

1 AMENDMENT TO HOUSE BILL 3851

2 AMENDMENT NO. _____. Amend House Bill 3851, on page 1,
3 immediately below line 3, by inserting the following:

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

6 (35 ILCS 5/215)

7 Sec. 215. Transportation Employee Credit.

8 (a) For each taxable year beginning on or after January
9 1, 2004 and on or before December 31, 2004, a qualified
10 employer shall be allowed a credit against the tax imposed by
11 subsections (a) and (b) of Section 201 of this Act in the
12 amount of \$50 for each eligible employee employed by the
13 taxpayer as of the last day of the taxable year.

14 (b) For purposes of this Section, "qualified employer"
15 means:

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

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

1 (c) For purposes of this Section, "employee" includes an
2 individual who is treated as an employee of the taxpayer
3 under Section 401(c) of the Internal Revenue Code and whose
4 actual assigned duties are such that, if the individual were
5 a common-law employee performing such duties in 2 or more
6 states, the individual's compensation would be subject to tax
7 only by the individual's state of residence pursuant to 49
8 U.S.C. 14503(a)(1).

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

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

12 (2) The employee's compensation, pursuant to 49
13 U.S.C. 14503(a)(1), is subject to tax only by the
14 employee's state of residence, or would be subject to tax
15 only by the employee's state of residence if the
16 employee's actual duties were performed in 2 or more
17 states;

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

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

27 (e) For partners, shareholders of subchapter S
28 corporations, and owners of limited liability companies, if
29 the limited liability company is treated as a partnership for
30 purposes of federal and State income taxation, there shall be
31 allowed a credit under this Section to be determined in
32 accordance with the determination of income and distributive
33 share of income under Sections 702 and 704 and subchapter S
34 of the Internal Revenue Code.

1 (f) Any credit allowed under this Section which is
 2 unused in the year the credit is earned may be carried
 3 forward to each of the 5 taxable years following the year for
 4 which the credit is first computed until it is used. This
 5 credit shall be applied first to the earliest year for which
 6 there is a liability. If there is a credit under this Section
 7 from more than one tax year that is available to offset a
 8 liability, the earliest credit arising under this Section
 9 shall be applied first.

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

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

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

16 Section 10. The Use Tax Act is amended by changing
 17 Section 3-5 as follows:

18 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

21 (1) Personal property purchased from a corporation,
 22 society, association, foundation, institution, or
 23 organization, other than a limited liability company, that is
 24 organized and operated as a not-for-profit service enterprise
 25 for the benefit of persons 65 years of age or older if the
 26 personal property was not purchased by the enterprise for the
 27 purpose of resale by the enterprise.

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

31 (3) Personal property purchased by a not-for-profit arts
 32 or cultural organization that establishes, by proof required

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

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

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

32 (6) Until July 1, 2003, graphic arts machinery and
33 equipment, including repair and replacement parts, both new
34 and used, and including that manufactured on special order,

1 certified by the purchaser to be used primarily for graphic
2 arts production, and including machinery and equipment
3 purchased for lease. Equipment includes chemicals or
4 chemicals acting as catalysts but only if the chemicals or
5 chemicals acting as catalysts effect a direct and immediate
6 change upon a graphic arts product.

7 (7) Farm chemicals.

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

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

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

26 (11) Farm machinery and equipment, both new and used,
27 including that manufactured on special order, certified by
28 the purchaser to be used primarily for production agriculture
29 or State or federal agricultural programs, including
30 individual replacement parts for the machinery and equipment,
31 including machinery and equipment purchased for lease, and
32 including implements of husbandry defined in Section 1-130 of
33 the Illinois Vehicle Code, farm machinery and agricultural
34 chemical and fertilizer spreaders, and nurse wagons required

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

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

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

27 (12) Fuel and petroleum products sold to or used by an
28 air common carrier, certified by the carrier to be used for
29 consumption, shipment, or storage in the conduct of its
30 business as an air common carrier, for a flight destined for
31 or returning from a location or locations outside the United
32 States without regard to previous or subsequent domestic
33 stopovers.

