



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2559

by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3	from Ch. 120, par. 439.3
35 ILCS 105/3-5	
35 ILCS 105/3-25	from Ch. 120, par. 439.3-25
35 ILCS 105/3-50	from Ch. 120, par. 439.3-50
35 ILCS 110/2	from Ch. 120, par. 439.32
35 ILCS 110/3	from Ch. 120, par. 439.33
35 ILCS 110/3-25	from Ch. 120, par. 439.33-25
35 ILCS 115/2	from Ch. 120, par. 439.102
35 ILCS 115/3	from Ch. 120, par. 439.103
35 ILCS 115/3-25	from Ch. 120, par. 439.103-25
35 ILCS 120/1d	from Ch. 120, par. 440d
35 ILCS 120/2	from Ch. 120, par. 441
35 ILCS 120/2-5	
35 ILCS 120/2-25	from Ch. 120, par. 441-25
35 ILCS 120/2-45	from Ch. 120, par. 441-45

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that sales of electricity, natural or artificial gas, and water are not subject to the taxes imposed under the Acts. Provides that a manufacturing exemption under the Acts does not apply to machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; and (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains.

LRB098 10513 HLH 40751 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 Sections
5 3, 3-5, 3-25, and 3-50 as follows:

6 (35 ILCS 105/3) (from Ch. 120, par. 439.3)

7 Sec. 3. Tax imposed. A tax is imposed upon the privilege of
8 using in this State tangible personal property purchased at
9 retail from a retailer, including computer software, and
10 including photographs, negatives, and positives that are the
11 product of photoprocessing, but not including products of
12 photoprocessing produced for use in motion pictures for
13 commercial exhibition. Beginning January 1, 2001, prepaid
14 telephone calling arrangements shall be considered tangible
15 personal property subject to the tax imposed under this Act
16 regardless of the form in which those arrangements may be
17 embodied, transmitted, or fixed by any method now known or
18 hereafter developed. Purchases of (1) electricity delivered to
19 customers by wire; (2) natural or artificial gas that is
20 delivered to customers though pipes, pipelines, or mains; and
21 (3) water that is delivered to customers though pipes,
22 pipelines, or mains are not subject to tax under this Act. The
23 provisions of this amendatory Act of the 98th General Assembly

1 are declaratory of existing law as to the meaning and scope of
2 this Act.

3 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

4 (35 ILCS 105/3-5)

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

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

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

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

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

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

21 (5) Until July 1, 2003, a passenger car that is a
22 replacement vehicle to the extent that the purchase price of
23 the car is subject to the Replacement Vehicle Tax.

24 (6) Until July 1, 2003 and beginning again on September 1,
25 2004 through August 30, 2014, graphic arts machinery and
26 equipment, including repair and replacement parts, both new and

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

8 (7) Farm chemicals.

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

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

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

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

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

1 such equipment.

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

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

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

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

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

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

13 (16) Until July 1, 2003, and beginning again on the
14 effective date of this amendatory Act of the 97th General
15 Assembly and thereafter, coal and aggregate exploration,
16 mining, offhighway hauling, processing, maintenance, and
17 reclamation equipment, including replacement parts and
18 equipment, and including equipment purchased for lease, but
19 excluding motor vehicles required to be registered under the
20 Illinois Vehicle Code.

21 (17) Until July 1, 2003, distillation machinery and
22 equipment, sold as a unit or kit, assembled or installed by the
23 retailer, certified by the user to be used only for the
24 production of ethyl alcohol that will be used for consumption
25 as motor fuel or as a component of motor fuel for the personal
26 use of the user, and not subject to sale or resale.

