



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0033

Introduced 12/15/2004, by Rep. Robert W. Pritchard

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
35 ILCS 105/3-5.5	
35 ILCS 105/3-10	from Ch. 120, par. 439.3-10
35 ILCS 110/3-5	from Ch. 120, par. 439.33-5
35 ILCS 110/3-5.5	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-5	from Ch. 120, par. 439.103-5
35 ILCS 115/3-5.5	
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-5	from Ch. 120, par. 441-5
35 ILCS 120/2-5.5	
35 ILCS 120/2-10	from Ch. 120, par. 441-10

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides for tax exemptions for: (i) certain users of ostomy supplies who reside in licensed long-term care facilities and (ii) not-for-profit sellers of ostomy supplies. Provides that the rate of tax on ostomy supplies is 1% (instead of 6.25%).

LRB094 00034 BDD 30034 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning taxes.

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

4 Section 5. The Use Tax Act is amended by changing Sections  
5 3-5, 3-5.5, and 3-10 as follows:

6 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

19 (3) Personal property purchased by 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

1 number issued by the Department.

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

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

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

28 (7) Farm chemicals.

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

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

36 (10) A motor vehicle of the first division, a motor vehicle

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

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

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

1 such equipment.

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

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

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

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

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

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

3 (16) 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 (17) Until July 1, 2003, distillation machinery and  
10 equipment, sold as a unit or kit, assembled or installed by the  
11 retailer, certified by the user to be used only for the  
12 production of ethyl alcohol that will be used for consumption  
13 as motor fuel or as a component of motor fuel for the personal  
14 use of the user, and not subject to sale or resale.

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

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

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

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

1 Jockey Club, as appropriate, used for purposes of breeding or  
2 racing for prizes.

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

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

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

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

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

32 (26) Beginning July 1, 1999, game or game birds purchased  
33 at a "game breeding and hunting preserve area" or an "exotic  
34 game hunting area" as those terms are used in the Wildlife Code  
35 or at a hunting enclosure approved through rules adopted by the  
36 Department of Natural Resources. This paragraph is exempt from



1 the provisions of Section 3-90.

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

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

34 (29) Beginning January 1, 2000 and through December 31,  
35 2001, new or used automatic vending machines that prepare and  
36 serve hot food and beverages, including coffee, soup, and other

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

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

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

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

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

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

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

14 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,  
15 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;  
16 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
17 93-1033, eff. 9-3-04; revised 10-21-04.)

18 (35 ILCS 105/3-5.5)

19 Sec. 3-5.5. Food and drugs sold by not-for-profit  
20 organizations; exemption. The Department shall not collect the  
21 1% tax imposed on food for human consumption that is to be  
22 consumed off the premises where it is sold (other than  
23 alcoholic beverages, soft drinks, and food that has been  
24 prepared for immediate consumption) and prescription and  
25 nonprescription medicines, drugs, medical appliances,  
26 colostomy bags and other supplies and equipment used for the  
27 care of ostomy patients, and insulin, urine testing materials,  
28 syringes, and needles used by diabetics, for human use from any  
29 not-for-profit organization, that sells food in a food  
30 distribution program at a price below the retail cost of the  
31 food to purchasers who, as a condition of participation in the  
32 program, are required to perform community service, located in  
33 a county or municipality that notifies the Department, in  
34 writing, that the county or municipality does not want the tax  
35 to be collected from any of such organizations located in the

1 county or municipality.

2 (Source: P.A. 88-374.)

3 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

4 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
5 Section, the tax imposed by this Act is at the rate of 6.25% of  
6 either the selling price or the fair market value, if any, of  
7 the tangible personal property. In all cases where property  
8 functionally used or consumed is the same as the property that  
9 was purchased at retail, then the tax is imposed on the selling  
10 price of the property. In all cases where property functionally  
11 used or consumed is a by-product or waste product that has been  
12 refined, manufactured, or produced from property purchased at  
13 retail, then the tax is imposed on the lower of the fair market  
14 value, if any, of the specific property so used in this State  
15 or on the selling price of the property purchased at retail.  
16 For purposes of this Section "fair market value" means the  
17 price at which property would change hands between a willing  
18 buyer and a willing seller, neither being under any compulsion  
19 to buy or sell and both having reasonable knowledge of the  
20 relevant facts. The fair market value shall be established by  
21 Illinois sales by the taxpayer of the same property as that  
22 functionally used or consumed, or if there are no such sales by  
23 the taxpayer, then comparable sales or purchases of property of  
24 like kind and character in Illinois.

25 Beginning on July 1, 2000 and through December 31, 2000,  
26 with respect to motor fuel, as defined in Section 1.1 of the  
27 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
28 the Use Tax Act, the tax is imposed at the rate of 1.25%.

29 With respect to gasohol, the tax imposed by this Act  
30 applies to (i) 70% of the proceeds of sales made on or after  
31 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
32 proceeds of sales made on or after July 1, 2003 and on or  
33 before December 31, 2013, and (iii) 100% of the proceeds of  
34 sales made thereafter. If, at any time, however, the tax under  
35 this Act on sales of gasohol is imposed at the rate of 1.25%,

1 then the tax imposed by this Act applies to 100% of the  
2 proceeds of sales of gasohol made during that time.

3 With respect to majority blended ethanol fuel, the tax  
4 imposed by this Act does not apply to the proceeds of sales  
5 made on or after July 1, 2003 and on or before December 31,  
6 2013 but applies to 100% of the proceeds of sales made  
7 thereafter.

