than 6 weeks duration and designed to prepare
3 individuals to follow a trade or to pursue a manual,
4 technical, mechanical, industrial, business, or commercial
5 occupation.

6 (21) Beginning January 1, 2000, personal property,
7 including food, purchased through fundraising events for the
8 benefit of a public or private elementary or secondary school,
9 a group of those schools, or one or more school districts if
10 the events are sponsored by an entity recognized by the school
11 district that consists primarily of volunteers and includes
12 parents and teachers of the school children. This paragraph
13 does not apply to fundraising events (i) for the benefit of
14 private home instruction or (ii) for which the fundraising
15 entity purchases the personal property sold at the events from
16 another individual or entity that sold the property for the
17 purpose of resale by the fundraising entity and that profits
18 from the sale to the fundraising entity. This paragraph is
19 exempt from the provisions of Section 3-75.

20 (22) Beginning January 1, 2000 and through December 31,
21 2001, new or used automatic vending machines that prepare and
22 serve hot food and beverages, including coffee, soup, and
23 other items, and replacement parts for these machines.
24 Beginning January 1, 2002 and through June 30, 2003, machines
25 and parts for machines used in commercial, coin-operated
26 amusement and vending business if a use or occupation tax is

1 paid on the gross receipts derived from the use of the
2 commercial, coin-operated amusement and vending machines. This
3 paragraph is exempt from the provisions of Section 3-75.

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

17 (24) Beginning on August 2, 2001 (the effective date of
18 Public Act 92-227), computers and communications equipment
19 utilized for any hospital purpose and equipment used in the
20 diagnosis, analysis, or treatment of hospital patients
21 purchased by a lessor who leases the equipment, under a lease
22 of one year or longer executed or in effect at the time the
23 lessor would otherwise be subject to the tax imposed by this
24 Act, to a hospital that has been issued an active tax exemption
25 identification number by the Department under Section 1g of
26 the Retailers' Occupation Tax Act. If the equipment is leased

1 in a manner that does not qualify for this exemption or is used
2 in any other nonexempt manner, the lessor shall be liable for
3 the tax imposed under this Act or the Use Tax Act, as the case
4 may be, based on the fair market value of the property at the
5 time the nonqualifying use occurs. No lessor shall collect or
6 attempt to collect an amount (however designated) that
7 purports to reimburse that lessor for the tax imposed by this
8 Act or the Use Tax Act, as the case may be, if the tax has not
9 been paid by the lessor. If a lessor improperly collects any
10 such amount from the lessee, the lessee shall have a legal
11 right to claim a refund of that amount from the lessor. If,
12 however, that amount is not refunded to the lessee for any
13 reason, the lessor is liable to pay that amount to the
14 Department. This paragraph is exempt from the provisions of
15 Section 3-75.

16 (25) Beginning on August 2, 2001 (the effective date of
17 Public Act 92-227), personal property purchased by a lessor
18 who leases the property, under a lease of one year or longer
19 executed or in effect at the time the lessor would otherwise be
20 subject to the tax imposed by this Act, to a governmental body
21 that has been issued an active tax exemption identification
22 number by the Department under Section 1g of the Retailers'
23 Occupation Tax Act. If the property is leased in a manner that
24 does not qualify for this exemption or is used in any other
25 nonexempt manner, the lessor shall be liable for the tax
26 imposed under this Act or the Use Tax Act, as the case may be,

1 based on the fair market value of the property at the time the
2 nonqualifying use occurs. No lessor shall collect or attempt
3 to collect an amount (however designated) that purports to
4 reimburse that lessor for the tax imposed by this Act or the
5 Use Tax Act, as the case may be, if the tax has not been paid
6 by the lessor. If a lessor improperly collects any such amount
7 from the lessee, the lessee shall have a legal right to claim a
8 refund of that amount from the lessor. If, however, that
9 amount is not refunded to the lessee for any reason, the lessor
10 is liable to pay that amount to the Department. This paragraph
11 is exempt from the provisions of Section 3-75.

12 (26) Beginning January 1, 2008, tangible personal property
13 used in the construction or maintenance of a community water
14 supply, as defined under Section 3.145 of the Environmental
15 Protection Act, that is operated by a not-for-profit
16 corporation that holds a valid water supply permit issued
17 under Title IV of the Environmental Protection Act. This
18 paragraph is exempt from the provisions of Section 3-75.

19 (27) Beginning January 1, 2010 and continuing through
20 December 31, 2024, materials, parts, equipment, components,
21 and furnishings incorporated into or upon an aircraft as part
22 of the modification, refurbishment, completion, replacement,
23 repair, or maintenance of the aircraft. This exemption
24 includes consumable supplies used in the modification,
25 refurbishment, completion, replacement, repair, and
26 maintenance of aircraft, but excludes any materials, parts,

1 equipment, components, and consumable supplies used in the
2 modification, replacement, repair, and maintenance of aircraft
3 engines or power plants, whether such engines or power plants
4 are installed or uninstalled upon any such aircraft.
5 "Consumable supplies" include, but are not limited to,
6 adhesive, tape, sandpaper, general purpose lubricants,
7 cleaning solution, latex gloves, and protective films. This
8 exemption applies only to the use of qualifying tangible
9 personal property transferred incident to the modification,
10 refurbishment, completion, replacement, repair, or maintenance
11 of aircraft by persons who (i) hold an Air Agency Certificate
12 and are empowered to operate an approved repair station by the
13 Federal Aviation Administration, (ii) have a Class IV Rating,
14 and (iii) conduct operations in accordance with Part 145 of
15 the Federal Aviation Regulations. The exemption does not
16 include aircraft operated by a commercial air carrier
17 providing scheduled passenger air service pursuant to
18 authority issued under Part 121 or Part 129 of the Federal
19 Aviation Regulations. The changes made to this paragraph (27)
20 by Public Act 98-534 are declarative of existing law. It is the
21 intent of the General Assembly that the exemption under this
22 paragraph (27) applies continuously from January 1, 2010
23 through December 31, 2024; however, no claim for credit or
24 refund is allowed for taxes paid as a result of the
25 disallowance of this exemption on or after January 1, 2015 and
26 prior to the effective date of this amendatory Act of the 101st

1 General Assembly.

2 (28) Tangible personal property purchased by a
3 public-facilities corporation, as described in Section
4 11-65-10 of the Illinois Municipal Code, for purposes of
5 constructing or furnishing a municipal convention hall, but
6 only if the legal title to the municipal convention hall is
7 transferred to the municipality without any further
8 consideration by or on behalf of the municipality at the time
9 of the completion of the municipal convention hall or upon the
10 retirement or redemption of any bonds or other debt
11 instruments issued by the public-facilities corporation in
12 connection with the development of the municipal convention
13 hall. This exemption includes existing public-facilities
14 corporations as provided in Section 11-65-25 of the Illinois
15 Municipal Code. This paragraph is exempt from the provisions
16 of Section 3-75.

17 (29) Beginning January 1, 2017 and through December 31,
18 2026, menstrual pads, tampons, and menstrual cups.

19 (30) Tangible personal property transferred to a purchaser
20 who is exempt from the tax imposed by this Act by operation of
21 federal law. This paragraph is exempt from the provisions of
22 Section 3-75.

23 (31) Qualified tangible personal property used in the
24 construction or operation of a data center that has been
25 granted a certificate of exemption by the Department of
26 Commerce and Economic Opportunity, whether that tangible

1 personal property is purchased by the owner, operator, or
2 tenant of the data center or by a contractor or subcontractor
3 of the owner, operator, or tenant. Data centers that would
4 have qualified for a certificate of exemption prior to January
5 1, 2020 had this amendatory Act of the 101st General Assembly
6 been in effect, may apply for and obtain an exemption for
7 subsequent purchases of computer equipment or enabling
8 software purchased or leased to upgrade, supplement, or
9 replace computer equipment or enabling software purchased or
10 leased in the original investment that would have qualified.

11 The Department of Commerce and Economic Opportunity shall
12 grant a certificate of exemption under this item (31) to
13 qualified data centers as defined by Section 605-1025 of the
14 Department of Commerce and Economic Opportunity Law of the
15 Civil Administrative Code of Illinois.

16 For the purposes of this item (31):

17 "Data center" means a building or a series of
18 buildings rehabilitated or constructed to house working
19 servers in one physical location or multiple sites within
20 the State of Illinois.