1 (18) Manufacturing and assembling machinery and equipment
2 used primarily in the process of manufacturing or assembling
3 tangible personal property for wholesale or retail sale or
4 lease, whether that sale or lease is made directly by the
5 manufacturer or by some other person, whether the materials
6 used in the process are owned by the manufacturer or some other
7 person, or whether that sale or lease is made apart from or as
8 an incident to the seller's engaging in the service occupation
9 of producing machines, tools, dies, jigs, patterns, gauges, or
10 other similar items of no commercial value on special order for
11 a particular purchaser. The exemption provided by this
12 paragraph (18) does not include machinery and equipment used in
13 (i) the generation of electricity for wholesale or retail sale;
14 (ii) the generation or treatment of natural or artificial gas
15 for wholesale or retail sale that is delivered to customers
16 through pipes, pipelines, or mains; or (iii) the treatment of
17 water for wholesale or retail sale that is delivered to
18 customers through pipes, pipelines, or mains. The provisions of
19 this amendatory Act of the 98th General Assembly are
20 declaratory of existing law as to the meaning and scope of this
21 exemption.

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

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

3 (21) Horses, or interests in horses, registered with and
4 meeting the requirements of any of the Arabian Horse Club
5 Registry of America, Appaloosa Horse Club, American Quarter
6 Horse Association, United States Trotting Association, or
7 Jockey Club, as appropriate, used for purposes of breeding or
8 racing for prizes. This item (21) is exempt from the provisions
9 of Section 3-90, and the exemption provided for under this item
10 (21) applies for all periods beginning May 30, 1995, but no
11 claim for credit or refund is allowed on or after January 1,
12 2008 for such taxes paid during the period beginning May 30,
13 2000 and ending on January 1, 2008.

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

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

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

1 amount from the lessee, the lessee shall have a legal right to
2 claim a refund of that amount from the lessor. If, however,
3 that amount is not refunded to the lessee for any reason, the
4 lessor is liable to pay that amount to the Department.

5 (24) 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 (25) 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 (26) Beginning July 1, 1999, game or game birds purchased
2 at a "game breeding and hunting preserve area" as that term is
3 used in the Wildlife Code. This paragraph is exempt from the
4 provisions of Section 3-90.

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

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

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

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

21 (30) Beginning January 1, 2001 and through June 30, 2016,
22 food for human consumption that is to be consumed off the
23 premises where it is sold (other than alcoholic beverages, soft
24 drinks, and food that has been prepared for immediate
25 consumption) and prescription and nonprescription medicines,
26 drugs, medical appliances, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human
2 use, when purchased for use by a person receiving medical
3 assistance under Article V of the Illinois Public Aid Code who
4 resides in a licensed long-term care facility, as defined in
5 the Nursing Home Care Act, or in a licensed facility as defined
6 in the ID/DD Community Care Act or the Specialized Mental
7 Health Rehabilitation Act.

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

1 collects any such amount from the lessee, the lessee shall have
2 a legal right to claim a refund of that amount from the lessor.
3 If, however, that amount is not refunded to the lessee for any
4 reason, the lessor is liable to pay that amount to the
5 Department. This paragraph is exempt from the provisions of
6 Section 3-90.

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

1 refunded to the lessee for any reason, the lessor is liable to
2 pay that amount to the Department. This paragraph is exempt
3 from the provisions of Section 3-90.

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

23 (34) Beginning January 1, 2008, tangible personal property
24 used in the construction or maintenance of a community water
25 supply, as defined under Section 3.145 of the Environmental
26 Protection Act, that is operated by a not-for-profit

1 corporation that holds a valid water supply permit issued under
2 Title IV of the Environmental Protection Act. This paragraph is
3 exempt from the provisions of Section 3-90.