34 (13) Proceeds of mandatory service charges separately

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

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

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

24 (16) Until July 1, 2003, coal exploration, mining,
25 offhighway hauling, processing, maintenance, and reclamation
26 equipment, including replacement parts and equipment, and
27 including equipment purchased for lease, but excluding motor
28 vehicles required to be registered under the Illinois Vehicle
29 Code.

30 (17) Until July 1, 2003, distillation machinery and
31 equipment, sold as a unit or kit, assembled or installed by
32 the retailer, certified by the user to be used only for the
33 production of ethyl alcohol that will be used for consumption
34 as motor fuel or as a component of motor fuel for the

1 personal use of the user, and not subject to sale or resale.

2 (18) Manufacturing and assembling machinery and
3 equipment used primarily in the process of manufacturing or
4 assembling tangible personal property for wholesale or retail
5 sale or lease, whether that sale or lease is made directly by
6 the manufacturer or by some other person, whether the
7 materials used in the process are owned by the manufacturer
8 or some other person, or whether that sale or lease is made
9 apart from or as an incident to the seller's engaging in the
10 service occupation of producing machines, tools, dies, jigs,
11 patterns, gauges, or other similar items of no commercial
12 value on special order for a particular purchaser.

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

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

20 (21) Horses, or interests in horses, registered with and
21 meeting the requirements of any of the Arabian Horse Club
22 Registry of America, Appaloosa Horse Club, American Quarter
23 Horse Association, United States Trotting Association, or
24 Jockey Club, as appropriate, used for purposes of breeding or
25 racing for prizes.

26 (22) Computers and communications equipment utilized for
27 any hospital purpose and equipment used in the diagnosis,
28 analysis, or treatment of hospital patients purchased by a
29 lessor who leases the equipment, under a lease of one year or
30 longer executed or in effect at the time the lessor would
31 otherwise be subject to the tax imposed by this Act, to a
32 hospital that has been issued an active tax exemption
33 identification number by the Department under Section 1g of
34 the Retailers' Occupation Tax Act. If the equipment is

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

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

1 to pay that amount to the Department.

2 (24) Beginning with taxable years ending on or after
3 December 31, 1995 and ending with taxable years ending on or
4 before December 31, 2004, personal property that is donated
5 for disaster relief to be used in a State or federally
6 declared disaster area in Illinois or bordering Illinois by a
7 manufacturer or retailer that is registered in this State to
8 a corporation, society, association, foundation, or
9 institution that has been issued a sales tax exemption
10 identification number by the Department that assists victims
11 of the disaster who reside within the declared disaster area.

12 (25) 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 used in
15 the performance of infrastructure repairs in this State,
16 including but not limited to municipal roads and streets,
17 access roads, bridges, sidewalks, waste disposal systems,
18 water and sewer line extensions, water distribution and
19 purification facilities, storm water drainage and retention
20 facilities, and sewage treatment facilities, resulting from a
21 State or federally declared disaster in Illinois or bordering
22 Illinois when such repairs are initiated on facilities
23 located in the declared disaster area within 6 months after
24 the disaster.

25 (26) Beginning July 1, 1999, game or game birds
26 purchased at a "game breeding and hunting preserve area" or
27 an "exotic game hunting area" as those terms are used in the
28 Wildlife Code or at a hunting enclosure approved through
29 rules adopted by the Department of Natural Resources. This
30 paragraph is exempt from the provisions of Section 3-90.

31 (27) A motor vehicle, as that term is defined in Section
32 1-146 of the Illinois Vehicle Code, that is donated to a
33 corporation, limited liability company, society, association,
34 foundation, or institution that is determined by the

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

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

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

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

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

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

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

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

31 (33) On and after July 1, 2003 and through June 30,
32 2004, the use in this State of motor vehicles of the second
33 division with a gross vehicle weight in excess of 8,000
34 pounds and that are subject to the commercial distribution

1 fee imposed under Section 3-815.1 of the Illinois Vehicle
2 Code. This exemption applies to repair and replacement parts
3 added after the initial purchase of such a motor vehicle if
4 that motor vehicle is used in a manner that would qualify for
5 the rolling stock exemption otherwise provided for in this
6 Act.