8 With respect to biodiesel blends with no less than 1% and  
9 no more than 10% biodiesel, the tax imposed by this Act applies  
10 to (i) 80% of the proceeds of sales made on or after July 1,  
11 2003 and on or before December 31, 2013 and (ii) 100% of the  
12 proceeds of sales made thereafter. If, at any time, however,  
13 the tax under this Act on sales of biodiesel blends with no  
14 less than 1% and no more than 10% biodiesel is imposed at the  
15 rate of 1.25%, then the tax imposed by this Act applies to 100%  
16 of the proceeds of sales of biodiesel blends with no less than  
17 1% and no more than 10% biodiesel made during that time.

18 With respect to 100% biodiesel and biodiesel blends with  
19 more than 10% but no more than 99% biodiesel, the tax imposed  
20 by this Act does not apply to the proceeds of sales made on or  
21 after July 1, 2003 and on or before December 31, 2013 but  
22 applies to 100% of the proceeds of sales made thereafter.

23 With respect to food for human consumption that is to be  
24 consumed off the premises where it is sold (other than  
25 alcoholic beverages, soft drinks, and food that has been  
26 prepared for immediate consumption) and prescription and  
27 nonprescription medicines, drugs, medical appliances,  
28 colostomy bags and other supplies and equipment used for the  
29 care of ostomy patients, modifications to a motor vehicle for  
30 the purpose of rendering it usable by a disabled person, and  
31 insulin, urine testing materials, syringes, and needles used by  
32 diabetics, for human use, the tax is imposed at the rate of 1%.  
33 For the purposes of this Section, the term "soft drinks" means  
34 any complete, finished, ready-to-use, non-alcoholic drink,  
35 whether carbonated or not, including but not limited to soda  
36 water, cola, fruit juice, vegetable juice, carbonated water,

1 and all other preparations commonly known as soft drinks of  
2 whatever kind or description that are contained in any closed  
3 or sealed bottle, can, carton, or container, regardless of  
4 size. "Soft drinks" does not include coffee, tea,  
5 non-carbonated water, infant formula, milk or milk products as  
6 defined in the Grade A Pasteurized Milk and Milk Products Act,  
7 or drinks containing 50% or more natural fruit or vegetable  
8 juice.

9 Notwithstanding any other provisions of this Act, "food for  
10 human consumption that is to be consumed off the premises where  
11 it is sold" includes all food sold through a vending machine,  
12 except soft drinks and food products that are dispensed hot  
13 from a vending machine, regardless of the location of the  
14 vending machine.

15 If the property that is purchased at retail from a retailer  
16 is acquired outside Illinois and used outside Illinois before  
17 being brought to Illinois for use here and is taxable under  
18 this Act, the "selling price" on which the tax is computed  
19 shall be reduced by an amount that represents a reasonable  
20 allowance for depreciation for the period of prior out-of-state  
21 use.

22 (Source: P.A. 93-17, eff. 6-11-03.)

23 Section 10. The Service Use Tax Act is amended by changing  
24 Sections 3-5, 3-5.5, and 3-10 as follows:

25 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

28 (1) Personal property purchased from a corporation,  
29 society, association, foundation, institution, or  
30 organization, other than a limited liability company, that is  
31 organized and operated as a not-for-profit service enterprise  
32 for the benefit of persons 65 years of age or older if the  
33 personal property was not purchased by the enterprise for the  
34 purpose of resale by the enterprise.

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

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

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

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

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

35           (7) Farm machinery and equipment, both new and used,  
36 including that manufactured on special order, certified by the



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

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

26 Farm machinery and equipment also includes computers,  
27 sensors, software, and related equipment used primarily in the  
28 computer-assisted operation of production agriculture  
29 facilities, equipment, and activities such as, but not limited  
30 to, the collection, monitoring, and correlation of animal and  
31 crop data for the purpose of formulating animal diets and  
32 agricultural chemicals. This item (7) is exempt from the  
33 provisions of Section 3-75.

34 (8) Fuel and petroleum products sold to or used by an air  
35 common carrier, certified by the carrier to be used for  
36 consumption, shipment, or storage in the conduct of its

1 business as an air common carrier, for a flight destined for or  
2 returning from a location or locations outside the United  
3 States without regard to previous or subsequent domestic  
4 stopovers.

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

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

23 (11) Proceeds from the sale of photoprocessing machinery  
24 and equipment, including repair and replacement parts, both new  
25 and used, including that manufactured on special order,  
26 certified by the purchaser to be used primarily for  
27 photoprocessing, and including photoprocessing machinery and  
28 equipment purchased for lease.

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

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

1           (14) 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           (15) 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 Use Tax Act, as the case may  
19 be, based on the fair market value of the property at the time  
20 the non-qualifying use occurs. No lessor shall collect or  
21 attempt to collect an amount (however designated) that purports  
22 to reimburse that lessor for the tax imposed by this Act or the  
23 Use Tax Act, as the case may be, if the tax has not been paid by  
24 the lessor. If a lessor improperly collects any such amount  
25 from the lessee, the lessee shall have a legal right to claim a  
26 refund of that amount from the lessor. If, however, that amount  
27 is not refunded to the lessee for any reason, the lessor is  
28 liable to pay that amount to the Department.

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

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

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

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

35 (19) Beginning July 1, 1999, game or game birds purchased  
36 at a "game breeding and hunting preserve area" or an "exotic

1 game hunting area" as those terms are used in the Wildlife Code  
2 or at a hunting enclosure approved through rules adopted by the  
3 Department of Natural Resources. This paragraph is exempt from  
4 the provisions of Section 3-75.

