



## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

### HB1751

Introduced 2/23/2007, by Rep. James H. Meyer

#### 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 an exemption from taxation under the Acts for tangible personal property that is used or consumed in a research facility in the process of the research and development of items of tangible personal property that are intended for commercial sale. Provides that the Acts' sunset provisions do not apply to these exemptions. Effective immediately.

LRB095 10084 BDD 30298 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by 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.

26 (22) Computers and communications equipment utilized for



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

23 (23) Personal property purchased by a lessor who leases the  
24 property, under a lease of one year or longer executed or in  
25 effect at the time the lessor would otherwise be subject to the  
26 tax imposed by this Act, to a governmental body that has been

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

17 (24) 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 donated for  
20 disaster relief to be used in a State or federally declared  
21 disaster area in Illinois or bordering Illinois by a  
22 manufacturer or retailer that is registered in this State to a  
23 corporation, society, association, foundation, or institution  
24 that has been issued a sales tax exemption identification  
25 number by the Department that assists victims of the disaster  
26 who reside within the declared disaster area.

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

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

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

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

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

25 (29) Beginning January 1, 2000 and through December 31,  
26 2001, new or used automatic vending machines that prepare and

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

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

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

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

19 (32) 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 sales tax  
25 exemption identification number by the Department under  
26 Section 1g of the Retailers' Occupation Tax Act. If the

1 property is leased in a manner that does not qualify for this  
2 exemption or used in any other nonexempt manner, the lessor  
3 shall be liable for the tax imposed under this Act or the  
4 Service Use Tax Act, as the case may be, based on the fair  
5 market value of the property at the time the nonqualifying use  
6 occurs. No lessor shall collect or attempt to collect an amount  
7 (however designated) that purports to reimburse that lessor for  
8 the tax imposed by this Act or the Service Use Tax Act, as the  
9 case may be, if the tax has not been paid by the lessor. If a  
10 lessor improperly collects any such amount from the lessee, the  
11 lessee shall have a legal right to claim a refund of that  
12 amount from the lessor. If, however, that amount is not  
13 refunded to the lessee for any reason, the lessor is liable to  
14 pay that amount to the Department. This paragraph is exempt  
15 from the provisions of Section 3-90.

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

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

9 (34) On and after July 1, 2007, tangible personal property  
10 that is used or consumed in a research facility in the process  
11 of the research and development of items of tangible personal  
12 property that are intended for commercial sale. This paragraph  
13 is exempt from the provisions of Section 3-90.

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; 94-1002, eff. 7-3-06.)

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

18 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

21 (1) Personal property purchased from a corporation,  
22 society, association, foundation, institution, or  
23 organization, other than a limited liability company, that is  
24 organized and operated as a not-for-profit service enterprise



1 for the benefit of persons 65 years of age or older if the  
2 personal property was not purchased by the enterprise for the  
3 purpose of resale by the enterprise.

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

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

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

26 (5) Until July 1, 2003 and beginning again on September 1,

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

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

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

1 shall include units sold separately from a motor vehicle  
2 required to be licensed and units sold mounted on a motor  
3 vehicle required to be licensed if the selling price of the  
4 tender is separately stated.

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

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

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

1 stopovers.

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

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

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

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

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

14 (15) Computers and communications equipment utilized for  
15 any hospital purpose and equipment used in the diagnosis,  
16 analysis, or treatment of hospital patients purchased by a  
17 lessor who leases the equipment, under a lease of one year or  
18 longer executed or in effect at the time the lessor would  
19 otherwise be subject to the tax imposed by this Act, to a  
20 hospital that has been issued an active tax exemption  
21 identification number by the Department under Section 1g of the  
22 Retailers' Occupation Tax Act. If the equipment is leased in a  
23 manner that does not qualify for this exemption or is used in  
24 any other non-exempt manner, the lessor shall be liable for the  
25 tax imposed under this Act or the Use Tax Act, as the case may  
26 be, based on the fair market value of the property at the time

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

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

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

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

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 used in the  
17 performance of infrastructure repairs in this State, including  
18 but not limited to municipal roads and streets, access roads,  
19 bridges, sidewalks, waste disposal systems, water and sewer  
20 line extensions, water distribution and purification  
21 facilities, storm water drainage and retention facilities, and  
22 sewage treatment facilities, resulting from a State or  
23 federally declared disaster in Illinois or bordering Illinois  
24 when such repairs are initiated on facilities located in the  
25 declared disaster area within 6 months after the disaster.

