

1 AN ACT in relation to vehicles.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 215 as follows:

6 (35 ILCS 5/215)

7 Sec. 215. Transportation Employee Credit.

8 (a) For each taxable year beginning on or after January 1,
9 2004 and on or before the effective date of this amendatory Act
10 of the 93rd General Assembly, a qualified employer shall be
11 allowed a credit against the tax imposed by subsections (a) and
12 (b) of Section 201 of this Act in the amount of \$50 for each
13 eligible employee employed by the taxpayer as of the last day
14 of the taxable year.

15 (a-5) A qualified employer who receives a refund of the
16 commercial distribution fee paid under Section 3-815.1 of the
17 Illinois Vehicle Code is not eligible for the tax credit under
18 this Section.

19 (b) For purposes of this Section, "qualified employer"
20 means:

21 (1) any employer who pays a commercial distribution fee
22 under Section 3-815.1 of the Illinois Vehicle Code during
23 the taxable year; or

24 (2) any employer who, as of the end of the taxable
25 year, has one or more employees whose compensation is
26 subject to tax only by the employee's state of residence
27 pursuant to 49 U.S.C 14503(a) (1).

28 (c) For purposes of this Section, "employee" includes an
29 individual who is treated as an employee of the taxpayer under
30 Section 401(c) of the Internal Revenue Code and whose actual
31 assigned duties are such that, if the individual were a
32 common-law employee performing such duties in 2 or more states,

1 the individual's compensation would be subject to tax only by
2 the individual's state of residence pursuant to 49 U.S.C.
3 14503(a)(1).

4 (d) An employee is an "eligible employee" only if all of
5 the following criteria are met:

6 (1) The employee is an operator of a motor vehicle;

7 (2) The employee's compensation, pursuant to 49 U.S.C.
8 14503(a)(1), is subject to tax only by the employee's state
9 of residence, or would be subject to tax only by the
10 employee's state of residence if the employee's actual
11 duties were performed in 2 or more states;

12 (3) As of the end of the taxable year for which the
13 credit is claimed, the employee is a resident of this State
14 for purposes of this Act and 49 U.S.C. 14503(a)(1); and

15 (4) The employee is a full-time employee working 30 or
16 more hours per week for 180 consecutive days; provided that
17 such 180-day period may be completed after the end of the
18 taxable year for which the credit under this Section is
19 claimed.

20 (e) For partners, shareholders of subchapter S
21 corporations, and owners of limited liability companies, if the
22 limited liability company is treated as a partnership for
23 purposes of federal and State income taxation, there shall be
24 allowed a credit under this Section to be determined in
25 accordance with the determination of income and distributive
26 share of income under Sections 702 and 704 and subchapter S of
27 the Internal Revenue Code.

28 (f) Any credit allowed under this Section which is unused
29 in the year the credit is earned may be carried forward to each
30 of the 5 taxable years following the year for which the credit
31 is first computed until it is used. This credit shall be
32 applied first to the earliest year for which there is a
33 liability. If there is a credit under this Section from more
34 than one tax year that is available to offset a liability, the
35 earliest credit arising under this Section shall be applied
36 first.

1 (g) (Blank) ~~This Section is exempt from the provisions of~~
2 ~~Section 250 of this Act.~~

3 (h) The Department of Revenue shall promulgate such rules
4 and regulations as may be deemed necessary to carry out the
5 purposes of this Section.

6 (Source: P.A. 93-23, eff. 6-20-03.)

7 Section 10. The Use Tax Act is amended by changing
8 Sections 3-5 and 3-61 as follows:

9 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

22 (3) Personal property purchased by a not-for-profit arts or
23 cultural organization that establishes, by proof required by
24 the Department by rule, that it has received an exemption under
25 Section 501(c)(3) of the Internal Revenue Code and that is
26 organized and operated primarily for the presentation or
27 support of arts or cultural programming, activities, or
28 services. These organizations include, but are not limited to,
29 music and dramatic arts organizations such as symphony
30 orchestras and theatrical groups, arts and cultural service
31 organizations, local arts councils, visual arts organizations,
32 and media arts organizations. On and after the effective date
33 of this amendatory Act of the 92nd General Assembly, however,
34 an entity otherwise eligible for this exemption shall not make

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

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

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

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

29 (7) Farm chemicals.

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

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

1 (10) A motor vehicle of the first division, a motor vehicle
2 of the second division that is a self-contained motor vehicle
3 designed or permanently converted to provide living quarters
4 for recreational, camping, or travel use, with direct walk
5 through to the living quarters from the driver's seat, or a
6 motor vehicle of the second division that is of the van
7 configuration designed for the transportation of not less than
8 7 nor more than 16 passengers, as defined in Section 1-146 of
9 the Illinois Vehicle Code, that is used for automobile renting,
10 as defined in the Automobile Renting Occupation and Use Tax
11 Act.

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

31 Farm machinery and equipment shall include precision
32 farming equipment that is installed or purchased to be
33 installed on farm machinery and equipment including, but not
34 limited to, tractors, harvesters, sprayers, planters, seeders,
35 or spreaders. Precision farming equipment includes, but is not
36 limited to, soil testing sensors, computers, monitors,

1 software, global positioning and mapping systems, and other
2 such equipment.

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

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

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

26 (14) Until July 1, 2003, oil field exploration, drilling,
27 and production equipment, including (i) rigs and parts of rigs,
28 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
29 tubular goods, including casing and drill strings, (iii) pumps
30 and pump-jack units, (iv) storage tanks and flow lines, (v) any
31 individual replacement part for oil field exploration,
32 drilling, and production equipment, and (vi) machinery and
33 equipment purchased for lease; but excluding motor vehicles
34 required to be registered under the Illinois Vehicle Code.

35 (15) Photoprocessing machinery and equipment, including
36 repair and replacement parts, both new and used, including that

1 manufactured on special order, certified by the purchaser to be
2 used primarily for photoprocessing, and including
3 photoprocessing machinery and equipment purchased for lease.

4 (16) Until July 1, 2003, coal exploration, mining,
5 offhighway hauling, processing, maintenance, and reclamation
6 equipment, including replacement parts and equipment, and
7 including equipment purchased for lease, but excluding motor
8 vehicles required to be registered under the Illinois Vehicle
9 Code.