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

23 (21) Beginning January 1, 2000, personal property,  
24 including food, purchased through fundraising events for the  
25 benefit of a public or private elementary or secondary school,  
26 a group of those schools, or one or more school districts if  
27 the events are sponsored by an entity recognized by the school  
28 district that consists primarily of volunteers and includes  
29 parents and teachers of the school children. This paragraph  
30 does not apply to fundraising events (i) for the benefit of  
31 private home instruction or (ii) for which the fundraising  
32 entity purchases the personal property sold at the events from  
33 another individual or entity that sold the property for the  
34 purpose of resale by the fundraising entity and that profits  
35 from the sale to the fundraising entity. This paragraph is  
36 exempt from the provisions of Section 3-75.

1           (22) Beginning January 1, 2000 and through December 31,  
2 2001, new or used automatic vending machines that prepare and  
3 serve hot food and beverages, including coffee, soup, and other  
4 items, and replacement parts for these machines. Beginning  
5 January 1, 2002 and through June 30, 2003, machines and parts  
6 for machines used in commercial, coin-operated amusement and  
7 vending business if a use or occupation tax is paid on the  
8 gross receipts derived from the use of the commercial,  
9 coin-operated amusement and vending machines. This paragraph  
10 is exempt from the provisions of Section 3-75.

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

22           (24) 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 Use Tax Act, as the case may  
35 be, based on the fair market value of the property at the time  
36 the nonqualifying use occurs. No lessor shall collect or

1 attempt to collect an amount (however designated) that purports  
2 to reimburse that lessor for the tax imposed by this Act or the  
3 Use Tax Act, as the case may be, if the tax has not been paid by  
4 the lessor. If a lessor improperly collects any such amount  
5 from the lessee, the lessee shall have a legal right to claim a  
6 refund of that amount from the lessor. If, however, that amount  
7 is not refunded to the lessee for any reason, the lessor is  
8 liable to pay that amount to the Department. This paragraph is  
9 exempt from the provisions of Section 3-75.

10 (25) Beginning on the effective date of this amendatory Act  
11 of the 92nd General Assembly, personal property purchased by a  
12 lessor who leases the property, under a lease of one year or  
13 longer executed or in effect at the time the lessor would  
14 otherwise be subject to the tax imposed by this Act, to a  
15 governmental body that has been issued an active tax exemption  
16 identification number by the Department under Section 1g of the  
17 Retailers' Occupation Tax Act. If the property is leased in a  
18 manner that does not qualify for this exemption or is used in  
19 any other nonexempt manner, the lessor shall be liable for the  
20 tax imposed under this Act or the Use Tax Act, as the case may  
21 be, based on the fair market value of the property at the time  
22 the nonqualifying use occurs. No lessor shall collect or  
23 attempt to collect an amount (however designated) that purports  
24 to reimburse that lessor for the tax imposed by this Act or the  
25 Use Tax Act, as the case may be, if the tax has not been paid by  
26 the lessor. If a lessor improperly collects any such amount  
27 from the lessee, the lessee shall have a legal right to claim a  
28 refund of that amount from the lessor. If, however, that amount  
29 is not refunded to the lessee for any reason, the lessor is  
30 liable to pay that amount to the Department. This paragraph is  
31 exempt from the provisions of Section 3-75.

32 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
33 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
34 92-651, eff. 7-11-02; 93-24, eff. 6-20-03; 93-840, eff.  
35 7-30-04.)

1 (35 ILCS 110/3-5.5)

2 Sec. 3-5.5. Food and drugs sold by not-for-profit  
3 organizations; exemption. The Department shall not collect the  
4 1% tax imposed on food for human consumption that is to be  
5 consumed off the premises where it is sold (other than  
6 alcoholic beverages, soft drinks, and food that has been  
7 prepared for immediate consumption) and prescription and  
8 nonprescription medicines, drugs, medical appliances,  
9 colostomy bags and other supplies and equipment used for the  
10 care of ostomy patients, and insulin, urine testing materials,  
11 syringes, and needles used by diabetics, for human use from any  
12 not-for-profit organization, that sells food in a food  
13 distribution program at a price below the retail cost of the  
14 food to purchasers who, as a condition of participation in the  
15 program, are required to perform community service, located in  
16 a county or municipality that notifies the Department, in  
17 writing, that the county or municipality does not want the tax  
18 to be collected from any of such organizations located in the  
19 county or municipality.

20 (Source: P.A. 88-374.)

21 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

22 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
23 Section, the tax imposed by this Act is at the rate of 6.25% of  
24 the selling price of tangible personal property transferred as  
25 an incident to the sale of service, but, for the purpose of  
26 computing this tax, in no event shall the selling price be less  
27 than the cost price of the property to the serviceman.

28 Beginning on July 1, 2000 and through December 31, 2000,  
29 with respect to motor fuel, as defined in Section 1.1 of the  
30 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
31 the Use Tax Act, the tax is imposed at the rate of 1.25%.

32 With respect to gasohol, as defined in the Use Tax Act, the  
33 tax imposed by this Act applies to (i) 70% of the selling price  
34 of property transferred as an incident to the sale of service  
35 on or after January 1, 1990, and before July 1, 2003, (ii) 80%



1 of the selling price of property transferred as an incident to  
2 the sale of service on or after July 1, 2003 and on or before  
3 December 31, 2013, and (iii) 100% of the selling price  
4 thereafter. If, at any time, however, the tax under this Act on  
5 sales of gasohol, as defined in the Use Tax Act, is imposed at  
6 the rate of 1.25%, then the tax imposed by this Act applies to  
7 100% of the proceeds of sales of gasohol made during that time.