26 (19) Beginning July 1, 1999, game or game birds purchased

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

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

24 (21) Beginning January 1, 2000, personal property,  
25 including food, purchased through fundraising events for the  
26 benefit of a public or private elementary or secondary school,



1 a group of those schools, or one or more school districts if  
2 the events are sponsored by an entity recognized by the school  
3 district that consists primarily of volunteers and includes  
4 parents and teachers of the school children. This paragraph  
5 does not apply to fundraising events (i) for the benefit of  
6 private home instruction or (ii) for which the fundraising  
7 entity purchases the personal property sold at the events from  
8 another individual or entity that sold the property for the  
9 purpose of resale by the fundraising entity and that profits  
10 from the sale to the fundraising entity. This paragraph is  
11 exempt from the provisions of Section 3-75.

12 (22) Beginning January 1, 2000 and through December 31,  
13 2001, new or used automatic vending machines that prepare and  
14 serve hot food and beverages, including coffee, soup, and other  
15 items, and replacement parts for these machines. Beginning  
16 January 1, 2002 and through June 30, 2003, machines and parts  
17 for machines used in commercial, coin-operated amusement and  
18 vending business if a use or occupation tax is paid on the  
19 gross receipts derived from the use of the commercial,  
20 coin-operated amusement and vending machines. This paragraph  
21 is exempt from the provisions of Section 3-75.

22 (23) Beginning August 23, 2001 and through June 30, 2011,  
23 food for human consumption that is to be consumed off the  
24 premises where it is sold (other than alcoholic beverages, soft  
25 drinks, and food that has been prepared for immediate  
26 consumption) and prescription and nonprescription medicines,

1 drugs, medical appliances, and insulin, urine testing  
2 materials, syringes, and needles used by diabetics, for human  
3 use, when purchased for use by a person receiving medical  
4 assistance under Article 5 of the Illinois Public Aid Code who  
5 resides in a licensed long-term care facility, as defined in  
6 the Nursing Home Care Act.

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

1 refund of that amount from the lessor. If, however, that amount  
2 is not refunded to the lessee for any reason, the lessor is  
3 liable to pay that amount to the Department. This paragraph is  
4 exempt from the provisions of Section 3-75.

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

1       (26) On and after July 1, 2007, tangible personal property  
2       that is used or consumed in a research facility in the process  
3       of the research and development of items of tangible personal  
4       property that are intended for commercial sale. This paragraph  
5       is exempt from the provisions of Section 3-75.

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

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

10       (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

13       (1) 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       (2) Personal property purchased by a not-for-profit  
21       Illinois county fair association for use in conducting,  
22       operating, or promoting the county fair.

23       (3) Personal property purchased by any not-for-profit arts  
24       or cultural organization that establishes, by proof required by

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

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

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

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

4           (7) 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 (7). Agricultural chemical tender tanks and dry boxes  
19 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 (7) is exempt from the  
12 provisions of Section 3-55.

13 (8) 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 (9) Proceeds of mandatory service charges separately  
21 stated on customers' bills for the purchase and consumption of  
22 food and beverages, to the extent that the proceeds of the  
23 service charge are in fact turned over as tips or as a  
24 substitute for tips to the employees who participate directly  
25 in preparing, serving, hosting or cleaning up the food or  
26 beverage function with respect to which the service charge is

1 imposed.

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

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

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

22 (13) Beginning January 1, 1992 and through June 30, 2011,  
23 food for human consumption that is to be consumed off the  
24 premises where it is sold (other than alcoholic beverages, soft  
25 drinks and food that has been prepared for immediate  
26 consumption) and prescription and non-prescription medicines,



1 drugs, medical appliances, and insulin, urine testing  
2 materials, syringes, and needles used by diabetics, for human  
3 use, when purchased for use by a person receiving medical  
4 assistance under Article 5 of the Illinois Public Aid Code who  
5 resides in a licensed long-term care facility, as defined in  
6 the Nursing Home Care Act.

