



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4117

Introduced 09/29/05, by Rep. Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3b new  
35 ILCS 120/2-75 new

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that no tax is imposed under the Acts upon the privilege of using in this State (for the Use Tax Act) or persons engaged in the business of selling at retail (for the Retailers' Occupation Tax Act) qualified merchandise that is purchased from 12:01 a.m. on the first Friday in August through midnight of the Sunday that follows 9 days later. Defines "qualified merchandise" as any article of clothing or footwear or computer that is sold at or below certain selling prices. Sets forth criteria for transactions to qualify for the exemption. Effective immediately.

LRB094 13809 BDD 49134 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by adding Section 3b  
5 as follows:

6 (35 ILCS 105/3b new)

7 Sec. 3b. Back-To-School Tax Holiday.

8 (a) No tax is imposed under this Act upon the privilege of  
9 using, in this State, qualified merchandise that is purchased  
10 at retail from a retailer if the qualified merchandise is  
11 purchased during the holiday period.

12 (b) For the purpose of this Section:

13 "Holiday period" means the period from 12:01 a.m. on the  
14 first Friday in August through midnight of the Sunday that  
15 follows 9 days later.

16 "Qualified merchandise" means:

17 (1) an article of clothing or footwear that is  
18 purchased for a selling price of \$200 or less; and

19 (2) a computer that is purchased for a selling price of  
20 \$3,000 or less.

21 "Clothing or footwear" means an article of apparel designed  
22 to be worn about the human body. The term does not include  
23 accessories such as jewelry, handbags, purses, briefcases,  
24 luggage, wallets, watches, and similar items that are carried  
25 on or about the human body, without regard to whether the item  
26 is worn on the body in a manner that is characteristic of  
27 clothing.

28 "Computer" means a central processing unit for personal use  
29 plus any peripheral sold with it and any computer software  
30 installed in it at the time of purchase. The term "computer"  
31 includes desktop computers, laptop computers, hand-held  
32 computers, and personal digital assistants. The term

1 "computer" does not include any device designed primarily for  
2 video game applications. The term "peripheral" includes any  
3 monitor, keyboard, printer, scanner, web/PC camera,  
4 microphone, external drive, network card, internal drive, and  
5 additional storage.

6 (c) For purpose of this Section, a "purchase" occurs during  
7 the tax holiday if the buyer places an order and pays the  
8 purchase price by cash or credit during the tax holiday period  
9 regardless of whether the delivery of the item occurs after the  
10 tax holiday period.

11 An item of qualified merchandise that is placed in a  
12 layaway or similar deferred plan during the holiday period is  
13 not eligible for the exemption unless the item is delivered to  
14 the purchaser during the period. An item that was placed in a  
15 layaway or similar deferred plan before the holiday period and  
16 is then delivered to the purchaser during the holiday period is  
17 eligible for the exemption.

18 (d) Any discount, coupon, or other credit offered either by  
19 the retailer or by a vendor of the retailer to reduce the final  
20 price to the customer must be taken into account in determining  
21 the selling price of the item for the purposes of this holiday.  
22 If the the price of an item is free or reduced with the  
23 purchase of another item, then the total price of the items may  
24 not be averaged in order for both items to qualify for the  
25 holiday.

26 The amount of any rebate may not be considered when  
27 determining the selling price of the item for the purposes of  
28 this holiday.

29 (e) Articles that are normally sold as a unit must continue  
30 to be sold in that manner; they may not be priced separately  
31 and sold as individual items in order to be subject to the  
32 holiday. For example, if a pair of shoes sells for \$220, the  
33 pair cannot be split in order to sell each shoe for \$110 to  
34 qualify for the holiday. If a uniform is normally priced at  
35 \$250 on a single price tag, the uniform cannot be split into  
36 separate articles so that any of the components may be sold for

1 less than \$200 in order to qualify for the holiday. Components  
2 that are normally priced as separate articles, however, may  
3 continue to be sold as separate articles.

4 (f) Qualified merchandise that customers purchase during  
5 the holiday period with the use of a rain check qualify for the  
6 holiday regardless of when the rain check was issued. The  
7 issuance of a rain check, however, during the holiday period  
8 does not qualify merchandise for the exemption if the  
9 merchandise is actually purchased after the holiday period.

10 (g) If a customer purchases an item of qualified  
11 merchandise during the holiday period but later exchanges the  
12 item for a substantially similar item of a different size,  
13 different color, or other feature, then no additional tax is  
14 due even if the exchange is made after the holiday period.

15 If a customer purchases an item of qualified merchandise  
16 during the holiday period, but after the holiday period has  
17 ended, the customer returns the item and receives credit on the  
18 purchase of a different item, then the newly purchased item is  
19 subject to the full tax rate.

20 If a customer purchases an item of qualified merchandise  
21 before the holiday period, but during the holiday period, the  
22 customer returns the item and receives credit on the purchase  
23 of a different item of qualified merchandise, then the newly  
24 purchased item is subject to the exemption.

25 (h) Each unit of local government that imposes a use tax  
26 may, by resolution or ordinance, declare a tax holiday with  
27 respect to its use tax for the same items, during the same  
28 periods, and under the same conditions and is encouraged to do  
29 so.

30 Section 10. The Retailers' Occupation Tax Act is amended by  
31 adding Section 2-75 as follows:

32 (35 ILCS 120/2-75 new)

33 Sec. 2-75. Back-To-School Tax Holiday.

34 (a) No tax is imposed under this Act upon persons engaged

1 in the business of selling, at retail, qualified merchandise if  
2 the qualified merchandise is purchased during the holiday  
3 period.

4 (b) For the purpose of this Section:

5 "Holiday period" means the period from 12:01 a.m. on the  
6 first Friday in August through midnight of the Sunday that  
7 follows 9 days later.

8 "Qualified merchandise" means:

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29 additional storage.

30 (c) For purpose of this Section, a "purchase" occurs during  
31 the tax holiday if the buyer places an order and pays the  
32 purchase price by cash or credit during the tax holiday period  
33 regardless of whether the delivery of the item occurs after the  
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35 An item of qualified merchandise that is placed in a  
36 layaway or similar deferred plan during the holiday period is

1 not eligible for the exemption unless the item is delivered to  
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13 (h) Each unit of local government that imposes a retailers'  
14 occupation tax may, by resolution or ordinance, declare a tax  
15 holiday with respect to its use tax for the same items, during  
16 the same periods, and under the same conditions and is  
17 encouraged to do so.

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.