

SB1418



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1418

Introduced 2/11/2009, by Sen. Tim Bivins

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3b new
35 ILCS 120/2-75 new

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that no tax is imposed under the Acts upon the privilege of using in this State (for the Use Tax Act) or persons engaged in the business of selling at retail (for the Retailers' Occupation Tax Act) qualified merchandise that is purchased from 12:01 a.m. on the first Friday in August through midnight of the Sunday that follows 9 days later. Defines "qualified merchandise" as school supplies and any article of clothing or footwear or a computer that is sold at or below certain selling prices. Sets forth criteria for transactions to qualify for the exemption. Effective immediately.

SRS096 00005 NAD 10005 b

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 adding Section 3b
5 as follows:

6 (35 ILCS 105/3b new)

7 Sec. 3b. Back-To-School Tax Holiday.

8 (a) No tax is imposed under this Act upon the privilege of
9 using, in this State, qualified merchandise that is purchased
10 at retail from a retailer if the qualified merchandise is
11 purchased during the holiday period.

12 (b) For the purpose of this Section:

13 "Holiday period" means the period from 12:01 a.m. on the
14 first Friday in August through midnight of the following
15 Sunday.

16 "Qualified merchandise" means:

17 (1) school supplies;

18 (2) an article of clothing or footwear that is
19 purchased for a selling price of \$200 or less; and

20 (3) a computer that is purchased for a selling price of
21 \$3,000 or less.

22 "Clothing or footwear" means an article of apparel designed
23 to be worn about the human body. The term does not include

1 accessories such as jewelry, handbags, purses, briefcases,
2 luggage, wallets, watches, and similar items that are carried
3 on or about the human body, without regard to whether the item
4 is worn on the body in a manner that is characteristic of
5 clothing.

6 "Computer" means a central processing unit for personal use
7 plus any peripheral sold with it and any computer software
8 installed in it at the time of purchase. The term "computer"
9 includes desktop computers, laptop computers, hand-held
10 computers, and personal digital assistants. The term
11 "computer" does not include any device designed primarily for
12 video game applications. The term "peripheral" includes any
13 monitor, keyboard, printer, scanner, web/PC camera,
14 microphone, external drive, network card, internal drive, and
15 additional storage.

16 "School supplies" means pens, pencils, erasers, crayons,
17 notebooks, notebook filler paper, legal pads, composition
18 books, poster paper, scissors, cellophane tape, glue or paste,
19 rulers, protractors, compasses, calculators, and similar items
20 commonly used by students for school purposes.

21 (c) For the purpose of this Section, a "purchase" occurs
22 during the tax holiday if the buyer places an order and pays
23 the purchase price by cash or credit during the tax holiday
24 period regardless of whether the delivery of the item occurs
25 after the tax holiday period.

26 An item of qualified merchandise that is placed in a

1 layaway or similar deferred plan during the holiday period is
2 not eligible for the exemption unless the item is delivered to
3 the purchaser during the period. An item that was placed in a
4 layaway or similar deferred plan before the holiday period and
5 is then delivered to the purchaser during the holiday period is
6 eligible for the exemption.

7 (d) Any discount, coupon, or other credit offered either by
8 the retailer or by a vendor of the retailer to reduce the final
9 price to the customer must be taken into account in determining
10 the selling price of the item for the purposes of this holiday.
11 If the price of an item is free or reduced with the purchase of
12 another item, then the total price of the items may not be
13 averaged in order for both items to qualify for the holiday.

14 The amount of any rebate may not be considered when
15 determining the selling price of the item for the purposes of
16 this holiday.

17 (e) Articles that are normally sold as a unit must continue
18 to be sold in that manner; they may not be priced separately
19 and sold as individual items in order to be subject to the
20 holiday. For example, if a pair of shoes sells for \$220, the
21 pair cannot be split in order to sell each shoe for \$110 to
22 qualify for the holiday. If a uniform is normally priced at
23 \$250 on a single price tag, the uniform cannot be split into
24 separate articles so that any of the components may be sold for
25 less than \$200 in order to qualify for the holiday. Components
26 that are normally priced as separate articles, however, may

1 continue to be sold as separate articles.

2 (f) Qualified merchandise that customers purchase during
3 the holiday period with the use of a rain check qualify for the
4 holiday regardless of when the rain check was issued. The
5 issuance of a rain check, however, during the holiday period
6 does not qualify merchandise for the exemption if the
7 merchandise is actually purchased after the holiday period.

8 (g) If a customer purchases an item of qualified
9 merchandise during the holiday period but later exchanges the
10 item for a substantially similar item of a different size,
11 different color, or other feature, then no additional tax is
12 due even if the exchange is made after the holiday period.

13 If a customer purchases an item of qualified merchandise
14 during the holiday period, but after the holiday period has
15 ended, the customer returns the item and receives credit on the
16 purchase of a different item, then the newly purchased item is
17 subject to the full tax rate.

18 If a customer purchases an item of qualified merchandise
19 before the holiday period, but during the holiday period, the
20 customer returns the item and receives credit on the purchase
21 of a different item of qualified merchandise, then the newly
22 purchased item is subject to the exemption.