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

11 Section 15. The Service Use Tax Act is amended by
12 changing Section 2 as follows:

13 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

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

28 "Purchased from a serviceman" means the acquisition of
29 the ownership of, or title to, tangible personal property
30 through a sale of service.

31 "Purchaser" means any person who, through a sale of
32 service, acquires the ownership of, or title to, any tangible

1 personal property.

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

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

26 "Department" means the Department of Revenue.

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

32 "Sale of service" means any transaction except:

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

1 the Use Tax Act.

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

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

20 (4) a sale or transfer of tangible personal
21 property as an incident to the rendering of service for
22 interstate carriers for hire for use as rolling stock
23 moving in interstate commerce or by lessors under a lease
24 of one year or longer, executed or in effect at the time
25 of purchase of personal property, to interstate carriers
26 for hire for use as rolling stock moving in interstate
27 commerce so long as so used by such interstate carriers
28 for hire, and equipment operated by a telecommunications
29 provider, licensed as a common carrier by the Federal
30 Communications Commission, which is permanently installed
31 in or affixed to aircraft moving in interstate commerce.

32 (4a) a sale or transfer of tangible personal
33 property as an incident to the rendering of service for
34 owners, lessors, or shippers of tangible personal

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

8 (4a-5) on and after July 1, 2003 and through June
9 30, 2004, a sale or transfer of a motor vehicle of the
10 second division with a gross vehicle weight in excess of
11 8,000 pounds as an incident to the rendering of service
12 if that motor vehicle is subject to the commercial
13 distribution fee imposed under Section 3-815.1 of the
14 Illinois Vehicle Code. This exemption applies to repair
15 and replacement parts added after the initial purchase
16 of such a motor vehicle if that motor vehicle is used in
17 a manner that would qualify for the rolling stock
18 exemption otherwise provided for in this Act.

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

32 (5a) the repairing, reconditioning or remodeling,
33 for a common carrier by rail, of tangible personal
34 property which belongs to such carrier for hire, and as

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

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

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

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

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

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

20 Exemption (5) also includes machinery and equipment used
21 in the general maintenance or repair of such exempt machinery
22 and equipment or for in-house manufacture of exempt machinery
23 and equipment. For the purposes of exemption (5), each of
24 these terms shall have the following meanings: (1)
25 "manufacturing process" shall mean the production of any
26 article of tangible personal property, whether such article
27 is a finished product or an article for use in the process of
28 manufacturing or assembling a different article of tangible
29 personal property, by procedures commonly regarded as
30 manufacturing, processing, fabricating, or refining which
31 changes some existing material or materials into a material
32 with a different form, use or name. In relation to a
33 recognized integrated business composed of a series of
34 operations which collectively constitute manufacturing, or