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

16 (18) Manufacturing and assembling machinery and equipment
17 used primarily in the process of manufacturing or assembling
18 tangible personal property for wholesale or retail sale or
19 lease, whether that sale or lease is made directly by the
20 manufacturer or by some other person, whether the materials
21 used in the process are owned by the manufacturer or some other
22 person, or whether that sale or lease is made apart from or as
23 an incident to the seller's engaging in the service occupation
24 of producing machines, tools, dies, jigs, patterns, gauges, or
25 other similar items of no commercial value on special order for
26 a particular purchaser.

27 (19) Personal property delivered to a purchaser or
28 purchaser's donee inside Illinois when the purchase order for
29 that personal property was received by a florist located
30 outside Illinois who has a florist located inside Illinois
31 deliver the personal property.

32 (20) Semen used for artificial insemination of livestock
33 for direct agricultural production.

34 (21) Horses, or interests in horses, registered with and
35 meeting the requirements of any of the Arabian Horse Club
36 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes.

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

27 (23) Personal property purchased by a lessor who leases the
28 property, under a lease of one year or longer executed or in
29 effect at the time the lessor would otherwise be subject to the
30 tax imposed by this Act, to a governmental body that has been
31 issued an active sales tax exemption identification number by
32 the Department under Section 1g of the Retailers' Occupation
33 Tax Act. If the property is leased in a manner that does not
34 qualify for this exemption or used in any other non-exempt
35 manner, the lessor shall be liable for the tax imposed under
36 this Act or the Service Use Tax Act, as the case may be, based

1 on the fair market value of the property at the time the
2 non-qualifying 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 Service Use Tax Act, as the case may be, if the tax has not been
6 paid by the lessor. If a lessor improperly collects any such
7 amount from the lessee, the lessee shall have a legal right to
8 claim a refund of that amount from the lessor. If, however,
9 that amount is not refunded to the lessee for any reason, the
10 lessor is liable to pay that amount to the Department.

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

21 (25) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is used in the
24 performance of infrastructure repairs in this State, including
25 but not limited to municipal roads and streets, access roads,
26 bridges, sidewalks, waste disposal systems, water and sewer
27 line extensions, water distribution and purification
28 facilities, storm water drainage and retention facilities, and
29 sewage treatment facilities, resulting from a State or
30 federally declared disaster in Illinois or bordering Illinois
31 when such repairs are initiated on facilities located in the
32 declared disaster area within 6 months after the disaster.

33 (26) Beginning July 1, 1999, game or game birds purchased
34 at a "game breeding and hunting preserve area" or an "exotic
35 game hunting area" as those terms are used in the Wildlife Code
36 or at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from
2 the provisions of Section 3-90.

3 (27) A motor vehicle, as that term is defined in Section
4 1-146 of the Illinois Vehicle Code, that is donated to a
5 corporation, limited liability company, society, association,
6 foundation, or institution that is determined by the Department
7 to be organized and operated exclusively for educational
8 purposes. For purposes of this exemption, "a corporation,
9 limited liability company, society, association, foundation,
10 or institution organized and operated exclusively for
11 educational purposes" means all tax-supported public schools,
12 private schools that offer systematic instruction in useful
13 branches of learning by methods common to public schools and
14 that compare favorably in their scope and intensity with the
15 course of study presented in tax-supported schools, and
16 vocational or technical schools or institutes organized and
17 operated exclusively to provide a course of study of not less
18 than 6 weeks duration and designed to prepare individuals to
19 follow a trade or to pursue a manual, technical, mechanical,
20 industrial, business, or commercial occupation.

21 (28) Beginning January 1, 2000, personal property,
22 including food, purchased through fundraising events for the
23 benefit of a public or private elementary or secondary school,
24 a group of those schools, or one or more school districts if
25 the events are sponsored by an entity recognized by the school
26 district that consists primarily of volunteers and includes
27 parents and teachers of the school children. This paragraph
28 does not apply to fundraising events (i) for the benefit of
29 private home instruction or (ii) for which the fundraising
30 entity purchases the personal property sold at the events from
31 another individual or entity that sold the property for the
32 purpose of resale by the fundraising entity and that profits
33 from the sale to the fundraising entity. This paragraph is
34 exempt from the provisions of Section 3-90.

35 (29) Beginning January 1, 2000 and through December 31,
36 2001, new or used automatic vending machines that prepare and

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

9 (30) Food for human consumption that is to be consumed off
10 the premises where it is sold (other than alcoholic beverages,
11 soft drinks, and food that has been prepared for immediate
12 consumption) and prescription and nonprescription medicines,
13 drugs, medical appliances, and insulin, urine testing
14 materials, syringes, and needles used by diabetics, for human
15 use, when purchased for use by a person receiving medical
16 assistance under Article 5 of the Illinois Public Aid Code who
17 resides in a licensed long-term care facility, as defined in
18 the Nursing Home Care Act.

19 (31) Beginning on the effective date of this amendatory Act
20 of the 92nd General Assembly, computers and communications
21 equipment utilized for any hospital purpose and equipment used
22 in the 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
27 identification number by the Department under Section 1g of the
28 Retailers' Occupation Tax Act. If the equipment is leased in a
29 manner that does not qualify for this exemption or is used in
30 any other nonexempt manner, the lessor shall be liable for the
31 tax imposed under this Act or the Service Use Tax Act, as the
32 case may be, based on the fair market value of the property at
33 the time the nonqualifying use occurs. No lessor shall collect
34 or attempt to collect an amount (however designated) that
35 purports to reimburse that lessor for the tax imposed by this
36 Act or the Service Use Tax Act, as the case may be, if the tax

1 has not been paid by the lessor. If a lessor improperly
2 collects any such amount from the lessee, the lessee shall have
3 a legal right to claim a refund of that amount from the lessor.
4 If, however, that amount is not refunded to the lessee for any
5 reason, the lessor is liable to pay that amount to the
6 Department. This paragraph is exempt from the provisions of
7 Section 3-90.

