

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 (35 ILCS 5/215 rep.)

5 Section 5. The Illinois Income Tax Act is amended by
6 repealing Section 215.

7 Section 10. The Use Tax Act is amended by changing Sections
8 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,

1 and media arts organizations. On and after the effective date
2 of this amendatory Act of the 92nd General Assembly, however,
3 an entity otherwise eligible for this exemption shall not make
4 tax-free purchases unless it has an active identification
5 number issued by the Department.

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

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

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

32 (7) Farm chemicals.

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

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

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

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

34 Farm machinery and equipment shall include precision
35 farming equipment that is installed or purchased to be
36 installed on farm machinery and equipment including, but not

1 limited to, tractors, harvesters, sprayers, planters, seeders,
2 or spreaders. Precision farming equipment includes, but is not
3 limited to, soil testing sensors, computers, monitors,
4 software, global positioning and mapping systems, and other
5 such equipment.

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

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

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

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

1 required to be registered under the Illinois Vehicle Code.

2 (15) Photoprocessing machinery and equipment, including
3 repair and replacement parts, both new and used, including that
4 manufactured on special order, certified by the purchaser to be
5 used primarily for photoprocessing, and including
6 photoprocessing machinery and equipment purchased for lease.

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

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

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

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

35 (20) Semen used for artificial insemination of livestock
36 for direct agricultural production.

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

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

30 (23) Personal property purchased by a lessor who leases the
31 property, under a lease of one year or longer executed or in
32 effect at the time the lessor would otherwise be subject to the
33 tax imposed by this Act, to a governmental body that has been
34 issued an active sales tax exemption identification number by
35 the Department under Section 1g of the Retailers' Occupation
36 Tax Act. If the property is leased in a manner that does not

1 qualify for this exemption or used in any other non-exempt
2 manner, the lessor shall be liable for the tax imposed under
3 this Act or the Service Use Tax Act, as the case may be, based
4 on the fair market value of the property at the time the
5 non-qualifying use occurs. No lessor shall collect or attempt
6 to collect an amount (however designated) that purports to
7 reimburse that lessor for the tax imposed by this Act or the
8 Service Use Tax Act, as the case may be, if the tax has not been
9 paid by the lessor. If a lessor improperly collects any such
10 amount from the lessee, the lessee shall have a legal right to
11 claim a refund of that amount from the lessor. If, however,
12 that amount is not refunded to the lessee for any reason, the
13 lessor is liable to pay that amount to the 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 for
17 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 the
27 performance of infrastructure repairs in this State, including
28 but not limited to municipal roads and streets, access roads,
29 bridges, sidewalks, waste disposal systems, water and sewer
30 line extensions, water distribution and purification
31 facilities, storm water drainage and retention facilities, and
32 sewage treatment facilities, resulting from a State or
33 federally declared disaster in Illinois or bordering Illinois
34 when such repairs are initiated on facilities located in the
35 declared disaster area within 6 months after the disaster.

36 (26) Beginning July 1, 1999, game or game birds purchased

1 at a "game breeding and hunting preserve area" or an "exotic
2 game hunting area" as those terms are used in the Wildlife Code
3 or at a hunting enclosure approved through rules adopted by the
4 Department of Natural Resources. This paragraph is exempt from
5 the provisions of Section 3-90.

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

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

1 exempt from the provisions of Section 3-90.

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

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

22 (31) Beginning on the effective date of this amendatory Act
23 of the 92nd General Assembly, computers and communications
24 equipment utilized for any hospital purpose and equipment used
25 in the diagnosis, analysis, or treatment of hospital patients
26 purchased by a lessor who leases the equipment, under a lease
27 of one year or longer executed or in effect at the time the
28 lessor would otherwise be subject to the tax imposed by this
29 Act, to a hospital that has been issued an active tax exemption
30 identification number by the Department under Section 1g of the
31 Retailers' Occupation Tax Act. If the equipment is leased in a
32 manner that does not qualify for this exemption or is used in
33 any other nonexempt manner, the lessor shall be liable for the
34 tax imposed under this Act or the Service Use Tax Act, as the
35 case may be, based on the fair market value of the property at
36 the time the nonqualifying use occurs. No lessor shall collect

1 or attempt to collect an amount (however designated) that
2 purports to reimburse that lessor for the tax imposed by this
3 Act or the Service Use Tax Act, as the case may be, if the tax
4 has not been paid by the lessor. If a lessor improperly
5 collects any such amount from the lessee, the lessee shall have
6 a legal right to claim a refund of that amount from the lessor.
7 If, however, that amount is not refunded to the lessee for any
8 reason, the lessor is liable to pay that amount to the
9 Department. This paragraph is exempt from the provisions of
10 Section 3-90.

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

34 (33) On and after July 1, 2003 and through June 30, 2004,
35 the use in this State of motor vehicles of the second division
36 with a gross vehicle weight in excess of 8,000 pounds and that

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

17 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
18 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
19 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

20 (35 ILCS 105/3-61)

21 Sec. 3-61. Motor vehicles; trailers; use as rolling stock
22 definition.

23 (a) Through June 30, 2003, "use as rolling stock moving in
24 interstate commerce" in subsections (b) and (c) of Section 3-55
25 means for motor vehicles, as defined in Section 1-146 of the
26 Illinois Vehicle Code, and trailers, as defined in Section
27 1-209 of the Illinois Vehicle Code, when on 15 or more
28 occasions in a 12-month period the motor vehicle and trailer
29 has carried persons or property for hire in interstate
30 commerce, even just between points in Illinois, if the motor
31 vehicle and trailer transports persons whose journeys or
32 property whose shipments originate or terminate outside
33 Illinois. This definition applies to all property purchased for
34 the purpose of being attached to those motor vehicles or
35 trailers as a part thereof.

