

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 changing Section  
5 3-5 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

1 support of arts or cultural programming, activities, or  
2 services. These organizations include, but are not limited to,  
3 music and dramatic arts organizations such as symphony  
4 orchestras and theatrical groups, arts and cultural service  
5 organizations, local arts councils, visual arts organizations,  
6 and media arts organizations. On and after the effective date  
7 of this amendatory Act of the 92nd General Assembly, however,  
8 an entity otherwise eligible for this exemption shall not make  
9 tax-free purchases unless it has an active identification  
10 number issued by the Department.

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

25 (5) Until July 1, 2003, a passenger car that is a  
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

2 (6) Until July 1, 2003 and beginning again on September 1,  
3 2004, graphic arts machinery and equipment, including repair  
4 and replacement parts, both new and used, and including that  
5 manufactured on special order, certified by the purchaser to be  
6 used primarily for graphic arts production, and including  
7 machinery and equipment purchased for lease. Equipment  
8 includes chemicals or chemicals acting as catalysts but only if  
9 the chemicals or chemicals acting as catalysts effect a direct  
10 and immediate change upon a graphic arts product.

11 (7) Farm chemicals.

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

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

19 (10) A motor vehicle of the first division, a motor vehicle  
20 of the second division that is a self-contained motor vehicle  
21 designed or permanently converted to provide living quarters  
22 for recreational, camping, or travel use, with direct walk  
23 through to the living quarters from the driver's seat, or a  
24 motor vehicle of the second division that is of the van  
25 configuration designed for the transportation of not less than  
26 7 nor more than 16 passengers, as defined in Section 1-146 of

1 the Illinois Vehicle Code, that is used for automobile renting,  
2 as defined in the Automobile Renting Occupation and Use Tax  
3 Act.

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

23 Farm machinery and equipment shall include precision  
24 farming equipment that is installed or purchased to be  
25 installed on farm machinery and equipment including, but not  
26 limited to, tractors, harvesters, sprayers, planters, seeders,

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

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

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

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

1 respect to which the service charge is imposed.

2 (14) 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 (15) 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 (16) 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 (17) Until July 1, 2003, distillation machinery and  
23 equipment, sold as a unit or kit, assembled or installed by the  
24 retailer, certified by the user to be used only for the  
25 production of ethyl alcohol that will be used for consumption  
26 as motor fuel or as a component of motor fuel for the personal

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

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

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

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

20 (21) Horses, or interests in horses, registered with and  
21 meeting the requirements of any of the Arabian Horse Club  
22 Registry of America, Appaloosa Horse Club, American Quarter  
23 Horse Association, United States Trotting Association, or  
24 Jockey Club, as appropriate, used for purposes of breeding or  
25 racing for prizes. This item (21) is exempt from the provisions  
26 of Section 3-90, and the exemption provided for under this item

1 (21) applies for all periods beginning May 30, 1995, but no  
2 claim for credit or refund is allowed on or after the effective  
3 date of this amendatory Act of the 95th General Assembly for  
4 such taxes paid during the period beginning May 30, 2000 and  
5 ending on the effective date of this amendatory Act of the 95th  
6 General Assembly.

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



1 If, however, that amount is not refunded to the lessee for any  
2 reason, the lessor is liable to pay that amount to the  
3 Department.

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

24 (24) Beginning with taxable years ending on or after  
25 December 31, 1995 and ending with taxable years ending on or  
26 before December 31, 2004, personal property that is donated for

1 disaster relief to be used in a State or federally declared  
2 disaster area in Illinois or bordering Illinois by a  
3 manufacturer or retailer that is registered in this State to a  
4 corporation, society, association, foundation, or institution  
5 that has been issued a sales tax exemption identification  
6 number by the Department that assists victims of the disaster  
7 who reside within the declared disaster area.