8 (32) Beginning on the effective date of this amendatory Act
9 of the 92nd General Assembly, personal property purchased by a
10 lessor who leases the property, under a lease of one year or
11 longer executed or in effect at the time the lessor would
12 otherwise be subject to the tax imposed by this Act, to a
13 governmental body that has been issued an active sales tax
14 exemption identification number by the Department under
15 Section 1g of the Retailers' Occupation Tax Act. If the
16 property is leased in a manner that does not qualify for this
17 exemption or used in any other nonexempt manner, the lessor
18 shall be liable for the tax imposed under this Act or the
19 Service Use Tax Act, as the case may be, based on the fair
20 market value of the property at the time the nonqualifying use
21 occurs. No lessor shall collect or attempt to collect an amount
22 (however designated) that purports to reimburse that lessor for
23 the tax imposed by this Act or the Service Use Tax Act, as the
24 case may be, if the tax has not been paid by the lessor. If a
25 lessor improperly collects any such amount from the lessee, the
26 lessee shall have a legal right to claim a refund of that
27 amount from the lessor. If, however, that amount is not
28 refunded to the lessee for any reason, the lessor is liable to
29 pay that amount to the Department. This paragraph is exempt
30 from the provisions of Section 3-90.

31 (33) On and after July 1, 2003 and until the effective date
32 of this amendatory Act of the 93rd General Assembly, the use in
33 this State of motor vehicles of the second division with a
34 gross vehicle weight in excess of 8,000 pounds and that are
35 subject to the commercial distribution fee imposed under
36 Section 3-815.1 of the Illinois Vehicle Code. This exemption

1 applies to repair and replacement parts added after the initial
2 purchase of such a motor vehicle if that motor vehicle is used
3 in a manner that would qualify for the rolling stock exemption
4 otherwise provided for in this Act.

5 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
6 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
7 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

8 (35 ILCS 105/3-61)

9 Sec. 3-61. Motor vehicles; use as rolling stock definition.
10 Through June 30, 2003 and beginning again on the effective date
11 of this amendatory Act of the 93rd General Assembly, "use as
12 rolling stock moving in interstate commerce" in subsections (b)
13 and (c) of Section 3-55 means for motor vehicles, as defined in
14 Section 1-146 of the Illinois Vehicle Code, and trailers, as
15 defined in Section 1-209 of the Illinois Vehicle Code, when on
16 15 or more occasions in a 12-month period the motor vehicle and
17 trailer has carried persons or property for hire in interstate
18 commerce, even just between points in Illinois, if the motor
19 vehicle and trailer transports persons whose journeys or
20 property whose shipments originate or terminate outside
21 Illinois. This definition applies to all property purchased for
22 the purpose of being attached to those motor vehicles or
23 trailers as a part thereof.

24 On and after July 1, 2003 and until the effective date of
25 this amendatory Act of the 93rd General Assembly, "use as
26 rolling stock moving in interstate commerce" in paragraphs (b)
27 and (c) of Section 3-55 occurs for motor vehicles, as defined
28 in Section 1-146 of the Illinois Vehicle Code, when during a
29 12-month period the rolling stock has carried persons or
30 property for hire in interstate commerce for 51% of its total
31 trips and transports persons whose journeys or property whose
32 shipments originate or terminate outside Illinois. On and after
33 July 1, 2003 and until the effective date of this amendatory
34 Act of the 93rd General Assembly, trips that are only between
35 points in Illinois shall not be counted as interstate trips

1 when calculating whether the tangible personal property
2 qualifies for the exemption but such trips shall be included in
3 total trips taken.

4 (Source: P.A. 93-23, eff. 6-20-03.)

5 Section 15. The Service Use Tax Act is amended by changing
6 Sections 2 and 3-51 as follows:

7 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

8 Sec. 2. "Use" means the exercise by any person of any right
9 or power over tangible personal property incident to the
10 ownership of that property, but does not include the sale or
11 use for demonstration by him of that property in any form as
12 tangible personal property in the regular course of business.
13 "Use" does not mean the interim use of tangible personal
14 property nor the physical incorporation of tangible personal
15 property, as an ingredient or constituent, into other tangible
16 personal property, (a) which is sold in the regular course of
17 business or (b) which the person incorporating such ingredient
18 or constituent therein has undertaken at the time of such
19 purchase to cause to be transported in interstate commerce to
20 destinations outside the State of Illinois.

21 "Purchased from a serviceman" means the acquisition of the
22 ownership of, or title to, tangible personal property through a
23 sale of service.

24 "Purchaser" means any person who, through a sale of
25 service, acquires the ownership of, or title to, any tangible
26 personal property.

27 "Cost price" means the consideration paid by the serviceman
28 for a purchase valued in money, whether paid in money or
29 otherwise, including cash, credits and services, and shall be
30 determined without any deduction on account of the supplier's
31 cost of the property sold or on account of any other expense
32 incurred by the supplier. When a serviceman contracts out part
33 or all of the services required in his sale of service, it
34 shall be presumed that the cost price to the serviceman of the

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

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

15 "Department" means the Department of Revenue.

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

21 "Sale of service" means any transaction except:

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

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

28 (3) except as hereinafter provided, a sale or transfer
29 of tangible personal property as an incident to the
30 rendering of service for or by any governmental body, or
31 for or by any corporation, society, association,
32 foundation or institution organized and operated
33 exclusively for charitable, religious or educational
34 purposes or any not-for-profit corporation, society,
35 association, foundation, institution or organization which
36 has no compensated officers or employees and which is

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

6 (4) a sale or transfer of tangible personal property as
7 an incident to the rendering of service for interstate
8 carriers for hire for use as rolling stock moving in
9 interstate commerce or by lessors under a lease of one year
10 or longer, executed or in effect at the time of purchase of
11 personal property, to interstate carriers for hire for use
12 as rolling stock moving in interstate commerce so long as
13 so used by such interstate carriers for hire, and equipment
14 operated by a telecommunications provider, licensed as a
15 common carrier by the Federal Communications Commission,
16 which is permanently installed in or affixed to aircraft
17 moving in interstate commerce.