1 (b) On and after July 1, 2003 and through June 30, 2004,
2 "use as rolling stock moving in interstate commerce" in
3 paragraphs (b) and (c) of Section 3-55 occurs for motor
4 vehicles, as defined in Section 1-146 of the Illinois Vehicle
5 Code, when during a 12-month period the rolling stock has
6 carried persons or property for hire in interstate commerce for
7 51% of its total trips and transports persons whose journeys or
8 property whose shipments originate or terminate outside
9 Illinois. Trips that are only between points in Illinois shall
10 not be counted as interstate trips when calculating whether the
11 tangible personal property qualifies for the exemption but such
12 trips shall be included in total trips taken.

13 (c) Beginning July 1, 2004, "use as rolling stock moving in
14 interstate commerce" in paragraphs (b) and (c) of Section 3-55
15 occurs for motor vehicles, as defined in Section 1-146 of the
16 Illinois Vehicle Code, when during a 12-month period the
17 rolling stock has carried persons or property for hire in
18 interstate commerce for greater than 50% of its total trips for
19 that period or for greater than 50% of its total miles for that
20 period. The person claiming the exemption shall make an
21 election at the time of purchase to use either the trips or
22 mileage method. Persons who purchased motor vehicles prior to
23 July 1, 2004 shall make an election to use either the trips or
24 mileage method and document that election in their books and
25 records. If no election is made under this subsection to use
26 the trips or mileage method, the person shall be deemed to have
27 chosen the mileage method. Any election to use either the trips
28 or mileage method will remain in effect for that motor vehicle
29 for any period for which the Department may issue a notice of
30 tax liability under this Act.

31 For purposes of determining qualifying trips or miles,
32 motor vehicles that carry persons or property for hire, even
33 just between points in Illinois, will be considered used for
34 hire in interstate commerce if the motor vehicle transports
35 persons whose journeys or property whose shipments originate or
36 terminate outside Illinois. The exemption for motor vehicles

1 used as rolling stock moving in interstate commerce may be
2 claimed only for motor vehicles whose gross vehicle weight
3 rating exceeds 16,000 pounds. This definition applies to all
4 property purchased for the purpose of being attached to those
5 motor vehicles as a part thereof.

6 (d) Beginning July 1, 2004, "use as rolling stock moving in
7 interstate commerce" in paragraphs (b) and (c) of Section 3-55
8 occurs for trailers, as defined in Section 1-209 of the
9 Illinois Vehicle Code, semitrailers as defined in Section 1-187
10 of the Illinois Vehicle Code, and pole trailers as defined in
11 Section 1-161 of the Illinois Vehicle Code, when during a
12 12-month period the rolling stock has carried persons or
13 property for hire in interstate commerce for greater than 50%
14 of its total trips for that period or for greater than 50% of
15 its total miles for that period. The person claiming the
16 exemption for a trailer or trailers that will not be dedicated
17 to a motor vehicle or group of motor vehicles shall make an
18 election at the time of purchase to use either the trips or
19 mileage method. Persons who purchased trailers prior to July 1,
20 2004 that are not dedicated to a motor vehicle or group of
21 motor vehicles shall make an election to use either the trips
22 or mileage method and document that election in their books and
23 records. If no election is made under this subsection to use
24 the trips or mileage method, the person shall be deemed to have
25 chosen the mileage method. Any election to use either the trips
26 or mileage method will remain in effect for that trailer for
27 any period for which the Department may issue a notice of tax
28 liability under this Act.

29 For purposes of determining qualifying trips or miles,
30 trailers, semitrailers, or pole trailers that carry property
31 for hire, even just between points in Illinois, will be
32 considered used for hire in interstate commerce if the
33 trailers, semitrailers, or pole trailers transport property
34 whose shipments originate or terminate outside Illinois. This
35 definition applies to all property purchased for the purpose of
36 being attached to those trailers, semitrailers, or pole

1 trailers as a part thereof. In lieu of a person providing
2 documentation regarding the qualifying use of each individual
3 trailer, semitrailer, or pole trailer, that person may document
4 such qualifying use by providing documentation of the
5 following:

6 (1) If a trailer, semitrailer, or pole trailer is
7 dedicated to a motor vehicle that qualifies as rolling
8 stock moving in interstate commerce under subsection (c) of
9 this Section, then that trailer, semitrailer, or pole
10 trailer qualifies as rolling stock moving in interstate
11 commerce under this subsection.

12 (2) If a trailer, semitrailer, or pole trailer is
13 dedicated to a group of motor vehicles that all qualify as
14 rolling stock moving in interstate commerce under
15 subsection (c) of this Section, then that trailer,
16 semitrailer, or pole trailer qualifies as rolling stock
17 moving in interstate commerce under this subsection.

18 (3) If one or more trailers, semitrailers, or pole
19 trailers are dedicated to a group of motor vehicles and not
20 all of those motor vehicles in that group qualify as
21 rolling stock moving in interstate commerce under
22 subsection (c) of this Section, then the percentage of
23 those trailers, semitrailers, or pole trailers that
24 qualifies as rolling stock moving in interstate commerce
25 under this subsection is equal to the percentage of those
26 motor vehicles in that group that qualify as rolling stock
27 moving in interstate commerce under subsection (c) of this
28 Section to which those trailers, semitrailers, or pole
29 trailers are dedicated. However, to determine the
30 qualification for the exemption provided under this item
31 (3), the mathematical application of the qualifying
32 percentage to one or more trailers, semitrailers, or pole
33 trailers under this subpart shall not be allowed as to any
34 fraction of a trailer, semitrailer, or pole trailer.

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

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

3 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

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

17 "Purchased from a serviceman" means the acquisition of the
18 ownership of, or title to, tangible personal property through a
19 sale of service.

20 "Purchaser" means any person who, through a sale of
21 service, acquires the ownership of, or title to, any tangible
22 personal property.

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

35 "Selling price" means the consideration for a sale valued

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

10 "Department" means the Department of Revenue.

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

16 "Sale of service" means any transaction except:

17 (1) a retail sale of tangible personal property taxable
18 under the Retailers' Occupation Tax Act or under the Use
19 Tax Act.