7 (14) Semen used for artificial insemination of livestock  
8 for direct agricultural production.

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

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

23 (17) Personal property sold to a lessor who leases the  
24 property, under a lease of one year or longer executed or in  
25 effect at the time of the purchase, to a governmental body that  
26 has been issued an active tax exemption identification number

1 by the Department under Section 1g of the Retailers' Occupation  
2 Tax Act.

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

13 (19) 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 used in the  
16 performance of infrastructure repairs in this State, including  
17 but not limited to municipal roads and streets, access roads,  
18 bridges, sidewalks, waste disposal systems, water and sewer  
19 line extensions, water distribution and purification  
20 facilities, storm water drainage and retention facilities, and  
21 sewage treatment facilities, resulting from a State or  
22 federally declared disaster in Illinois or bordering Illinois  
23 when such repairs are initiated on facilities located in the  
24 declared disaster area within 6 months after the disaster.

25 (20) Beginning July 1, 1999, game or game birds sold at a  
26 "game breeding and hunting preserve area" or an "exotic game

1 hunting area" as those terms are used in the Wildlife Code or  
2 at a hunting enclosure approved through rules adopted by the  
3 Department of Natural Resources. This paragraph is exempt from  
4 the provisions of Section 3-55.

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

23 (22) Beginning January 1, 2000, personal property,  
24 including food, purchased through fundraising events for the  
25 benefit of a public or private elementary or secondary school,  
26 a group of those schools, or one or more school districts if

1 the events are sponsored by an entity recognized by the school  
2 district that consists primarily of volunteers and includes  
3 parents and teachers of the school children. This paragraph  
4 does not apply to fundraising events (i) for the benefit of  
5 private home instruction or (ii) for which the fundraising  
6 entity purchases the personal property sold at the events from  
7 another individual or entity that sold the property for the  
8 purpose of resale by the fundraising entity and that profits  
9 from the sale to the fundraising entity. This paragraph is  
10 exempt from the provisions of Section 3-55.

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

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 sold to a lessor who leases the equipment, under a lease of one  
26 year or longer executed or in effect at the time of the

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

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

13 (26) Beginning on January 1, 2002 and through June 30,  
14 2011, tangible personal property purchased from an Illinois  
15 retailer by a taxpayer engaged in centralized purchasing  
16 activities in Illinois who will, upon receipt of the property  
17 in Illinois, temporarily store the property in Illinois (i) for  
18 the purpose of subsequently transporting it outside this State  
19 for use or consumption thereafter solely outside this State or  
20 (ii) for the purpose of being processed, fabricated, or  
21 manufactured into, attached to, or incorporated into other  
22 tangible personal property to be transported outside this State  
23 and thereafter used or consumed solely outside this State. The  
24 Director of Revenue shall, pursuant to rules adopted in  
25 accordance with the Illinois Administrative Procedure Act,  
26 issue a permit to any taxpayer in good standing with the

1 Department who is eligible for the exemption under this  
2 paragraph (26). The permit issued under this paragraph (26)  
3 shall authorize the holder, to the extent and in the manner  
4 specified in the rules adopted under this Act, to purchase  
5 tangible personal property from a retailer exempt from the  
6 taxes imposed by this Act. Taxpayers shall maintain all  
7 necessary books and records to substantiate the use and  
8 consumption of all such tangible personal property outside of  
9 the State of Illinois.

10 (27) On and after July 1, 2007, tangible personal property  
11 that is used or consumed in a research facility in the process  
12 of the research and development of items of tangible personal  
13 property that are intended for commercial sale. This paragraph  
14 is exempt from the provisions of Section 3-55.

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

19 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

23 (1) Farm chemicals.

