



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1547

Introduced 2/22/2007, by Rep. Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

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

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Creates a tax exemption under the Acts for fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, if, during the current State fiscal year, the carrier has paid an aggregate amount of at least \$15,000,000 under the taxes imposed on the purchase or use of fuel and petroleum products under the Acts. Effective immediately.

LRB095 10323 BDD 30538 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 (12-5) Beginning July 1, 2007 and through June 30, 2011,  
21 fuel and petroleum products sold to or used by an air common  
22 carrier, certified by the carrier to be used for consumption,  
23 shipment, or storage in the conduct of its business as an air  
24 common carrier, if, during that current State fiscal year, the  
25 carrier has paid an aggregate amount of at least \$15,000,000  
26 under the taxes imposed on the purchase or use of fuel and

1 petroleum products under this Act, the Service Use Tax Act, the  
2 Service Occupation Tax Act, and the Retailers' Occupation Tax  
3 Act.

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

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

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

26 (16) Until July 1, 2003, coal exploration, mining,

1 offhighway hauling, processing, maintenance, and reclamation  
2 equipment, including replacement parts and equipment, and  
3 including equipment purchased for lease, but excluding motor  
4 vehicles required to be registered under the Illinois Vehicle  
5 Code.

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

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

23 (19) Personal property delivered to a purchaser or  
24 purchaser's donee inside Illinois when the purchase order for  
25 that personal property was received by a florist located  
26 outside Illinois who has a florist located inside Illinois



1 deliver the personal property.

2 (20) Semen used for artificial insemination of livestock  
3 for direct agricultural production.

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

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

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

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

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

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

23           (26) Beginning July 1, 1999, game or game birds purchased  
24 at a "game breeding and hunting preserve area" or an "exotic  
25 game hunting area" as those terms are used in the Wildlife Code  
26 or at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from  
2 the provisions of Section 3-90.

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

21 (28) Beginning January 1, 2000, personal property,  
22 including food, purchased through fundraising events for the  
23 benefit of a public or private elementary or secondary school,  
24 a group of those schools, or one or more school districts if  
25 the events are sponsored by an entity recognized by the school  
26 district that consists primarily of volunteers and includes

1 parents and teachers of the school children. This paragraph  
2 does not apply to fundraising events (i) for the benefit of  
3 private home instruction or (ii) for which the fundraising  
4 entity purchases the personal property sold at the events from  
5 another individual or entity that sold the property for the  
6 purpose of resale by the fundraising entity and that profits  
7 from the sale to the fundraising entity. This paragraph is  
8 exempt from the provisions of Section 3-90.

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

19 (30) Beginning January 1, 2001 and through June 30, 2011,  
20 food for human consumption that is to be consumed off the  
21 premises where it is sold (other than alcoholic beverages, soft  
22 drinks, and food that has been prepared for immediate  
23 consumption) and prescription and nonprescription medicines,  
24 drugs, medical appliances, and insulin, urine testing  
25 materials, syringes, and needles used by diabetics, for human  
26 use, when purchased for use by a person receiving medical

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

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

1 Department. This paragraph is exempt from the provisions of  
2 Section 3-90.

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

26 (33) On and after July 1, 2003 and through June 30, 2004,

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

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

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

23 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

24 Sec. 3-5. Exemptions. Use of the following tangible



1 personal property is exempt from the tax imposed by this Act:

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

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

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

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

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

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

17           (7) Farm machinery and equipment, both new and used,  
18 including that manufactured on special order, certified by the  
19 purchaser to be used primarily for production agriculture or  
20 State or federal agricultural programs, including individual  
21 replacement parts for the machinery and equipment, including  
22 machinery and equipment purchased for lease, and including  
23 implements of husbandry defined in Section 1-130 of the  
24 Illinois Vehicle Code, farm machinery and agricultural  
25 chemical and fertilizer spreaders, and nurse wagons required to  
26 be registered under Section 3-809 of the Illinois Vehicle Code,

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

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

18 Farm machinery and equipment also includes computers,  
19 sensors, software, and related equipment used primarily in the  
20 computer-assisted operation of production agriculture  
21 facilities, equipment, and activities such as, but not limited  
22 to, the collection, monitoring, and correlation of animal and  
23 crop data for the purpose of formulating animal diets and  
24 agricultural chemicals. This item (7) is exempt from the  
25 provisions of Section 3-75.