1 individually constitute manufacturing operations, the
2 manufacturing process shall be deemed to commence with the
3 first operation or stage of production in the series, and
4 shall not be deemed to end until the completion of the final
5 product in the last operation or stage of production in the
6 series; and further, for purposes of exemption (5),
7 photoprocessing is deemed to be a manufacturing process of
8 tangible personal property for wholesale or retail sale; (2)
9 "assembling process" shall mean the production of any article
10 of tangible personal property, whether such article is a
11 finished product or an article for use in the process of
12 manufacturing or assembling a different article of tangible
13 personal property, by the combination of existing materials
14 in a manner commonly regarded as assembling which results in
15 a material of a different form, use or name; (3) "machinery"
16 shall mean major mechanical machines or major components of
17 such machines contributing to a manufacturing or assembling
18 process; and (4) "equipment" shall include any independent
19 device or tool separate from any machinery but essential to
20 an integrated manufacturing or assembly process; including
21 computers used primarily in a manufacturer's computer
22 assisted design, computer assisted manufacturing (CAD/CAM)
23 system; or any subunit or assembly comprising a component of
24 any machinery or auxiliary, adjunct or attachment parts of
25 machinery, such as tools, dies, jigs, fixtures, patterns and
26 molds; or any parts which require periodic replacement in the
27 course of normal operation; but shall not include hand tools.
28 Equipment includes chemicals or chemicals acting as catalysts
29 but only if the chemicals or chemicals acting as catalysts
30 effect a direct and immediate change upon a product being
31 manufactured or assembled for wholesale or retail sale or
32 lease. The purchaser of such machinery and equipment who has
33 an active resale registration number shall furnish such
34 number to the seller at the time of purchase. The user of

1 such machinery and equipment and tools without an active
2 resale registration number shall prepare a certificate of
3 exemption for each transaction stating facts establishing the
4 exemption for that transaction, which certificate shall be
5 available to the Department for inspection or audit. The
6 Department shall prescribe the form of the certificate.

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

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

24 The purchase, employment and transfer of such tangible
25 personal property as newsprint and ink for the primary
26 purpose of conveying news (with or without other information)
27 is not a purchase, use or sale of service or of tangible
28 personal property within the meaning of this Act.

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

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

33 "Supplier" means any person who makes sales of tangible
34 personal property to servicemen for the purpose of resale as

1 an incident to a sale of service.

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

4 1. having or maintaining within this State,
5 directly or by a subsidiary, an office, distribution
6 house, sales house, warehouse or other place of business,
7 or any agent or other representative operating within
8 this State under the authority of the serviceman or its
9 subsidiary, irrespective of whether such place of
10 business or agent or other representative is located here
11 permanently or temporarily, or whether such serviceman or
12 subsidiary is licensed to do business in this State;

13 2. soliciting orders for tangible personal property
14 by means of a telecommunication or television shopping
15 system (which utilizes toll free numbers) which is
16 intended by the retailer to be broadcast by cable
17 television or other means of broadcasting, to consumers
18 located in this State;

19 3. pursuant to a contract with a broadcaster or
20 publisher located in this State, soliciting orders for
21 tangible personal property by means of advertising which
22 is disseminated primarily to consumers located in this
23 State and only secondarily to bordering jurisdictions;

24 4. soliciting orders for tangible personal property
25 by mail if the solicitations are substantial and
26 recurring and if the retailer benefits from any banking,
27 financing, debt collection, telecommunication, or
28 marketing activities occurring in this State or benefits
29 from the location in this State of authorized
30 installation, servicing, or repair facilities;

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

34 6. having a franchisee or licensee operating under

1 its trade name if the franchisee or licensee is required
2 to collect the tax under this Section;

3 7. pursuant to a contract with a cable television
4 operator located in this State, soliciting orders for
5 tangible personal property by means of advertising which
6 is transmitted or distributed over a cable television
7 system in this State; or

8 8. engaging in activities in Illinois, which
9 activities in the state in which the supply business
10 engaging in such activities is located would constitute
11 maintaining a place of business in that state.

12 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03;
13 93-24, eff. 6-20-03; revised 8-21-03.)

14 Section 20. The Service Occupation Tax Act is amended by
15 changing Section 2 as follows:

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

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

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

1 such property.

2 "Department" means the Department of Revenue.

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

8 "Sale of Service" means any transaction except:

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

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

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

28 (d) A sale or transfer of tangible personal property as
29 an incident to the rendering of service for interstate
30 carriers for hire for use as rolling stock moving in
31 interstate commerce or lessors under leases of one year or
32 longer, executed or in effect at the time of purchase, to
33 interstate carriers for hire for use as rolling stock moving
34 in interstate commerce, and equipment operated by a

1 telecommunications provider, licensed as a common carrier by
2 the Federal Communications Commission, which is permanently
3 installed in or affixed to aircraft moving in interstate
4 commerce.