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

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

26 (27) A motor vehicle, as that term is defined in Section

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

18 (28) Beginning January 1, 2000, personal property,  
19 including food, purchased through fundraising events for the  
20 benefit of a public or private elementary or secondary school,  
21 a group of those schools, or one or more school districts if  
22 the events are sponsored by an entity recognized by the school  
23 district that consists primarily of volunteers and includes  
24 parents and teachers of the school children. This paragraph  
25 does not apply to fundraising events (i) for the benefit of  
26 private home instruction or (ii) for which the fundraising

1 entity purchases the personal property sold at the events from  
2 another individual or entity that sold the property for the  
3 purpose of resale by the fundraising entity and that profits  
4 from the sale to the fundraising entity. This paragraph is  
5 exempt from the provisions of Section 3-90.

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

16 (30) Beginning January 1, 2001 and through June 30, 2011,  
17 food for human consumption that is to be consumed off the  
18 premises where it is sold (other than alcoholic beverages, soft  
19 drinks, and food that has been prepared for immediate  
20 consumption) and prescription and nonprescription medicines,  
21 drugs, medical appliances, and insulin, urine testing  
22 materials, syringes, and needles used by diabetics, for human  
23 use, when purchased for use by a person receiving medical  
24 assistance under Article 5 of the Illinois Public Aid Code who  
25 resides in a licensed long-term care facility, as defined in  
26 the Nursing Home Care Act.

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

26           (32) Beginning on the effective date of this amendatory Act

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

23 (33) On and after July 1, 2003 and through June 30, 2004,  
24 the use in this State of motor vehicles of the second division  
25 with a gross vehicle weight in excess of 8,000 pounds and that  
26 are subject to the commercial distribution fee imposed under

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

16 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
17 eff. 7-30-04; 93-1033, eff. 9-3-04; 94-1002, eff. 7-3-06.)

18 Section 10. The Service Use Tax Act is amended by changing  
19 Section 3-5 as follows:

20 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

23 (1) Personal property purchased from a corporation,  
24 society, association, foundation, institution, or

1 organization, other than a limited liability company, that is  
2 organized and operated as a not-for-profit service enterprise  
3 for the benefit of persons 65 years of age or older if the  
4 personal property was not purchased by the enterprise for the  
5 purpose of resale by the enterprise.

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

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

24 (4) Legal tender, currency, medallions, or gold or silver  
25 coinage issued by the State of Illinois, the government of the  
26 United States of America, or the government of any foreign



1 country, and bullion.

2 (5) Until July 1, 2003 and beginning again on September 1,  
3 2004, graphic arts machinery and equipment, including repair  
4 and replacement parts, both new and used, and including that  
5 manufactured on special order or purchased for lease, certified  
6 by the purchaser to be used primarily for graphic arts  
7 production. Equipment includes chemicals or chemicals acting  
8 as catalysts but only if the chemicals or chemicals acting as  
9 catalysts effect a direct and immediate change upon a graphic  
10 arts product.

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

14 (7) 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

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 3-75.

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

1 returning from a location or locations outside the United  
2 States without regard to previous or subsequent domestic  
3 stopovers.

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

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

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

1 equipment purchased for lease.

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

8 (13) Semen used for artificial insemination of livestock  
9 for direct agricultural production.

10 (14) Horses, or interests in horses, registered with and  
11 meeting the requirements of any of the Arabian Horse Club  
12 Registry of America, Appaloosa Horse Club, American Quarter  
13 Horse Association, United States Trotting Association, or  
14 Jockey Club, as appropriate, used for purposes of breeding or  
15 racing for prizes. This item (14) is exempt from the provisions  
16 of Section 3-75, and the exemption provided for under this item  
17 (14) applies for all periods beginning May 30, 1995, but no  
18 claim for credit or refund is allowed on or after the effective  
19 date of this amendatory Act of the 95th General Assembly for  
20 such taxes paid during the period beginning May 30, 2000 and  
21 ending on the effective date of this amendatory Act of the 95th  
22 General Assembly.