8 With respect to majority blended ethanol fuel, as defined  
9 in the Use Tax Act, the tax imposed by this Act does not apply  
10 to the selling price of property transferred as an incident to  
11 the sale of service on or after July 1, 2003 and on or before  
12 December 31, 2013 but applies to 100% of the selling price  
13 thereafter.

14 With respect to biodiesel blends, as defined in the Use Tax  
15 Act, with no less than 1% and no more than 10% biodiesel, the  
16 tax imposed by this Act applies to (i) 80% of the selling price  
17 of property transferred as an incident to the sale of service  
18 on or after July 1, 2003 and on or before December 31, 2013 and  
19 (ii) 100% of the proceeds of the selling price thereafter. If,  
20 at any time, however, the tax under this Act on sales of  
21 biodiesel blends, as defined in the Use Tax Act, with no less  
22 than 1% and no more than 10% biodiesel is imposed at the rate  
23 of 1.25%, then the tax imposed by this Act applies to 100% of  
24 the proceeds of sales of biodiesel blends with no less than 1%  
25 and no more than 10% biodiesel made during that time.

26 With respect to 100% biodiesel, as defined in the Use Tax  
27 Act, and biodiesel blends, as defined in the Use Tax Act, with  
28 more than 10% but no more than 99% biodiesel, the tax imposed  
29 by this Act does not apply to the proceeds of the selling price  
30 of property transferred as an incident to the sale of service  
31 on or after July 1, 2003 and on or before December 31, 2013 but  
32 applies to 100% of the selling price thereafter.

33 At the election of any registered serviceman made for each  
34 fiscal year, sales of service in which the aggregate annual  
35 cost price of tangible personal property transferred as an  
36 incident to the sales of service is less than 35%, or 75% in

1 the case of servicemen transferring prescription drugs or  
2 servicemen engaged in graphic arts production, of the aggregate  
3 annual total gross receipts from all sales of service, the tax  
4 imposed by this Act shall be based on the serviceman's cost  
5 price of the tangible personal property transferred as an  
6 incident to the sale of those services.

7 The tax shall be imposed at the rate of 1% on food prepared  
8 for immediate consumption and transferred incident to a sale of  
9 service subject to this Act or the Service Occupation Tax Act  
10 by an entity licensed under the Hospital Licensing Act, the  
11 Nursing Home Care Act, or the Child Care Act of 1969. The tax  
12 shall also be imposed at the rate of 1% on food for human  
13 consumption that is to be consumed off the premises where it is  
14 sold (other than alcoholic beverages, soft drinks, and food  
15 that has been prepared for immediate consumption and is not  
16 otherwise included in this paragraph) and prescription and  
17 nonprescription medicines, drugs, medical appliances,  
18 modifications to a motor vehicle for the purpose of rendering  
19 it usable by a disabled person, colostomy bags and other  
20 supplies and equipment used for the care of ostomy patients,  
21 and insulin, urine testing materials, syringes, and needles  
22 used by diabetics, for human use. For the purposes of this  
23 Section, the term "soft drinks" means any complete, finished,  
24 ready-to-use, non-alcoholic drink, whether carbonated or not,  
25 including but not limited to soda water, cola, fruit juice,  
26 vegetable juice, carbonated water, and all other preparations  
27 commonly known as soft drinks of whatever kind or description  
28 that are contained in any closed or sealed bottle, can, carton,  
29 or container, regardless of size. "Soft drinks" does not  
30 include coffee, tea, non-carbonated water, infant formula,  
31 milk or milk products as defined in the Grade A Pasteurized  
32 Milk and Milk Products Act, or drinks containing 50% or more  
33 natural fruit or vegetable juice.

34 Notwithstanding any other provisions of this Act, "food for  
35 human consumption that is to be consumed off the premises where  
36 it is sold" includes all food sold through a vending machine,

1 except soft drinks and food products that are dispensed hot  
2 from a vending machine, regardless of the location of the  
3 vending machine.

4 If the property that is acquired from a serviceman is  
5 acquired outside Illinois and used outside Illinois before  
6 being brought to Illinois for use here and is taxable under  
7 this Act, the "selling price" on which the tax is computed  
8 shall be reduced by an amount that represents a reasonable  
9 allowance for depreciation for the period of prior out-of-state  
10 use.

11 (Source: P.A. 93-17, eff. 6-11-03.)

12 Section 15. The Service Occupation Tax Act is amended by  
13 changing Sections 3-5, 3-5.5, and 3-10 as follows:

14 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

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

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

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

12 (5) Until July 1, 2003 and beginning again on September 1,  
13 2004, graphic arts machinery and equipment, including repair  
14 and replacement parts, both new and used, and including that  
15 manufactured on special order or purchased for lease, certified  
16 by the purchaser to be used primarily for graphic arts  
17 production. Equipment includes chemicals or chemicals acting  
18 as catalysts but only if the chemicals or chemicals acting as  
19 catalysts effect a direct and immediate change upon a graphic  
20 arts product.

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

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

1 plants shall be considered farm machinery and equipment under  
2 this item (7). Agricultural chemical tender tanks and dry boxes  
3 shall include units sold separately from a motor vehicle  
4 required to be licensed and units sold mounted on a motor  
5 vehicle required to be licensed if the selling price of the  
6 tender is separately stated.

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

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

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

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

1 imposed.

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

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

16 (12) Until July 1, 2003, coal exploration, mining,  
17 offhighway hauling, processing, maintenance, and reclamation  
18 equipment, including replacement parts and equipment, and  
19 including equipment purchased for lease, but excluding motor  
20 vehicles required to be registered under the Illinois Vehicle  
21 Code.