4 (35) Beginning January 1, 2010, materials, parts,
5 equipment, components, and furnishings incorporated into or
6 upon an aircraft as part of the modification, refurbishment,
7 completion, replacement, repair, or maintenance of the
8 aircraft. This exemption includes consumable supplies used in
9 the modification, refurbishment, completion, replacement,
10 repair, and maintenance of aircraft, but excludes any
11 materials, parts, equipment, components, and consumable
12 supplies used in the modification, replacement, repair, and
13 maintenance of aircraft engines or power plants, whether such
14 engines or power plants are installed or uninstalled upon any
15 such aircraft. "Consumable supplies" include, but are not
16 limited to, adhesive, tape, sandpaper, general purpose
17 lubricants, cleaning solution, latex gloves, and protective
18 films. This exemption applies only to those organizations that
19 (i) hold an Air Agency Certificate and are empowered to operate
20 an approved repair station by the Federal Aviation
21 Administration, (ii) have a Class IV Rating, and (iii) conduct
22 operations in accordance with Part 145 of the Federal Aviation
23 Regulations. The exemption does not include aircraft operated
24 by a commercial air carrier providing scheduled passenger air
25 service pursuant to authority issued under Part 121 or Part 129
26 of the Federal Aviation Regulations.

1 (36) Tangible personal property purchased by a
2 public-facilities corporation, as described in Section
3 11-65-10 of the Illinois Municipal Code, for purposes of
4 constructing or furnishing a municipal convention hall, but
5 only if the legal title to the municipal convention hall is
6 transferred to the municipality without any further
7 consideration by or on behalf of the municipality at the time
8 of the completion of the municipal convention hall or upon the
9 retirement or redemption of any bonds or other debt instruments
10 issued by the public-facilities corporation in connection with
11 the development of the municipal convention hall. This
12 exemption includes existing public-facilities corporations as
13 provided in Section 11-65-25 of the Illinois Municipal Code.
14 This paragraph is exempt from the provisions of Section 3-90.

15 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
16 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
17 7-2-10; 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431, eff.
18 8-16-11; 97-636, eff. 6-1-12; 97-767, eff. 7-9-12.)

19 (35 ILCS 105/3-25) (from Ch. 120, par. 439.3-25)

20 Sec. 3-25. Computer software. For the purposes of this Act,
21 "computer software" means a set of statements, data, or
22 instructions to be used directly or indirectly in a computer in
23 order to bring about a certain result in any form in which
24 those statements, data, or instructions may be embodied,
25 transmitted, or fixed, by any method now known or hereafter

1 developed, regardless of whether the statements, data, or
2 instructions are capable of being perceived by or communicated
3 to humans, and includes prewritten or canned software that is
4 held for repeated sale or lease, and all associated
5 documentation and materials, if any, whether contained on
6 magnetic tapes, discs, cards, or other devices or media, but
7 does not include software that is adapted to specific
8 individualized requirements of a purchaser, custom-made and
9 modified software designed for a particular or limited use by a
10 purchaser, or software used to operate exempt machinery and
11 equipment used in the process of manufacturing or assembling
12 tangible personal property for wholesale or retail sale or
13 lease. Software used to operate machinery and equipment used in
14 (i) the generation of electricity for wholesale or retail sale;
15 (ii) the generation or treatment of natural or artificial gas
16 for wholesale or retail sale that is delivered to customers
17 through pipes, pipelines, or mains; or (iii) the treatment of
18 water for wholesale or retail sale that is delivered to
19 customers through pipes, pipelines, or mains is considered
20 "computer software". The provisions of this amendatory Act of
21 the 98th General Assembly are declaratory of existing law as to
22 the meaning and scope of this exemption.

23 For the purposes of this Act, computer software shall be
24 considered to be tangible personal property.

25 (Source: P.A. 91-51, eff. 6-30-99.)

1 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

2 Sec. 3-50. Manufacturing and assembly exemption. The
3 manufacturing and assembling machinery and equipment exemption
4 includes machinery and equipment that replaces machinery and
5 equipment in an existing manufacturing facility as well as
6 machinery and equipment that are for use in an expanded or new
7 manufacturing facility. The machinery and equipment exemption
8 also includes machinery and equipment used in the general
9 maintenance or repair of exempt machinery and equipment or for
10 in-house manufacture of exempt machinery and equipment. The
11 machinery and equipment exemption does not include machinery
12 and equipment used in (i) the generation of electricity for
13 wholesale or retail sale; (ii) the generation or treatment of
14 natural or artificial gas for wholesale or retail sale that is
15 delivered to customers through pipes, pipelines, or mains; or
16 (iii) the treatment of water for wholesale or retail sale that
17 is delivered to customers through pipes, pipelines, or mains.
18 The provisions of this amendatory Act of the 98th General
19 Assembly are declaratory of existing law as to the meaning and
20 scope of this exemption. For the purposes of this exemption,
21 terms have the following meanings:

22 (1) "Manufacturing process" means the production of an
23 article of tangible personal property, whether the article
24 is a finished product or an article for use in the process
25 of manufacturing or assembling a different article of
26 tangible personal property, by a procedure commonly

1 regarded as manufacturing, processing, fabricating, or
2 refining that changes some existing material into a
3 material with a different form, use, or name. In relation
4 to a recognized integrated business composed of a series of
5 operations that collectively constitute manufacturing, or
6 individually constitute manufacturing operations, the
7 manufacturing process commences with the first operation
8 or stage of production in the series and does not end until
9 the completion of the final product in the last operation
10 or stage of production in the series. For purposes of this
11 exemption, photoprocessing is a manufacturing process of
12 tangible personal property for wholesale or retail sale.

13 (2) "Assembling process" means the production of an
14 article of tangible personal property, whether the article
15 is a finished product or an article for use in the process
16 of manufacturing or assembling a different article of
17 tangible personal property, by the combination of existing
18 materials in a manner commonly regarded as assembling that
19 results in an article or material of a different form, use,
20 or name.

21 (3) "Machinery" means major mechanical machines or
22 major components of those machines contributing to a
23 manufacturing or assembling process.

24 (4) "Equipment" includes an independent device or tool
25 separate from machinery but essential to an integrated
26 manufacturing or assembly process; including computers

1 used primarily in a manufacturer's computer assisted
2 design, computer assisted manufacturing (CAD/CAM) system;
3 any subunit or assembly comprising a component of any
4 machinery or auxiliary, adjunct, or attachment parts of
5 machinery, such as tools, dies, jigs, fixtures, patterns,
6 and molds; and any parts that require periodic replacement
7 in the course of normal operation; but does not include
8 hand tools. Equipment includes chemicals or chemicals
9 acting as catalysts but only if the chemicals or chemicals
10 acting as catalysts effect a direct and immediate change
11 upon a product being manufactured or assembled for
12 wholesale or retail sale or lease.

13 (5) "Production related tangible personal property"
14 means all tangible personal property that is used or
15 consumed by the purchaser in a manufacturing facility in
16 which a manufacturing process takes place and includes,
17 without limitation, tangible personal property that is
18 purchased for incorporation into real estate within a
19 manufacturing facility and tangible personal property that
20 is used or consumed in activities such as research and
21 development, preproduction material handling, receiving,
22 quality control, inventory control, storage, staging, and
23 packaging for shipping and transportation purposes.
24 "Production related tangible personal property" does not
25 include (i) tangible personal property that is used, within
26 or without a manufacturing facility, in sales, purchasing,

1 accounting, fiscal management, marketing, personnel
2 recruitment or selection, or landscaping or (ii) tangible
3 personal property that is required to be titled or
4 registered with a department, agency, or unit of federal,
5 State, or local government.

6 The manufacturing and assembling machinery and equipment
7 exemption includes production related tangible personal
8 property that is purchased on or after July 1, 2007 and on or
9 before June 30, 2008. The exemption for production related
10 tangible personal property is subject to both of the following
11 limitations:

12 (1) The maximum amount of the exemption for any one
13 taxpayer may not exceed 5% of the purchase price of
14 production related tangible personal property that is
15 purchased on or after July 1, 2007 and on or before June
16 30, 2008. A credit under Section 3-85 of this Act may not
17 be earned by the purchase of production related tangible
18 personal property for which an exemption is received under
19 this Section.