23 (15) Computers and communications equipment utilized for  
24 any hospital purpose and equipment used in the diagnosis,  
25 analysis, or treatment of hospital patients purchased by a  
26 lessor who leases the equipment, under a lease of one year or

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

19 (16) Personal property purchased by a lessor who leases the  
20 property, under a lease of one year or longer executed or in  
21 effect at the time the lessor would otherwise be subject to the  
22 tax imposed by this Act, to a governmental body that has been  
23 issued an active tax exemption identification number by the  
24 Department under Section 1g of the Retailers' Occupation Tax  
25 Act. If the property is leased in a manner that does not  
26 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

1 but not limited to municipal roads and streets, access roads,  
2 bridges, sidewalks, waste disposal systems, water and sewer  
3 line extensions, water distribution and purification  
4 facilities, storm water drainage and retention facilities, and  
5 sewage treatment facilities, resulting from a State or  
6 federally declared disaster in Illinois or bordering Illinois  
7 when such repairs are initiated on facilities located in the  
8 declared disaster area within 6 months after the disaster.

9 (19) Beginning July 1, 1999, game or game birds purchased  
10 at a "game breeding and hunting preserve area" or an "exotic  
11 game hunting area" as those terms are used in the Wildlife Code  
12 or at a hunting enclosure approved through rules adopted by the  
13 Department of Natural Resources. This paragraph is exempt from  
14 the provisions of Section 3-75.

15 (20) A motor vehicle, as that term is defined in Section  
16 1-146 of the Illinois Vehicle Code, that is donated to a  
17 corporation, limited liability company, society, association,  
18 foundation, or institution that is determined by the Department  
19 to be organized and operated exclusively for educational  
20 purposes. For purposes of this exemption, "a corporation,  
21 limited liability company, society, association, foundation,  
22 or institution organized and operated exclusively for  
23 educational purposes" means all tax-supported public schools,  
24 private schools that offer systematic instruction in useful  
25 branches of learning by methods common to public schools and  
26 that compare favorably in their scope and intensity with the

1 course of study presented in tax-supported schools, and  
2 vocational or technical schools or institutes organized and  
3 operated exclusively to provide a course of study of not less  
4 than 6 weeks duration and designed to prepare individuals to  
5 follow a trade or to pursue a manual, technical, mechanical,  
6 industrial, business, or commercial occupation.

7 (21) Beginning January 1, 2000, personal property,  
8 including food, purchased through fundraising events for the  
9 benefit of a public or private elementary or secondary school,  
10 a group of those schools, or one or more school districts if  
11 the events are sponsored by an entity recognized by the school  
12 district that consists primarily of volunteers and includes  
13 parents and teachers of the school children. This paragraph  
14 does not apply to fundraising events (i) for the benefit of  
15 private home instruction or (ii) for which the fundraising  
16 entity purchases the personal property sold at the events from  
17 another individual or entity that sold the property for the  
18 purpose of resale by the fundraising entity and that profits  
19 from the sale to the fundraising entity. This paragraph is  
20 exempt from the provisions of Section 3-75.

21 (22) Beginning January 1, 2000 and through December 31,  
22 2001, new or used automatic vending machines that prepare and  
23 serve hot food and beverages, including coffee, soup, and other  
24 items, and replacement parts for these machines. Beginning  
25 January 1, 2002 and through June 30, 2003, machines and parts  
26 for machines used in commercial, coin-operated amusement and



1 vending business if a use or occupation tax is paid on the  
2 gross receipts derived from the use of the commercial,  
3 coin-operated amusement and vending machines. This paragraph  
4 is exempt from the provisions of Section 3-75.

5 (23) Beginning August 23, 2001 and through June 30, 2011,  
6 food for human consumption that is to be consumed off the  
7 premises where it is sold (other than alcoholic beverages, soft  
8 drinks, and food that has been prepared for immediate  
9 consumption) and prescription and nonprescription medicines,  
10 drugs, medical appliances, and insulin, urine testing  
11 materials, syringes, and needles used by diabetics, for human  
12 use, when purchased for use by a person receiving medical  
13 assistance under Article 5 of the Illinois Public Aid Code who  
14 resides in a licensed long-term care facility, as defined in  
15 the Nursing Home Care Act.