24 (2) Farm machinery and equipment, both new and used,

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

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

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

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

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

24 (5) A motor vehicle of the first division, a motor vehicle  
25 of the second division that is a self-contained motor vehicle  
26 designed or permanently converted to provide living quarters



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

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

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

15 (8) Personal property sold to an Illinois county fair  
16 association for use in conducting, operating, or promoting the  
17 county fair.

18 (9) Personal property sold to a not-for-profit arts or  
19 cultural organization that establishes, by proof required by  
20 the Department by rule, that it has received an exemption under  
21 Section 501(c)(3) of the Internal Revenue Code and that is  
22 organized and operated primarily for the presentation or  
23 support of arts or cultural programming, activities, or  
24 services. These organizations include, but are not limited to,  
25 music and dramatic arts organizations such as symphony  
26 orchestras and theatrical groups, arts and cultural service

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

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

14 (11) Personal property sold to a governmental body, to a  
15 corporation, society, association, foundation, or institution  
16 organized and operated exclusively for charitable, religious,  
17 or educational purposes, or to a not-for-profit corporation,  
18 society, association, foundation, institution, or organization  
19 that has no compensated officers or employees and that is  
20 organized and operated primarily for the recreation of persons  
21 55 years of age or older. A limited liability company may  
22 qualify for the exemption under this paragraph only if the  
23 limited liability company is organized and operated  
24 exclusively for educational purposes. On and after July 1,  
25 1987, however, no entity otherwise eligible for this exemption  
26 shall make tax-free purchases unless it has an active

1 identification number issued by the Department.

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

11 (12-5) On and after July 1, 2003 and through June 30, 2004,  
12 motor vehicles of the second division with a gross vehicle  
13 weight in excess of 8,000 pounds that are subject to the  
14 commercial distribution fee imposed under Section 3-815.1 of  
15 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
16 through June 30, 2005, the use in this State of motor vehicles  
17 of the second division: (i) with a gross vehicle weight rating  
18 in excess of 8,000 pounds; (ii) that are subject to the  
19 commercial distribution fee imposed under Section 3-815.1 of  
20 the Illinois Vehicle Code; and (iii) that are primarily used  
21 for commercial purposes. Through June 30, 2005, this exemption  
22 applies to repair and replacement parts added after the initial  
23 purchase of such a motor vehicle if that motor vehicle is used  
24 in a manner that would qualify for the rolling stock exemption  
25 otherwise provided for in this Act. For purposes of this  
26 paragraph, "used for commercial purposes" means the

1 transportation of persons or property in furtherance of any  
2 commercial or industrial enterprise whether for-hire or not.

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

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

22 (15) Proceeds of mandatory service charges separately  
23 stated on customers' bills for purchase and consumption of food  
24 and beverages, to the extent that the proceeds of the service  
25 charge are in fact turned over as tips or as a substitute for  
26 tips to the employees who participate directly in preparing,

1 serving, hosting or cleaning up the food or beverage function  
2 with respect to which the service charge is imposed.

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

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

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

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

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

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

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

18           (23) A transaction in which the purchase order is received  
19 by a florist who is located outside Illinois, but who has a  
20 florist located in Illinois deliver the property to the  
21 purchaser or the purchaser's donee in Illinois.

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

1 it is afloat upon that bordering river.

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

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

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

16 (26) Semen used for artificial insemination of livestock  
17 for direct agricultural production.

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

24 (28) Computers and communications equipment utilized for  
25 any hospital purpose and equipment used in the diagnosis,  
26 analysis, or treatment of hospital patients sold to a lessor



1 who leases the equipment, under a lease of one year or longer  
2 executed or in effect at the time of the purchase, to a  
3 hospital that has been issued an active tax exemption  
4 identification number by the Department under Section 1g of  
5 this Act.

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

11 (30) 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 donated for  
14 disaster relief to be used in a State or federally declared  
15 disaster area in Illinois or bordering Illinois by a  
16 manufacturer or retailer that is registered in this State to a  
17 corporation, society, association, foundation, or institution  
18 that has been issued a sales tax exemption identification  
19 number by the Department that assists victims of the disaster  
20 who reside within the declared disaster area.