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

14 (d-1.1) On and after July 1, 2003 and through June 30,
15 2004, a sale or transfer of a motor vehicle of the second
16 division with a gross vehicle weight in excess of 8,000
17 pounds as an incident to the rendering of service if that
18 motor vehicle is subject to the commercial distribution fee
19 imposed under Section 3-815.1 of the Illinois Vehicle Code.
20 This exemption applies to repair and replacement parts added
21 after the initial purchase of such a motor vehicle if that
22 motor vehicle is used in a manner that would qualify for the
23 rolling stock exemption otherwise provided for in this Act.

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

1 Illinois.

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

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

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

33 (f) Until July 1, 2003, the sale or transfer of
34 distillation machinery and equipment, sold as a unit or kit

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

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

27 Tangible personal property transferred incident to the
28 completion of a maintenance agreement is exempt from the tax
29 imposed pursuant to this Act.

30 Exemption (e) also includes machinery and equipment used
31 in the general maintenance or repair of such exempt machinery
32 and equipment or for in-house manufacture of exempt machinery
33 and equipment. For the purposes of exemption (e), each of
34 these terms shall have the following meanings: (1)

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

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

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

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

1 of the Illinois Administrative Procedure Act.

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

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

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

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

13 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03;
14 93-24, eff. 6-20-03; revised 8-21-03.)

15 Section 25. The Retailers' Occupation Tax Act is amended
16 by changing Section 2-5 as follows:

17 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

21 (1) Farm chemicals.

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

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

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

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

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

31 (4) Until July 1, 2003, graphic arts machinery and
32 equipment, including repair and replacement parts, both new
33 and used, and including that manufactured on special order or
34 purchased for lease, certified by the purchaser to be used

1 primarily for graphic arts production. Equipment includes
2 chemicals or chemicals acting as catalysts but only if the
3 chemicals or chemicals acting as catalysts effect a direct
4 and immediate change upon a graphic arts product.

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

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

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

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

25 (9) Personal property sold to a not-for-profit arts or
26 cultural organization that establishes, by proof required by
27 the Department by rule, that it has received an exemption
28 under Section 501(c)(3) of the Internal Revenue Code and that
29 is organized and operated primarily for the presentation or
30 support of arts or cultural programming, activities, or
31 services. These organizations include, but are not limited
32 to, music and dramatic arts organizations such as symphony
33 orchestras and theatrical groups, arts and cultural service
34 organizations, local arts councils, visual arts

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

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

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

27 (12) Tangible personal property sold to interstate
28 carriers for hire for use as rolling stock moving in
29 interstate commerce or to lessors under leases of one year or
30 longer executed or in effect at the time of purchase by
31 interstate carriers for hire for use as rolling stock moving
32 in interstate commerce and equipment operated by a
33 telecommunications provider, licensed as a common carrier by
34 the Federal Communications Commission, which is permanently

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

3 (12-5) On and after July 1, 2003 and through June 30,
4 2004, motor vehicles of the second division with a gross
5 vehicle weight in excess of 8,000 pounds that are subject to
6 the commercial distribution fee imposed under Section 3-815.1
7 of the Illinois Vehicle Code. This exemption applies to
8 repair and replacement parts added after the initial purchase
9 of such a motor vehicle if that motor vehicle is used in a
10 manner that would qualify for the rolling stock exemption
11 otherwise provided for in this Act.

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

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

32 (15) Proceeds of mandatory service charges separately
33 stated on customers' bills for purchase and consumption of
34 food and beverages, to the extent that the proceeds of the

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

6 (16) Petroleum products sold to a purchaser if the
7 seller is prohibited by federal law from charging tax to the
8 purchaser.

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

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

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

31 (20) Photoprocessing machinery and equipment, including
32 repair and replacement parts, both new and used, including
33 that manufactured on special order, certified by the
34 purchaser to be used primarily for photoprocessing, and

1 including photoprocessing machinery and equipment purchased
2 for lease.