26 (8) Fuel and petroleum products sold to or used by an air

1 common carrier, certified by the carrier to be used for  
2 consumption, shipment, or storage in the conduct of its  
3 business as an air common carrier, for a flight destined for or  
4 returning from a location or locations outside the United  
5 States without regard to previous or subsequent domestic  
6 stopovers.

7 (8-5) Beginning July 1, 2007 and through June 30, 2011,  
8 fuel and petroleum products sold to or used by an air common  
9 carrier, certified by the carrier to be used for consumption,  
10 shipment, or storage in the conduct of its business as an air  
11 common carrier, if, during that current State fiscal year, the  
12 carrier has paid an aggregate amount of at least \$15,000,000  
13 under the taxes imposed on the purchase or use of fuel and  
14 petroleum products under this Act, the Use Tax Act, the Service  
15 Occupation Tax Act, and the Retailers' Occupation Tax Act.

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

25 (10) Until July 1, 2003, oil field exploration, drilling,  
26 and production equipment, including (i) rigs and parts of rigs,

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

8 (11) Proceeds from the sale of photoprocessing machinery  
9 and equipment, including repair and replacement parts, both new  
10 and used, including that manufactured on special order,  
11 certified by the purchaser to be used primarily for  
12 photoprocessing, and including photoprocessing machinery and  
13 equipment purchased for lease.

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

20 (13) Semen used for artificial insemination of livestock  
21 for direct agricultural production.

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

1 racing for prizes.

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

24 (16) Personal property purchased by a lessor who leases the  
25 property, under a lease of one year or longer executed or in  
26 effect at the time the lessor would otherwise be subject to the

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

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

1 who reside within the declared disaster area.

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

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

20 (20) A motor vehicle, as that term is defined in Section  
21 1-146 of the Illinois Vehicle Code, that is donated to a  
22 corporation, limited liability company, society, association,  
23 foundation, or institution that is determined by the Department  
24 to be organized and operated exclusively for educational  
25 purposes. For purposes of this exemption, "a corporation,  
26 limited liability company, society, association, foundation,



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

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

26 (22) Beginning January 1, 2000 and through December 31,

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

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

21 (24) Beginning on the effective date of this amendatory Act  
22 of the 92nd General Assembly, computers and communications  
23 equipment utilized for any hospital purpose and equipment used  
24 in the diagnosis, analysis, or treatment of hospital patients  
25 purchased by a lessor who leases the equipment, under a lease  
26 of one year or longer executed or in effect at the time the

1 lessor would otherwise be subject to the tax imposed by this  
2 Act, to a hospital that has been issued an active tax exemption  
3 identification number by the Department under Section 1g of the  
4 Retailers' Occupation Tax Act. If the equipment is leased in a  
5 manner that does not qualify for this exemption or is used in  
6 any other nonexempt manner, the lessor shall be liable for the  
7 tax imposed under this Act or the Use Tax Act, as the case may  
8 be, based on the fair market value of the property at the time  
9 the nonqualifying use occurs. No lessor shall collect or  
10 attempt to collect an amount (however designated) that purports  
11 to reimburse that lessor for the tax imposed by this Act or the  
12 Use Tax Act, as the case may be, if the tax has not been paid by  
13 the lessor. If a lessor improperly collects any such amount  
14 from the lessee, the lessee shall have a legal right to claim a  
15 refund of that amount from the lessor. If, however, that amount  
16 is not refunded to the lessee for any reason, the lessor is  
17 liable to pay that amount to the Department. This paragraph is  
18 exempt from the provisions of Section 3-75.