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

33 (14) Semen used for artificial insemination of livestock  
34 for direct agricultural production.

35 (15) Horses, or interests in horses, registered with and  
36 meeting the requirements of any of the Arabian Horse Club

1 Registry of America, Appaloosa Horse Club, American Quarter  
2 Horse Association, United States Trotting Association, or  
3 Jockey Club, as appropriate, used for purposes of breeding or  
4 racing for prizes.

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

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

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

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

1 sewage treatment facilities, resulting from a State or  
2 federally declared disaster in Illinois or bordering Illinois  
3 when such repairs are initiated on facilities located in the  
4 declared disaster area within 6 months after the disaster.

5 (20) Beginning July 1, 1999, game or game birds sold at a  
6 "game breeding and hunting preserve area" or an "exotic game  
7 hunting area" as those terms are used in the Wildlife Code or  
8 at a hunting enclosure approved through rules adopted by the  
9 Department of Natural Resources. This paragraph is exempt from  
10 the provisions of Section 3-55.

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

29 (22) Beginning January 1, 2000, personal property,  
30 including food, purchased through fundraising events for the  
31 benefit of a public or private elementary or secondary school,  
32 a group of those schools, or one or more school districts if  
33 the events are sponsored by an entity recognized by the school  
34 district that consists primarily of volunteers and includes  
35 parents and teachers of the school children. This paragraph  
36 does not apply to fundraising events (i) for the benefit of



1 private home instruction or (ii) for which the fundraising  
2 entity purchases the personal property sold at the events from  
3 another individual or entity that sold the property for the  
4 purpose of resale by the fundraising entity and that profits  
5 from the sale to the fundraising entity. This paragraph is  
6 exempt from the provisions of Section 3-55.

7 (23) Beginning January 1, 2000 and through December 31,  
8 2001, new or used automatic vending machines that prepare and  
9 serve hot food and beverages, including coffee, soup, and other  
10 items, and replacement parts for these machines. Beginning  
11 January 1, 2002 and through June 30, 2003, machines and parts  
12 for machines used in commercial, coin-operated amusement and  
13 vending business if a use or occupation tax is paid on the  
14 gross receipts derived from the use of the commercial,  
15 coin-operated amusement and vending machines. This paragraph  
16 is exempt from the provisions of Section 3-55.

17 (24) Beginning on the effective date of this amendatory Act  
18 of the 92nd General Assembly, computers and communications  
19 equipment utilized for any hospital purpose and equipment used  
20 in the diagnosis, analysis, or treatment of hospital patients  
21 sold to a lessor who leases the equipment, under a lease of one  
22 year or longer executed or in effect at the time of the  
23 purchase, to a hospital that has been issued an active tax  
24 exemption identification number by the Department under  
25 Section 1g of the Retailers' Occupation Tax Act. This paragraph  
26 is exempt from the provisions of Section 3-55.

27 (25) Beginning on the effective date of this amendatory Act  
28 of the 92nd General Assembly, personal property sold to a  
29 lessor who leases the property, under a lease of one year or  
30 longer executed or in effect at the time of the purchase, to a  
31 governmental body that has been issued an active tax exemption  
32 identification number by the Department under Section 1g of the  
33 Retailers' Occupation Tax Act. This paragraph is exempt from  
34 the provisions of Section 3-55.

35 (26) Beginning on January 1, 2002, tangible personal  
36 property purchased from an Illinois retailer by a taxpayer

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

21 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
22 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
23 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.  
24 6-20-03; 93-840, eff. 7-30-04.)

25 (35 ILCS 115/3-5.5)

26 Sec. 3-5.5. Food and drugs sold by not-for-profit  
27 organizations; exemption. The Department shall not collect the  
28 1% tax imposed on food for human consumption that is to be  
29 consumed off the premises where it is sold (other than  
30 alcoholic beverages, soft drinks, and food that has been  
31 prepared for immediate consumption) and prescription and  
32 nonprescription medicines, drugs, medical appliances,  
33 colostomy bags and other supplies and equipment used for the  
34 care of ostomy patients, and insulin, urine testing materials,  
35 syringes, and needles used by diabetics, for human use from any

1 not-for-profit organization, that sells food in a food  
2 distribution program at a price below the retail cost of the  
3 food to purchasers who, as a condition of participation in the  
4 program, are required to perform community service, located in  
5 a county or municipality that notifies the Department, in  
6 writing, that the county or municipality does not want the tax  
7 to be collected from any of such organizations located in the  
8 county or municipality.

9 (Source: P.A. 88-374.)

10 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

11 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
12 Section, the tax imposed by this Act is at the rate of 6.25% of  
13 the "selling price", as defined in Section 2 of the Service Use  
14 Tax Act, of the tangible personal property. For the purpose of  
15 computing this tax, in no event shall the "selling price" be  
16 less than the cost price to the serviceman of the tangible  
17 personal property transferred. The selling price of each item  
18 of tangible personal property transferred as an incident of a  
19 sale of service may be shown as a distinct and separate item on  
20 the serviceman's billing to the service customer. If the  
21 selling price is not so shown, the selling price of the  
22 tangible personal property is deemed to be 50% of the  
23 serviceman's entire billing to the service customer. When,  
24 however, a serviceman contracts to design, develop, and produce  
25 special order machinery or equipment, the tax imposed by this  
26 Act shall be based on the serviceman's cost price of the  
27 tangible personal property transferred incident to the  
28 completion of the contract.