21 "Qualified tangible personal property" means:
22 electrical systems and equipment; climate control and
23 chilling equipment and systems; mechanical systems and
24 equipment; monitoring and secure systems; emergency
25 generators; hardware; computers; servers; data storage
26 devices; network connectivity equipment; racks; cabinets;

1 telecommunications cabling infrastructure; raised floor
2 systems; peripheral components or systems; software;
3 mechanical, electrical, or plumbing systems; battery
4 systems; cooling systems and towers; temperature control
5 systems; other cabling; and other data center
6 infrastructure equipment and systems necessary to operate
7 qualified tangible personal property, including fixtures;
8 and component parts of any of the foregoing, including
9 installation, maintenance, repair, refurbishment, and
10 replacement of qualified tangible personal property to
11 generate, transform, transmit, distribute, or manage
12 electricity necessary to operate qualified tangible
13 personal property; and all other tangible personal
14 property that is essential to the operations of a computer
15 data center. The term "qualified tangible personal
16 property" also includes building materials physically
17 incorporated in to the qualifying data center. To document
18 the exemption allowed under this Section, the retailer
19 must obtain from the purchaser a copy of the certificate
20 of eligibility issued by the Department of Commerce and
21 Economic Opportunity.

22 This item (31) is exempt from the provisions of Section
23 3-75.

24 (32) Beginning on the earlier of: (i) January 1, 2025; or
25 (ii) January 1 of the calendar year immediately following the
26 calendar year in which the State reports to the United States

1 Department of the Treasury that all federal funds received
2 under the American Rescue Plan Act of 2021 have been fully
3 expended, and continuing through December 31 of the fifth
4 calendar year to occur after the earlier of: (i) January 1,
5 2025; or (ii) January 1 of the calendar year immediately
6 following the calendar year in which the State reports to the
7 United States Department of the Treasury that all federal
8 funds received under the American Rescue Plan Act of 2021 have
9 been fully expended, equipment and material deployed after
10 January 1, 2023 in a county in the State with a population of
11 fewer than 40,000 people or a township in the State with a
12 population density of less than 50 households per square mile
13 in a county with a population of less than 300,000 people
14 during that year that is incorporated into or used in the
15 business of providing broadband services, including all
16 equipment and material, machinery, software, or other tangible
17 personal property that is used in whole or in part in
18 producing, broadcasting, distributing, sending, receiving,
19 storing, transmitting, retransmitting, amplifying, switching,
20 or routing broadband services, including the monitoring,
21 testing, maintaining, enabling, or facilitating of such
22 equipment, machinery, software, or other infrastructure. Such
23 property includes, but is not limited to, wires, cables
24 including fiber optic cables, antennas, poles, switches,
25 routers, amplifiers, rectifiers, repeaters, receivers,
26 multiplexers, duplexers, transmitters, power equipment, backup

1 power equipment, diagnostic equipment, storage devices,
2 modems, and other general central office equipment, such as
3 channel cards, frames, and cabinets. The exemption under this
4 item (32) may be taken for property placed in service on or
5 after January 1, 2023; however, the credit may not be taken
6 until a taxable year beginning on or after the earlier of: (i)
7 January 1, 2025; or (ii) January 1 of the calendar year
8 immediately following the calendar year in which the State
9 reports to the United States Department of the Treasury that
10 all federal funds received under the American Rescue Plan Act
11 of 2021 have been fully expended.

12 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
13 101-629, eff. 2-5-20; 102-16, eff. 6-17-21.)

14 Section 20. The Service Occupation Tax Act is amended by
15 changing Sections 2 and 3-5 as follows:

16 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

17 Sec. 2. In this Act:

18 "Broadband service" means a service provided by wireline
19 or wireless means capable of delivering high-speed internet
20 access at speeds of at least 25 megabits per second of download
21 speed and 3 megabits per second of upload speed.

22 "Transfer" means any transfer of the title to property or
23 of the ownership of property whether or not the transferor
24 retains title as security for the payment of amounts due him

1 from the transferee.

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

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

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

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

14 (d) (Blank).

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

24 (d-1.1) On and after July 1, 2003 and through June 30,
25 2004, a sale or transfer of a motor vehicle of the second
26 division with a gross vehicle weight in excess of 8,000 pounds

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

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

1 property as the shipper or consignor of such property to a
2 destination outside Illinois, for use outside Illinois.

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

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

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

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

22 (f) Until July 1, 2003, the sale or transfer of
23 distillation machinery and equipment, sold as a unit or kit
24 and assembled or installed by the retailer, which machinery
25 and equipment is certified by the user to be used only for the
26 production of ethyl alcohol that will be used for consumption

1 as motor fuel or as a component of motor fuel for the personal
2 use of such user and not subject to sale or resale.

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

1 in the general maintenance or repair of such exempt machinery
2 and equipment or for in-house manufacture of exempt machinery
3 and equipment. On and after July 1, 2017, exemption (e) 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
13 of Public Act 98-583 are declaratory of existing law as to the
14 meaning and scope of this exemption. For the purposes of
15 exemption (e), each of these terms shall have the following
16 meanings: (1) "manufacturing process" shall mean the
17 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 procedures commonly
21 regarded as manufacturing, processing, fabricating, or
22 refining which changes some existing material or materials
23 into a material with a different form, use or name. In relation
24 to a recognized integrated business composed of a series of
25 operations which collectively constitute manufacturing, or
26 individually constitute manufacturing operations, the

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

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

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

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

1 information prior to publication. Whenever such informal
2 rulings, opinions, or letters contain any policy of general
3 applicability, the Department shall formulate and adopt such
4 policy as a rule in accordance with the provisions of the
5 Illinois Administrative Procedure Act.

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

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
16 an incident to a sale of service.

17 (Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17;
18 100-863, eff. 8-14-18; 101-9, eff. 6-5-19; 101-604, eff.
19 12-13-19.)

20 (35 ILCS 115/3-5)

21 Sec. 3-5. Exemptions. The following tangible personal
22 property is exempt from the tax imposed by this Act:

23 (1) Personal property sold by a corporation, society,
24 association, foundation, institution, or organization, other
25 than a limited liability company, that is organized and

1 operated as a not-for-profit service enterprise for the
2 benefit of persons 65 years of age or older if the personal
3 property was not purchased by the enterprise for the purpose
4 of resale by the enterprise.

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

8 (3) Personal property purchased by any not-for-profit arts
9 or cultural organization that establishes, by proof required
10 by the Department by rule, that it has received an exemption
11 under Section 501(c)(3) of the Internal Revenue Code and that
12 is organized and operated primarily for the presentation or
13 support of arts or cultural programming, activities, or
14 services. These organizations include, but are not limited to,
15 music and dramatic arts organizations such as symphony
16 orchestras and theatrical groups, arts and cultural service
17 organizations, local arts councils, visual arts organizations,
18 and media arts organizations. On and after July 1, 2001 (the
19 effective date of Public Act 92-35), however, an entity
20 otherwise eligible for this exemption shall not make tax-free
21 purchases unless it has an active identification number issued
22 by the Department.

23 (4) Legal tender, currency, medallions, or gold or silver
24 coinage issued by the State of Illinois, the government of the
25 United States of America, or the government of any foreign
26 country, and bullion.

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

13 (6) Personal property sold by a teacher-sponsored student
14 organization affiliated with an elementary or secondary school
15 located in Illinois.

16 (7) Farm machinery and equipment, both new and used,
17 including that manufactured on special order, certified by the
18 purchaser to be used primarily for production agriculture or
19 State or federal agricultural programs, including individual
20 replacement parts for the machinery and equipment, including
21 machinery and equipment purchased for lease, and including
22 implements of husbandry defined in Section 1-130 of the
23 Illinois Vehicle Code, farm machinery and agricultural
24 chemical and fertilizer spreaders, and nurse wagons required
25 to be registered under Section 3-809 of the Illinois Vehicle
26 Code, but excluding other motor vehicles required to be

1 registered under the Illinois Vehicle Code. Horticultural
2 polyhouses or hoop houses used for propagating, growing, or
3 overwintering plants shall be considered farm machinery and
4 equipment under this item (7). Agricultural chemical tender
5 tanks and dry boxes shall include units sold separately from a
6 motor vehicle required to be licensed and units sold mounted
7 on a motor vehicle required to be licensed if the selling price
8 of the tender is separately stated.