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

23 (3) except as hereinafter provided, a sale or transfer
24 of tangible personal property as an incident to the
25 rendering of service for or by any governmental body, or
26 for or by any corporation, society, association,
27 foundation or institution organized and operated
28 exclusively for charitable, religious or educational
29 purposes or any not-for-profit corporation, society,
30 association, foundation, institution or organization which
31 has no compensated officers or employees and which is
32 organized and operated primarily for the recreation of
33 persons 55 years of age or older. A limited liability
34 company may qualify for the exemption under this paragraph
35 only if the limited liability company is organized and
36 operated exclusively for educational purposes.

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

13 (4a) a sale or transfer of tangible personal property
14 as an incident to the rendering of service for owners,
15 lessors, or shippers of tangible personal property which is
16 utilized by interstate carriers for hire for use as rolling
17 stock moving in interstate commerce so long as so used by
18 interstate carriers for hire, and equipment operated by a
19 telecommunications provider, licensed as a common carrier
20 by the Federal Communications Commission, which is
21 permanently installed in or affixed to aircraft moving in
22 interstate commerce.

23 (4a-5) on and after July 1, 2003 and through June 30,
24 2004, a sale or transfer of a motor vehicle of the second
25 division with a gross vehicle weight in excess of 8,000
26 pounds as an incident to the rendering of service if that
27 motor vehicle is subject to the commercial distribution fee
28 imposed under Section 3-815.1 of the Illinois Vehicle Code.
29 Beginning on July 1, 2004 and through June 30, 2005, the
30 use in this State of motor vehicles of the second division:
31 (i) with a gross vehicle weight rating in excess of 8,000
32 pounds; (ii) that are subject to the commercial
33 distribution fee imposed under Section 3-815.1 of the
34 Illinois Vehicle Code; and (iii) that are primarily used
35 for commercial purposes. Through June 30, 2005, this ~~This~~
36 exemption applies to repair and replacement parts added

1 after the initial purchase of such a motor vehicle if that
2 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, "used for commercial
5 purposes" means the transportation of persons or property
6 in furtherance of any commercial or industrial enterprise
7 whether for-hire or not.

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

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

31 (5b) a sale or transfer of tangible personal property
32 which is produced by the seller thereof on special order in
33 such a way as to have made the applicable tax the Service
34 Occupation Tax or the Service Use Tax, rather than the
35 Retailers' Occupation Tax or the Use Tax, for an interstate
36 carrier by rail which receives the physical possession of

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

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

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

36 Tangible personal property transferred incident to the

1 completion of a maintenance agreement is exempt from the tax
2 imposed pursuant to this Act.

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

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

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

34 On and after July 1, 1987, no entity otherwise eligible
35 under exemption (3) of this Section shall make tax free
36 purchases unless it has an active exemption identification

1 number issued by the Department.

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

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

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

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

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

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

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

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

35 4. soliciting orders for tangible personal property by
36 mail if the solicitations are substantial and recurring and

1 if the retailer benefits from any banking, financing, debt
2 collection, telecommunication, or marketing activities
3 occurring in this State or benefits from the location in
4 this State of authorized installation, servicing, or
5 repair facilities;

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

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

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

17 8. engaging in activities in Illinois, which
18 activities in the state in which the supply business
19 engaging in such activities is located would constitute
20 maintaining a place of business in that state.

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

23 (35 ILCS 110/3-51)

24 Sec. 3-51. Motor vehicles; trailers; use as rolling stock
25 definition.

26 (a) Through June 30, 2003, "use as rolling stock moving in
27 interstate commerce" in subsection (b) of Section 3-45 means
28 for motor vehicles, as defined in Section 1-46 of the Illinois
29 Vehicle Code, and trailers, as defined in Section 1-209 of the
30 Illinois Vehicle Code, when on 15 or more occasions in a
31 12-month period the motor vehicle and trailer has carried
32 persons or property for hire in interstate commerce, even just
33 between points in Illinois, if the motor vehicle and trailer
34 transports persons whose journeys or property whose shipments
35 originate or terminate outside Illinois. This definition

1 applies to all property purchased for the purpose of being
2 attached to those motor vehicles or trailers as a part thereof.

3 (b) On and after July 1, 2003 and through June 30, 2004,
4 "use as rolling stock moving in interstate commerce" in
5 paragraphs (4) and (4a) of the definition of "sale of service"
6 in Section 2 and subsection (b) of Section 3-45 occurs for
7 motor vehicles, as defined in Section 1-146 of the Illinois
8 Vehicle Code, when during a 12-month period the rolling stock
9 has carried persons or property for hire in interstate commerce
10 for 51% of its total trips and transports persons whose
11 journeys or property whose shipments originate or terminate
12 outside Illinois. Trips that are only between points in
13 Illinois shall not be counted as interstate trips when
14 calculating whether the tangible personal property qualifies
15 for the exemption but such trips shall be included in total
16 trips taken.

17 (c) Beginning July 1, 2004, "use as rolling stock moving in
18 interstate commerce" in paragraphs (4) and (4a) of the
19 definition of "sale of service" in Section 2 and subsection (b)
20 of Section 3-45 occurs for motor vehicles, as defined in
21 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 greater than 50%
24 of its total trips for that period or for greater than 50% of
25 its total miles for that period. The person claiming the
26 exemption shall make an election at the time of purchase to use
27 either the trips or mileage method. Persons who purchased motor
28 vehicles prior to July 1, 2004 shall make an election to use
29 either the trips or mileage method and document that election
30 in their books and records. If no election is made under this
31 subsection to use the trips or mileage method, the person shall
32 be deemed to have chosen the mileage method. Any election to
33 use either the trips or mileage method will remain in effect
34 for that motor vehicle for any period for which the Department
35 may issue a notice of tax liability under this Act.

36 For purposes of determining qualifying trips or miles,

1 motor vehicles that carry persons or property for hire, even
2 just between points in Illinois, will be considered used for
3 hire in interstate commerce if the motor vehicle transports
4 persons whose journeys or property whose shipments originate or
5 terminate outside Illinois. The exemption for motor vehicles
6 used as rolling stock moving in interstate commerce may be
7 claimed only for motor vehicles whose gross vehicle weight
8 rating exceeds 16,000 pounds. This definition applies to all
9 property purchased for the purpose of being attached to those
10 motor vehicles as a part thereof.