29 Beginning on July 1, 2000 and through December 31, 2000,  
30 with respect to motor fuel, as defined in Section 1.1 of the  
31 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
32 the Use Tax Act, the tax is imposed at the rate of 1.25%.

33 With respect to gasohol, as defined in the Use Tax Act, the  
34 tax imposed by this Act shall apply to (i) 70% of the cost  
35 price of property transferred as an incident to the sale of

1 service on or after January 1, 1990, and before July 1, 2003,  
2 (ii) 80% of the selling price of property transferred as an  
3 incident to the sale of service on or after July 1, 2003 and on  
4 or before December 31, 2013, and (iii) 100% of the cost price  
5 thereafter. If, at any time, however, the tax under this Act on  
6 sales of gasohol, as defined in the Use Tax Act, is imposed at  
7 the rate of 1.25%, then the tax imposed by this Act applies to  
8 100% of the proceeds of sales of gasohol made during that time.

9 With respect to majority blended ethanol fuel, as defined  
10 in the Use Tax Act, the tax imposed by this Act does not apply  
11 to the selling price of property transferred as an incident to  
12 the sale of service on or after July 1, 2003 and on or before  
13 December 31, 2013 but applies to 100% of the selling price  
14 thereafter.

15 With respect to biodiesel blends, as defined in the Use Tax  
16 Act, with no less than 1% and no more than 10% biodiesel, the  
17 tax imposed by this Act applies to (i) 80% of the selling price  
18 of property transferred as an incident to the sale of service  
19 on or after July 1, 2003 and on or before December 31, 2013 and  
20 (ii) 100% of the proceeds of the selling price thereafter. If,  
21 at any time, however, the tax under this Act on sales of  
22 biodiesel blends, as defined in the Use Tax Act, with no less  
23 than 1% and no more than 10% biodiesel is imposed at the rate  
24 of 1.25%, then the tax imposed by this Act applies to 100% of  
25 the proceeds of sales of biodiesel blends with no less than 1%  
26 and no more than 10% biodiesel made during that time.

27 With respect to 100% biodiesel, as defined in the Use Tax  
28 Act, and biodiesel blends, as defined in the Use Tax Act, with  
29 more than 10% but no more than 99% biodiesel material, the tax  
30 imposed by this Act does not apply to the proceeds of the  
31 selling price of property transferred as an incident to the  
32 sale of service on or after July 1, 2003 and on or before  
33 December 31, 2013 but applies to 100% of the selling price  
34 thereafter.

35 At the election of any registered serviceman made for each  
36 fiscal year, sales of service in which the aggregate annual

1 cost price of tangible personal property transferred as an  
2 incident to the sales of service is less than 35%, or 75% in  
3 the case of servicemen transferring prescription drugs or  
4 servicemen engaged in graphic arts production, of the aggregate  
5 annual total gross receipts from all sales of service, the tax  
6 imposed by this Act shall be based on the serviceman's cost  
7 price of the tangible personal property transferred incident to  
8 the sale of those services.

9 The tax shall be imposed at the rate of 1% on food prepared  
10 for immediate consumption and transferred incident to a sale of  
11 service subject to this Act or the Service Occupation Tax Act  
12 by an entity licensed under the Hospital Licensing Act, the  
13 Nursing Home Care Act, or the Child Care Act of 1969. The tax  
14 shall also be imposed at the rate of 1% on food for human  
15 consumption that is to be consumed off the premises where it is  
16 sold (other than alcoholic beverages, soft drinks, and food  
17 that has been prepared for immediate consumption and is not  
18 otherwise included in this paragraph) and prescription and  
19 nonprescription medicines, drugs, medical appliances,  
20 modifications to a motor vehicle for the purpose of rendering  
21 it usable by a disabled person, colostomy bags and other  
22 supplies and equipment used for the care of ostomy patients,  
23 and insulin, urine testing materials, syringes, and needles  
24 used by diabetics, for human use. For the purposes of this  
25 Section, the term "soft drinks" means any complete, finished,  
26 ready-to-use, non-alcoholic drink, whether carbonated or not,  
27 including but not limited to soda water, cola, fruit juice,  
28 vegetable juice, carbonated water, and all other preparations  
29 commonly known as soft drinks of whatever kind or description  
30 that are contained in any closed or sealed can, carton, or  
31 container, regardless of size. "Soft drinks" does not include  
32 coffee, tea, non-carbonated water, infant formula, milk or milk  
33 products as defined in the Grade A Pasteurized Milk and Milk  
34 Products Act, or drinks containing 50% or more natural fruit or  
35 vegetable juice.

36 Notwithstanding any other provisions of this Act, "food for

1 human consumption that is to be consumed off the premises where  
2 it is sold" includes all food sold through a vending machine,  
3 except soft drinks and food products that are dispensed hot  
4 from a vending machine, regardless of the location of the  
5 vending machine.

6 (Source: P.A. 93-17, eff. 6-11-03.)

7 Section 20. The Retailers' Occupation Tax Act is amended by  
8 changing Sections 2-5, 2-5.5, and 2-10 as follows:

9 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

13 (1) Farm chemicals.

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

33 Farm machinery and equipment shall include precision  
34 farming equipment that is installed or purchased to be

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

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

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

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

30 (5) A motor vehicle of the first division, a motor vehicle  
31 of the second division that is a self-contained motor vehicle  
32 designed or permanently converted to provide living quarters  
33 for recreational, camping, or travel use, with direct walk  
34 through access to the living quarters from the driver's seat,  
35 or a motor vehicle of the second division that is of the van  
36 configuration designed for the transportation of not less than

1 7 nor more than 16 passengers, as defined in Section 1-146 of  
2 the Illinois Vehicle Code, that is used for automobile renting,  
3 as defined in the Automobile Renting Occupation and Use Tax  
4 Act.