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

28 (4a-5) on and after July 1, 2003 and until the
29 effective date of this amendatory Act of the 93rd General
30 Assembly, a sale or transfer of a motor vehicle of the
31 second division with a gross vehicle weight in excess of
32 8,000 pounds as an incident to the rendering of service if
33 that motor vehicle is subject to the commercial
34 distribution fee imposed under Section 3-815.1 of the
35 Illinois Vehicle Code. This exemption applies to repair and
36 replacement parts added after the initial purchase of such

1 a motor vehicle if that motor vehicle is used in a manner
2 that would qualify for the rolling stock exemption
3 otherwise provided for in this Act.

4 (5) a sale or transfer of machinery and equipment used
5 primarily in the process of the manufacturing or
6 assembling, either in an existing, an expanded or a new
7 manufacturing facility, of tangible personal property for
8 wholesale or retail sale or lease, whether such sale or
9 lease is made directly by the manufacturer or by some other
10 person, whether the materials used in the process are owned
11 by the manufacturer or some other person, or whether such
12 sale or lease is made apart from or as an incident to the
13 seller's engaging in a service occupation and the
14 applicable tax is a Service Use Tax or Service Occupation
15 Tax, rather than Use Tax or Retailers' Occupation Tax.

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

27 (5b) a sale or transfer of tangible personal property
28 which is produced by the seller thereof on special order in
29 such a way as to have made the applicable tax the Service
30 Occupation Tax or the Service Use Tax, rather than the
31 Retailers' Occupation Tax or the Use Tax, for an interstate
32 carrier by rail which receives the physical possession of
33 such property in Illinois, and which transports such
34 property, or shares with another common carrier in the
35 transportation of such property, out of Illinois on a
36 standard uniform bill of lading showing the seller of the

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

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

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

32 Tangible personal property transferred incident to the
33 completion of a maintenance agreement is exempt from the tax
34 imposed pursuant to this Act.

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

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

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

17 Any informal rulings, opinions or letters issued by the
18 Department in response to an inquiry or request for any opinion
19 from any person regarding the coverage and applicability of
20 exemption (5) to specific devices shall be published,
21 maintained as a public record, and made available for public
22 inspection and copying. If the informal ruling, opinion or
23 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
27 applicability, the Department shall formulate and adopt such
28 policy as a rule in accordance with the provisions of the
29 Illinois Administrative Procedure Act.

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

34 The purchase, employment and transfer of such tangible
35 personal property as newsprint and ink for the primary purpose
36 of conveying news (with or without other information) is not a

1 purchase, use or sale of service or of tangible personal
2 property within the meaning of this Act.

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

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

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

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

12 1. having or maintaining within this State, directly or
13 by a subsidiary, an office, distribution house, sales
14 house, warehouse or other place of business, or any agent
15 or other representative operating within this State under
16 the authority of the serviceman or its subsidiary,
17 irrespective of whether such place of business or agent or
18 other representative is located here permanently or
19 temporarily, or whether such serviceman or subsidiary is
20 licensed to do business in this State;

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

26 3. pursuant to a contract with a broadcaster or
27 publisher located in this State, soliciting orders for
28 tangible personal property by means of advertising which is
29 disseminated primarily to consumers located in this State
30 and only secondarily to bordering jurisdictions;

31 4. soliciting orders for tangible personal property by
32 mail if the solicitations are substantial and recurring and
33 if the retailer benefits from any banking, financing, debt
34 collection, telecommunication, or marketing activities
35 occurring in this State or benefits from the location in
36 this State of authorized installation, servicing, or

1 repair facilities;

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

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

8 7. pursuant to a contract with a cable television
9 operator located in this State, soliciting orders for
10 tangible personal property by means of advertising which is
11 transmitted or distributed over a cable television system
12 in this State; or

13 8. engaging in activities in Illinois, which
14 activities in the state in which the supply business
15 engaging in such activities is located would constitute
16 maintaining a place of business in that state.

17 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
18 eff. 6-20-03; revised 8-21-03.)

19 (35 ILCS 110/3-51)

20 Sec. 3-51. Motor vehicles; use as rolling stock definition.
21 Through June 30, 2003 and beginning again on the effective date
22 of this amendatory Act of the 93rd General Assembly, "use as
23 rolling stock moving in interstate commerce" in subsection (b)
24 of Section 3-45 means for motor vehicles, as defined in Section
25 1-46 of the Illinois Vehicle Code, and trailers, as defined in
26 Section 1-209 of the Illinois Vehicle Code, when on 15 or more
27 occasions in a 12-month period the motor vehicle and trailer
28 has carried persons or property for hire in interstate
29 commerce, even just between points in Illinois, if the motor
30 vehicle and trailer transports persons whose journeys or
31 property whose shipments originate or terminate outside
32 Illinois. This definition applies to all property purchased for
33 the purpose of being attached to those motor vehicles or
34 trailers as a part thereof.

35 On and after July 1, 2003 and until the effective date of

1 this amendatory Act of the 93rd General Assembly, "use as
2 rolling stock moving in interstate commerce" in paragraphs (4)
3 and (4a) of the definition of "sale of service" in Section 2
4 and subsection (b) of Section 3-45 occurs for motor vehicles,
5 as defined in Section 1-146 of the Illinois Vehicle Code, when
6 during a 12-month period the rolling stock has carried persons
7 or property for hire in interstate commerce for 51% of its
8 total trips and transports persons whose journeys or property
9 whose shipments originate or terminate outside Illinois. On and
10 after July 1, 2003 and until the effective date of this
11 amendatory Act of the 93rd General Assembly, trips that are
12 only between points in Illinois shall not be counted as
13 interstate trips when calculating whether the tangible
14 personal property qualifies for the exemption but such trips
15 shall be included in total trips taken.

16 (Source: P.A. 93-23, eff. 6-20-03.)

17 Section 20. The Service Occupation Tax Act is amended by
18 changing Sections 2 and 2d as follows:

19 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

20 Sec. 2. "Transfer" means any transfer of the title to
21 property or of the ownership of property whether or not the
22 transferor retains title as security for the payment of amounts
23 due him from the transferee.

24 "Cost Price" means the consideration paid by the serviceman
25 for a purchase valued in money, whether paid in money or
26 otherwise, including cash, credits and services, and shall be
27 determined without any deduction on account of the supplier's
28 cost of the property sold or on account of any other expense
29 incurred by the supplier. When a serviceman contracts out part
30 or all of the services required in his sale of service, it
31 shall be presumed that the cost price to the serviceman of the
32 property transferred to him by his or her subcontractor is
33 equal to 50% of the subcontractor's charges to the serviceman
34 in the absence of proof of the consideration paid by the

1 subcontractor for the purchase of such property.