11 (d) Beginning July 1, 2004, "use as rolling stock moving in
12 interstate commerce" in paragraphs (4) and (4a) of the
13 definition of "sale of service" in Section 2 and subsection (b)
14 of Section 3-45 occurs for trailers, as defined in Section
15 1-209 of the Illinois Vehicle Code, semitrailers as defined in
16 Section 1-187 of the Illinois Vehicle Code, and pole trailers
17 as defined in Section 1-161 of the Illinois Vehicle Code, when
18 during a 12-month period the rolling stock has carried persons
19 or property for hire in interstate commerce for greater than
20 50% of its total trips for that period or for greater than 50%
21 of its total miles for that period. The person claiming the
22 exemption for a trailer or trailers that will not be dedicated
23 to a motor vehicle or group of motor vehicles shall make an
24 election at the time of purchase to use either the trips or
25 mileage method. Persons who purchased trailers prior to July 1,
26 2004 that are not dedicated to a motor vehicle or group of
27 motor vehicles shall make an election to use either the trips
28 or mileage method and document that election in their books and
29 records. If no election is made under this subsection to use
30 the trips or mileage method, the person shall be deemed to have
31 chosen the mileage method. Any election to use either the trips
32 or mileage method will remain in effect for that trailer for
33 any period for which the Department may issue a notice of tax
34 liability under this Act.

35 For purposes of determining qualifying trips or miles,
36 trailers, semitrailers, or pole trailers that carry property

1 for hire, even just between points in Illinois, will be
2 considered used for hire in interstate commerce if the
3 trailers, semitrailers, or pole trailers transport property
4 whose shipments originate or terminate outside Illinois. This
5 definition applies to all property purchased for the purpose of
6 being attached to those trailers, semitrailers, or pole
7 trailers as a part thereof. In lieu of a person providing
8 documentation regarding the qualifying use of each individual
9 trailer, semitrailer, or pole trailer, that person may document
10 such qualifying use by providing documentation of the
11 following:

12 (1) If a trailer, semitrailer, or pole trailer is
13 dedicated to a motor vehicle that qualifies as rolling
14 stock moving in interstate commerce under subsection (c) of
15 this Section, then that trailer, semitrailer, or pole
16 trailer qualifies as rolling stock moving in interstate
17 commerce under this subsection.

18 (2) If a trailer, semitrailer, or pole trailer is
19 dedicated to a group of motor vehicles that all qualify as
20 rolling stock moving in interstate commerce under
21 subsection (c) of this Section, then that trailer,
22 semitrailer, or pole trailer qualifies as rolling stock
23 moving in interstate commerce under this subsection.

24 (3) If one or more trailers, semitrailers, or pole
25 trailers are dedicated to a group of motor vehicles and not
26 all of those motor vehicles in that group qualify as
27 rolling stock moving in interstate commerce under
28 subsection (c) of this Section, then the percentage of
29 those trailers, semitrailers, or pole trailers that
30 qualifies as rolling stock moving in interstate commerce
31 under this subsection is equal to the percentage of those
32 motor vehicles in that group that qualify as rolling stock
33 moving in interstate commerce under subsection (c) of this
34 Section to which those trailers, semitrailers, or pole
35 trailers are dedicated. However, to determine the
36 qualification for the exemption provided under this item

1 (3), the mathematical application of the qualifying
2 percentage to one or more trailers, semitrailers, or pole
3 trailers under this subpart shall not be allowed as to any
4 fraction of a trailer, semitrailer, or pole trailer.

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

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

8 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

9 Sec. 2. "Transfer" means any transfer of the title to
10 property or of the ownership of property whether or not the
11 transferor retains title as security for the payment of amounts
12 due him from the transferee.

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

25 "Department" means the Department of Revenue.

26 "Person" means any natural individual, firm, partnership,
27 association, joint stock company, joint venture, public or
28 private corporation, limited liability company, and any
29 receiver, executor, trustee, guardian or other representative
30 appointed by order of any court.

31 "Sale of Service" means any transaction except:

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

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

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

17 (d) A sale or transfer of tangible personal property as an
18 incident to the rendering of service for interstate carriers
19 for hire for use as rolling stock moving in interstate commerce
20 or lessors under leases of one year or longer, executed or in
21 effect at the time of purchase, to interstate carriers for hire
22 for use as rolling stock moving in interstate commerce, and
23 equipment operated by a telecommunications provider, licensed
24 as a common carrier by the Federal Communications Commission,
25 which is permanently installed in or affixed to aircraft moving
26 in interstate commerce.

27 (d-1) A sale or transfer of tangible personal property as
28 an incident to the rendering of service for owners, lessors or
29 shippers of tangible personal property which is utilized by
30 interstate carriers for hire for use as rolling stock moving in
31 interstate commerce, and equipment operated by a
32 telecommunications provider, licensed as a common carrier by
33 the Federal Communications Commission, which is permanently
34 installed in or affixed to aircraft moving in interstate
35 commerce.

36 (d-1.1) On and after July 1, 2003 and through June 30,

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

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

31 (d-3) A sale or transfer of tangible personal property
32 which is produced by the seller thereof on special order in
33 such a way as to have made the applicable tax the Service
34 Occupation Tax or the Service Use Tax, rather than the
35 Retailers' Occupation Tax or the Use Tax, for an interstate
36 carrier by rail which receives the physical possession of such

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

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

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

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

32 (g) At the election of any serviceman not required to be
33 otherwise registered as a retailer under Section 2a of the
34 Retailers' Occupation Tax Act, made for each fiscal year sales
35 of service in which the aggregate annual cost price of tangible
36 personal property transferred as an incident to the sales of

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

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

18 Exemption (e) also includes machinery and equipment used in
19 the general maintenance or repair of such exempt machinery and
20 equipment or for in-house manufacture of exempt machinery and
21 equipment. For the purposes of exemption (e), each of these
22 terms shall have the following meanings: (1) "manufacturing
23 process" shall mean the production of any article of tangible
24 personal property, whether such article is a finished product
25 or an article for use in the process of manufacturing or
26 assembling a different article of tangible personal property,
27 by procedures commonly regarded as manufacturing, processing,
28 fabricating, or refining which changes some existing material
29 or materials into a material with a different form, use or
30 name. In relation to a recognized integrated business composed
31 of a series of operations which collectively constitute
32 manufacturing, or individually constitute manufacturing
33 operations, the manufacturing process shall be deemed to
34 commence with the first operation or stage of production in the
35 series, and shall not be deemed to end until the completion of
36 the final product in the last operation or stage of production

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

35 Except as provided in Section 2d of this Act, the rolling
36 stock exemption applies to rolling stock used by an interstate

1 carrier for hire, even just between points in Illinois, if such
2 rolling stock transports, for hire, persons whose journeys or
3 property whose shipments originate or terminate outside
4 Illinois.

