



Sen. M. Maggie Crotty

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09400SB0711sam002

LRB094 08559 RCE 57905 a

1 AMENDMENT TO SENATE BILL 711

2 AMENDMENT NO. _____. Amend Senate Bill 711, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 3. The Service Use Tax Act is amended by changing
6 Section 2 as follows:

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

8 Sec. 2. "Use" means the exercise by any person of any right
9 or power over tangible personal property incident to the
10 ownership of that property, but does not include the sale or
11 use for demonstration by him of that property in any form as
12 tangible personal property in the regular course of business.

13 "Use" does not mean the interim use of tangible personal
14 property nor the physical incorporation of tangible personal
15 property, as an ingredient or constituent, into other tangible
16 personal property, (a) which is sold in the regular course of
17 business or (b) which the person incorporating such ingredient
18 or constituent therein has undertaken at the time of such
19 purchase to cause to be transported in interstate commerce to
20 destinations outside the State of Illinois.

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

24 "Purchaser" means any person who, through a sale of

1 service, acquires the ownership of, or title to, any tangible
2 personal property.

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

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

25 "Department" means the Department of Revenue.

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

31 "Sale of service" means any transaction except:

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

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

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

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

30 (4a) a sale or transfer of tangible personal property
31 as an incident to the rendering of service for owners,
32 lessors, or shippers of tangible personal property which is
33 utilized by interstate carriers for hire for use as rolling
34 stock moving in interstate commerce so long as so used by

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

6 (4a-5) on and after July 1, 2003 and through June 30,
7 2004, a sale or transfer of a motor vehicle of the second
8 division with a gross vehicle weight in excess of 8,000
9 pounds as an incident to the rendering of service if that
10 motor vehicle is subject to the commercial distribution fee
11 imposed under Section 3-815.1 of the Illinois Vehicle Code.
12 Beginning on July 1, 2004 and through June 30, 2005, the
13 use in this State of motor vehicles of the second division:
14 (i) with a gross vehicle weight rating in excess of 8,000
15 pounds; (ii) that are subject to the commercial
16 distribution fee imposed under Section 3-815.1 of the
17 Illinois Vehicle Code; and (iii) that are primarily used
18 for commercial purposes. Through June 30, 2005, this
19 exemption applies to repair and replacement parts added
20 after the initial purchase of such a motor vehicle if that
21 motor vehicle is used in a manner that would qualify for
22 the rolling stock exemption otherwise provided for in this
23 Act. For purposes of this paragraph, "used for commercial
24 purposes" means the transportation of persons or property
25 in furtherance of any commercial or industrial enterprise
26 whether for-hire or not.

27 (5) a sale or transfer of machinery and equipment used
28 primarily in the process of the manufacturing or
29 assembling, either in an existing, an expanded or a new
30 manufacturing facility, of tangible personal property for
31 wholesale or retail sale or lease, whether such sale or
32 lease is made directly by the manufacturer or by some other
33 person, whether the materials used in the process are owned
34 by the manufacturer or some other person, or whether such

1 sale or lease is made apart from or as an incident to the
2 seller's engaging in a service occupation and the
3 applicable tax is a Service Use Tax or Service Occupation
4 Tax, rather than Use Tax or Retailers' Occupation Tax.

5 (5a) the repairing, reconditioning or remodeling, for
6 a common carrier by rail, of tangible personal property
7 which belongs to such carrier for hire, and as to which
8 such carrier receives the physical possession of the
9 repaired, reconditioned or remodeled item of tangible
10 personal property in Illinois, and which such carrier
11 transports, or shares with another common carrier in the
12 transportation of such property, out of Illinois on a
13 standard uniform bill of lading showing the person who
14 repaired, reconditioned or remodeled the property to a
15 destination outside Illinois, for use outside Illinois.

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

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

1 or resale.