19 (25) Beginning on the effective date of this amendatory Act  
20 of the 92nd General Assembly, personal property purchased by a  
21 lessor who leases the property, under a lease of one year or  
22 longer executed or in effect at the time the lessor would  
23 otherwise be subject to the tax imposed by this Act, to a  
24 governmental body that has been issued an active tax exemption  
25 identification number by the Department under Section 1g of the  
26 Retailers' Occupation Tax Act. If the property is leased in a

1 manner that does not qualify for this exemption or is used in  
2 any other nonexempt manner, the lessor shall be liable for the  
3 tax imposed under this Act or the Use Tax Act, as the case may  
4 be, based on the fair market value of the property at the time  
5 the nonqualifying use occurs. No lessor shall collect or  
6 attempt to collect an amount (however designated) that purports  
7 to reimburse that lessor for the tax imposed by this Act or the  
8 Use Tax Act, as the case may be, if the tax has not been paid by  
9 the lessor. If a lessor improperly collects any such amount  
10 from the lessee, the lessee shall have a legal right to claim a  
11 refund of that amount from the lessor. If, however, that amount  
12 is not refunded to the lessee for any reason, the lessor is  
13 liable to pay that amount to the Department. This paragraph is  
14 exempt from the provisions of Section 3-75.

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

17 Section 15. The Service Occupation Tax Act is amended by  
18 changing Section 3-5 as follows:

19 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

22 (1) Personal property sold by a corporation, society,  
23 association, foundation, institution, or organization, other  
24 than a limited liability company, that is organized and

1 operated as a not-for-profit service enterprise for the benefit  
2 of persons 65 years of age or older if the personal property  
3 was not purchased by the enterprise for the purpose of resale  
4 by the enterprise.

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

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

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

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

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

13          (7) Farm machinery and equipment, both new and used,  
14          including that manufactured on special order, certified by the  
15          purchaser to be used primarily for production agriculture or  
16          State or federal agricultural programs, including individual  
17          replacement parts for the machinery and equipment, including  
18          machinery and equipment purchased for lease, and including  
19          implements of husbandry defined in Section 1-130 of the  
20          Illinois Vehicle Code, farm machinery and agricultural  
21          chemical and fertilizer spreaders, and nurse wagons required to  
22          be registered under Section 3-809 of the Illinois Vehicle Code,  
23          but excluding other motor vehicles required to be registered  
24          under the Illinois Vehicle Code. Horticultural polyhouses or  
25          hoop houses used for propagating, growing, or overwintering  
26          plants shall be considered farm machinery and equipment under

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

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

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

22 (8) Fuel and petroleum products sold to or used by an air  
23 common carrier, certified by the carrier to be used for  
24 consumption, shipment, or storage in the conduct of its  
25 business as an air common carrier, for a flight destined for or  
26 returning from a location or locations outside the United

1 States without regard to previous or subsequent domestic  
2 stopovers.

3 (8-5) Beginning July 1, 2007 and through June 30, 2011,  
4 fuel and petroleum products sold to or used by an air common  
5 carrier, certified by the carrier to be used for consumption,  
6 shipment, or storage in the conduct of its business as an air  
7 common carrier, if, during that current State fiscal year, the  
8 carrier has paid an aggregate amount of at least \$15,000,000  
9 under the taxes imposed on the purchase or use of fuel and  
10 petroleum products under this Act, the Use Tax Act, the Service  
11 Use Tax Act, and the Retailers' Occupation Tax Act.

12 (9) Proceeds of mandatory service charges separately  
13 stated on customers' bills for the purchase and consumption of  
14 food and beverages, to the extent that the proceeds of the  
15 service charge are in fact turned over as tips or as a  
16 substitute for tips to the employees who participate directly  
17 in preparing, serving, hosting or cleaning up the food or  
18 beverage function with respect to which the service charge is  
19 imposed.

20 (10) Until July 1, 2003, oil field exploration, drilling,  
21 and production equipment, including (i) rigs and parts of rigs,  
22 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
23 tubular goods, including casing and drill strings, (iii) pumps  
24 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
25 individual replacement part for oil field exploration,  
26 drilling, and production equipment, and (vi) machinery and



1 equipment purchased for lease; but excluding motor vehicles  
2 required to be registered under the Illinois Vehicle Code.