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

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

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

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

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

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

31 (35 ILCS 115/2d)

32 Sec. 2d. Motor vehicles; trailers; use as rolling stock
33 definition.

34 (a) Through June 30, 2003, "use as rolling stock moving in
35 interstate commerce" in subsections (d) and (d-1) of the

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

12 (b) On and after July 1, 2003 and through June 30, 2004,
13 "use as rolling stock moving in interstate commerce" in
14 paragraphs (d) and (d-1) of the definition of "sale of service"
15 in Section 2 occurs for motor vehicles, as defined in Section
16 1-146 of the Illinois Vehicle Code, when during a 12-month
17 period the rolling stock has carried persons or property for
18 hire in interstate commerce for 51% of its total trips and
19 transports persons whose journeys or property whose shipments
20 originate or terminate outside Illinois. Trips that are only
21 between points in Illinois will not be counted as interstate
22 trips when calculating whether the tangible personal property
23 qualifies for the exemption but such trips will be included in
24 total trips taken.

25 (c) Beginning July 1, 2004, "use as rolling stock moving in
26 interstate commerce" in paragraphs (d) and (d-1) of the
27 definition of "sale of service" in Section 2 occurs for motor
28 vehicles, as defined in Section 1-146 of the Illinois Vehicle
29 Code, when during a 12-month period the rolling stock has
30 carried persons or property for hire in interstate commerce for
31 greater than 50% of its total trips for that period or for
32 greater than 50% of its total miles for that period. The person
33 claiming the exemption shall make an election at the time of
34 purchase to use either the trips or mileage method. Persons who
35 purchased motor vehicles prior to July 1, 2004 shall make an
36 election to use either the trips or mileage method and document

1 that election in their books and records. If no election is
2 made under this subsection to use the trips or mileage method,
3 the person shall be deemed to have chosen the mileage method.
4 Any election to use either the trips or mileage method will
5 remain in effect for that motor vehicle for any period for
6 which the Department may issue a notice of tax liability under
7 this Act.

8 For purposes of determining qualifying trips or miles,
9 motor vehicles that carry persons or property for hire, even
10 just between points in Illinois, will be considered used for
11 hire in interstate commerce if the motor vehicle transports
12 persons whose journeys or property whose shipments originate or
13 terminate outside Illinois. The exemption for motor vehicles
14 used as rolling stock moving in interstate commerce may be
15 claimed only for motor vehicles whose gross vehicle weight
16 rating exceeds 16,000 pounds. This definition applies to all
17 property purchased for the purpose of being attached to those
18 motor vehicles as a part thereof.

19 (d) Beginning July 1, 2004, "use as rolling stock moving in
20 interstate commerce" in paragraphs (d) and (d-1) of the
21 definition of "sale of service" in Section 2 occurs for
22 trailers, as defined in Section 1-209 of the Illinois Vehicle
23 Code, semitrailers as defined in Section 1-187 of the Illinois
24 Vehicle Code, and pole trailers as defined in Section 1-161 of
25 the Illinois Vehicle Code, when during a 12-month period the
26 rolling stock has carried persons or property for hire in
27 interstate commerce for greater than 50% of its total trips for
28 that period or for greater than 50% of its total miles for that
29 period. The person claiming the exemption for a trailer or
30 trailers that will not be dedicated to a motor vehicle or group
31 of motor vehicles shall make an election at the time of
32 purchase to use either the trips or mileage method. Persons who
33 purchased trailers prior to July 1, 2004 that are not dedicated
34 to a motor vehicle or group of motor vehicles shall make an
35 election to use either the trips or mileage method and document
36 that election in their books and records. If no election is

1 made under this subsection to use the trips or mileage method,
2 the person shall be deemed to have chosen the mileage method.
3 Any election to use either the trips or mileage method will
4 remain in effect for that trailer for any period for which the
5 Department may issue a notice of tax liability under this Act.

6 For purposes of determining qualifying trips or miles,
7 trailers, semitrailers, or pole trailers that carry property
8 for hire, even just between points in Illinois, will be
9 considered used for hire in interstate commerce if the
10 trailers, semitrailers, or pole trailers transport property
11 whose shipments originate or terminate outside Illinois. This
12 definition applies to all property purchased for the purpose of
13 being attached to those trailers, semitrailers, or pole
14 trailers as a part thereof. In lieu of a person providing
15 documentation regarding the qualifying use of each individual
16 trailer, semitrailer, or pole trailer, that person may document
17 such qualifying use by providing documentation of the
18 following:

19 (1) If a trailer, semitrailer, or pole trailer is
20 dedicated to a motor vehicle that qualifies as rolling
21 stock moving in interstate commerce under subsection (c) of
22 this Section, then that trailer, semitrailer, or pole
23 trailer qualifies as rolling stock moving in interstate
24 commerce under this subsection.

25 (2) If a trailer, semitrailer, or pole trailer is
26 dedicated to a group of motor vehicles that all qualify as
27 rolling stock moving in interstate commerce under
28 subsection (c) of this Section, then that trailer,
29 semitrailer, or pole trailer qualifies as rolling stock
30 moving in interstate commerce under this subsection.