21 (31) 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 used in the  
24 performance of infrastructure repairs in this State, including  
25 but not limited to municipal roads and streets, access roads,  
26 bridges, sidewalks, waste disposal systems, water and sewer

1 line extensions, water distribution and purification  
2 facilities, storm water drainage and retention facilities, and  
3 sewage treatment facilities, resulting from a State or  
4 federally declared disaster in Illinois or bordering Illinois  
5 when such repairs are initiated on facilities located in the  
6 declared disaster area within 6 months after the disaster.

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

13 (33) A motor vehicle, as that term is defined in Section  
14 1-146 of the Illinois Vehicle Code, that is donated to a  
15 corporation, limited liability company, society, association,  
16 foundation, or institution that is determined by the Department  
17 to be organized and operated exclusively for educational  
18 purposes. For purposes of this exemption, "a corporation,  
19 limited liability company, society, association, foundation,  
20 or institution organized and operated exclusively for  
21 educational purposes" means all tax-supported public schools,  
22 private schools that offer systematic instruction in useful  
23 branches of learning by methods common to public schools and  
24 that compare favorably in their scope and intensity with the  
25 course of study presented in tax-supported schools, and  
26 vocational or technical schools or institutes organized and

1 operated exclusively to provide a course of study of not less  
2 than 6 weeks duration and designed to prepare individuals to  
3 follow a trade or to pursue a manual, technical, mechanical,  
4 industrial, business, or commercial occupation.

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

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

1 coin-operated amusement and vending machines. This paragraph  
2 is exempt from the provisions of Section 2-70.

3 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
4 food for human consumption that is to be consumed off the  
5 premises where it is sold (other than alcoholic beverages, soft  
6 drinks, and food that has been prepared for immediate  
7 consumption) and prescription and nonprescription medicines,  
8 drugs, medical appliances, and insulin, urine testing  
9 materials, syringes, and needles used by diabetics, for human  
10 use, when purchased for use by a person receiving medical  
11 assistance under Article 5 of the Illinois Public Aid Code who  
12 resides in a licensed long-term care facility, as defined in  
13 the Nursing Home Care Act.

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

23 (37) Beginning August 2, 2001, personal property sold to a  
24 lessor who leases the property, under a lease of one year or  
25 longer executed or in effect at the time of the purchase, to a  
26 governmental body that has been issued an active tax exemption

1 identification number by the Department under Section 1g of  
2 this Act. This paragraph is exempt from the provisions of  
3 Section 2-70.

4 (38) Beginning on January 1, 2002 and through June 30,  
5 2011, tangible personal property purchased from an Illinois  
6 retailer by a taxpayer engaged in centralized purchasing  
7 activities in Illinois who will, upon receipt of the property  
8 in Illinois, temporarily store the property in Illinois (i) for  
9 the purpose of subsequently transporting it outside this State  
10 for use or consumption thereafter solely outside this State or  
11 (ii) for the purpose of being processed, fabricated, or  
12 manufactured into, attached to, or incorporated into other  
13 tangible personal property to be transported outside this State  
14 and thereafter used or consumed solely outside this State. The  
15 Director of Revenue shall, pursuant to rules adopted in  
16 accordance with the Illinois Administrative Procedure Act,  
17 issue a permit to any taxpayer in good standing with the  
18 Department who is eligible for the exemption under this  
19 paragraph (38). The permit issued under this paragraph (38)  
20 shall authorize the holder, to the extent and in the manner  
21 specified in the rules adopted under this Act, to purchase  
22 tangible personal property from a retailer exempt from the  
23 taxes imposed by this Act. Taxpayers shall maintain all  
24 necessary books and records to substantiate the use and  
25 consumption of all such tangible personal property outside of  
26 the State of Illinois.

1       (39) On and after July 1, 2007, tangible personal property  
2       that is used or consumed in a research facility in the process  
3       of the research and development of items of tangible personal  
4       property that are intended for commercial sale. This paragraph  
5       is exempt from the provisions of Section 2-70.

6       (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
7       eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;  
8       94-1002, eff. 7-3-06.)

9       Section 99. Effective date. This Act takes effect upon  
10       becoming law.