20 (2) The maximum aggregate amount of the exemptions for
21 production related tangible personal property awarded
22 under this Act and the Retailers' Occupation Tax Act to all
23 taxpayers may not exceed \$10,000,000. If the claims for the
24 exemption exceed \$10,000,000, then the Department shall
25 reduce the amount of the exemption to each taxpayer on a
26 pro rata basis.

1 The Department may adopt rules to implement and administer the
2 exemption for production related tangible personal property.

3 The manufacturing and assembling machinery and equipment
4 exemption includes the sale of materials to a purchaser who
5 produces exempted types of machinery, equipment, or tools and
6 who rents or leases that machinery, equipment, or tools to a
7 manufacturer of tangible personal property. This exemption
8 also includes the sale of materials to a purchaser who
9 manufactures those materials into an exempted type of
10 machinery, equipment, or tools that the purchaser uses himself
11 or herself in the manufacturing of tangible personal property.
12 This exemption includes the sale of exempted types of machinery
13 or equipment to a purchaser who is not the manufacturer, but
14 who rents or leases the use of the property to a manufacturer.
15 The purchaser of the machinery and equipment who has an active
16 resale registration number shall furnish that number to the
17 seller at the time of purchase. A user of the machinery,
18 equipment, or tools without an active resale registration
19 number shall prepare a certificate of exemption for each
20 transaction stating facts establishing the exemption for that
21 transaction, and that certificate shall be available to the
22 Department for inspection or audit. The Department shall
23 prescribe the form of the certificate. Informal rulings,
24 opinions, or letters issued by the Department in response to an
25 inquiry or request for an opinion from any person regarding the
26 coverage and applicability of this exemption to specific

1 devices shall be published, maintained as a public record, and
2 made available for public inspection and copying. If the
3 informal ruling, opinion, or letter contains trade secrets or
4 other confidential information, where possible, the Department
5 shall delete that information before publication. Whenever
6 informal rulings, opinions, or letters contain a policy of
7 general applicability, the Department shall formulate and
8 adopt that policy as a rule in accordance with the Illinois
9 Administrative Procedure Act.

10 (Source: P.A. 95-707, eff. 1-11-08.)

11 Section 10. The Service Use Tax Act is amended by changing
12 Sections 2, 3, and 3-25 as follows:

13 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

14 Sec. 2. "Use" means the exercise by any person of any right
15 or power over tangible personal property incident to the
16 ownership of that property, but does not include the sale or
17 use for demonstration by him of that property in any form as
18 tangible personal property in the regular course of business.
19 "Use" does not mean the interim use of tangible personal
20 property nor the physical incorporation of tangible personal
21 property, as an ingredient or constituent, into other tangible
22 personal property, (a) which is sold in the regular course of
23 business or (b) which the person incorporating such ingredient
24 or constituent therein has undertaken at the time of such

1 purchase to cause to be transported in interstate commerce to
2 destinations outside the State of Illinois.

3 "Purchased from a serviceman" means the acquisition of the
4 ownership of, or title to, tangible personal property through a
5 sale of service.

6 "Purchaser" means any person who, through a sale of
7 service, acquires the ownership of, or title to, any tangible
8 personal property.

9 "Cost price" means the consideration paid by the serviceman
10 for a purchase valued in money, whether paid in money or
11 otherwise, including cash, credits and services, and shall be
12 determined without any deduction on account of the supplier's
13 cost of the property sold or on account of any other expense
14 incurred by the supplier. When a serviceman contracts out part
15 or all of the services required in his sale of service, it
16 shall be presumed that the cost price to the serviceman of the
17 property transferred to him or her by his or her subcontractor
18 is equal to 50% of the subcontractor's charges to the
19 serviceman in the absence of proof of the consideration paid by
20 the subcontractor for the purchase of such property.

21 "Selling price" means the consideration for a sale valued
22 in money whether received in money or otherwise, including
23 cash, credits and service, and shall be determined without any
24 deduction on account of the serviceman's cost of the property
25 sold, the cost of materials used, labor or service cost or any
26 other expense whatsoever, but does not include interest or

1 finance charges which appear as separate items on the bill of
2 sale or sales contract nor charges that are added to prices by
3 sellers on account of the seller's duty to collect, from the
4 purchaser, the tax that is imposed by this Act.