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

23 (8) for purposes of this definition, veterinary
24 practices are engaged in a service occupation and are
25 subject to this Act when they transfer tangible personal
26 property in conjunction with providing professional
27 veterinary services. Veterinary practices are acting as
28 servicemen and not retailers when they transfer tangible
29 personal property incident to these services. This
30 includes:

31 (1) medicines, drugs, and other products having
32 medicinal purposes that are directly applied or
33 administered during a veterinary exam or procedure;

34 (2) medicines, drugs, and other products having

1 medicinal purposes that are recommended or prescribed
2 as a result of a veterinary exam; and

3 (3) medicines, drugs, and other products having
4 medicinal purposes that are sold as a part of a
5 continuing plan for the health and well being of an
6 animal under the care of the veterinarian.

7 The criteria for determining as to whether a continuing
8 plan for health and well being has been established between
9 a veterinary practice and a customer is whether a valid
10 Veterinarian-Client-Patient Relationship (VCPR) has been
11 established in accordance with the Veterinary Medicine and
12 Surgery Practice Act of 2004.

13 Veterinary practices must maintain appropriate
14 information within their records to indicate that a
15 particular sale or transfer of tangible personal property
16 made in conjunction with providing veterinary services was
17 a part of a valid VCPR between the veterinarian and the
18 customer. A notation must be maintained that a particular
19 product was prescribed or recommended as a result of an
20 exam or after consultation with the client.

21 Tangible personal property transferred incident to the
22 completion of a maintenance agreement is exempt from the tax
23 imposed pursuant to this Act.

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

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

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

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

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

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

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

34 "Sale at retail" means "sale at retail" as defined in the

1 Retailers' Occupation Tax Act.

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

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

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

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

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

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

33 5. being owned or controlled by the same interests
34 which own or control any retailer engaging in business in

1 the same or similar line of business in this State;

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

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

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

14 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
15 eff. 6-20-03; 93-1033, eff. 9-3-04.)"; and

16 Section 5. The Service Occupation Tax Act is amended by
17 changing Section 2 as follows:

18 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

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

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

1 in the absence of proof of the consideration paid by the
2 subcontractor for the purchase of such property.

3 "Department" means the Department of Revenue.

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

9 "Sale of Service" means any transaction except:

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

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

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

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

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

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

14 (d-1.1) On and after July 1, 2003 and through June 30,
15 2004, a sale or transfer of a motor vehicle of the second
16 division with a gross vehicle weight in excess of 8,000 pounds
17 as an incident to the rendering of service if that motor
18 vehicle is subject to the commercial distribution fee imposed
19 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
20 on July 1, 2004 and through June 30, 2005, the use in this
21 State of motor vehicles of the second division: (i) with a
22 gross vehicle weight rating in excess of 8,000 pounds; (ii)
23 that are subject to the commercial distribution fee imposed
24 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
25 that are primarily used for commercial purposes. Through June
26 30, 2005, this exemption applies to repair and replacement
27 parts added after the initial purchase of such a motor vehicle
28 if that motor vehicle is used in a manner that would qualify
29 for the rolling stock exemption otherwise provided for in this
30 Act. For purposes of this paragraph, "used for commercial
31 purposes" means the transportation of persons or property in
32 furtherance of any commercial or industrial enterprise whether
33 for-hire or not.

34 (d-2) The repairing, reconditioning or remodeling, for a

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

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

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

30 (d-5) For purposes of this definition, veterinary
31 practices are engaged in a service occupation and are subject
32 to this Act when they transfer tangible personal property in
33 conjunction with providing professional veterinary services.
34 Veterinary practices are acting as servicemen and not retailers

1 when they transfer tangible personal property incident to these
2 services. This includes:

3 (1) medicines, drugs, and other products having
4 medicinal purposes that are directly applied or
5 administered during a veterinary exam or procedure;

6 (2) medicines, drugs, and other products having
7 medicinal purposes that are recommended or prescribed as a
8 result of a veterinary exam; and

9 (3) medicines, drugs, and other products having
10 medicinal purposes that are sold as a part of a continuing
11 plan for the health and well being of an animal under the
12 care of the veterinarian.