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

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

14 (13) Beginning January 1, 1992 and through June 30, 2011,  
15 food for human consumption that is to be consumed off the  
16 premises where it is sold (other than alcoholic beverages, soft  
17 drinks and food that has been prepared for immediate  
18 consumption) and prescription and non-prescription medicines,  
19 drugs, medical appliances, and insulin, urine testing  
20 materials, syringes, and needles used by diabetics, for human  
21 use, when purchased for use by a person receiving medical  
22 assistance under Article 5 of the Illinois Public Aid Code who  
23 resides in a licensed long-term care facility, as defined in  
24 the Nursing Home Care Act.

25 (14) Semen used for artificial insemination of livestock  
26 for direct agricultural production.

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

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

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

21           (18) Beginning with taxable years ending on or after  
22 December 31, 1995 and ending with taxable years ending on or  
23 before December 31, 2004, personal property that is donated for  
24 disaster relief to be used in a State or federally declared  
25 disaster area in Illinois or bordering Illinois by a  
26 manufacturer or retailer that is registered in this State to a

1 corporation, society, association, foundation, or institution  
2 that has been issued a sales tax exemption identification  
3 number by the Department that assists victims of the disaster  
4 who reside within the declared disaster area.

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

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

23 (21) A motor vehicle, as that term is defined in Section  
24 1-146 of the Illinois Vehicle Code, that is donated to a  
25 corporation, limited liability company, society, association,  
26 foundation, or institution that is determined by the Department

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

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

1 from the sale to the fundraising entity. This paragraph is  
2 exempt from the provisions of Section 3-55.

3 (23) Beginning January 1, 2000 and through December 31,  
4 2001, new or used automatic vending machines that prepare and  
5 serve hot food and beverages, including coffee, soup, and other  
6 items, and replacement parts for these machines. Beginning  
7 January 1, 2002 and through June 30, 2003, machines and parts  
8 for machines used in commercial, coin-operated amusement and  
9 vending business if a use or occupation tax is paid on the  
10 gross receipts derived from the use of the commercial,  
11 coin-operated amusement and vending machines. This paragraph  
12 is exempt from the provisions of Section 3-55.

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

23 (25) Beginning on the effective date of this amendatory Act  
24 of the 92nd General Assembly, personal property sold to a  
25 lessor who leases the property, under a lease of one year or  
26 longer executed or in effect at the time of the purchase, to a

1 governmental body that has been issued an active tax exemption  
2 identification number by the Department under Section 1g of the  
3 Retailers' Occupation Tax Act. This paragraph is exempt from  
4 the provisions of Section 3-55.

5 (26) Beginning on January 1, 2002 and through June 30,  
6 2011, tangible personal property purchased from an Illinois  
7 retailer by a taxpayer engaged in centralized purchasing  
8 activities in Illinois who will, upon receipt of the property  
9 in Illinois, temporarily store the property in Illinois (i) for  
10 the purpose of subsequently transporting it outside this State  
11 for use or consumption thereafter solely outside this State or  
12 (ii) for the purpose of being processed, fabricated, or  
13 manufactured into, attached to, or incorporated into other  
14 tangible personal property to be transported outside this State  
15 and thereafter used or consumed solely outside this State. The  
16 Director of Revenue shall, pursuant to rules adopted in  
17 accordance with the Illinois Administrative Procedure Act,  
18 issue a permit to any taxpayer in good standing with the  
19 Department who is eligible for the exemption under this  
20 paragraph (26). The permit issued under this paragraph (26)  
21 shall authorize the holder, to the extent and in the manner  
22 specified in the rules adopted under this Act, to purchase  
23 tangible personal property from a retailer exempt from the  
24 taxes imposed by this Act. Taxpayers shall maintain all  
25 necessary books and records to substantiate the use and  
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

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

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

6 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

10 (1) Farm chemicals.