31 (3) If one or more trailers, semitrailers, or pole
32 trailers are dedicated to a group of motor vehicles and not
33 all of those motor vehicles in that group qualify as
34 rolling stock moving in interstate commerce under
35 subsection (c) of this Section, then the percentage of
36 those trailers, semitrailers, or pole trailers that

1 qualifies as rolling stock moving in interstate commerce
2 under this subsection is equal to the percentage of those
3 motor vehicles in that group that qualify as rolling stock
4 moving in interstate commerce under subsection (c) of this
5 Section to which those trailers, semitrailers, or pole
6 trailers are dedicated. However, to determine the
7 qualification for the exemption provided under this item
8 (3), the mathematical application of the qualifying
9 percentage to one or more trailers, semitrailers, or pole
10 trailers under this subpart shall not be allowed as to any
11 fraction of a trailer, semitrailer, or pole trailer.

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

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

15 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

19 (1) Farm chemicals.

20 (2) Farm machinery and equipment, both new and used,
21 including that manufactured on special order, certified by the
22 purchaser to be used primarily for production agriculture or
23 State or federal agricultural programs, including individual
24 replacement parts for the machinery and equipment, including
25 machinery and equipment purchased for lease, and including
26 implements of husbandry defined in Section 1-130 of the
27 Illinois Vehicle Code, farm machinery and agricultural
28 chemical and fertilizer spreaders, and nurse wagons required to
29 be registered under Section 3-809 of the Illinois Vehicle Code,
30 but excluding other motor vehicles required to be registered
31 under the Illinois Vehicle Code. Horticultural polyhouses or
32 hoop houses used for propagating, growing, or overwintering
33 plants shall be considered farm machinery and equipment under
34 this item (2). Agricultural chemical tender tanks and dry boxes

1 shall include units sold separately from a motor vehicle
2 required to be licensed and units sold mounted on a motor
3 vehicle required to be licensed, if the selling price of the
4 tender is separately stated.

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

13 Farm machinery and equipment also includes computers,
14 sensors, software, and related equipment used primarily in the
15 computer-assisted operation of production agriculture
16 facilities, equipment, and activities such as, but not limited
17 to, the collection, monitoring, and correlation of animal and
18 crop data for the purpose of formulating animal diets and
19 agricultural chemicals. This item (7) is exempt from the
20 provisions of Section 2-70.

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

27 (4) Until July 1, 2003, graphic arts machinery and
28 equipment, including repair and replacement parts, both new and
29 used, and including that manufactured on special order or
30 purchased for lease, certified by the purchaser to be used
31 primarily for graphic arts production. Equipment includes
32 chemicals or chemicals acting as catalysts but only if the
33 chemicals or chemicals acting as catalysts effect a direct and
34 immediate change upon a graphic arts product.

35 (5) A motor vehicle of the first division, a motor vehicle
36 of the second division that is a self-contained motor vehicle

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

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

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

16 (8) Personal property sold to an Illinois county fair
17 association for use in conducting, operating, or promoting the
18 county fair.

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

34 (10) Personal property sold by a corporation, society,
35 association, foundation, institution, or organization, other
36 than a limited liability company, that is organized and

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

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

19 (12) Tangible personal property sold to interstate
20 carriers for hire for use as rolling stock moving in interstate
21 commerce or to lessors under leases of one year or longer
22 executed or in effect at the time of purchase by interstate
23 carriers for hire for use as rolling stock moving in interstate
24 commerce and equipment operated by a telecommunications
25 provider, licensed as a common carrier by the Federal
26 Communications Commission, which is permanently installed in
27 or affixed to aircraft moving in interstate commerce.

28 (12-5) On and after July 1, 2003 and through June 30, 2004,
29 motor vehicles of the second division with a gross vehicle
30 weight in excess of 8,000 pounds that are subject to the
31 commercial distribution fee imposed under Section 3-815.1 of
32 the Illinois Vehicle Code. Beginning on July 1, 2004 and
33 through June 30, 2005, the use in this State of motor vehicles
34 of the second division: (i) with a gross vehicle weight rating
35 in excess of 8,000 pounds; (ii) that are subject to the
36 commercial distribution fee imposed under Section 3-815.1 of

1 the Illinois Vehicle Code; and (iii) that are primarily used
2 for commercial purposes. Through June 30, 2005, this ~~This~~
3 exemption applies to repair and replacement parts added after
4 the initial purchase of such a motor vehicle if that motor
5 vehicle is used in a manner that would qualify for the rolling
6 stock exemption otherwise provided for in this Act. For
7 purposes of this paragraph, "used for commercial purposes"
8 means the transportation of persons or property in furtherance
9 of any commercial or industrial enterprise whether for-hire or
10 not.

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

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

30 (15) Proceeds of mandatory service charges separately
31 stated on customers' bills for purchase and consumption of food
32 and beverages, to the extent that the proceeds of the service
33 charge are in fact turned over as tips or as a substitute for
34 tips to the employees who participate directly in preparing,
35 serving, hosting or cleaning up the food or beverage function
36 with respect to which the service charge is imposed.

1 (16) Petroleum products sold to a purchaser if the seller
2 is prohibited by federal law from charging tax to the
3 purchaser.

4 (17) Tangible personal property sold to a common carrier by
5 rail or motor that receives the physical possession of the
6 property in Illinois and that transports the property, or
7 shares with another common carrier in the transportation of the
8 property, out of Illinois on a standard uniform bill of lading
9 showing the seller of the property as the shipper or consignor
10 of the property to a destination outside Illinois, for use
11 outside Illinois.

12 (18) Legal tender, currency, medallions, or gold or silver
13 coinage issued by the State of Illinois, the government of the
14 United States of America, or the government of any foreign
15 country, and bullion.

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

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

30 (21) Until July 1, 2003, coal exploration, mining,
31 offhighway hauling, processing, maintenance, and reclamation
32 equipment, including replacement parts and equipment, and
33 including equipment purchased for lease, but excluding motor
34 vehicles required to be registered under the Illinois Vehicle
35 Code.

36 (22) Fuel and petroleum products sold to or used by an air

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

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

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

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

27 (26) Semen used for artificial insemination of livestock
28 for direct agricultural production.