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

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

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

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

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

1 is prima facie evidence that the motor vehicle will not be
2 titled in this State.

3 (26) Semen used for artificial insemination of livestock
4 for direct agricultural production.

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

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

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

24 (30) 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 donated
27 for disaster relief to be used in a State or federally
28 declared disaster area in Illinois or bordering Illinois by a
29 manufacturer or retailer that is registered in this State to
30 a corporation, society, association, foundation, or
31 institution that has been issued a sales tax exemption
32 identification number by the Department that assists victims
33 of the disaster who reside within the declared disaster area.

34 (31) Beginning with taxable years ending on or after

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

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

19 (33) A motor vehicle, as that term is defined in Section
20 1-146 of the Illinois Vehicle Code, that is donated to a
21 corporation, limited liability company, society, association,
22 foundation, or institution that is determined by the
23 Department to be organized and operated exclusively for
24 educational purposes. For purposes of this exemption, "a
25 corporation, limited liability company, society, association,
26 foundation, or institution organized and operated exclusively
27 for educational purposes" means all tax-supported public
28 schools, private schools that offer systematic instruction in
29 useful branches of learning by methods common to public
30 schools and that compare favorably in their scope and
31 intensity with the course of study presented in tax-supported
32 schools, and vocational or technical schools or institutes
33 organized and operated exclusively to provide a course of
34 study of not less than 6 weeks duration and designed to

1 prepare individuals to follow a trade or to pursue a manual,
2 technical, mechanical, industrial, business, or commercial
3 occupation.

4 (34) Beginning January 1, 2000, personal property,
5 including food, purchased through fundraising events for the
6 benefit of a public or private elementary or secondary
7 school, a group of those schools, or one or more school
8 districts if the events are sponsored by an entity recognized
9 by the school district that consists primarily of volunteers
10 and includes parents and teachers of the school children.
11 This paragraph does not apply to fundraising events (i) for
12 the benefit of private home instruction or (ii) for which the
13 fundraising entity purchases the personal property sold at
14 the events from another individual or entity that sold the
15 property for the purpose of resale by the fundraising entity
16 and that profits from the sale to the fundraising entity.
17 This paragraph is exempt from the provisions of Section 2-70.

18 (35) Beginning January 1, 2000 and through December 31,
19 2001, new or used automatic vending machines that prepare and
20 serve hot food and beverages, including coffee, soup, and
21 other items, and replacement parts for these machines.
22 Beginning January 1, 2002 and through June 30, 2003, machines
23 and parts for machines used in commercial, coin-operated
24 amusement and vending business if a use or occupation tax is
25 paid on the gross receipts derived from the use of the
26 commercial, coin-operated amusement and vending machines.
27 This paragraph is exempt from the provisions of Section 2-70.

28 (35-5) Food for human consumption that is to be consumed
29 off the premises where it is sold (other than alcoholic
30 beverages, soft drinks, and food that has been prepared for
31 immediate consumption) and prescription and nonprescription
32 medicines, drugs, medical appliances, and insulin, urine
33 testing materials, syringes, and needles used by diabetics,
34 for human use, when purchased for use by a person receiving

1 medical assistance under Article 5 of the Illinois Public Aid
2 Code who resides in a licensed long-term care facility, as
3 defined in the Nursing Home Care Act.

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

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

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

1 paragraph (38). The permit issued under this paragraph (38)
2 shall authorize the holder, to the extent and in the manner
3 specified in the rules adopted under this Act, to purchase
4 tangible personal property from a retailer exempt from the
5 taxes imposed by this Act. Taxpayers shall maintain all
6 necessary books and records to substantiate the use and
7 consumption of all such tangible personal property outside of
8 the State of Illinois.

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

14 on page 1, line 4, by replacing "5" with "30"; and

15 on page 2, by deleting lines 8 and 9.