16 (24) Beginning on the effective date of this amendatory Act  
17 of the 92nd General Assembly, computers and communications  
18 equipment utilized for any hospital purpose and equipment used  
19 in the diagnosis, analysis, or treatment of hospital patients  
20 purchased by a lessor who leases the equipment, under a lease  
21 of one year or longer executed or in effect at the time the  
22 lessor would otherwise be subject to the tax imposed by this  
23 Act, to a hospital that has been issued an active tax exemption  
24 identification number by the Department under Section 1g of the  
25 Retailers' Occupation Tax Act. If the equipment is leased in a  
26 manner that does not qualify for this exemption or is used in

1 any other nonexempt manner, the lessor shall be liable for the  
2 tax imposed under this Act or the Use Tax Act, as the case may  
3 be, based on the fair market value of the property at the time  
4 the nonqualifying use occurs. No lessor shall collect or  
5 attempt to collect an amount (however designated) that purports  
6 to 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. This paragraph is  
13 exempt from the provisions of Section 3-75.

14 (25) Beginning on the effective date of this amendatory Act  
15 of the 92nd General Assembly, personal property purchased by a  
16 lessor who leases the property, under a lease of one year or  
17 longer executed or in effect at the time the lessor would  
18 otherwise be subject to the tax imposed by this Act, to a  
19 governmental body that has been issued an active tax exemption  
20 identification number by the Department under Section 1g of the  
21 Retailers' Occupation Tax Act. If the property is leased in a  
22 manner that does not qualify for this exemption or is used in  
23 any other nonexempt manner, the lessor shall be liable for the  
24 tax imposed under this Act or the Use Tax Act, as the case may  
25 be, based on the fair market value of the property at the time  
26 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 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
11 94-1002, eff. 7-3-06.)

12 Section 15. The Service Occupation Tax Act is amended by  
13 changing Section 3-5 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

1 Illinois county fair association for use in conducting,  
2 operating, or promoting the county fair.

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

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

22 (5) Until July 1, 2003 and beginning again on September 1,  
23 2004, graphic arts machinery and equipment, including repair  
24 and replacement parts, both new and used, and including that  
25 manufactured on special order or purchased for lease, certified  
26 by the purchaser to be used primarily for graphic arts

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

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

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

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

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

24 (9) Proceeds of mandatory service charges separately  
25 stated on customers' bills for the purchase and consumption of  
26 food and beverages, to the extent that the proceeds of the

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

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

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

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

26 (13) Beginning January 1, 1992 and through June 30, 2011,

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

11 (14) Semen used for artificial insemination of livestock  
12 for direct agricultural production.

13 (15) Horses, or interests in horses, registered with and  
14 meeting the requirements of any of the Arabian Horse Club  
15 Registry of America, Appaloosa Horse Club, American Quarter  
16 Horse Association, United States Trotting Association, or  
17 Jockey Club, as appropriate, used for purposes of breeding or  
18 racing for prizes. This item (15) is exempt from the provisions  
19 of Section 3-55, and the exemption provided for under this item  
20 (15) applies for all periods beginning May 30, 1995, but no  
21 claim for credit or refund is allowed on or after the effective  
22 date of this amendatory Act of the 95th General Assembly for  
23 such taxes paid during the period beginning May 30, 2000 and  
24 ending on the effective date of this amendatory Act of the 95th  
25 General Assembly.

26 (16) Computers and communications equipment utilized for



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

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

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

24 (19) Beginning with taxable years ending on or after  
25 December 31, 1995 and ending with taxable years ending on or  
26 before December 31, 2004, personal property that is used in the

1 performance of infrastructure repairs in this State, including  
2 but not limited to municipal roads and streets, access roads,  
3 bridges, sidewalks, waste disposal systems, water and sewer  
4 line extensions, water distribution and purification  
5 facilities, storm water drainage and retention facilities, and  
6 sewage treatment facilities, resulting from a State or  
7 federally declared disaster in Illinois or bordering Illinois  
8 when such repairs are initiated on facilities located in the  
9 declared disaster area within 6 months after the disaster.