11 (2) Farm machinery and equipment, both new and used,  
12 including that manufactured on special order, certified by the  
13 purchaser to be used primarily for production agriculture or  
14 State or federal agricultural programs, including individual  
15 replacement parts for the machinery and equipment, including  
16 machinery and equipment purchased for lease, and including  
17 implements of husbandry defined in Section 1-130 of the  
18 Illinois Vehicle Code, farm machinery and agricultural  
19 chemical and fertilizer spreaders, and nurse wagons required to  
20 be registered under Section 3-809 of the Illinois Vehicle Code,  
21 but excluding other motor vehicles required to be registered  
22 under the Illinois Vehicle Code. Horticultural polyhouses or  
23 hoop houses used for propagating, growing, or overwintering  
24 plants shall be considered farm machinery and equipment under

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

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

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

22 (3) 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 (4) Until July 1, 2003 and beginning again 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 (5) A motor vehicle of the first division, a motor vehicle  
12 of the second division that is a self-contained motor vehicle  
13 designed or permanently converted to provide living quarters  
14 for recreational, camping, or travel use, with direct walk  
15 through access to the living quarters from the driver's seat,  
16 or a motor vehicle of the second division that is of the van  
17 configuration designed for the transportation of not less than  
18 7 nor more than 16 passengers, as defined in Section 1-146 of  
19 the Illinois Vehicle Code, that is used for automobile renting,  
20 as defined in the Automobile Renting Occupation and Use Tax  
21 Act.

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

25 (7) Until July 1, 2003, proceeds of that portion of the  
26 selling price of a passenger car the sale of which is subject

1 to the Replacement Vehicle Tax.

2 (8) Personal property sold to an Illinois county fair  
3 association for use in conducting, operating, or promoting the  
4 county fair.

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

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

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

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

24           (12-5) On and after July 1, 2003 and through June 30, 2004,  
25 motor vehicles of the second division with a gross vehicle  
26 weight in excess of 8,000 pounds that are subject to the

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

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

23 (14) Machinery and equipment that will be used by the  
24 purchaser, or a lessee of the purchaser, primarily in the  
25 process of manufacturing or assembling tangible personal  
26 property for wholesale or retail sale or lease, whether the

1 sale or lease is made directly by the manufacturer or by some  
2 other person, whether the materials used in the process are  
3 owned by the manufacturer or some other person, or whether the  
4 sale or lease is made apart from or as an incident to the  
5 seller's engaging in the service occupation of producing  
6 machines, tools, dies, jigs, patterns, gauges, or other similar  
7 items of no commercial value on special order for a particular  
8 purchaser.

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

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

19 (17) Tangible personal property sold to a common carrier by  
20 rail or motor that receives the physical possession of the  
21 property in Illinois and that transports the property, or  
22 shares with another common carrier in the transportation of the  
23 property, out of Illinois on a standard uniform bill of lading  
24 showing the seller of the property as the shipper or consignor  
25 of the property to a destination outside Illinois, for use  
26 outside Illinois.

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

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

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

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

25           (22) Fuel and petroleum products sold to or used by an air  
26 carrier, certified by the carrier to be used for consumption,

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

5 (22-5) Beginning July 1, 2007 and through June 30, 2011,  
6 fuel and petroleum products sold to or used by an air common  
7 carrier, certified by the carrier to be used for consumption,  
8 shipment, or storage in the conduct of its business as an air  
9 common carrier, if, during that current State fiscal year, the  
10 carrier has paid an aggregate amount of at least \$15,000,000  
11 under the taxes imposed on the purchase or use of fuel and  
12 petroleum products under this Act, the Use Tax Act, the Service  
13 Use Tax Act, and the Service Occupation Tax Act.

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

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

24 (25) Except as provided in item (25-5) of this Section, a  
25 motor vehicle sold in this State to a nonresident even though  
26 the motor vehicle is delivered to the nonresident in this

1 State, if the motor vehicle is not to be titled in this State,  
2 and if a drive-away permit is issued to the motor vehicle as  
3 provided in Section 3-603 of the Illinois Vehicle Code or if  
4 the nonresident purchaser has vehicle registration plates to  
5 transfer to the motor vehicle upon returning to his or her home  
6 state. The issuance of the drive-away permit or having the  
7 out-of-state registration plates to be transferred is prima  
8 facie evidence that the motor vehicle will not be titled in  
9 this State.