5 "Department" means the Department of Revenue.

6 "Person" means any natural individual, firm, partnership,
7 association, joint stock company, joint venture, public or
8 private corporation, limited liability company, and any
9 receiver, executor, trustee, guardian or other representative
10 appointed by order of any court.

11 "Sale of service" means any transaction except:

12 (1) a retail sale of tangible personal property taxable
13 under the Retailers' Occupation Tax Act or under the Use
14 Tax Act.

15 (2) a sale of tangible personal property for the
16 purpose of resale made in compliance with Section 2c of the
17 Retailers' Occupation Tax Act.

18 (3) except as hereinafter provided, a sale or transfer
19 of tangible personal property as an incident to the
20 rendering of service for or by any governmental body, or
21 for or by any corporation, society, association,
22 foundation or institution organized and operated
23 exclusively for charitable, religious or educational
24 purposes or any not-for-profit corporation, society,
25 association, foundation, institution or organization which
26 has no compensated officers or employees and which is

1 organized and operated primarily for the recreation of
2 persons 55 years of age or older. A limited liability
3 company may qualify for the exemption under this paragraph
4 only if the limited liability company is organized and
5 operated exclusively for educational purposes.

6 (4) a sale or transfer of tangible personal property as
7 an incident to the rendering of service for interstate
8 carriers for hire for use as rolling stock moving in
9 interstate commerce or by lessors under a lease of one year
10 or longer, executed or in effect at the time of purchase of
11 personal property, to interstate carriers for hire for use
12 as rolling stock moving in interstate commerce so long as
13 so used by such interstate carriers for hire, and equipment
14 operated by a telecommunications provider, licensed as a
15 common carrier by the Federal Communications Commission,
16 which is permanently installed in or affixed to aircraft
17 moving in interstate commerce.

18 (4a) a sale or transfer of tangible personal property
19 as an incident to the rendering of service for owners,
20 lessors, or shippers of tangible personal property which is
21 utilized by interstate carriers for hire for use as rolling
22 stock moving in interstate commerce so long as so used by
23 interstate carriers for hire, and equipment operated by a
24 telecommunications provider, licensed as a common carrier
25 by the Federal Communications Commission, which is
26 permanently installed in or affixed to aircraft moving in

1 interstate commerce.

2 (4a-5) on and after July 1, 2003 and through June 30,
3 2004, a sale or transfer of a motor vehicle of the second
4 division with a gross vehicle weight in excess of 8,000
5 pounds as an incident to the rendering of service if that
6 motor vehicle is subject to the commercial distribution fee
7 imposed under Section 3-815.1 of the Illinois Vehicle Code.
8 Beginning on July 1, 2004 and through June 30, 2005, the
9 use in this State of motor vehicles of the second division:
10 (i) with a gross vehicle weight rating in excess of 8,000
11 pounds; (ii) that are subject to the commercial
12 distribution fee imposed under Section 3-815.1 of the
13 Illinois Vehicle Code; and (iii) that are primarily used
14 for commercial purposes. Through June 30, 2005, this
15 exemption applies to repair and replacement parts added
16 after the initial purchase of such a motor vehicle if that
17 motor vehicle is used in a manner that would qualify for
18 the rolling stock exemption otherwise provided for in this
19 Act. For purposes of this paragraph, "used for commercial
20 purposes" means the transportation of persons or property
21 in furtherance of any commercial or industrial enterprise
22 whether for-hire or not.