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

16 (21) A motor vehicle, as that term is defined in Section  
17 1-146 of the Illinois Vehicle Code, that is donated to a  
18 corporation, limited liability company, society, association,  
19 foundation, or institution that is determined by the Department  
20 to be organized and operated exclusively for educational  
21 purposes. For purposes of this exemption, "a corporation,  
22 limited liability company, society, association, foundation,  
23 or institution organized and operated exclusively for  
24 educational purposes" means all tax-supported public schools,  
25 private schools that offer systematic instruction in useful  
26 branches of learning by methods common to public schools and

1 that compare favorably in their scope and intensity with the  
2 course of study presented in tax-supported schools, and  
3 vocational or technical schools or institutes organized and  
4 operated exclusively to provide a course of study of not less  
5 than 6 weeks duration and designed to prepare individuals to  
6 follow a trade or to pursue a manual, technical, mechanical,  
7 industrial, business, or commercial occupation.

8 (22) Beginning January 1, 2000, personal property,  
9 including food, purchased through fundraising events for the  
10 benefit of a public or private elementary or secondary school,  
11 a group of those schools, or one or more school districts if  
12 the events are sponsored by an entity recognized by the school  
13 district that consists primarily of volunteers and includes  
14 parents and teachers of the school children. This paragraph  
15 does not apply to fundraising events (i) for the benefit of  
16 private home instruction or (ii) for which the fundraising  
17 entity purchases the personal property sold at the events from  
18 another individual or entity that sold the property for the  
19 purpose of resale by the fundraising entity and that profits  
20 from the sale to the fundraising entity. This paragraph is  
21 exempt from the provisions of Section 3-55.

22 (23) Beginning January 1, 2000 and through December 31,  
23 2001, new or used automatic vending machines that prepare and  
24 serve hot food and beverages, including coffee, soup, and other  
25 items, and replacement parts for these machines. Beginning  
26 January 1, 2002 and through June 30, 2003, machines and parts

1 for machines used in commercial, coin-operated amusement and  
2 vending business if a use or occupation tax is paid on the  
3 gross receipts derived from the use of the commercial,  
4 coin-operated amusement and vending machines. This paragraph  
5 is exempt from the provisions of Section 3-55.

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

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

24 (26) Beginning on January 1, 2002 and through June 30,  
25 2011, tangible personal property purchased from an Illinois  
26 retailer by a taxpayer engaged in centralized purchasing

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

21 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
22 94-1002, eff. 7-3-06.)

23 Section 20. The Retailers' Occupation Tax Act is amended by  
24 changing Section 2-5 as follows:

1 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

5 (1) Farm chemicals.

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

25 Farm machinery and equipment shall include precision  
26 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

1 as catalysts but only if the chemicals or chemicals acting as  
2 catalysts effect a direct and immediate change upon a graphic  
3 arts product.

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

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

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

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

24 (9) Personal property sold to a not-for-profit arts or  
25 cultural organization that establishes, by proof required by  
26 the Department by rule, that it has received an exemption under



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

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

20 (11) Personal property sold to a governmental body, to a  
21 corporation, society, association, foundation, or institution  
22 organized and operated exclusively for charitable, religious,  
23 or educational purposes, or to a not-for-profit corporation,  
24 society, association, foundation, institution, or organization  
25 that has no compensated officers or employees and that is  
26 organized and operated primarily for the recreation of persons

1 55 years of age or older. A limited liability company may  
2 qualify for the exemption under this paragraph only if the  
3 limited liability company is organized and operated  
4 exclusively for educational purposes. On and after July 1,  
5 1987, however, no entity otherwise eligible for this exemption  
6 shall make tax-free purchases unless it has an active  
7 identification number issued by the Department.