9 Farm machinery and equipment shall include precision
10 farming equipment that is installed or purchased to be
11 installed on farm machinery and equipment including, but not
12 limited to, tractors, harvesters, sprayers, planters, seeders,
13 or spreaders. Precision farming equipment includes, but is not
14 limited to, soil testing sensors, computers, monitors,
15 software, global positioning and mapping systems, and other
16 such equipment.

17 Farm machinery and equipment also includes computers,
18 sensors, software, and related equipment used primarily in the
19 computer-assisted operation of production agriculture
20 facilities, equipment, and activities such as, but not limited
21 to, the collection, monitoring, and correlation of animal and
22 crop data for the purpose of formulating animal diets and
23 agricultural chemicals. This item (7) is exempt from the
24 provisions of Section 3-55.

25 (8) Until June 30, 2013, fuel and petroleum products sold
26 to or used by an air common carrier, certified by the carrier

1 to be used for consumption, shipment, or storage in the
2 conduct of its business as an air common carrier, for a flight
3 destined for or returning from a location or locations outside
4 the United States without regard to previous or subsequent
5 domestic stopovers.

6 Beginning July 1, 2013, fuel and petroleum products sold
7 to or used by an air carrier, certified by the carrier to be
8 used for consumption, shipment, or storage in the conduct of
9 its business as an air common carrier, for a flight that (i) is
10 engaged in foreign trade or is engaged in trade between the
11 United States and any of its possessions and (ii) transports
12 at least one individual or package for hire from the city of
13 origination to the city of final destination on the same
14 aircraft, without regard to a change in the flight number of
15 that aircraft.

16 (9) Proceeds of mandatory service charges separately
17 stated on customers' bills for the purchase and consumption of
18 food and beverages, to the extent that the proceeds of the
19 service charge are in fact turned over as tips or as a
20 substitute for tips to the employees who participate directly
21 in preparing, serving, hosting or cleaning up the food or
22 beverage function with respect to which the service charge is
23 imposed.

24 (10) Until July 1, 2003, oil field exploration, drilling,
25 and production equipment, including (i) rigs and parts of
26 rigs, rotary rigs, cable tool rigs, and workover rigs, (ii)

1 pipe and tubular goods, including casing and drill strings,
2 (iii) pumps and pump-jack units, (iv) storage tanks and flow
3 lines, (v) any individual replacement part for oil field
4 exploration, drilling, and production equipment, and (vi)
5 machinery and equipment purchased for lease; but excluding
6 motor vehicles required to be registered under the Illinois
7 Vehicle Code.

8 (11) Photoprocessing machinery and equipment, including
9 repair and replacement parts, both new and used, including
10 that manufactured on special order, certified by the purchaser
11 to be used primarily for photoprocessing, and including
12 photoprocessing machinery and equipment purchased for lease.

13 (12) Until July 1, 2023, coal and aggregate exploration,
14 mining, off-highway hauling, processing, maintenance, and
15 reclamation equipment, including replacement parts and
16 equipment, and including equipment purchased for lease, but
17 excluding motor vehicles required to be registered under the
18 Illinois Vehicle Code. The changes made to this Section by
19 Public Act 97-767 apply on and after July 1, 2003, but no claim
20 for credit or refund is allowed on or after August 16, 2013
21 (the effective date of Public Act 98-456) for such taxes paid
22 during the period beginning July 1, 2003 and ending on August
23 16, 2013 (the effective date of Public Act 98-456).

24 (13) Beginning January 1, 1992 and through June 30, 2016,
25 food for human consumption that is to be consumed off the
26 premises where it is sold (other than alcoholic beverages,

1 soft drinks and food that has been prepared for immediate
2 consumption) and prescription and non-prescription medicines,
3 drugs, medical appliances, and insulin, urine testing
4 materials, syringes, and needles used by diabetics, for human
5 use, when purchased for use by a person receiving medical
6 assistance under Article V of the Illinois Public Aid Code who
7 resides in a licensed long-term care facility, as defined in
8 the Nursing Home Care Act, or in a licensed facility as defined
9 in the ID/DD Community Care Act, the MC/DD Act, or the
10 Specialized Mental Health Rehabilitation Act of 2013.

11 (14) Semen used for artificial insemination of livestock
12 for direct agricultural production.

13 (15) Horses, or interests in horses, registered with and
14 meeting the requirements of any of the Arabian Horse Club
15 Registry of America, Appaloosa Horse Club, American Quarter
16 Horse Association, United States Trotting Association, or
17 Jockey Club, as appropriate, used for purposes of breeding or
18 racing for prizes. This item (15) is exempt from the
19 provisions of Section 3-55, and the exemption provided for
20 under this item (15) applies for all periods beginning May 30,
21 1995, but no claim for credit or refund is allowed on or after
22 January 1, 2008 (the effective date of Public Act 95-88) for
23 such taxes paid during the period beginning May 30, 2000 and
24 ending on January 1, 2008 (the effective date of Public Act
25 95-88).

26 (16) Computers and communications equipment utilized for

1 any hospital purpose and equipment used in the diagnosis,
2 analysis, or treatment of hospital patients sold to a lessor
3 who leases the equipment, under a lease of one year or longer
4 executed or in effect at the time of the purchase, to a
5 hospital that has been issued an active tax exemption
6 identification number by the Department under Section 1g of
7 the Retailers' Occupation Tax Act.

8 (17) Personal property sold to a lessor who leases the
9 property, under a lease of one year or longer executed or in
10 effect at the time of the purchase, to a governmental body that
11 has been issued an active tax exemption identification number
12 by the Department under Section 1g of the Retailers'
13 Occupation Tax Act.

14 (18) Beginning with taxable years ending on or after
15 December 31, 1995 and ending with taxable years ending on or
16 before December 31, 2004, personal property that is donated
17 for disaster relief to be used in a State or federally declared
18 disaster area in Illinois or bordering Illinois by a
19 manufacturer or retailer that is registered in this State to a
20 corporation, society, association, foundation, or institution
21 that has been issued a sales tax exemption identification
22 number by the Department that assists victims of the disaster
23 who reside within the declared disaster area.

24 (19) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is used in

1 the performance of infrastructure repairs in this State,
2 including but not limited to municipal roads and streets,
3 access roads, bridges, sidewalks, waste disposal systems,
4 water and sewer line extensions, water distribution and
5 purification facilities, storm water drainage and retention
6 facilities, and sewage treatment facilities, resulting from a
7 State or federally declared disaster in Illinois or bordering
8 Illinois when such repairs are initiated on facilities located
9 in the declared disaster area within 6 months after the
10 disaster.

11 (20) Beginning July 1, 1999, game or game birds sold at a
12 "game breeding and hunting preserve area" as that term is used
13 in the Wildlife Code. This paragraph is exempt from the
14 provisions of Section 3-55.

15 (21) A motor vehicle, as that term is defined in Section
16 1-146 of the Illinois Vehicle Code, that is donated to a
17 corporation, limited liability company, society, association,
18 foundation, or institution that is determined by the
19 Department to be organized and operated exclusively for
20 educational purposes. For purposes of this exemption, "a
21 corporation, limited liability company, society, association,
22 foundation, or institution organized and operated exclusively
23 for educational purposes" means all tax-supported public
24 schools, private schools that offer systematic instruction in
25 useful branches of learning by methods common to public
26 schools and that compare favorably in their scope and

1 intensity with the course of study presented in tax-supported
2 schools, and vocational or technical schools or institutes
3 organized and operated exclusively to provide a course of
4 study of not less than 6 weeks duration and designed to prepare
5 individuals to follow a trade or to pursue a manual,
6 technical, mechanical, industrial, business, or commercial
7 occupation.

8 (22) Beginning January 1, 2000, personal property,
9 including food, purchased through fundraising events for the
10 benefit of a public or private elementary or secondary school,
11 a group of those schools, or one or more school districts if
12 the events are sponsored by an entity recognized by the school
13 district that consists primarily of volunteers and includes
14 parents and teachers of the school children. This paragraph
15 does not apply to fundraising events (i) for the benefit of
16 private home instruction or (ii) for which the fundraising
17 entity purchases the personal property sold at the events from
18 another individual or entity that sold the property for the
19 purpose of resale by the fundraising entity and that profits
20 from the sale to the fundraising entity. This paragraph is
21 exempt from the provisions of Section 3-55.