23 (5) a sale or transfer of machinery and equipment used
24 primarily in the process of the manufacturing or
25 assembling, either in an existing, an expanded or a new
26 manufacturing facility, of tangible personal property for

1 wholesale or retail sale or lease, whether such sale or
2 lease is made directly by the manufacturer or by some other
3 person, whether the materials used in the process are owned
4 by the manufacturer or some other person, or whether such
5 sale or lease is made apart from or as an incident to the
6 seller's engaging in a service occupation and the
7 applicable tax is a Service Use Tax or Service Occupation
8 Tax, rather than Use Tax or Retailers' Occupation Tax. The
9 exemption provided by this paragraph (5) does not include
10 machinery and equipment used in (i) the generation of
11 electricity for wholesale or retail sale; (ii) the
12 generation or treatment of natural or artificial gas for
13 wholesale or retail sale that is delivered to customers
14 through pipes, pipelines, or mains; or (iii) the treatment
15 of water for wholesale or retail sale that is delivered to
16 customers through pipes, pipelines, or mains. The
17 provisions of this amendatory Act of the 98th General
18 Assembly are declaratory of existing law as to the meaning
19 and scope of this exemption.

20 (5a) the repairing, reconditioning or remodeling, for
21 a common carrier by rail, of tangible personal property
22 which belongs to such carrier for hire, and as to which
23 such carrier receives the physical possession of the
24 repaired, reconditioned or remodeled item of tangible
25 personal property in Illinois, and which such carrier
26 transports, or shares with another common carrier in the

1 transportation of such property, out of Illinois on a
2 standard uniform bill of lading showing the person who
3 repaired, reconditioned or remodeled the property to a
4 destination outside Illinois, for use outside Illinois.

5 (5b) a sale or transfer of tangible personal property
6 which is produced by the seller thereof on special order in
7 such a way as to have made the applicable tax the Service
8 Occupation Tax or the Service Use Tax, rather than the
9 Retailers' Occupation Tax or the Use Tax, for an interstate
10 carrier by rail which receives the physical possession of
11 such property in Illinois, and which transports such
12 property, or shares with another common carrier in the
13 transportation of such property, out of Illinois on a
14 standard uniform bill of lading showing the seller of the
15 property as the shipper or consignor of such property to a
16 destination outside Illinois, for use outside Illinois.

17 (6) until July 1, 2003, a sale or transfer of
18 distillation machinery and equipment, sold as a unit or kit
19 and assembled or installed by the retailer, which machinery
20 and equipment is certified by the user to be used only for
21 the production of ethyl alcohol that will be used for
22 consumption as motor fuel or as a component of motor fuel
23 for the personal use of such user and not subject to sale
24 or resale.

25 (7) at the election of any serviceman not required to
26 be otherwise registered as a retailer under Section 2a of

1 the Retailers' Occupation Tax Act, made for each fiscal
2 year sales of service in which the aggregate annual cost
3 price of tangible personal property transferred as an
4 incident to the sales of service is less than 35%, or 75%
5 in the case of servicemen transferring prescription drugs
6 or servicemen engaged in graphic arts production, of the
7 aggregate annual total gross receipts from all sales of
8 service. The purchase of such tangible personal property by
9 the serviceman shall be subject to tax under the Retailers'
10 Occupation Tax Act and the Use Tax Act. However, if a
11 primary serviceman who has made the election described in
12 this paragraph subcontracts service work to a secondary
13 serviceman who has also made the election described in this
14 paragraph, the primary serviceman does not incur a Use Tax
15 liability if the secondary serviceman (i) has paid or will
16 pay Use Tax on his or her cost price of any tangible
17 personal property transferred to the primary serviceman
18 and (ii) certifies that fact in writing to the primary
19 serviceman.

20 Tangible personal property transferred incident to the
21 completion of a maintenance agreement is exempt from the tax
22 imposed pursuant to this Act.