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

17 (12-5) On and after July 1, 2003 and through June 30, 2004,  
18 motor vehicles of the second division with a gross vehicle  
19 weight in excess of 8,000 pounds that are subject to the  
20 commercial distribution fee imposed under Section 3-815.1 of  
21 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
22 through June 30, 2005, the use in this State of motor vehicles  
23 of the second division: (i) with a gross vehicle weight rating  
24 in excess of 8,000 pounds; (ii) that are subject to the  
25 commercial distribution fee imposed under Section 3-815.1 of  
26 the Illinois Vehicle Code; and (iii) that are primarily used

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

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

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

1 purchaser.

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

9 (16) Petroleum products sold to a purchaser if the seller  
10 is prohibited by federal law from charging tax to the  
11 purchaser.

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

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

24 (19) Until July 1 2003, oil field exploration, drilling,  
25 and production equipment, including (i) rigs and parts of rigs,  
26 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and

1 tubular goods, including casing and drill strings, (iii) pumps  
2 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
3 individual replacement part for oil field exploration,  
4 drilling, and production equipment, and (vi) machinery and  
5 equipment purchased for lease; but excluding motor vehicles  
6 required to be registered under the Illinois Vehicle Code.

7 (20) Photoprocessing machinery and equipment, including  
8 repair and replacement parts, both new and used, including that  
9 manufactured on special order, certified by the purchaser to be  
10 used primarily for photoprocessing, and including  
11 photoprocessing machinery and equipment purchased for lease.

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

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

24 (23) A transaction in which the purchase order is received  
25 by a florist who is located outside Illinois, but who has a  
26 florist located in Illinois deliver the property to the

1 purchaser or the purchaser's donee in Illinois.

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

8 (25) Except as provided in item (25-5) of this Section, a  
9 motor vehicle sold in this State to a nonresident even though  
10 the motor vehicle is delivered to the nonresident in this  
11 State, if the motor vehicle is not to be titled in this State,  
12 and if a drive-away permit is issued to the motor vehicle as  
13 provided in Section 3-603 of the Illinois Vehicle Code or if  
14 the nonresident purchaser has vehicle registration plates to  
15 transfer to the motor vehicle upon returning to his or her home  
16 state. The issuance of the drive-away permit or having the  
17 out-of-state registration plates to be transferred is prima  
18 facie evidence that the motor vehicle will not be titled in  
19 this State.

20 (25-5) The exemption under item (25) does not apply if the  
21 state in which the motor vehicle will be titled does not allow  
22 a reciprocal exemption for a motor vehicle sold and delivered  
23 in that state to an Illinois resident but titled in Illinois.  
24 The tax collected under this Act on the sale of a motor vehicle  
25 in this State to a resident of another state that does not  
26 allow a reciprocal exemption shall be imposed at a rate equal

1 to the state's rate of tax on taxable property in the state in  
2 which the purchaser is a resident, except that the tax shall  
3 not exceed the tax that would otherwise be imposed under this  
4 Act. At the time of the sale, the purchaser shall execute a  
5 statement, signed under penalty of perjury, of his or her  
6 intent to title the vehicle in the state in which the purchaser  
7 is a resident within 30 days after the sale and of the fact of  
8 the payment to the State of Illinois of tax in an amount  
9 equivalent to the state's rate of tax on taxable property in  
10 his or her state of residence and shall submit the statement to  
11 the appropriate tax collection agency in his or her state of  
12 residence. In addition, the retailer must retain a signed copy  
13 of the statement in his or her records. Nothing in this item  
14 shall be construed to require the removal of the vehicle from  
15 this state following the filing of an intent to title the  
16 vehicle in the purchaser's state of residence if the purchaser  
17 titles the vehicle in his or her state of residence within 30  
18 days after the date of sale. The tax collected under this Act  
19 in accordance with this item (25-5) shall be proportionately  
20 distributed as if the tax were collected at the 6.25% general  
21 rate imposed under this Act.