22 (23) Beginning January 1, 2000 and through December 31,
23 2001, new or used automatic vending machines that prepare and
24 serve hot food and beverages, including coffee, soup, and
25 other items, and replacement parts for these machines.
26 Beginning January 1, 2002 and through June 30, 2003, machines

1 and parts for machines used in commercial, coin-operated
2 amusement and vending business if a use or occupation tax is
3 paid on the gross receipts derived from the use of the
4 commercial, coin-operated amusement and vending machines. This
5 paragraph is exempt from the provisions of Section 3-55.

6 (24) Beginning on August 2, 2001 (the effective date of
7 Public Act 92-227), computers and communications equipment
8 utilized for any hospital purpose and equipment used in the
9 diagnosis, analysis, or treatment of hospital patients sold to
10 a lessor who leases the equipment, under a lease of one year or
11 longer executed or in effect at the time of the purchase, to a
12 hospital that has been issued an active tax exemption
13 identification number by the Department under Section 1g of
14 the Retailers' Occupation Tax Act. This paragraph is exempt
15 from the provisions of Section 3-55.

16 (25) Beginning on August 2, 2001 (the effective date of
17 Public Act 92-227), personal property sold to a lessor who
18 leases the property, under a lease of one year or longer
19 executed or in effect at the time of the purchase, to a
20 governmental body that has been issued an active tax exemption
21 identification number by the Department under Section 1g of
22 the Retailers' Occupation Tax Act. This paragraph is exempt
23 from the provisions of Section 3-55.

24 (26) Beginning on January 1, 2002 and through June 30,
25 2016, tangible personal property purchased from an Illinois
26 retailer by a taxpayer engaged in centralized purchasing

1 activities in Illinois who will, upon receipt of the property
2 in Illinois, temporarily store the property in Illinois (i)
3 for the purpose of subsequently transporting it outside this
4 State for use or consumption thereafter solely outside this
5 State or (ii) for the purpose of being processed, fabricated,
6 or manufactured into, attached to, or incorporated into other
7 tangible personal property to be transported outside this
8 State and thereafter used or consumed solely outside this
9 State. The Director of Revenue shall, pursuant to rules
10 adopted in accordance with the Illinois Administrative
11 Procedure Act, issue a permit to any taxpayer in good standing
12 with the Department who is eligible for the exemption under
13 this paragraph (26). The permit issued under this paragraph
14 (26) shall authorize the holder, to the extent and in the
15 manner specified in the rules adopted under this Act, to
16 purchase tangible personal property from a retailer exempt
17 from the taxes imposed by this Act. Taxpayers shall maintain
18 all necessary books and records to substantiate the use and
19 consumption of all such tangible personal property outside of
20 the State of Illinois.

21 (27) Beginning January 1, 2008, tangible personal property
22 used in the construction or maintenance of a community water
23 supply, as defined under Section 3.145 of the Environmental
24 Protection Act, that is operated by a not-for-profit
25 corporation that holds a valid water supply permit issued
26 under Title IV of the Environmental Protection Act. This

1 paragraph is exempt from the provisions of Section 3-55.

2 (28) Tangible personal property sold to a
3 public-facilities corporation, as described in Section
4 11-65-10 of the Illinois Municipal Code, for purposes of
5 constructing or furnishing a municipal convention hall, but
6 only if the legal title to the municipal convention hall is
7 transferred to the municipality without any further
8 consideration by or on behalf of the municipality at the time
9 of the completion of the municipal convention hall or upon the
10 retirement or redemption of any bonds or other debt
11 instruments issued by the public-facilities corporation in
12 connection with the development of the municipal convention
13 hall. This exemption includes existing public-facilities
14 corporations as provided in Section 11-65-25 of the Illinois
15 Municipal Code. This paragraph is exempt from the provisions
16 of Section 3-55.

17 (29) Beginning January 1, 2010 and continuing through
18 December 31, 2024, materials, parts, equipment, components,
19 and furnishings incorporated into or upon an aircraft as part
20 of the modification, refurbishment, completion, replacement,
21 repair, or maintenance of the aircraft. This exemption
22 includes consumable supplies used in the modification,
23 refurbishment, completion, replacement, repair, and
24 maintenance of aircraft, but excludes any materials, parts,
25 equipment, components, and consumable supplies used in the
26 modification, replacement, repair, and maintenance of aircraft

1 engines or power plants, whether such engines or power plants
2 are installed or uninstalled upon any such aircraft.
3 "Consumable supplies" include, but are not limited to,
4 adhesive, tape, sandpaper, general purpose lubricants,
5 cleaning solution, latex gloves, and protective films. This
6 exemption applies only to the transfer of qualifying tangible
7 personal property incident to the modification, refurbishment,
8 completion, replacement, repair, or maintenance of an aircraft
9 by persons who (i) hold an Air Agency Certificate and are
10 empowered to operate an approved repair station by the Federal
11 Aviation Administration, (ii) have a Class IV Rating, and
12 (iii) conduct operations in accordance with Part 145 of the
13 Federal Aviation Regulations. The exemption does not include
14 aircraft operated by a commercial air carrier providing
15 scheduled passenger air service pursuant to authority issued
16 under Part 121 or Part 129 of the Federal Aviation
17 Regulations. The changes made to this paragraph (29) by Public
18 Act 98-534 are declarative of existing law. It is the intent of
19 the General Assembly that the exemption under this paragraph
20 (29) applies continuously from January 1, 2010 through
21 December 31, 2024; however, no claim for credit or refund is
22 allowed for taxes paid as a result of the disallowance of this
23 exemption on or after January 1, 2015 and prior to the
24 effective date of this amendatory Act of the 101st General
25 Assembly.

26 (30) Beginning January 1, 2017 and through December 31,

1 2026, menstrual pads, tampons, and menstrual cups.

2 (31) Tangible personal property transferred to a purchaser
3 who is exempt from tax by operation of federal law. This
4 paragraph is exempt from the provisions of Section 3-55.

5 (32) Qualified tangible personal property used in the
6 construction or operation of a data center that has been
7 granted a certificate of exemption by the Department of
8 Commerce and Economic Opportunity, whether that tangible
9 personal property is purchased by the owner, operator, or
10 tenant of the data center or by a contractor or subcontractor
11 of the owner, operator, or tenant. Data centers that would
12 have qualified for a certificate of exemption prior to January
13 1, 2020 had this amendatory Act of the 101st General Assembly
14 been in effect, may apply for and obtain an exemption for
15 subsequent purchases of computer equipment or enabling
16 software purchased or leased to upgrade, supplement, or
17 replace computer equipment or enabling software purchased or
18 leased in the original investment that would have qualified.

19 The Department of Commerce and Economic Opportunity shall
20 grant a certificate of exemption under this item (32) to
21 qualified data centers as defined by Section 605-1025 of the
22 Department of Commerce and Economic Opportunity Law of the
23 Civil Administrative Code of Illinois.

24 For the purposes of this item (32):

25 "Data center" means a building or a series of
26 buildings rehabilitated or constructed to house working

1 servers in one physical location or multiple sites within
2 the State of Illinois.

3 "Qualified tangible personal property" means:
4 electrical systems and equipment; climate control and
5 chilling equipment and systems; mechanical systems and
6 equipment; monitoring and secure systems; emergency
7 generators; hardware; computers; servers; data storage
8 devices; network connectivity equipment; racks; cabinets;
9 telecommunications cabling infrastructure; raised floor
10 systems; peripheral components or systems; software;
11 mechanical, electrical, or plumbing systems; battery
12 systems; cooling systems and towers; temperature control
13 systems; other cabling; and other data center
14 infrastructure equipment and systems necessary to operate
15 qualified tangible personal property, including fixtures;
16 and component parts of any of the foregoing, including
17 installation, maintenance, repair, refurbishment, and
18 replacement of qualified tangible personal property to
19 generate, transform, transmit, distribute, or manage
20 electricity necessary to operate qualified tangible
21 personal property; and all other tangible personal
22 property that is essential to the operations of a computer
23 data center. The term "qualified tangible personal
24 property" also includes building materials physically
25 incorporated in to the qualifying data center. To document
26 the exemption allowed under this Section, the retailer

1 must obtain from the purchaser a copy of the certificate
2 of eligibility issued by the Department of Commerce and
3 Economic Opportunity.