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

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

11 (8) Personal property sold to an Illinois county fair  
12 association for use in conducting, operating, or promoting the  
13 county fair.

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

29 (10) Personal property sold by a corporation, society,  
30 association, foundation, institution, or organization, other  
31 than a limited liability company, that is organized and  
32 operated as a not-for-profit service enterprise for the benefit  
33 of persons 65 years of age or older if the personal property  
34 was not purchased by the enterprise for the purpose of resale  
35 by the enterprise.

36 (11) Personal property sold to a governmental body, to a



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

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

23 (12-5) On and after July 1, 2003 and through June 30, 2004,  
24 motor vehicles of the second division with a gross vehicle  
25 weight in excess of 8,000 pounds that are subject to the  
26 commercial distribution fee imposed under Section 3-815.1 of  
27 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
28 through June 30, 2005, the use in this State of motor vehicles  
29 of the second division: (i) with a gross vehicle weight rating  
30 in excess of 8,000 pounds; (ii) that are subject to the  
31 commercial distribution fee imposed under Section 3-815.1 of  
32 the Illinois Vehicle Code; and (iii) that are primarily used  
33 for commercial purposes. Through June 30, 2005, this exemption  
34 applies to repair and replacement parts added after the initial  
35 purchase of such a motor vehicle if that motor vehicle is used  
36 in a manner that would qualify for the rolling stock exemption

1 otherwise provided for in this Act. For purposes of this  
2 paragraph, "used for commercial purposes" means the  
3 transportation of persons or property in furtherance of any  
4 commercial or industrial enterprise whether for-hire or not.

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

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

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

31 (16) Petroleum products sold to a purchaser if the seller  
32 is prohibited by federal law from charging tax to the  
33 purchaser.

34 (17) Tangible personal property sold to a common carrier by  
35 rail or motor that receives the physical possession of the  
36 property in Illinois and that transports the property, or

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

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

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

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

24 (21) 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 (22) Fuel and petroleum products sold to or used by an air  
31 carrier, certified by the carrier to be used for consumption,  
32 shipment, or storage in the conduct of its business as an air  
33 common carrier, for a flight destined for or returning from a  
34 location or locations outside the United States without regard  
35 to previous or subsequent domestic stopovers.

36 (23) A transaction in which the purchase order is received

1 by a florist who is located outside Illinois, but who has a  
2 florist located in Illinois deliver the property to the  
3 purchaser or the purchaser's donee in Illinois.

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

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

21 (26) Semen used for artificial insemination of livestock  
22 for direct agricultural production.

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

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

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

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

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

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

34           (33) A motor vehicle, as that term is defined in Section  
35 1-146 of the Illinois Vehicle Code, that is donated to a  
36 corporation, limited liability company, society, association,

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

16 (34) 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 school,  
19 a group of those schools, or one or more school districts if  
20 the events are sponsored by an entity recognized by the school  
21 district that consists primarily of volunteers and includes  
22 parents and teachers of the school children. This paragraph  
23 does not apply to fundraising events (i) for the benefit of  
24 private home instruction or (ii) for which the fundraising  
25 entity purchases the personal property sold at the events from  
26 another individual or entity that sold the property for the  
27 purpose of resale by the fundraising entity and that profits  
28 from the sale to the fundraising entity. This paragraph is  
29 exempt from the provisions of Section 2-70.

30 (35) 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 other  
33 items, and replacement parts for these machines. Beginning  
34 January 1, 2002 and through June 30, 2003, machines and parts  
35 for machines used in commercial, coin-operated amusement and  
36 vending business if a use or occupation tax is paid on the

1 gross receipts derived from the use of the commercial,  
2 coin-operated amusement and vending machines. This paragraph  
3 is exempt from the provisions of Section 2-70.

4 (35-5) Food for human consumption that is to be consumed  
5 off the premises where it is sold (other than alcoholic  
6 beverages, soft drinks, and food that has been prepared for  
7 immediate consumption) and prescription and nonprescription  
8 medicines, drugs, medical appliances, colostomy bags and other  
9 supplies and equipment used for the care of ostomy patients,  
10 and insulin, urine testing materials, syringes, and needles  
11 used by diabetics, for human use, when purchased for use by a  
12 person receiving medical assistance under Article 5 of the  
13 Illinois Public Aid Code who resides in a licensed long-term  
14 care facility, as defined in the Nursing Home Care Act.

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

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

31 (38) Beginning on January 1, 2002, tangible personal  
32 property purchased from an Illinois retailer by a taxpayer  
33 engaged in centralized purchasing activities in Illinois who  
34 will, upon receipt of the property in Illinois, temporarily  
35 store the property in Illinois (i) for the purpose of  
36 subsequently transporting it outside this State for use or

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

17 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,  
18 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;  
19 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.  
20 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.  
21 7-30-04; 93-1033, eff. 9-3-04; revised 9-14-04.)

