



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB4108

by Rep. Bill Mitchell

#### 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. Exempts from taxation under the Acts, that part of the selling price of motor fuel or gasohol that exceeds \$1.50 per gallon. Effective July 1, 2007.

LRB095 12357 BDD 37164 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 (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) Beginning on July 1, 2007, that part of the selling  
10 price of motor fuel or gasohol that exceeds \$1.50 per gallon.  
11 This paragraph is exempt from the provisions of Section 3-90.

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

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

16 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

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



1 purpose of resale by the enterprise.

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

5 (3) Personal property purchased by 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 (4) Legal tender, currency, medallions, or gold or silver  
21 coinage issued by the State of Illinois, the government of the  
22 United States of America, or the government of any foreign  
23 country, and bullion.

24 (5) Until July 1, 2003 and beginning again on September 1,  
25 2004, graphic arts machinery and equipment, including repair  
26 and replacement parts, both new and used, and including that

1 manufactured on special order or purchased for lease, certified  
2 by the purchaser to be used primarily for graphic arts  
3 production. Equipment includes chemicals or chemicals acting  
4 as catalysts but only if the chemicals or chemicals acting as  
5 catalysts effect a direct and immediate change upon a graphic  
6 arts product.

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

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

1 vehicle required to be licensed if the selling price of the  
2 tender is separately stated.

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

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

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

26 (9) Proceeds of mandatory service charges separately

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

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

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

24 (12) Until July 1, 2003, coal exploration, mining,  
25 offhighway hauling, processing, maintenance, and reclamation  
26 equipment, including replacement parts and equipment, and

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

4 (13) Semen used for artificial insemination of livestock  
5 for direct agricultural production.

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

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

1 to reimburse that lessor for the tax imposed by this Act or the  
2 Use Tax Act, as the case may be, if the tax has not been paid by  
3 the lessor. If a lessor improperly collects any such amount  
4 from the lessee, the lessee shall have a legal right to claim a  
5 refund of that amount from the lessor. If, however, that amount  
6 is not refunded to the lessee for any reason, the lessor is  
7 liable to pay that amount to the Department.

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

1 liable to pay that amount to the Department.

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

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

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

1 or at a hunting enclosure approved through rules adopted by the  
2 Department of Natural Resources. This paragraph is exempt from  
3 the provisions of Section 3-75.

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

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



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

10 (22) Beginning January 1, 2000 and through December 31,  
11 2001, new or used automatic vending machines that prepare and  
12 serve hot food and beverages, including coffee, soup, and other  
13 items, and replacement parts for these machines. Beginning  
14 January 1, 2002 and through June 30, 2003, machines and parts  
15 for machines used in commercial, coin-operated amusement and  
16 vending business if a use or occupation tax is paid on the  
17 gross receipts derived from the use of the commercial,  
18 coin-operated amusement and vending machines. This paragraph  
19 is exempt from the provisions of Section 3-75.

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

1 use, when purchased for use by a person receiving medical  
2 assistance under Article 5 of the Illinois Public Aid Code who  
3 resides in a licensed long-term care facility, as defined in  
4 the Nursing Home Care Act.

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

1 liable to pay that amount to the Department. This paragraph is  
2 exempt from the provisions of Section 3-75.

3 (25) 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 tax exemption  
9 identification number by the Department under Section 1g of the  
10 Retailers' Occupation Tax Act. If the property is leased in a  
11 manner that does not qualify for this exemption or is used in  
12 any other nonexempt manner, the lessor shall be liable for the  
13 tax imposed under this Act or the Use Tax Act, as the case may  
14 be, based on the fair market value of the property at the time  
15 the nonqualifying 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. This paragraph is  
24 exempt from the provisions of Section 3-75.

25 (25) Beginning on July 1, 2007, that part of the selling  
26 price of motor fuel or gasohol that exceeds \$1.50 per gallon.

1 This paragraph is exempt from the provisions of Section 3-75.

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

6 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

9 (1) Personal property sold by a corporation, society,  
10 association, foundation, institution, or organization, other  
11 than a limited liability company, that is organized and  
12 operated as a not-for-profit service enterprise for the benefit  
13 of persons 65 years of age or older if the personal property  
14 was not purchased by the enterprise for the purpose of resale  
15 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 any not-for-profit arts  
20 or 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  
24 support of arts or cultural programming, activities, or

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

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

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

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

26 (7) 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 (7). 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 3-55.

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

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

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

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

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

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

18 (13) Beginning January 1, 1992 and through June 30, 2011,  
19 food for human consumption that is to be consumed off the  
20 premises where it is sold (other than alcoholic beverages, soft  
21 drinks and food that has been prepared for immediate  
22 consumption) and prescription and non-prescription medicines,  
23 drugs, medical appliances, and insulin, urine testing  
24 materials, syringes, and needles used by diabetics, for human  
25 use, when purchased for use by a person receiving medical  
26 assistance under Article 5 of the Illinois Public Aid Code who



1 resides in a licensed long-term care facility, as defined in  
2 the Nursing Home Care Act.

3 (14) Semen used for artificial insemination of livestock  
4 for direct agricultural production.

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

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

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

25 (18) Beginning with taxable years ending on or after  
26 December 31, 1995 and ending with taxable years ending on or

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

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

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

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

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

1 private home instruction or (ii) for which the fundraising  
2 entity purchases the personal property sold at the events from  
3 another individual or entity that sold the property for the  
4 purpose of resale by the fundraising entity and that profits  
5 from the sale to the fundraising entity. This paragraph is  
6 exempt from the provisions of Section 3-55.