4 This item (32) is exempt from the provisions of Section
5 3-55.

6 (33) Beginning on the earlier of: (i) January 1, 2025; or
7 (ii) January 1 of the calendar year immediately following the
8 calendar year in which the State reports to the United States
9 Department of the Treasury that all federal funds received
10 under the American Rescue Plan Act of 2021 have been fully
11 expended, and continuing through December 31 of the fifth
12 calendar year to occur after the earlier of: (i) January 1,
13 2025; or (ii) January 1 of the calendar year immediately
14 following the calendar year in which the State reports to the
15 United States Department of the Treasury that all federal
16 funds received under the American Rescue Plan Act of 2021 have
17 been fully expended, equipment and material deployed after
18 January 1, 2023 in a county in the State with a population of
19 fewer than 40,000 people or a township in the State with a
20 population density of less than 50 households per square mile
21 in a county with a population of less than 300,000 people
22 during that year that is incorporated into or used in the
23 business of providing broadband services, including all
24 equipment and material, machinery, software, or other tangible
25 personal property that is used in whole or in part in
26 producing, broadcasting, distributing, sending, receiving,

1 storing, transmitting, retransmitting, amplifying, switching,
2 or routing broadband services, including the monitoring,
3 testing, maintaining, enabling, or facilitating of such
4 equipment, machinery, software, or other infrastructure. Such
5 property includes, but is not limited to, wires, cables
6 including fiber optic cables, antennas, poles, switches,
7 routers, amplifiers, rectifiers, repeaters, receivers,
8 multiplexers, duplexers, transmitters, power equipment, backup
9 power equipment, diagnostic equipment, storage devices,
10 modems, and other general central office equipment, such as
11 channel cards, frames, and cabinets. The exemption under this
12 item (33) may be taken for property placed in service on or
13 after January 1, 2023; however, the credit may not be taken
14 until a taxable year beginning on or after the earlier of: (i)
15 January 1, 2025; or (ii) January 1 of the calendar year
16 immediately following the calendar year in which the State
17 reports to the United States Department of the Treasury that
18 all federal funds received under the American Rescue Plan Act
19 of 2021 have been fully expended.

20 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
21 101-629, eff. 2-5-20; 102-16, eff. 6-17-21.)

22 Section 25. The Retailers' Occupation Tax Act is amended
23 by changing Sections 1 and 2-5 as follows:

24 (35 ILCS 120/1) (from Ch. 120, par. 440)

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

2 "Broadband service" means a service provided by wireline
3 or wireless means capable of delivering high-speed internet
4 access at speeds of at least 25 megabits per second of download
5 speed and 3 megabits per second of upload speed.

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

22 "Sale at retail" shall be construed to include any
23 transfer of the ownership of or title to tangible personal
24 property to a purchaser, for use or consumption by any other
25 person to whom such purchaser may transfer the tangible
26 personal property without a valuable consideration, and to

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

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

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

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

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

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

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

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

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

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

18 "Reseller of motor fuel" means any person engaged in the
19 business of selling or delivering or transferring title of
20 motor fuel to another person other than for use or
21 consumption. No person shall act as a reseller of motor fuel
22 within this State without first being registered as a reseller
23 pursuant to Section 2c or a retailer pursuant to Section 2a.

24 "Selling price" or the "amount of sale" means the
25 consideration for a sale valued in money whether received in
26 money or otherwise, including cash, credits, property, other

1 than as hereinafter provided, and services, but, prior to
2 January 1, 2020 and beginning again on January 1, 2022, not
3 including the value of or credit given for traded-in tangible
4 personal property where the item that is traded-in is of like
5 kind and character as that which is being sold; beginning
6 January 1, 2020 and until January 1, 2022, "selling price"
7 includes the portion of the value of or credit given for
8 traded-in motor vehicles of the First Division as defined in
9 Section 1-146 of the Illinois Vehicle Code of like kind and
10 character as that which is being sold that exceeds \$10,000.
11 "Selling price" shall be determined without any deduction on
12 account of the cost of the property sold, the cost of materials
13 used, labor or service cost or any other expense whatsoever,
14 but does not include charges that are added to prices by
15 sellers on account of the seller's tax liability under this
16 Act, or on account of the seller's duty to collect, from the
17 purchaser, the tax that is imposed by the Use Tax Act, or,
18 except as otherwise provided with respect to any cigarette tax
19 imposed by a home rule unit, on account of the seller's tax
20 liability under any local occupation tax administered by the
21 Department, or, except as otherwise provided with respect to
22 any cigarette tax imposed by a home rule unit on account of the
23 seller's duty to collect, from the purchasers, the tax that is
24 imposed under any local use tax administered by the
25 Department. Effective December 1, 1985, "selling price" shall
26 include charges that are added to prices by sellers on account

1 of the seller's tax liability under the Cigarette Tax Act, on
2 account of the sellers' duty to collect, from the purchaser,
3 the tax imposed under the Cigarette Use Tax Act, and on account
4 of the seller's duty to collect, from the purchaser, any
5 cigarette tax imposed by a home rule unit.

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

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

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

1 Department. This paragraph does not apply to leases of motor
2 vehicles for which, at the time the lease is entered into, the
3 term of the lease is not a defined period, including leases
4 with a defined initial period with the option to continue the
5 lease on a month-to-month or other basis beyond the initial
6 defined period.

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

15 "Gross receipts" from the sales of tangible personal
16 property at retail means the total selling price or the amount
17 of such sales, as hereinbefore defined. In the case of charge
18 and time sales, the amount thereof shall be included only as
19 and when payments are received by the seller. Receipts or
20 other consideration derived by a seller from the sale,
21 transfer or assignment of accounts receivable to a wholly
22 owned subsidiary will not be deemed payments prior to the time
23 the purchaser makes payment on such accounts.

24 "Department" means the Department of Revenue.

25 "Person" means any natural individual, firm, partnership,
26 association, joint stock company, joint adventure, public or

1 private corporation, limited liability company, or a receiver,
2 executor, trustee, guardian or other representative appointed
3 by order of any court.

4 The isolated or occasional sale of tangible personal
5 property at retail by a person who does not hold himself out as
6 being engaged (or who does not habitually engage) in selling
7 such tangible personal property at retail, or a sale through a
8 bulk vending machine, does not constitute engaging in a
9 business of selling such tangible personal property at retail
10 within the meaning of this Act; provided that any person who is
11 engaged in a business which is not subject to the tax imposed
12 by this Act because of involving the sale of or a contract to
13 sell real estate or a construction contract to improve real
14 estate or a construction contract to engineer, install, and
15 maintain an integrated system of products, but who, in the
16 course of conducting such business, transfers tangible
17 personal property to users or consumers in the finished form
18 in which it was purchased, and which does not become real
19 estate or was not engineered and installed, under any
20 provision of a construction contract or real estate sale or
21 real estate sales agreement entered into with some other
22 person arising out of or because of such nontaxable business,
23 is engaged in the business of selling tangible personal
24 property at retail to the extent of the value of the tangible
25 personal property so transferred. If, in such a transaction, a
26 separate charge is made for the tangible personal property so

1 transferred, the value of such property, for the purpose of
2 this Act, shall be the amount so separately charged, but not
3 less than the cost of such property to the transferor; if no
4 separate charge is made, the value of such property, for the
5 purposes of this Act, is the cost to the transferor of such
6 tangible personal property. Construction contracts for the
7 improvement of real estate consisting of engineering,
8 installation, and maintenance of voice, data, video, security,
9 and all telecommunication systems do not constitute engaging
10 in a business of selling tangible personal property at retail
11 within the meaning of this Act if they are sold at one
12 specified contract price.

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

25 Persons who engage in the business of transferring
26 tangible personal property upon the redemption of trading

1 stamps are engaged in the business of selling such property at
2 retail and shall be liable for and shall pay the tax imposed by
3 this Act on the basis of the retail value of the property
4 transferred upon redemption of such stamps.

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

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

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

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

1 marketplace seller by:

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

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

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

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

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

24 (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 1-1-20;
25 102-353, eff. 1-1-22; 102-634, eff. 8-27-21; revised 11-1-21.)

1 (35 ILCS 120/2-5)

2 Sec. 2-5. Exemptions. Gross receipts from proceeds from
3 the sale of the following tangible personal property are
4 exempt from the tax imposed by this Act:

5 (1) Farm chemicals.