29 (27) Horses, or interests in horses, registered with and
30 meeting the requirements of any of the Arabian Horse Club
31 Registry of America, Appaloosa Horse Club, American Quarter
32 Horse Association, United States Trotting Association, or
33 Jockey Club, as appropriate, used for purposes of breeding or
34 racing for prizes.

35 (28) Computers and communications equipment utilized for
36 any hospital purpose and equipment used in the diagnosis,

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

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

12 (30) 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 for
15 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 (31) 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 the
25 performance of infrastructure repairs in this State, including
26 but not limited to municipal roads and streets, access roads,
27 bridges, sidewalks, waste disposal systems, water and sewer
28 line extensions, water distribution and purification
29 facilities, storm water drainage and retention facilities, and
30 sewage treatment facilities, resulting from a State or
31 federally declared disaster in Illinois or bordering Illinois
32 when such repairs are initiated on facilities located in the
33 declared disaster area within 6 months after the disaster.

34 (32) Beginning July 1, 1999, game or game birds sold at a
35 "game breeding and hunting preserve area" or an "exotic game
36 hunting area" as those terms are used in the Wildlife Code or

1 at a hunting enclosure approved through rules adopted by the
2 Department of Natural Resources. This paragraph is exempt from
3 the provisions of Section 2-70.

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

22 (34) Beginning January 1, 2000, personal property,
23 including food, purchased through fundraising events for the
24 benefit of a public or private elementary or secondary school,
25 a group of those schools, or one or more school districts if
26 the events are sponsored by an entity recognized by the school
27 district that consists primarily of volunteers and includes
28 parents and teachers of the school children. This paragraph
29 does not apply to fundraising events (i) for the benefit of
30 private home instruction or (ii) for which the fundraising
31 entity purchases the personal property sold at the events from
32 another individual or entity that sold the property for the
33 purpose of resale by the fundraising entity and that profits
34 from the sale to the fundraising entity. This paragraph is
35 exempt from the provisions of Section 2-70.

36 (35) Beginning January 1, 2000 and through December 31,

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

10 (35-5) Food for human consumption that is to be consumed
11 off the premises where it is sold (other than alcoholic
12 beverages, soft drinks, and food that has been prepared for
13 immediate consumption) and prescription and nonprescription
14 medicines, drugs, medical appliances, and insulin, urine
15 testing materials, syringes, and needles used by diabetics, for
16 human use, when purchased for use by a person receiving medical
17 assistance under Article 5 of the Illinois Public Aid Code who
18 resides in a licensed long-term care facility, as defined in
19 the Nursing Home Care Act.

20 (36) Beginning August 2, 2001, computers and
21 communications equipment utilized for any hospital purpose and
22 equipment used in the diagnosis, analysis, or treatment of
23 hospital patients sold to a lessor who leases the equipment,
24 under a lease of one year or longer executed or in effect at
25 the time of the purchase, to a hospital that has been issued an
26 active tax exemption identification number by the Department
27 under Section 1g of this Act. This paragraph is exempt from the
28 provisions of Section 2-70.

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

36 (38) Beginning on January 1, 2002, tangible personal

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

22 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
23 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
24 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
25 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised
26 9-11-03.)

27 (35 ILCS 120/2-51)

28 Sec. 2-51. Motor vehicles; trailers; use as rolling stock
29 definition.

30 (a) Through June 30, 2003, "use as rolling stock moving in
31 interstate commerce" in paragraphs (12) and (13) of Section 2-5
32 means for motor vehicles, as defined in Section 1-146 of the
33 Illinois Vehicle Code, and trailers, as defined in Section
34 1-209 of the Illinois Vehicle Code, when on 15 or more
35 occasions in a 12-month period the motor vehicle and trailer

1 has carried persons or property for hire in interstate
2 commerce, even just between points in Illinois, if the motor
3 vehicle and trailer transports persons whose journeys or
4 property whose shipments originate or terminate outside
5 Illinois. This definition applies to all property purchased for
6 the purpose of being attached to those motor vehicles or
7 trailers as a part thereof.

8 (b) On and after July 1, 2003 and through June 30, 2004,
9 "use as rolling stock moving in interstate commerce" in
10 paragraphs (12) and (13) of Section 2-5 occurs for motor
11 vehicles, as defined in Section 1-146 of the Illinois Vehicle
12 Code, when during a 12-month period the rolling stock has
13 carried persons or property for hire in interstate commerce for
14 51% of its total trips and transports persons whose journeys or
15 property whose shipments originate or terminate outside
16 Illinois. Trips that are only between points in Illinois shall
17 not be counted as interstate trips when calculating whether the
18 tangible personal property qualifies for the exemption but such
19 trips shall be included in total trips taken.

20 (c) Beginning July 1, 2004, "use as rolling stock moving in
21 interstate commerce" in paragraphs (12) and (13) of Section 2-5
22 occurs for motor vehicles, as defined in Section 1-146 of the
23 Illinois Vehicle Code, when during a 12-month period the
24 rolling stock has carried persons or property for hire in
25 interstate commerce for greater than 50% of its total trips for
26 that period or for greater than 50% of its total miles for that
27 period. The person claiming the exemption shall make an
28 election at the time of purchase to use either the trips or
29 mileage method. Persons who purchased motor vehicles prior to
30 July 1, 2004 shall make an election to use either the trips or
31 mileage method and document that election in their books and
32 records. If no election is made under this subsection to use
33 the trips or mileage method, the person shall be deemed to have
34 chosen the mileage method. Any election to use either the trips
35 or mileage method will remain in effect for that motor vehicle
36 for any period for which the Department may issue a notice of

1 tax liability under this Act.

2 For purposes of determining qualifying trips or miles,
3 motor vehicles that carry persons or property for hire, even
4 just between points in Illinois, will be considered used for
5 hire in interstate commerce if the motor vehicle transports
6 persons whose journeys or property whose shipments originate or
7 terminate outside Illinois. The exemption for motor vehicles
8 used as rolling stock moving in interstate commerce may be
9 claimed only for motor vehicles whose gross vehicle weight
10 rating exceeds 16,000 pounds. This definition applies to all
11 property purchased for the purpose of being attached to those
12 motor vehicles as a part thereof.