2 "Department" means the Department of Revenue.

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

8 "Sale of Service" means any transaction except:

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

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

15 (c) Except as hereinafter provided, a sale or transfer of
16 tangible personal property as an incident to the rendering of
17 service for or by any governmental body or for or by any
18 corporation, society, association, foundation or institution
19 organized and operated exclusively for charitable, religious
20 or educational purposes or any not-for-profit corporation,
21 society, association, foundation, institution or organization
22 which has no compensated officers or employees and which is
23 organized and operated primarily for the recreation of persons
24 55 years of age or older. A limited liability company may
25 qualify for the exemption under this paragraph only if the
26 limited liability company is organized and operated
27 exclusively for educational purposes.

28 (d) A sale or transfer of tangible personal property as an
29 incident to the rendering of service for interstate carriers
30 for hire for use as rolling stock moving in interstate commerce
31 or lessors under leases of one year or longer, executed or in
32 effect at the time of purchase, to interstate carriers for hire
33 for use as rolling stock moving in interstate commerce, and
34 equipment operated by a telecommunications provider, licensed
35 as a common carrier by the Federal Communications Commission,
36 which is permanently installed in or affixed to aircraft moving

1 in interstate commerce.

2 (d-1) A sale or transfer of tangible personal property as
3 an incident to the rendering of service for owners, lessors or
4 shippers of tangible personal property which is utilized by
5 interstate carriers for hire for use as rolling stock moving in
6 interstate commerce, and equipment operated by a
7 telecommunications provider, licensed as a common carrier by
8 the Federal Communications Commission, which is permanently
9 installed in or affixed to aircraft moving in interstate
10 commerce.

11 (d-1.1) On and after July 1, 2003 and until the effective
12 date of this amendatory Act of the 93rd General Assembly, a
13 sale or transfer of a motor vehicle of the second division with
14 a gross vehicle weight in excess of 8,000 pounds as an incident
15 to the rendering of service if that motor vehicle is subject to
16 the commercial distribution fee imposed under Section 3-815.1
17 of the Illinois Vehicle Code. This exemption applies to repair
18 and replacement parts added after the initial purchase of such
19 a motor vehicle if that motor vehicle is used in a manner that
20 would qualify for the rolling stock exemption otherwise
21 provided for in this Act.

22 (d-2) The repairing, reconditioning or remodeling, for a
23 common carrier by rail, of tangible personal property which
24 belongs to such carrier for hire, and as to which such carrier
25 receives the physical possession of the repaired,
26 reconditioned or remodeled item of tangible personal property
27 in Illinois, and which such carrier transports, or shares with
28 another common carrier in the transportation of such property,
29 out of Illinois on a standard uniform bill of lading showing
30 the person who repaired, reconditioned or remodeled the
31 property as the shipper or consignor of such property to a
32 destination outside Illinois, for use outside Illinois.

33 (d-3) A sale or transfer of tangible personal property
34 which is produced by the seller thereof on special order in
35 such a way as to have made the applicable tax the Service
36 Occupation Tax or the Service Use Tax, rather than the

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

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

16 (e) A sale or transfer of machinery and equipment used
17 primarily in the process of the manufacturing or assembling,
18 either in an existing, an expanded or a new manufacturing
19 facility, of tangible personal property for wholesale or retail
20 sale or lease, whether such sale or lease is made directly by
21 the manufacturer or by some other person, whether the materials
22 used in the process are owned by the manufacturer or some other
23 person, or whether such sale or lease is made apart from or as
24 an incident to the seller's engaging in a service occupation
25 and the applicable tax is a Service Occupation Tax or Service
26 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

27 (f) Until July 1, 2003, the sale or transfer of
28 distillation machinery and equipment, sold as a unit or kit and
29 assembled or installed by the retailer, which machinery and
30 equipment is certified by the user to be used only for the
31 production of ethyl alcohol that will be used for consumption
32 as motor fuel or as a component of motor fuel for the personal
33 use of such user and not subject to sale or resale.

34 (g) At the election of any serviceman not required to be
35 otherwise registered as a retailer under Section 2a of the
36 Retailers' Occupation Tax Act, made for each fiscal year sales

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

17 Tangible personal property transferred incident to the
18 completion of a maintenance agreement is exempt from the tax
19 imposed pursuant to this Act.

20 Exemption (e) also includes machinery and equipment used in
21 the general maintenance or repair of such exempt machinery and
22 equipment or for in-house manufacture of exempt machinery and
23 equipment. For the purposes of exemption (e), each of these
24 terms shall have the following meanings: (1) "manufacturing
25 process" shall mean the production of any article of tangible
26 personal property, whether such article is a finished product
27 or an article for use in the process of manufacturing or
28 assembling a different article of tangible personal property,
29 by procedures commonly regarded as manufacturing, processing,
30 fabricating, or refining which changes some existing material
31 or materials into a material with a different form, use or
32 name. In relation to a recognized integrated business composed
33 of a series of operations which collectively constitute
34 manufacturing, or individually constitute manufacturing
35 operations, the manufacturing process shall be deemed to
36 commence with the first operation or stage of production in the