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

1 Farm machinery and equipment shall include precision
2 farming equipment that is installed or purchased to be
3 installed on farm machinery and equipment including, but
4 not limited to, tractors, harvesters, sprayers, planters,
5 seeders, or spreaders. Precision farming equipment
6 includes, but is not limited to, soil testing sensors,
7 computers, monitors, software, global positioning and
8 mapping systems, and other such equipment.

9 Farm machinery and equipment also includes computers,
10 sensors, software, and related equipment used primarily in
11 the computer-assisted operation of production agriculture
12 facilities, equipment, and activities such as, but not
13 limited to, the collection, monitoring, and correlation of
14 animal and crop data for the purpose of formulating animal
15 diets and agricultural chemicals. This item (2) is exempt
16 from the provisions of Section 2-70.

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

24 (4) Until July 1, 2003 and beginning again September
25 1, 2004 through August 30, 2014, graphic arts machinery
26 and equipment, including repair and replacement parts,

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

11 (5) A motor vehicle that is used for automobile
12 renting, as defined in the Automobile Renting Occupation
13 and Use Tax Act. This paragraph is exempt from the
14 provisions of Section 2-70.

15 (6) Personal property sold by a teacher-sponsored
16 student organization affiliated with an elementary or
17 secondary school located in Illinois.

18 (7) Until July 1, 2003, proceeds of that portion of
19 the selling price of a passenger car the sale of which is
20 subject to the Replacement Vehicle Tax.

21 (8) Personal property sold to an Illinois county fair
22 association for use in conducting, operating, or promoting
23 the county fair.

24 (9) Personal property sold to a not-for-profit arts or
25 cultural organization that establishes, by proof required
26 by the Department by rule, that it has received an

1 exemption under Section 501(c)(3) of the Internal Revenue
2 Code and that is organized and operated primarily for the
3 presentation or support of arts or cultural programming,
4 activities, or services. These organizations include, but
5 are not limited to, music and dramatic arts organizations
6 such as symphony orchestras and theatrical groups, arts
7 and cultural service organizations, local arts councils,
8 visual arts organizations, and media arts organizations.
9 On and after July 1, 2001 (the effective date of Public Act
10 92-35), however, an entity otherwise eligible for this
11 exemption shall not make tax-free purchases unless it has
12 an active identification number issued by the Department.

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

20 (11) Personal property sold to a governmental body, to
21 a corporation, society, association, foundation, or
22 institution organized and operated exclusively for
23 charitable, religious, or educational purposes, or to a
24 not-for-profit corporation, society, association,
25 foundation, institution, or organization that has no
26 compensated officers or employees and that is organized

1 and operated primarily for the recreation of persons 55
2 years of age or older. A limited liability company may
3 qualify for the exemption under this paragraph only if the
4 limited liability company is organized and operated
5 exclusively for educational purposes. On and after July 1,
6 1987, however, no entity otherwise eligible for this
7 exemption shall make tax-free purchases unless it has an
8 active identification number issued by the Department.

9 (12) (Blank).

10 (12-5) On and after July 1, 2003 and through June 30,
11 2004, motor vehicles of the second division with a gross
12 vehicle weight in excess of 8,000 pounds that are subject
13 to the commercial distribution fee imposed under Section
14 3-815.1 of the Illinois Vehicle Code. Beginning on July 1,
15 2004 and through June 30, 2005, the use in this State of
16 motor vehicles of the second division: (i) with a gross
17 vehicle weight rating in excess of 8,000 pounds; (ii) that
18 are subject to the commercial distribution fee imposed
19 under Section 3-815.1 of the Illinois Vehicle Code; and
20 (iii) that are primarily used for commercial purposes.
21 Through June 30, 2005, this exemption applies to repair
22 and replacement parts added after the initial purchase of
23 such a motor vehicle if that motor vehicle is used in a
24 manner that would qualify for the rolling stock exemption
25 otherwise provided for in this Act. For purposes of this
26 paragraph, "used for commercial purposes" means the

1 transportation of persons or property in furtherance of
2 any commercial or industrial enterprise whether for-hire
3 or not.

4 (13) Proceeds from sales to owners, lessors, or
5 shippers of tangible personal property that is utilized by
6 interstate carriers for hire for use as rolling stock
7 moving in interstate commerce and equipment operated by a
8 telecommunications provider, licensed as a common carrier
9 by the Federal Communications Commission, which is
10 permanently installed in or affixed to aircraft moving in
11 interstate commerce.

12 (14) Machinery and equipment that will be used by the
13 purchaser, or a lessee of the purchaser, primarily in the
14 process of manufacturing or assembling tangible personal
15 property for wholesale or retail sale or lease, whether
16 the sale or lease is made directly by the manufacturer or
17 by some other person, whether the materials used in the
18 process are owned by the manufacturer or some other
19 person, or whether the sale or lease is made apart from or
20 as an incident to the seller's engaging in the service
21 occupation of producing machines, tools, dies, jigs,
22 patterns, gauges, or other similar items of no commercial
23 value on special order for a particular purchaser. The
24 exemption provided by this paragraph (14) does not include
25 machinery and equipment used in (i) the generation of
26 electricity for wholesale or retail sale; (ii) the

1 generation or treatment of natural or artificial gas for
2 wholesale or retail sale that is delivered to customers
3 through pipes, pipelines, or mains; or (iii) the treatment
4 of water for wholesale or retail sale that is delivered to
5 customers through pipes, pipelines, or mains. The
6 provisions of Public Act 98-583 are declaratory of
7 existing law as to the meaning and scope of this
8 exemption. Beginning on July 1, 2017, the exemption
9 provided by this paragraph (14) includes, but is not
10 limited to, graphic arts machinery and equipment, as
11 defined in paragraph (4) of this Section.

12 (15) Proceeds of mandatory service charges separately
13 stated on customers' bills for purchase and consumption of
14 food and beverages, to the extent that the proceeds of the
15 service charge are in fact turned over as tips or as a
16 substitute for tips to the employees who participate
17 directly in preparing, serving, hosting or cleaning up the
18 food or beverage function with respect to which the
19 service charge is imposed.

20 (16) Tangible personal property sold to a purchaser if
21 the purchaser is exempt from use tax by operation of
22 federal law. This paragraph is exempt from the provisions
23 of Section 2-70.

24 (17) Tangible personal property sold to a common
25 carrier by rail or motor that receives the physical
26 possession of the property in Illinois and that transports

1 the property, or shares with another common carrier in the
2 transportation of the property, out of Illinois on a
3 standard uniform bill of lading showing the seller of the
4 property as the shipper or consignor of the property to a
5 destination outside Illinois, for use outside Illinois.

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

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

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

26 (21) Until July 1, 2023, coal and aggregate

1 exploration, mining, off-highway hauling, processing,
2 maintenance, and reclamation equipment, including
3 replacement parts and equipment, and including equipment
4 purchased for lease, but excluding motor vehicles required
5 to be registered under the Illinois Vehicle Code. The
6 changes made to this Section by Public Act 97-767 apply on
7 and after July 1, 2003, but no claim for credit or refund
8 is allowed on or after August 16, 2013 (the effective date
9 of Public Act 98-456) for such taxes paid during the
10 period beginning July 1, 2003 and ending on August 16,
11 2013 (the effective date of Public Act 98-456).

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

19 Beginning July 1, 2013, fuel and petroleum products
20 sold to or used by an air carrier, certified by the carrier
21 to be used for consumption, shipment, or storage in the
22 conduct of its business as an air common carrier, for a
23 flight that (i) is engaged in foreign trade or is engaged
24 in trade between the United States and any of its
25 possessions and (ii) transports at least one individual or
26 package for hire from the city of origination to the city

1 of final destination on the same aircraft, without regard
2 to a change in the flight number of that aircraft.

3 (23) A transaction in which the purchase order is
4 received by a florist who is located outside Illinois, but
5 who has a florist located in Illinois deliver the property
6 to the purchaser or the purchaser's donee in Illinois.

7 (24) Fuel consumed or used in the operation of ships,
8 barges, or vessels that are used primarily in or for the
9 transportation of property or the conveyance of persons
10 for hire on rivers bordering on this State if the fuel is
11 delivered by the seller to the purchaser's barge, ship, or
12 vessel while it is afloat upon that bordering river.