13 (d) Beginning July 1, 2004, "use as rolling stock moving in
14 interstate commerce" in paragraphs (12) and (13) of Section 2-5
15 occurs for trailers, as defined in Section 1-209 of the
16 Illinois Vehicle Code, semitrailers as defined in Section 1-187
17 of the Illinois Vehicle Code, and pole trailers as defined in
18 Section 1-161 of the Illinois Vehicle Code, when during a
19 12-month period the rolling stock has carried persons or
20 property for hire in interstate commerce for greater than 50%
21 of its total trips for that period or for greater than 50% of
22 its total miles for that period. The person claiming the
23 exemption for a trailer or trailers that will not be dedicated
24 to a motor vehicle or group of motor vehicles shall make an
25 election at the time of purchase to use either the trips or
26 mileage method. Persons who purchased trailers prior to July 1,
27 2004 that are not dedicated to a motor vehicle or group of
28 motor vehicles shall make an election to use either the trips
29 or mileage method and document that election in their books and
30 records. If no election is made under this subsection to use
31 the trips or mileage method, the person shall be deemed to have
32 chosen the mileage method. Any election to use either the trips
33 or mileage method will remain in effect for that trailer for
34 any period for which the Department may issue a notice of tax
35 liability under this Act.

36 For purposes of determining qualifying trips or miles,

1 trailers, semitrailers, or pole trailers that carry property
2 for hire, even just between points in Illinois, will be
3 considered used for hire in interstate commerce if the
4 trailers, semitrailers, or pole trailers transport property
5 whose shipments originate or terminate outside Illinois. This
6 definition applies to all property purchased for the purpose of
7 being attached to those trailers, semitrailers, or pole
8 trailers as a part thereof. In lieu of a person providing
9 documentation regarding the qualifying use of each individual
10 trailer, semitrailer, or pole trailer, that person may document
11 such qualifying use by providing documentation of the
12 following:

13 (1) If a trailer, semitrailer, or pole trailer is
14 dedicated to a motor vehicle that qualifies as rolling
15 stock moving in interstate commerce under subsection (c) of
16 this Section, then that trailer, semitrailer, or pole
17 trailer qualifies as rolling stock moving in interstate
18 commerce under this subsection.

19 (2) If a trailer, semitrailer, or pole trailer is
20 dedicated to a group of motor vehicles that all qualify as
21 rolling stock moving in interstate commerce under
22 subsection (c) of this Section, then that trailer,
23 semitrailer, or pole trailer qualifies as rolling stock
24 moving in interstate commerce under this subsection.

25 (3) If one or more trailers, semitrailers, or pole
26 trailers are dedicated to a group of motor vehicles and not
27 all of those motor vehicles in that group qualify as
28 rolling stock moving in interstate commerce under
29 subsection (c) of this Section, then the percentage of
30 those trailers, semitrailers, or pole trailers that
31 qualifies as rolling stock moving in interstate commerce
32 under this subsection is equal to the percentage of those
33 motor vehicles in that group that qualify as rolling stock
34 moving in interstate commerce under subsection (c) of this
35 Section to which those trailers, semitrailers, or pole
36 trailers are dedicated. However, to determine the

1 qualification for the exemption provided under this item
2 (3), the mathematical application of the qualifying
3 percentage to one or more trailers, semitrailers, or pole
4 trailers under this subpart shall not be allowed as to any
5 fraction of a trailer, semitrailer, or pole trailer.

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

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

9 (625 ILCS 5/3-815.1)

10 Sec. 3-815.1. Commercial distribution fee. Beginning July
11 1, 2003, in addition to any tax or fee imposed under this Code:

12 (a) Vehicles of the second division with a gross
13 vehicle weight that exceeds 8,000 pounds and that incur any
14 tax or fee under subsection (a) of Section 3-815 of this
15 Code or subsection (a) of Section 3-818 of this Code, as
16 applicable, ~~and~~ shall pay to the Secretary of State a
17 commercial distribution fee, for each registration year,
18 for the use of the public highways, State infrastructure,
19 and State services, in an amount equal to: (i) for a
20 registration year beginning on or after July 1, 2003 and
21 before July 1, 2005, 36% of the taxes and fees incurred
22 under subsection (a) of Section 3-815 of this Code, or
23 subsection (a) of Section 3-818 of this Code, as
24 applicable, rounded up to the nearest whole dollar; (ii)
25 for a registration year beginning on or after July 1, 2005
26 and before July 1, 2006, 21.5% of the taxes and fees
27 incurred under subsection (a) of Section 3-815 of this
28 Code, or subsection (a) of Section 3-818 of this Code, as
29 applicable, rounded up to the nearest whole dollar; and
30 (iii) for a registration year beginning on or after July 1,
31 2006, 14.35% of the taxes and fees incurred under
32 subsection (a) of Section 3-815 of this Code, or subsection
33 (a) of Section 3-818 of this Code, as applicable, rounded
34 up to the nearest whole dollar.

1 (b) Until June 30, 2004, vehicles ~~Vehicles~~ of the
2 second division with a gross vehicle weight of 8,000 pounds
3 or less and that incur any tax or fee under subsection (a)
4 of Section 3-815 of this Code or subsection (a) of Section
5 3-818 of this Code, as applicable, and have claimed the
6 rolling stock exemption under the Retailers' Occupation
7 Tax Act, Use Tax Act, Service Occupation Tax Act, or
8 Service Use Tax Act shall pay to the Illinois Department of
9 Revenue (or the Secretary of State under an
10 intergovernmental agreement) a commercial distribution
11 fee, for each registration year, for the use of the public
12 highways, State infrastructure, and State services, in an
13 amount equal to 36% of the taxes and fees incurred under
14 subsection (a) of Section 3-815 of this Code or subsection
15 (a) of Section 3-818 of this Code, as applicable, rounded
16 up to the nearest whole dollar.

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

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

20 Section 99. Effective date. This Act takes effect on July
21 1, 2004.