1 series, and shall not be deemed to end until the completion of
2 the final product in the last operation or stage of production
3 in the series; and further for purposes of exemption (e),
4 photoprocessing is deemed to be a manufacturing process of
5 tangible personal property for wholesale or retail sale; (2)
6 "assembling process" shall mean the production of any article
7 of tangible personal property, whether such article is a
8 finished product or an article for use in the process of
9 manufacturing or assembling a different article of tangible
10 personal property, by the combination of existing materials in
11 a manner commonly regarded as assembling which results in a
12 material of a different form, use or name; (3) "machinery"
13 shall mean major mechanical machines or major components of
14 such machines contributing to a manufacturing or assembling
15 process; and (4) "equipment" shall include any independent
16 device or tool separate from any machinery but essential to an
17 integrated manufacturing or assembly process; including
18 computers used primarily in a manufacturer's computer assisted
19 design, computer assisted manufacturing (CAD/CAM) system; or
20 any subunit or assembly comprising a component of any machinery
21 or auxiliary, adjunct or attachment parts of machinery, such as
22 tools, dies, jigs, fixtures, patterns and molds; or any parts
23 which require periodic replacement in the course of normal
24 operation; but shall not include hand tools. Equipment includes
25 chemicals or chemicals acting as catalysts but only if the
26 chemicals or chemicals acting as catalysts effect a direct and
27 immediate change upon a product being manufactured or assembled
28 for wholesale or retail sale or lease. The purchaser of such
29 machinery and equipment who has an active resale registration
30 number shall furnish such number to the seller at the time of
31 purchase. The purchaser of such machinery and equipment and
32 tools without an active resale registration number shall
33 furnish to the seller a certificate of exemption for each
34 transaction stating facts establishing the exemption for that
35 transaction, which certificate shall be available to the
36 Department for inspection or audit.

1 Except as provided in Section 2d of this Act, the rolling
2 stock exemption applies to rolling stock used by an interstate
3 carrier for hire, even just between points in Illinois, if such
4 rolling stock transports, for hire, persons whose journeys or
5 property whose shipments originate or terminate outside
6 Illinois.

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

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

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

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

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

31 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
32 eff. 6-20-03; revised 8-21-03.)

33 (35 ILCS 115/2d)

34 Sec. 2d. Motor vehicles; use as rolling stock definition.
35 Through June 30, 2003 and beginning again on the effective date

1 of this amendatory Act of the 93rd General Assembly, "use as
2 rolling stock moving in interstate commerce" in subsections (d)
3 and (d-1) of the definition of "sale of service" in Section 2
4 means for motor vehicles, as defined in Section 1-146 of the
5 Illinois Vehicle Code, and trailers, as defined in Section
6 1-209 of the Illinois Vehicle Code, when on 15 or more
7 occasions in a 12-month period the motor vehicle and trailer
8 has carried persons or property for hire in interstate
9 commerce, even just between points in Illinois, if the motor
10 vehicle and trailer transports persons whose journeys or
11 property whose shipments originate or terminate outside
12 Illinois. This definition applies to all property purchased for
13 the purpose of being attached to those motor vehicles or
14 trailers as a part thereof.

15 On and after July 1, 2003 and until the effective date of
16 this amendatory Act of the 93rd General Assembly, "use as
17 rolling stock moving in interstate commerce" in paragraphs (d)
18 and (d-1) of the definition of "sale of service" in Section 2
19 occurs for motor vehicles, as defined in Section 1-146 of the
20 Illinois Vehicle Code, when during a 12-month period the
21 rolling stock has carried persons or property for hire in
22 interstate commerce for 51% of its total trips and transports
23 persons whose journeys or property whose shipments originate or
24 terminate outside Illinois. On and after July 1, 2003 and until
25 the effective date of this amendatory Act of the 93rd General
26 Assembly, trips that are only between points in Illinois will
27 not be counted as interstate trips when calculating whether the
28 tangible personal property qualifies for the exemption but such
29 trips will be included in total trips taken.

30 (Source: P.A. 93-23, eff. 6-20-03.)

31 Section 25. The Retailers' Occupation Tax Act is amended
32 by changing Sections 2-5 and 2-51 as follows:

33 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

34 Sec. 2-5. Exemptions. Gross receipts from proceeds from the

1 sale of the following tangible personal property are exempt
2 from the tax imposed by this Act:

3 (1) Farm chemicals.

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

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

31 Farm machinery and equipment also includes computers,
32 sensors, software, and related equipment used primarily in the
33 computer-assisted operation of production agriculture
34 facilities, equipment, and activities such as, but not limited
35 to, the collection, monitoring, and correlation of animal and
36 crop data for the purpose of formulating animal diets and

1 agricultural chemicals. This item (7) is exempt from the
2 provisions of Section 2-70.

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

9 (4) Until July 1, 2003, graphic arts machinery and
10 equipment, including repair and replacement parts, both new and
11 used, and including that manufactured on special order or
12 purchased for lease, certified by the purchaser to be used
13 primarily for graphic arts production. Equipment includes
14 chemicals or chemicals acting as catalysts but only if the
15 chemicals or chemicals acting as catalysts effect a direct and
16 immediate change upon a graphic arts product.

17 (5) A motor vehicle of the first division, a motor vehicle
18 of the second division that is a self-contained motor vehicle
19 designed or permanently converted to provide living quarters
20 for recreational, camping, or travel use, with direct walk
21 through access to the living quarters from the driver's seat,
22 or a motor vehicle of the second division that is of the van
23 configuration designed for the transportation of not less than
24 7 nor more than 16 passengers, as defined in Section 1-146 of
25 the Illinois Vehicle Code, that is used for automobile renting,
26 as defined in the Automobile Renting Occupation and Use Tax
27 Act.

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

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

34 (8) Personal property sold to an Illinois county fair
35 association for use in conducting, operating, or promoting the
36 county fair.

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

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

23 (11) Personal property sold to a governmental body, to a
24 corporation, society, association, foundation, or institution
25 organized and operated exclusively for charitable, religious,
26 or educational purposes, or to a not-for-profit corporation,
27 society, association, foundation, institution, or organization
28 that has no compensated officers or employees and that is
29 organized and operated primarily for the recreation of persons
30 55 years of age or older. A limited liability company may
31 qualify for the exemption under this paragraph only if the
32 limited liability company is organized and operated
33 exclusively for educational purposes. On and after July 1,
34 1987, however, no entity otherwise eligible for this exemption
35 shall make tax-free purchases unless it has an active
36 identification number issued by the Department.

1 (12) Tangible personal property sold to interstate
2 carriers for hire for use as rolling stock moving in interstate
3 commerce or to lessors under leases of one year or longer
4 executed or in effect at the time of purchase by interstate
5 carriers for hire for use as rolling stock moving in interstate
6 commerce and equipment operated by a telecommunications
7 provider, licensed as a common carrier by the Federal
8 Communications Commission, which is permanently installed in
9 or affixed to aircraft moving in interstate commerce.