13 (25) Except as provided in item (25-5) of this
14 Section, a motor vehicle sold in this State to a
15 nonresident even though the motor vehicle is delivered to
16 the nonresident in this State, if the motor vehicle is not
17 to be titled in this State, and if a drive-away permit is
18 issued to the motor vehicle as provided in Section 3-603
19 of the Illinois Vehicle Code or if the nonresident
20 purchaser has vehicle registration plates to transfer to
21 the motor vehicle upon returning to his or her home state.
22 The issuance of the drive-away permit or having the
23 out-of-state registration plates to be transferred is
24 prima facie evidence that the motor vehicle will not be
25 titled in this State.

26 (25-5) The exemption under item (25) does not apply if

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

1 accordance with this item (25-5) shall be proportionately
2 distributed as if the tax were collected at the 6.25%
3 general rate imposed under this Act.

4 (25-7) Beginning on July 1, 2007, no tax is imposed
5 under this Act on the sale of an aircraft, as defined in
6 Section 3 of the Illinois Aeronautics Act, if all of the
7 following conditions are met:

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

15 (2) the aircraft is not based or registered in
16 this State after the sale of the aircraft; and

17 (3) the seller retains in his or her books and
18 records and provides to the Department a signed and
19 dated certification from the purchaser, on a form
20 prescribed by the Department, certifying that the
21 requirements of this item (25-7) are met. The
22 certificate must also include the name and address of
23 the purchaser, the address of the location where the
24 aircraft is to be titled or registered, the address of
25 the primary physical location of the aircraft, and
26 other information that the Department may reasonably

1 require.

2 For purposes of this item (25-7):

3 "Based in this State" means hangared, stored, or
4 otherwise used, excluding post-sale customizations as
5 defined in this Section, for 10 or more days in each
6 12-month period immediately following the date of the sale
7 of the aircraft.

8 "Registered in this State" means an aircraft
9 registered with the Department of Transportation,
10 Aeronautics Division, or titled or registered with the
11 Federal Aviation Administration to an address located in
12 this State.

13 This paragraph (25-7) is exempt from the provisions of
14 Section 2-70.

15 (26) Semen used for artificial insemination of
16 livestock for direct agricultural production.

17 (27) Horses, or interests in horses, registered with
18 and meeting the requirements of any of the Arabian Horse
19 Club Registry of America, Appaloosa Horse Club, American
20 Quarter Horse Association, United States Trotting
21 Association, or Jockey Club, as appropriate, used for
22 purposes of breeding or racing for prizes. This item (27)
23 is exempt from the provisions of Section 2-70, and the
24 exemption provided for under this item (27) applies for
25 all periods beginning May 30, 1995, but no claim for
26 credit or refund is allowed on or after January 1, 2008

1 (the effective date of Public Act 95-88) for such taxes
2 paid during the period beginning May 30, 2000 and ending
3 on January 1, 2008 (the effective date of Public Act
4 95-88).

5 (28) Computers and communications equipment utilized
6 for any hospital purpose and equipment used in the
7 diagnosis, analysis, or treatment of hospital patients
8 sold to a lessor who leases the equipment, under a lease of
9 one year or longer executed or in effect at the time of the
10 purchase, to a hospital that has been issued an active tax
11 exemption identification number by the Department under
12 Section 1g of this Act.

13 (29) Personal property sold to a lessor who leases the
14 property, under a lease of one year or longer executed or
15 in effect at the time of the purchase, to a governmental
16 body that has been issued an active tax exemption
17 identification number by the Department under Section 1g
18 of this Act.

19 (30) Beginning with taxable years ending on or after
20 December 31, 1995 and ending with taxable years ending on
21 or before December 31, 2004, personal property that is
22 donated for disaster relief to be used in a State or
23 federally declared disaster area in Illinois or bordering
24 Illinois by a manufacturer or retailer that is registered
25 in this State to a corporation, society, association,
26 foundation, or institution that has been issued a sales

1 tax exemption identification number by the Department that
2 assists victims of the disaster who reside within the
3 declared disaster area.

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

17 (32) Beginning July 1, 1999, game or game birds sold
18 at a "game breeding and hunting preserve area" as that
19 term is used in the Wildlife Code. This paragraph is
20 exempt from the provisions of Section 2-70.

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

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

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

1 the purpose of resale by the fundraising entity and that
2 profits from the sale to the fundraising entity. This
3 paragraph is exempt from the provisions of Section 2-70.

4 (35) Beginning January 1, 2000 and through December
5 31, 2001, new or used automatic vending machines that
6 prepare and serve hot food and beverages, including
7 coffee, soup, and other items, and replacement parts for
8 these machines. Beginning January 1, 2002 and through June
9 30, 2003, machines and parts for machines used in
10 commercial, coin-operated amusement and vending business
11 if a use or occupation tax is paid on the gross receipts
12 derived from the use of the commercial, coin-operated
13 amusement and vending machines. This paragraph is exempt
14 from the provisions of Section 2-70.

15 (35-5) Beginning August 23, 2001 and through June 30,
16 2016, food for human consumption that is to be consumed
17 off the premises where it is sold (other than alcoholic
18 beverages, soft drinks, and food that has been prepared
19 for immediate consumption) and prescription and
20 nonprescription medicines, drugs, medical appliances, and
21 insulin, urine testing materials, syringes, and needles
22 used by diabetics, for human use, when purchased for use
23 by a person receiving medical assistance under Article V
24 of the Illinois Public Aid Code who resides in a licensed
25 long-term care facility, as defined in the Nursing Home
26 Care Act, or a licensed facility as defined in the ID/DD

1 Community Care Act, the MC/DD Act, or the Specialized
2 Mental Health Rehabilitation Act of 2013.

3 (36) Beginning August 2, 2001, computers and
4 communications equipment utilized for any hospital purpose
5 and equipment used in the diagnosis, analysis, or
6 treatment of hospital patients sold to a lessor who leases
7 the equipment, under a lease of one year or longer
8 executed or in effect at the time of the purchase, to a
9 hospital that has been issued an active tax exemption
10 identification number by the Department under Section 1g
11 of this Act. This paragraph is exempt from the provisions
12 of Section 2-70.

13 (37) Beginning August 2, 2001, personal property sold
14 to a lessor who leases the property, under a lease of one
15 year or longer executed or in effect at the time of the
16 purchase, to a governmental body that has been issued an
17 active tax exemption identification number by the
18 Department under Section 1g of this Act. This paragraph is
19 exempt from the provisions of Section 2-70.

20 (38) Beginning on January 1, 2002 and through June 30,
21 2016, tangible personal property purchased from an
22 Illinois retailer by a taxpayer engaged in centralized
23 purchasing activities in Illinois who will, upon receipt
24 of the property in Illinois, temporarily store the
25 property in Illinois (i) for the purpose of subsequently
26 transporting it outside this State for use or consumption

1 thereafter solely outside this State or (ii) for the
2 purpose of being processed, fabricated, or manufactured
3 into, attached to, or incorporated into other tangible
4 personal property to be transported outside this State and
5 thereafter used or consumed solely outside this State. The
6 Director of Revenue shall, pursuant to rules adopted in
7 accordance with the Illinois Administrative Procedure Act,
8 issue a permit to any taxpayer in good standing with the
9 Department who is eligible for the exemption under this
10 paragraph (38). The permit issued under this paragraph
11 (38) shall authorize the holder, to the extent and in the
12 manner specified in the rules adopted under this Act, to
13 purchase tangible personal property from a retailer exempt
14 from the taxes imposed by this Act. Taxpayers shall
15 maintain all necessary books and records to substantiate
16 the use and consumption of all such tangible personal
17 property outside of the State of Illinois.

18 (39) Beginning January 1, 2008, tangible personal
19 property used in the construction or maintenance of a
20 community water supply, as defined under Section 3.145 of
21 the Environmental Protection Act, that is operated by a
22 not-for-profit corporation that holds a valid water supply
23 permit issued under Title IV of the Environmental
24 Protection Act. This paragraph is exempt from the
25 provisions of Section 2-70.