10 (25-5) The exemption under item (25) does not apply if the  
11 state in which the motor vehicle will be titled does not allow  
12 a reciprocal exemption for a motor vehicle sold and delivered  
13 in that state to an Illinois resident but titled in Illinois.  
14 The tax collected under this Act on the sale of a motor vehicle  
15 in this State to a resident of another state that does not  
16 allow a reciprocal exemption shall be imposed at a rate equal  
17 to the state's rate of tax on taxable property in the state in  
18 which the purchaser is a resident, except that the tax shall  
19 not exceed the tax that would otherwise be imposed under this  
20 Act. At the time of the sale, the purchaser shall execute a  
21 statement, signed under penalty of perjury, of his or her  
22 intent to title the vehicle in the state in which the purchaser  
23 is a resident within 30 days after the sale and of the fact of  
24 the payment to the State of Illinois of tax in an amount  
25 equivalent to the state's rate of tax on taxable property in  
26 his or her state of residence and shall submit the statement to



1 the appropriate tax collection agency in his or her state of  
2 residence. In addition, the retailer must retain a signed copy  
3 of the statement in his or her records. Nothing in this item  
4 shall be construed to require the removal of the vehicle from  
5 this state following the filing of an intent to title the  
6 vehicle in the purchaser's state of residence if the purchaser  
7 titles the vehicle in his or her state of residence within 30  
8 days after the date of sale. The tax collected under this Act  
9 in accordance with this item (25-5) shall be proportionately  
10 distributed as if the tax were collected at the 6.25% general  
11 rate imposed under this Act.

12 (26) Semen used for artificial insemination of livestock  
13 for direct agricultural production.

14 (27) Horses, or interests in horses, registered with and  
15 meeting the requirements of any of the Arabian Horse Club  
16 Registry of America, Appaloosa Horse Club, American Quarter  
17 Horse Association, United States Trotting Association, or  
18 Jockey Club, as appropriate, used for purposes of breeding or  
19 racing for prizes.

20 (28) Computers and communications equipment utilized for  
21 any hospital purpose and equipment used in the diagnosis,  
22 analysis, or treatment of hospital patients sold to a lessor  
23 who leases the equipment, under a lease of one year or longer  
24 executed or in effect at the time of the purchase, to a  
25 hospital that has been issued an active tax exemption  
26 identification number by the Department under Section 1g of

1 this Act.

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

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

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

1 when such repairs are initiated on facilities located in the  
2 declared disaster area within 6 months after the disaster.

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

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

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

15           (35) Beginning January 1, 2000 and through December 31,  
16 2001, new or used automatic vending machines that prepare and  
17 serve hot food and beverages, including coffee, soup, and other  
18 items, and replacement parts for these machines. Beginning  
19 January 1, 2002 and through June 30, 2003, machines and parts  
20 for machines used in commercial, coin-operated amusement and  
21 vending business if a use or occupation tax is paid on the  
22 gross receipts derived from the use of the commercial,  
23 coin-operated amusement and vending machines. This paragraph  
24 is exempt from the provisions of Section 2-70.

25           (35-5) Beginning August 23, 2001 and through June 30, 2011,  
26 food for human consumption that is to be consumed off the

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

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

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

26 (38) Beginning on January 1, 2002 and through June 30,

1 2011, tangible personal property purchased from an Illinois  
2 retailer by a taxpayer engaged in centralized purchasing  
3 activities in Illinois who will, upon receipt of the property  
4 in Illinois, temporarily store the property in Illinois (i) for  
5 the purpose of subsequently transporting it outside this State  
6 for use or consumption thereafter solely outside this State or  
7 (ii) for the purpose of being processed, fabricated, or  
8 manufactured into, attached to, or incorporated into other  
9 tangible personal property to be transported outside this State  
10 and thereafter used or consumed solely outside this State. The  
11 Director of Revenue shall, pursuant to rules adopted in  
12 accordance with the Illinois Administrative Procedure Act,  
13 issue a permit to any taxpayer in good standing with the  
14 Department who is eligible for the exemption under this  
15 paragraph (38). The permit issued under this paragraph (38)  
16 shall authorize the holder, to the extent and in the manner  
17 specified in the rules adopted under this Act, to purchase  
18 tangible personal property from a retailer exempt from the  
19 taxes imposed by this Act. Taxpayers shall maintain all  
20 necessary books and records to substantiate the use and  
21 consumption of all such tangible personal property outside of  
22 the State of Illinois.

23 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
24 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;  
25 94-1002, eff. 7-3-06.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.