10 (12-5) On and after July 1, 2003 and until the effective
11 date of this amendatory Act of the 93rd General Assembly, motor
12 vehicles of the second division with a gross vehicle weight in
13 excess of 8,000 pounds that are subject to the commercial
14 distribution fee imposed under Section 3-815.1 of the Illinois
15 Vehicle Code. This exemption applies to repair and replacement
16 parts added after the initial purchase of such a motor vehicle
17 if that motor vehicle is used in a manner that would qualify
18 for the rolling stock exemption otherwise provided for in this
19 Act.

20 (13) Proceeds from sales to owners, lessors, or shippers of
21 tangible personal property that is utilized by interstate
22 carriers for hire for use as rolling stock moving in interstate
23 commerce and equipment operated by a telecommunications
24 provider, licensed as a common carrier by the Federal
25 Communications Commission, which is permanently installed in
26 or affixed to aircraft moving in interstate commerce.

27 (14) Machinery and equipment that will be used by the
28 purchaser, or a lessee of the purchaser, primarily in the
29 process of manufacturing or assembling tangible personal
30 property for wholesale or retail sale or lease, whether the
31 sale or lease is made directly by the manufacturer or by some
32 other person, whether the materials used in the process are
33 owned by the manufacturer or some other person, or whether the
34 sale or lease is made apart from or as an incident to the
35 seller's engaging in the service occupation of producing
36 machines, tools, dies, jigs, patterns, gauges, or other similar

1 items of no commercial value on special order for a particular
2 purchaser.

3 (15) Proceeds of mandatory service charges separately
4 stated on customers' bills for purchase and consumption of food
5 and beverages, to the extent that the proceeds of the service
6 charge are in fact turned over as tips or as a substitute for
7 tips to the employees who participate directly in preparing,
8 serving, hosting or cleaning up the food or beverage function
9 with respect to which the service charge is imposed.

10 (16) Petroleum products sold to a purchaser if the seller
11 is prohibited by federal law from charging tax to the
12 purchaser.

13 (17) Tangible personal property sold to a common carrier by
14 rail or motor that receives the physical possession of the
15 property in Illinois and that transports the property, or
16 shares with another common carrier in the transportation of the
17 property, out of Illinois on a standard uniform bill of lading
18 showing the seller of the property as the shipper or consignor
19 of the property to a destination outside Illinois, for use
20 outside Illinois.

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

25 (19) Until July 1 2003, oil field exploration, drilling,
26 and production equipment, including (i) rigs and parts of rigs,
27 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
28 tubular goods, including casing and drill strings, (iii) pumps
29 and pump-jack units, (iv) storage tanks and flow lines, (v) any
30 individual replacement part for oil field exploration,
31 drilling, and production equipment, and (vi) machinery and
32 equipment purchased for lease; but excluding motor vehicles
33 required to be registered under the Illinois Vehicle Code.

34 (20) Photoprocessing machinery and equipment, including
35 repair and replacement parts, both new and used, including that
36 manufactured on special order, certified by the purchaser to be

1 used primarily for photoprocessing, and including
2 photoprocessing machinery and equipment purchased for lease.

3 (21) Until July 1, 2003, coal exploration, mining,
4 offhighway hauling, processing, maintenance, and reclamation
5 equipment, including replacement parts and equipment, and
6 including equipment purchased for lease, but excluding motor
7 vehicles required to be registered under the Illinois Vehicle
8 Code.

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

15 (23) A transaction in which the purchase order is received
16 by a florist who is located outside Illinois, but who has a
17 florist located in Illinois deliver the property to the
18 purchaser or the purchaser's donee in Illinois.

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

25 (25) A motor vehicle sold in this State to a nonresident
26 even though the motor vehicle is delivered to the nonresident
27 in this State, if the motor vehicle is not to be titled in this
28 State, and if a drive-away permit is issued to the motor
29 vehicle as provided in Section 3-603 of the Illinois Vehicle
30 Code or if the nonresident purchaser has vehicle registration
31 plates to transfer to the motor vehicle upon returning to his
32 or her home state. The issuance of the drive-away permit or
33 having the out-of-state registration plates to be transferred
34 is prima facie evidence that the motor vehicle will not be
35 titled in this State.

36 (26) Semen used for artificial insemination of livestock

1 for direct agricultural production.

2 (27) Horses, or interests in horses, registered with and
3 meeting the requirements of any of the Arabian Horse Club
4 Registry of America, Appaloosa Horse Club, American Quarter
5 Horse Association, United States Trotting Association, or
6 Jockey Club, as appropriate, used for purposes of breeding or
7 racing for prizes.

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

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

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

31 (31) Beginning with taxable years ending on or after
32 December 31, 1995 and ending with taxable years ending on or
33 before December 31, 2004, personal property that is used in the
34 performance of infrastructure repairs in this State, including
35 but not limited to municipal roads and streets, access roads,
36 bridges, sidewalks, waste disposal systems, water and sewer

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

7 (32) Beginning July 1, 1999, game or game birds sold at a
8 "game breeding and hunting preserve area" or an "exotic game
9 hunting area" as those terms are used in the Wildlife Code or
10 at a hunting enclosure approved through rules adopted by the
11 Department of Natural Resources. This paragraph is exempt from
12 the provisions of Section 2-70.

13 (33) 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 Department
17 to be organized and operated exclusively for educational
18 purposes. For purposes of this exemption, "a corporation,
19 limited liability company, society, association, foundation,
20 or institution organized and operated exclusively for
21 educational purposes" means all tax-supported public schools,
22 private schools that offer systematic instruction in useful
23 branches of learning by methods common to public schools and
24 that compare favorably in their scope and intensity with the
25 course of study presented in tax-supported schools, and
26 vocational or technical schools or institutes organized and
27 operated exclusively to provide a course of study of not less
28 than 6 weeks duration and designed to prepare individuals to
29 follow a trade or to pursue a manual, technical, mechanical,
30 industrial, business, or commercial occupation.