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

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

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

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

1 tangible personal property from a retailer exempt from the  
2 taxes imposed by this Act. Taxpayers shall maintain all  
3 necessary books and records to substantiate the use and  
4 consumption of all such tangible personal property outside of  
5 the State of Illinois.

6 (27) Beginning on July 1, 2007, that part of the selling  
7 price of motor fuel or gasohol that exceeds \$1.50 per gallon.  
8 This paragraph is exempt from the provisions of Section 3-55.

9 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;  
10 94-1002, eff. 7-3-06.)

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

13 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

17 (1) Farm chemicals.

18 (2) Farm machinery and equipment, both new and used,  
19 including that manufactured on special order, certified by the  
20 purchaser to be used primarily for production agriculture or  
21 State or federal agricultural programs, including individual  
22 replacement parts for the machinery and equipment, including  
23 machinery and equipment purchased for lease, and including  
24 implements of husbandry defined in Section 1-130 of the

1 Illinois Vehicle Code, farm machinery and agricultural  
2 chemical and fertilizer spreaders, and nurse wagons required to  
3 be registered under Section 3-809 of the Illinois Vehicle Code,  
4 but excluding other motor vehicles required to be registered  
5 under the Illinois Vehicle Code. Horticultural polyhouses or  
6 hoop houses used for propagating, growing, or overwintering  
7 plants shall be considered farm machinery and equipment under  
8 this item (2). Agricultural chemical tender tanks and dry boxes  
9 shall include units sold separately from a motor vehicle  
10 required to be licensed and units sold mounted on a motor  
11 vehicle required to be licensed, if the selling price of the  
12 tender is separately stated.

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

21 Farm machinery and equipment also includes computers,  
22 sensors, software, and related equipment used primarily in the  
23 computer-assisted operation of production agriculture  
24 facilities, equipment, and activities such as, but not limited  
25 to, the collection, monitoring, and correlation of animal and  
26 crop data for the purpose of formulating animal diets and

1 agricultural chemicals. This item (7) is exempt from the  
2 provisions of Section 2-70.

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

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

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



1 as defined in the Automobile Renting Occupation and Use Tax  
2 Act.

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

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

9 (8) Personal property sold to an Illinois county fair  
10 association for use in conducting, operating, or promoting the  
11 county fair.

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

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

22           (12) Tangible personal property sold to interstate  
23 carriers for hire for use as rolling stock moving in interstate  
24 commerce or to lessors under leases of one year or longer  
25 executed or in effect at the time of purchase by interstate  
26 carriers for hire for use as rolling stock moving in interstate

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

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

23 (13) Proceeds from sales to owners, lessors, or shippers of  
24 tangible personal property that is utilized by interstate  
25 carriers for hire for use as rolling stock moving in interstate  
26 commerce and equipment operated by a telecommunications

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

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

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

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

26 (17) Tangible personal property sold to a common carrier by

1 rail or motor that receives the physical possession of the  
2 property in Illinois and that transports the property, or  
3 shares with another common carrier in the transportation of the  
4 property, out of Illinois on a standard uniform bill of lading  
5 showing the seller of the property as the shipper or consignor  
6 of the property to a destination outside Illinois, for use  
7 outside Illinois.

8 (18) Legal tender, currency, medallions, or gold or silver  
9 coinage issued by the State of Illinois, the government of the  
10 United States of America, or the government of any foreign  
11 country, and bullion.

12 (19) 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 (20) 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 (21) 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 (22) Fuel and petroleum products sold to or used by an air  
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, for a flight destined for or returning from a  
10 location or locations outside the United States without regard  
11 to previous or subsequent domestic stopovers.

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

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

22 (25) Except as provided in item (25-5) of this Section, a  
23 motor vehicle sold in this State to a nonresident even though  
24 the motor vehicle is delivered to the nonresident in this  
25 State, if the motor vehicle is not to be titled in this State,  
26 and if a drive-away permit is issued to the motor vehicle as

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

8 (25-5) The exemption under item (25) does not apply if the  
9 state in which the motor vehicle will be titled does not allow  
10 a reciprocal exemption for a motor vehicle sold and delivered  
11 in that state to an Illinois resident but titled in Illinois.  
12 The tax collected under this Act on the sale of a motor vehicle  
13 in this State to a resident of another state that does not  
14 allow a reciprocal exemption shall be imposed at a rate equal  
15 to the state's rate of tax on taxable property in the state in  
16 which the purchaser is a resident, except that the tax shall  
17 not exceed the tax that would otherwise be imposed under this  
18 Act. At the time of the sale, the purchaser shall execute a  
19 statement, signed under penalty of perjury, of his or her  
20 intent to title the vehicle in the state in which the purchaser  
21 is a resident within 30 days after the sale and of the fact of  
22 the payment to the State of Illinois of tax in an amount  
23 equivalent to the state's rate of tax on taxable property in  
24 his or her state of residence and shall submit the statement to  
25 the appropriate tax collection agency in his or her state of  
26 residence. In addition, the retailer must retain a signed copy

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

10 (26) Semen used for artificial insemination of livestock  
11 for direct agricultural production.

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

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

26 (29) Personal property sold to a lessor who leases the



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

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

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

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

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

25           (34) Beginning January 1, 2000, personal property,  
26 including food, purchased through fundraising events for the

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

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

23 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
24 food for human consumption that is to be consumed off the  
25 premises where it is sold (other than alcoholic beverages, soft  
26 drinks, and food that has been prepared for immediate

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

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

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

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

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

21 (39) Beginning on July 1, 2007, that part of the selling  
22 price of motor fuel or gasohol that exceeds \$1.50 per gallon.  
23 This paragraph is exempt from the provisions of Section 2-70.

24 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,  
25 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;  
26 94-1002, eff. 7-3-06.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.