13 The criteria for determining as to whether a continuing
14 plan for health and well being has been established between a
15 veterinary practice and a customer is whether a valid
16 Veterinarian-Client-Patient Relationship (VCPR) has been
17 established in accordance with the Veterinary Medicine and
18 Surgery Practice Act of 2004.

19 Veterinary practices must maintain appropriate information
20 within their records to indicate that a particular sale or
21 transfer of tangible personal property made in conjunction with
22 providing veterinary services was a part of a valid VCPR
23 between the veterinarian and the customer. A notation must be
24 maintained that a particular product was prescribed or
25 recommended as a result of an exam or after consultation with
26 the client.

27 (e) A sale or transfer of machinery and equipment used
28 primarily in the process of the manufacturing or assembling,
29 either in an existing, an expanded or a new manufacturing
30 facility, of tangible personal property for wholesale or retail
31 sale or lease, whether such sale or lease is made directly by
32 the manufacturer or by some other person, whether the materials
33 used in the process are owned by the manufacturer or some other
34 person, or whether such sale or lease is made apart from or as

1 an incident to the seller's engaging in a service occupation
2 and the applicable tax is a Service Occupation Tax or Service
3 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

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

11 (g) At the election of any serviceman not required to be
12 otherwise registered as a retailer under Section 2a of the
13 Retailers' Occupation Tax Act, made for each fiscal year sales
14 of service in which the aggregate annual cost price of tangible
15 personal property transferred as an incident to the sales of
16 service is less than 35% (75% in the case of servicemen
17 transferring prescription drugs or servicemen engaged in
18 graphic arts production) of the aggregate annual total gross
19 receipts from all sales of service. For purposes of this
20 Section, a serviceman is not required to register as a retailer
21 under Section 2a of the Retailers' Occupation Tax Act if: (i)
22 all of his or her sales activities constitute accommodation
23 retail sales made to service customers; and (ii) these
24 accommodation retail sales do not exceed 3% of the serviceman's
25 annual revenues from sales of service. The purchase of such
26 tangible personal property by the serviceman shall be subject
27 to tax under the Retailers' Occupation Tax Act and the Use Tax
28 Act. However, if a primary serviceman who has made the election
29 described in this paragraph subcontracts service work to a
30 secondary serviceman who has also made the election described
31 in this paragraph, the primary serviceman does not incur a Use
32 Tax liability if the secondary serviceman (i) has paid or will
33 pay Use Tax on his or her cost price of any tangible personal
34 property transferred to the primary serviceman and (ii)

1 certifies that fact in writing to the primary serviceman.

2 Tangible personal property transferred incident to the
3 completion of a maintenance agreement is exempt from the tax
4 imposed pursuant to this Act.

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

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

24 Except as provided in Section 2d of this Act, the rolling
25 stock exemption applies to rolling stock used by an interstate
26 carrier for hire, even just between points in Illinois, if such
27 rolling stock transports, for hire, persons whose journeys or
28 property whose shipments originate or terminate outside
29 Illinois.

30 Any informal rulings, opinions or letters issued by the
31 Department in response to an inquiry or request for any opinion
32 from any person regarding the coverage and applicability of
33 exemption (e) to specific devices shall be published,
34 maintained as a public record, and made available for public

1 inspection and copying. If the informal ruling, opinion or
2 letter contains trade secrets or other confidential
3 information, where possible the Department shall delete such
4 information prior to publication. Whenever such informal
5 rulings, opinions, or letters contain any policy of general
6 applicability, the Department shall formulate and adopt such
7 policy as a rule in accordance with the provisions of the
8 Illinois Administrative Procedure Act.

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

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

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

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

20 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
21 eff. 6-20-03; 93-1033, eff. 9-3-04.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."