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

24 (27) Horses, or interests in horses, registered with and  
25 meeting the requirements of any of the Arabian Horse Club  
26 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or  
2 Jockey Club, as appropriate, used for purposes of breeding or  
3 racing for prizes. This item (27) is exempt from the provisions  
4 of Section 2-70, and the exemption provided for under this item  
5 (27) applies for all periods beginning May 30, 1995, but no  
6 claim for credit or refund is allowed on or after the effective  
7 date of this amendatory Act of the 95th General Assembly for  
8 such taxes paid during the period beginning May 30, 2000 and  
9 ending on the effective date of this amendatory Act of the 95th  
10 General Assembly.

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

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

24 (30) Beginning with taxable years ending on or after  
25 December 31, 1995 and ending with taxable years ending on or  
26 before December 31, 2004, personal property that is donated for



1 disaster relief to be used in a State or federally declared  
2 disaster area in Illinois or bordering Illinois by a  
3 manufacturer or retailer that is registered in this State to a  
4 corporation, society, association, foundation, or institution  
5 that has been issued a sales tax exemption identification  
6 number by the Department that assists victims of the disaster  
7 who reside within the declared disaster area.

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

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

26 (33) A motor vehicle, as that term is defined in Section

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

18 (34) Beginning January 1, 2000, personal property,  
19 including food, purchased through fundraising events for the  
20 benefit of a public or private elementary or secondary school,  
21 a group of those schools, or one or more school districts if  
22 the events are sponsored by an entity recognized by the school  
23 district that consists primarily of volunteers and includes  
24 parents and teachers of the school children. This paragraph  
25 does not apply to fundraising events (i) for the benefit of  
26 private home instruction or (ii) for which the fundraising

1 entity purchases the personal property sold at the events from  
2 another individual or entity that sold the property for the  
3 purpose of resale by the fundraising entity and that profits  
4 from the sale to the fundraising entity. This paragraph is  
5 exempt from the provisions of Section 2-70.

6 (35) Beginning January 1, 2000 and through December 31,  
7 2001, new or used automatic vending machines that prepare and  
8 serve hot food and beverages, including coffee, soup, and other  
9 items, and replacement parts for these machines. Beginning  
10 January 1, 2002 and through June 30, 2003, machines and parts  
11 for machines used in commercial, coin-operated amusement and  
12 vending business if a use or occupation tax is paid on the  
13 gross receipts derived from the use of the commercial,  
14 coin-operated amusement and vending machines. This paragraph  
15 is exempt from the provisions of Section 2-70.

16 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
17 food for human consumption that is to be consumed off the  
18 premises where it is sold (other than alcoholic beverages, soft  
19 drinks, and food that has been prepared for immediate  
20 consumption) and prescription and nonprescription medicines,  
21 drugs, medical appliances, and insulin, urine testing  
22 materials, syringes, and needles used by diabetics, for human  
23 use, when purchased for use by a person receiving medical  
24 assistance under Article 5 of the Illinois Public Aid Code who  
25 resides in a licensed long-term care facility, as defined in  
26 the Nursing Home Care Act.

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

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

17           (38)   Beginning   on   January   1,   2002   and   through   June   30,  
18   2011,   tangible   personal   property   purchased   from   an   Illinois  
19   retailer   by   a   taxpayer   engaged   in   centralized   purchasing  
20   activities   in   Illinois   who   will,   upon   receipt   of   the   property  
21   in   Illinois,   temporarily   store   the   property   in   Illinois   (i)   for  
22   the   purpose   of   subsequently   transporting   it   outside   this   State  
23   for   use   or   consumption   thereafter   solely   outside   this   State   or  
24   (ii)   for   the   purpose   of   being   processed,   fabricated,   or  
25   manufactured   into,   attached   to,   or   incorporated   into   other  
26   tangible   personal   property   to   be   transported   outside   this   State

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

14 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
15 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;  
16 94-1002, eff. 7-3-06.)