23 (h) Each unit of local government that imposes a use tax
24 may, by resolution or ordinance, declare a tax holiday with
25 respect to its use tax for the same items, during the same
26 periods, and under the same conditions and is encouraged to do

1 so.

2 Section 10. The Retailers' Occupation Tax Act is amended by
3 adding Section 2-75 as follows:

4 (35 ILCS 120/2-75 new)

5 Sec. 2-75. Back-To-School Tax Holiday.

6 (a) No tax is imposed under this Act upon persons engaged
7 in the business of selling, at retail, qualified merchandise if
8 the qualified merchandise is purchased during the holiday
9 period.

10 (b) For the purpose of this Section:

11 "Holiday period" means the period from 12:01 a.m. on the
12 first Friday in August through midnight of the following
13 Sunday.

14 "Qualified merchandise" means:

15 (1) school supplies;

16 (2) an article of clothing or footwear that is
17 purchased for a selling price of \$200 or less; and

18 (3) a computer that is purchased for a selling price of
19 \$3,000 or less.

20 "Clothing or footwear" means an article of apparel designed
21 to be worn about the human body. The term does not include
22 accessories such as jewelry, handbags, purses, briefcases,
23 luggage, wallets, watches, and similar items that are carried
24 on or about the human body, without regard to whether the item

1 is worn on the body in a manner that is characteristic of
2 clothing.

3 "Computer" means a central processing unit for personal use
4 plus any peripheral sold with it and any computer software
5 installed in it at the time of purchase. The term "computer"
6 includes desktop computers, laptop computers, hand-held
7 computers, and personal digital assistants. The term
8 "computer" does not include any device designed primarily for
9 video game applications. The term "peripheral" includes any
10 monitor, keyboard, printer, scanner, web/PC camera,
11 microphone, external drive, network card, internal drive, and
12 additional storage.

13 "School supplies" means pens, pencils, erasers, crayons,
14 notebooks, notebook filler paper, legal pads, composition
15 books, poster paper, scissors, cellophane tape, glue or paste,
16 rulers, protractors, compasses, calculators, and similar items
17 commonly used by students for school purposes.

18 (c) For the purpose of this Section, a "purchase" occurs
19 during the tax holiday if the buyer places an order and pays
20 the purchase price by cash or credit during the tax holiday
21 period regardless of whether the delivery of the item occurs
22 after the tax holiday period.

23 An item of qualified merchandise that is placed in a
24 layaway or similar deferred plan during the holiday period is
25 not eligible for the exemption unless the item is delivered to
26 the purchaser during the period. An item that was placed in a

1 layaway or similar deferred plan before the holiday period and
2 is then delivered to the purchaser during the holiday period is
3 eligible for the exemption.

4 (d) Any discount, coupon, or other credit offered either by
5 the retailer or by a vendor of the retailer to reduce the final
6 price to the customer must be taken into account in determining
7 the selling price of the item for the purposes of this holiday.
8 If the price of an item is free or reduced with the purchase of
9 another item, then the total price of the items may not be
10 averaged in order for both items to qualify for the holiday.

11 The amount of any rebate may not be considered when
12 determining the selling price of the item for the purposes of
13 this holiday.

14 (e) Articles that are normally sold as a unit must continue
15 to be sold in that manner; they may not be priced separately
16 and sold as individual items in order to be subject to the
17 holiday. For example, if a pair of shoes sells for \$220, the
18 pair cannot be split in order to sell each shoe for \$110 to
19 qualify for the holiday. If a uniform is normally priced at
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21 separate articles so that any of the components may be sold for
22 less than \$200 in order to qualify for the holiday. Components
23 that are normally priced as separate articles, however, may
24 continue to be sold as separate articles.

25 (f) Qualified merchandise that customers purchase during
26 the holiday period with the use of a rain check qualify for the

1 holiday regardless of when the rain check was issued. The
2 issuance of a rain check, however, during the holiday period
3 does not qualify merchandise for the exemption if the
4 merchandise is actually purchased after the holiday period.

5 (g) If a customer purchases an item of qualified
6 merchandise during the holiday period but later exchanges the
7 item for a substantially similar item of a different size,
8 different color, or other feature, then no additional tax is
9 due even if the exchange is made after the holiday period.

10 If a customer purchases an item of qualified merchandise
11 during the holiday period, but after the holiday period has
12 ended, the customer returns the item and receives credit on the
13 purchase of a different item, then the newly purchased item is
14 subject to the full tax rate.

15 If a customer purchases an item of qualified merchandise
16 before the holiday period, but during the holiday period, the
17 customer returns the item and receives credit on the purchase
18 of a different item of qualified merchandise, then the newly
19 purchased item is subject to the exemption.

20 (h) Each unit of local government that imposes a retailers'
21 occupation tax may, by resolution or ordinance, declare a tax
22 holiday with respect to its use tax for the same items, during
23 the same periods, and under the same conditions and is
24 encouraged to do so.

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.