22 (35 ILCS 120/2-5.5)

23 Sec. 2-5.5. Food and drugs sold by not-for-profit  
24 organizations; exemption. The Department shall not collect the  
25 1% tax imposed on food for human consumption that is to be  
26 consumed off the premises where it is sold (other than  
27 alcoholic beverages, soft drinks, and food that has been  
28 prepared for immediate consumption) and prescription and  
29 nonprescription medicines, drugs, medical appliances,  
30 colostomy bags and other supplies and equipment used for the  
31 care of ostomy patients, and insulin, urine testing materials,  
32 syringes, and needles used by diabetics, for human use from any  
33 not-for-profit organization, that sells food in a food  
34 distribution program at a price below the retail cost of the  
35 food to purchasers who, as a condition of participation in the



1 program, are required to perform community service, located in  
2 a county or municipality that notifies the Department, in  
3 writing, that the county or municipality does not want the tax  
4 to be collected from any of such organizations located in the  
5 county or municipality.

6 (Source: P.A. 88-374.)

7 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

8 Sec. 2-10. Rate of tax. Unless otherwise provided in this  
9 Section, the tax imposed by this Act is at the rate of 6.25% of  
10 gross receipts from sales of tangible personal property made in  
11 the course of business.

12 Beginning on July 1, 2000 and through December 31, 2000,  
13 with respect to motor fuel, as defined in Section 1.1 of the  
14 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
15 the Use Tax Act, the tax is imposed at the rate of 1.25%.

16 Within 14 days after the effective date of this amendatory  
17 Act of the 91st General Assembly, each retailer of motor fuel  
18 and gasohol shall cause the following notice to be posted in a  
19 prominently visible place on each retail dispensing device that  
20 is used to dispense motor fuel or gasohol in the State of  
21 Illinois: "As of July 1, 2000, the State of Illinois has  
22 eliminated the State's share of sales tax on motor fuel and  
23 gasohol through December 31, 2000. The price on this pump  
24 should reflect the elimination of the tax." The notice shall be  
25 printed in bold print on a sign that is no smaller than 4  
26 inches by 8 inches. The sign shall be clearly visible to  
27 customers. Any retailer who fails to post or maintain a  
28 required sign through December 31, 2000 is guilty of a petty  
29 offense for which the fine shall be \$500 per day per each  
30 retail premises where a violation occurs.

31 With respect to gasohol, as defined in the Use Tax Act, the  
32 tax imposed by this Act applies to (i) 70% of the proceeds of  
33 sales made on or after January 1, 1990, and before July 1,  
34 2003, (ii) 80% of the proceeds of sales made on or after July  
35 1, 2003 and on or before December 31, 2013, and (iii) 100% of

1 the proceeds of sales made thereafter. If, at any time,  
2 however, the tax under this Act on sales of gasohol, as defined  
3 in the Use Tax Act, is imposed at the rate of 1.25%, then the  
4 tax imposed by this Act applies to 100% of the proceeds of  
5 sales of gasohol made during that time.

6 With respect to majority blended ethanol fuel, as defined  
7 in the Use Tax Act, the tax imposed by this Act does not apply  
8 to the proceeds of sales made on or after July 1, 2003 and on or  
9 before December 31, 2013 but applies to 100% of the proceeds of  
10 sales made thereafter.

11 With respect to biodiesel blends, as defined in the Use Tax  
12 Act, with no less than 1% and no more than 10% biodiesel, the  
13 tax imposed by this Act applies to (i) 80% of the proceeds of  
14 sales made on or after July 1, 2003 and on or before December  
15 31, 2013 and (ii) 100% of the proceeds of sales made  
16 thereafter. If, at any time, however, the tax under this Act on  
17 sales of biodiesel blends, as defined in the Use Tax Act, with  
18 no less than 1% and no more than 10% biodiesel is imposed at  
19 the rate of 1.25%, then the tax imposed by this Act applies to  
20 100% of the proceeds of sales of biodiesel blends with no less  
21 than 1% and no more than 10% biodiesel made during that time.

22 With respect to 100% biodiesel, as defined in the Use Tax  
23 Act, and biodiesel blends, as defined in the Use Tax Act, with  
24 more than 10% but no more than 99% biodiesel, the tax imposed  
25 by this Act does not apply to the proceeds of sales made on or  
26 after July 1, 2003 and on or before December 31, 2013 but  
27 applies to 100% of the proceeds of sales made thereafter.

28 With respect to food for human consumption that is to be  
29 consumed off the premises where it is sold (other than  
30 alcoholic beverages, soft drinks, and food that has been  
31 prepared for immediate consumption) and prescription and  
32 nonprescription medicines, drugs, medical appliances,  
33 modifications to a motor vehicle for the purpose of rendering  
34 it usable by a disabled person, colostomy bags and other  
35 supplies and equipment used for the care of ostomy patients,  
36 and insulin, urine testing materials, syringes, and needles

1 used by diabetics, for human use, the tax is imposed at the  
2 rate of 1%. For the purposes of this Section, the term "soft  
3 drinks" means any complete, finished, ready-to-use,  
4 non-alcoholic drink, whether carbonated or not, including but  
5 not limited to soda water, cola, fruit juice, vegetable juice,  
6 carbonated water, and all other preparations commonly known as  
7 soft drinks of whatever kind or description that are contained  
8 in any closed or sealed bottle, can, carton, or container,  
9 regardless of size. "Soft drinks" does not include coffee, tea,  
10 non-carbonated water, infant formula, milk or milk products as  
11 defined in the Grade A Pasteurized Milk and Milk Products Act,  
12 or drinks containing 50% or more natural fruit or vegetable  
13 juice.

14 Notwithstanding any other provisions of this Act, "food for  
15 human consumption that is to be consumed off the premises where  
16 it is sold" includes all food sold through a vending machine,  
17 except soft drinks and food products that are dispensed hot  
18 from a vending machine, regardless of the location of the  
19 vending machine.

20 (Source: P.A. 93-17, eff. 6-11-03.)