31 (34) Beginning January 1, 2000, personal property,
32 including food, purchased through fundraising events for the
33 benefit of a public or private elementary or secondary school,
34 a group of those schools, or one or more school districts if
35 the events are sponsored by an entity recognized by the school
36 district that consists primarily of volunteers and includes

1 parents and teachers of the school children. This paragraph
2 does not apply to fundraising events (i) for the benefit of
3 private home instruction or (ii) for which the fundraising
4 entity purchases the personal property sold at the events from
5 another individual or entity that sold the property for the
6 purpose of resale by the fundraising entity and that profits
7 from the sale to the fundraising entity. This paragraph is
8 exempt from the provisions of Section 2-70.

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

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

29 (36) Beginning August 2, 2001, computers and
30 communications equipment utilized for any hospital purpose and
31 equipment used in the diagnosis, analysis, or treatment of
32 hospital patients sold to a lessor who leases the equipment,
33 under a lease of one year or longer executed or in effect at
34 the time of the purchase, to a hospital that has been issued an
35 active tax exemption identification number by the Department
36 under Section 1g of this Act. This paragraph is exempt from the

1 provisions of Section 2-70.

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

9 (38) Beginning on January 1, 2002, tangible personal
10 property purchased from an Illinois retailer by a taxpayer
11 engaged in centralized purchasing activities in Illinois who
12 will, upon receipt of the property in Illinois, temporarily
13 store the property in Illinois (i) for the purpose of
14 subsequently transporting it outside this State for use or
15 consumption thereafter solely outside this State or (ii) for
16 the purpose of being processed, fabricated, or manufactured
17 into, attached to, or incorporated into other tangible personal
18 property to be transported outside this State and thereafter
19 used or consumed solely outside this State. The Director of
20 Revenue shall, pursuant to rules adopted in accordance with the
21 Illinois Administrative Procedure Act, issue a permit to any
22 taxpayer in good standing with the Department who is eligible
23 for the exemption under this paragraph (38). The permit issued
24 under this paragraph (38) shall authorize the holder, to the
25 extent and in the manner specified in the rules adopted under
26 this Act, to purchase tangible personal property from a
27 retailer exempt from the taxes imposed by this Act. Taxpayers
28 shall maintain all necessary books and records to substantiate
29 the use and consumption of all such tangible personal property
30 outside of the State of Illinois.

31 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
32 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
33 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
34 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised
35 9-11-03.)

1 (35 ILCS 120/2-51)

2 Sec. 2-51. Motor vehicles; use as rolling stock definition.
3 Through June 30, 2003 and beginning again on the effective date
4 of this amendatory Act of the 93rd General Assembly, "use as
5 rolling stock moving in interstate commerce" in paragraphs (12)
6 and (13) of Section 2-5 means for motor vehicles, as defined in
7 Section 1-146 of the Illinois Vehicle Code, and trailers, as
8 defined in Section 1-209 of the Illinois Vehicle Code, when on
9 15 or more occasions in a 12-month period the motor vehicle and
10 trailer has carried persons or property for hire in interstate
11 commerce, even just between points in Illinois, if the motor
12 vehicle and trailer transports persons whose journeys or
13 property whose shipments originate or terminate outside
14 Illinois. This definition applies to all property purchased for
15 the purpose of being attached to those motor vehicles or
16 trailers as a part thereof.

17 On and after July 1, 2003 and until the effective date of
18 this amendatory Act of the 93rd General Assembly, "use as
19 rolling stock moving in interstate commerce" in paragraphs (12)
20 and (13) of Section 2-5 occurs for motor vehicles, as defined
21 in Section 1-146 of the Illinois Vehicle Code, when during a
22 12-month period the rolling stock has carried persons or
23 property for hire in interstate commerce for 51% of its total
24 trips and transports persons whose journeys or property whose
25 shipments originate or terminate outside Illinois. On and after
26 July 1, 2003 and until the effective date of this amendatory
27 Act of the 93rd General Assembly, trips that are only between
28 points in Illinois shall not be counted as interstate trips
29 when calculating whether the tangible personal property
30 qualifies for the exemption but such trips shall be included in
31 total trips taken.

32 (Source: P.A. 93-23, eff. 6-20-03.)

33 Section 30. The Illinois Vehicle Code is amended by
34 changing Section 3-815.1 as follows:

1 (625 ILCS 5/3-815.1)

2 Sec. 3-815.1. Commercial distribution fee. Beginning July
3 1, 2003 and ending on the effective date of this amendatory Act
4 of the 93rd General Assembly, in addition to any tax or fee
5 imposed under this Code:

6 (a) Vehicles of the second division with a gross
7 vehicle weight that exceeds 8,000 pounds and that incur any
8 tax or fee under subsection (a) of Section 3-815 of this
9 Code or subsection (a) of Section 3-818 of this Code, as
10 applicable, ~~and~~ shall pay to the Secretary of State a
11 commercial distribution fee, for each registration year,
12 for the use of the public highways, State infrastructure,
13 and State services, in an amount equal to 36% of the taxes
14 and fees incurred under subsection (a) of Section 3-815 of
15 this Code, or subsection (a) of Section 3-818 of this Code,
16 as applicable, rounded up to the nearest whole dollar.

17 (b) Vehicles of the second division with a gross
18 vehicle weight of 8,000 pounds or less and that incur any
19 tax or fee under subsection (a) of Section 3-815 of this
20 Code or subsection (a) of Section 3-818 of this Code, as
21 applicable, and have claimed the rolling stock exemption
22 under the Retailers' Occupation Tax Act, Use Tax Act,
23 Service Occupation Tax Act, or Service Use Tax Act shall
24 pay to the Illinois Department of Revenue (or the Secretary
25 of State under an intergovernmental agreement) a
26 commercial distribution fee, for each registration year,
27 for the use of the public highways, State infrastructure,
28 and State services, in an amount equal to 36% of the taxes
29 and fees incurred under subsection (a) of Section 3-815 of
30 this Code or subsection (a) of Section 3-818 of this Code,
31 as applicable, rounded up to the nearest whole dollar.

32 The fees paid under this Section shall be deposited by the
33 Secretary of State into the General Revenue Fund.

34 Any person who has paid the fee imposed under this Section
35 is entitled to a refund of the amount paid. The Secretary of
36 State shall establish a procedure by which a person who has

1 paid the fee imposed under this Section may apply for and
2 receive a refund of the amount paid.

3 (Source: P.A. 93-23, eff. 6-20-03; revised 10-9-03.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.