26 (40) Beginning January 1, 2010 and continuing through

1 December 31, 2024, materials, parts, equipment,
2 components, and furnishings incorporated into or upon an
3 aircraft as part of the modification, refurbishment,
4 completion, replacement, repair, or maintenance of the
5 aircraft. This exemption includes consumable supplies used
6 in the modification, refurbishment, completion,
7 replacement, repair, and maintenance of aircraft, but
8 excludes any materials, parts, equipment, components, and
9 consumable supplies used in the modification, replacement,
10 repair, and maintenance of aircraft engines or power
11 plants, whether such engines or power plants are installed
12 or uninstalled upon any such aircraft. "Consumable
13 supplies" include, but are not limited to, adhesive, tape,
14 sandpaper, general purpose lubricants, cleaning solution,
15 latex gloves, and protective films. This exemption applies
16 only to the sale of qualifying tangible personal property
17 to persons who modify, refurbish, complete, replace, or
18 maintain an aircraft and who (i) hold an Air Agency
19 Certificate and are empowered to operate an approved
20 repair station by the Federal Aviation Administration,
21 (ii) have a Class IV Rating, and (iii) conduct operations
22 in accordance with Part 145 of the Federal Aviation
23 Regulations. The exemption does not include aircraft
24 operated by a commercial air carrier providing scheduled
25 passenger air service pursuant to authority issued under
26 Part 121 or Part 129 of the Federal Aviation Regulations.

1 The changes made to this paragraph (40) by Public Act
2 98-534 are declarative of existing law. It is the intent
3 of the General Assembly that the exemption under this
4 paragraph (40) applies continuously from January 1, 2010
5 through December 31, 2024; however, no claim for credit or
6 refund is allowed for taxes paid as a result of the
7 disallowance of this exemption on or after January 1, 2015
8 and prior to the effective date of this amendatory Act of
9 the 101st General Assembly.

10 (41) Tangible personal property sold to a
11 public-facilities corporation, as described in Section
12 11-65-10 of the Illinois Municipal Code, for purposes of
13 constructing or furnishing a municipal convention hall,
14 but only if the legal title to the municipal convention
15 hall is transferred to the municipality without any
16 further consideration by or on behalf of the municipality
17 at the time of the completion of the municipal convention
18 hall or upon the retirement or redemption of any bonds or
19 other debt instruments issued by the public-facilities
20 corporation in connection with the development of the
21 municipal convention hall. This exemption includes
22 existing public-facilities corporations as provided in
23 Section 11-65-25 of the Illinois Municipal Code. This
24 paragraph is exempt from the provisions of Section 2-70.

25 (42) Beginning January 1, 2017 and through December
26 31, 2026, menstrual pads, tampons, and menstrual cups.

1 (43) Merchandise that is subject to the Rental
2 Purchase Agreement Occupation and Use Tax. The purchaser
3 must certify that the item is purchased to be rented
4 subject to a rental purchase agreement, as defined in the
5 Rental Purchase Agreement Act, and provide proof of
6 registration under the Rental Purchase Agreement
7 Occupation and Use Tax Act. This paragraph is exempt from
8 the provisions of Section 2-70.

9 (44) Qualified tangible personal property used in the
10 construction or operation of a data center that has been
11 granted a certificate of exemption by the Department of
12 Commerce and Economic Opportunity, whether that tangible
13 personal property is purchased by the owner, operator, or
14 tenant of the data center or by a contractor or
15 subcontractor of the owner, operator, or tenant. Data
16 centers that would have qualified for a certificate of
17 exemption prior to January 1, 2020 had this amendatory Act
18 of the 101st General Assembly been in effect, may apply
19 for and obtain an exemption for subsequent purchases of
20 computer equipment or enabling software purchased or
21 leased to upgrade, supplement, or replace computer
22 equipment or enabling software purchased or leased in the
23 original investment that would have qualified.

24 The Department of Commerce and Economic Opportunity
25 shall grant a certificate of exemption under this item
26 (44) to qualified data centers as defined by Section

1 605-1025 of the Department of Commerce and Economic
2 Opportunity Law of the Civil Administrative Code of
3 Illinois.

4 For the purposes of this item (44):

5 "Data center" means a building or a series of
6 buildings rehabilitated or constructed to house
7 working servers in one physical location or multiple
8 sites within the State of Illinois.

9 "Qualified tangible personal property" means:
10 electrical systems and equipment; climate control and
11 chilling equipment and systems; mechanical systems and
12 equipment; monitoring and secure systems; emergency
13 generators; hardware; computers; servers; data storage
14 devices; network connectivity equipment; racks;
15 cabinets; telecommunications cabling infrastructure;
16 raised floor systems; peripheral components or
17 systems; software; mechanical, electrical, or plumbing
18 systems; battery systems; cooling systems and towers;
19 temperature control systems; other cabling; and other
20 data center infrastructure equipment and systems
21 necessary to operate qualified tangible personal
22 property, including fixtures; and component parts of
23 any of the foregoing, including installation,
24 maintenance, repair, refurbishment, and replacement of
25 qualified tangible personal property to generate,
26 transform, transmit, distribute, or manage electricity

1 necessary to operate qualified tangible personal
2 property; and all other tangible personal property
3 that is essential to the operations of a computer data
4 center. The term "qualified tangible personal
5 property" also includes building materials physically
6 incorporated into ~~in to~~ the qualifying data center. To
7 document the exemption allowed under this Section, the
8 retailer must obtain from the purchaser a copy of the
9 certificate of eligibility issued by the Department of
10 Commerce and Economic Opportunity.

11 This item (44) is exempt from the provisions of
12 Section 2-70.

13 (45) Beginning January 1, 2020 and through December
14 31, 2020, sales of tangible personal property made by a
15 marketplace seller over a marketplace for which tax is due
16 under this Act but for which use tax has been collected and
17 remitted to the Department by a marketplace facilitator
18 under Section 2d of the Use Tax Act are exempt from tax
19 under this Act. A marketplace seller claiming this
20 exemption shall maintain books and records demonstrating
21 that the use tax on such sales has been collected and
22 remitted by a marketplace facilitator. Marketplace sellers
23 that have properly remitted tax under this Act on such
24 sales may file a claim for credit as provided in Section 6
25 of this Act. No claim is allowed, however, for such taxes
26 for which a credit or refund has been issued to the

1 marketplace facilitator under the Use Tax Act, or for
2 which the marketplace facilitator has filed a claim for
3 credit or refund under the Use Tax Act.

4 (46) Beginning on the earlier of: (i) January 1, 2025;
5 or (ii) January 1 of the calendar year immediately
6 following the calendar year in which the State reports to
7 the United States Department of the Treasury that all
8 federal funds received under the American Rescue Plan Act
9 of 2021 have been fully expended, and continuing through
10 December 31 of the fifth calendar year to occur after the
11 earlier of: (i) January 1, 2025; or (ii) January 1 of the
12 calendar year immediately following the calendar year in
13 which the State reports to the United States Department of
14 the Treasury that all federal funds received under the
15 American Rescue Plan Act of 2021 have been fully expended,
16 equipment and material deployed after January 1, 2023 in a
17 county in the State with a population of fewer than 40,000
18 people or a township in the State with a population
19 density of less than 50 households per square mile in a
20 county with a population of less than 300,000 people
21 during that year that is incorporated into or used in the
22 business of providing broadband services, including all
23 equipment and material, machinery, software, or other
24 tangible personal property that is used in whole or in
25 part in producing, broadcasting, distributing, sending,
26 receiving, storing, transmitting, retransmitting,

1 amplifying, switching, or routing broadband services,
2 including the monitoring, testing, maintaining, enabling,
3 or facilitating of such equipment, machinery, software, or
4 other infrastructure. Such property includes, but is not
5 limited to, wires, cables including fiber optic cables,
6 antennas, poles, switches, routers, amplifiers,
7 rectifiers, repeaters, receivers, multiplexers,
8 duplexers, transmitters, power equipment, backup power
9 equipment, diagnostic equipment, storage devices, modems,
10 and other general central office equipment, such as
11 channel cards, frames, and cabinets. The exemption under
12 this item (46) may be taken for property placed in service
13 on or after January 1, 2023; however, the credit may not be
14 taken until a taxable year beginning on or after the
15 earlier of: (i) January 1, 2025; or (ii) January 1 of the
16 calendar year immediately following the calendar year in
17 which the State reports to the United States Department of
18 the Treasury that all federal funds received under the
19 American Rescue Plan Act of 2021 have been fully expended.

20 (Source: P.A. 101-31, eff. 6-28-19; 101-81, eff. 7-12-19;
21 101-629, eff. 2-5-20; 102-16, eff. 6-17-21; 102-634, eff.
22 8-27-21; revised 11-9-21.)

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