23 Exemption (5) also includes machinery and equipment used in
24 the general maintenance or repair of such exempt machinery and
25 equipment or for in-house manufacture of exempt machinery and
26 equipment. The machinery and equipment exemption does not

1 include machinery and equipment used in (i) the generation of
2 electricity for wholesale or retail sale; (ii) the generation
3 or treatment of natural or artificial gas for wholesale or
4 retail sale that is delivered to customers through pipes,
5 pipelines, or mains; or (iii) the treatment of water for
6 wholesale or retail sale that is delivered to customers through
7 pipes, pipelines, or mains. The provisions of this amendatory
8 Act of the 98th General Assembly are declaratory of existing
9 law as to the meaning and scope of this exemption. For the
10 purposes of exemption (5), each of these terms shall have the
11 following meanings: (1) "manufacturing process" shall mean the
12 production of any article of tangible personal property,
13 whether such article is a finished product or an article for
14 use in the process of manufacturing or assembling a different
15 article of tangible personal property, by procedures commonly
16 regarded as manufacturing, processing, fabricating, or
17 refining which changes some existing material or materials into
18 a material with a different form, use or name. In relation to a
19 recognized integrated business composed of a series of
20 operations which collectively constitute manufacturing, or
21 individually constitute manufacturing operations, the
22 manufacturing process shall be deemed to commence with the
23 first operation or stage of production in the series, and shall
24 not be deemed to end until the completion of the final product
25 in the last operation or stage of production in the series; and
26 further, for purposes of exemption (5), photoprocessing is

1 deemed to be a manufacturing process of tangible personal
2 property for wholesale or retail sale; (2) "assembling process"
3 shall mean the production of any article of tangible personal
4 property, whether such article is a finished product or an
5 article for use in the process of manufacturing or assembling a
6 different article of tangible personal property, by the
7 combination of existing materials in a manner commonly regarded
8 as assembling which results in a material of a different form,
9 use or name; (3) "machinery" shall mean major mechanical
10 machines or major components of such machines contributing to a
11 manufacturing or assembling process; and (4) "equipment" shall
12 include any independent device or tool separate from any
13 machinery but essential to an integrated manufacturing or
14 assembly process; including computers used primarily in a
15 manufacturer's computer assisted design, computer assisted
16 manufacturing (CAD/CAM) system; or any subunit or assembly
17 comprising a component of any machinery or auxiliary, adjunct
18 or attachment parts of machinery, such as tools, dies, jigs,
19 fixtures, patterns and molds; or any parts which require
20 periodic replacement in the course of normal operation; but
21 shall not include hand tools. Equipment includes chemicals or
22 chemicals acting as catalysts but only if the chemicals or
23 chemicals acting as catalysts effect a direct and immediate
24 change upon a product being manufactured or assembled for
25 wholesale or retail sale or lease. The purchaser of such
26 machinery and equipment who has an active resale registration

1 number shall furnish such number to the seller at the time of
2 purchase. The user of such machinery and equipment and tools
3 without an active resale registration number shall prepare a
4 certificate of exemption for each transaction stating facts
5 establishing the exemption for that transaction, which
6 certificate shall be available to the Department for inspection
7 or audit. The Department shall prescribe the form of the
8 certificate.

9 Any informal rulings, opinions or letters issued by the
10 Department in response to an inquiry or request for any opinion
11 from any person regarding the coverage and applicability of
12 exemption (5) to specific devices shall be published,
13 maintained as a public record, and made available for public
14 inspection and copying. If the informal ruling, opinion or
15 letter contains trade secrets or other confidential
16 information, where possible the Department shall delete such
17 information prior to publication. Whenever such informal
18 rulings, opinions, or letters contain any policy of general
19 applicability, the Department shall formulate and adopt such
20 policy as a rule in accordance with the provisions of the
21 Illinois Administrative Procedure Act.

22 On and after July 1, 1987, no entity otherwise eligible
23 under exemption (3) of this Section shall make tax free
24 purchases unless it has an active exemption identification
25 number issued by the Department.

26 The purchase, employment and transfer of such tangible

1 personal property as newsprint and ink for the primary purpose
2 of conveying news (with or without other information) is not a
3 purchase, use or sale of service or of tangible personal
4 property within the meaning of this Act.

5 "Serviceman" means any person who is engaged in the
6 occupation of making sales of service.

7 "Sale at retail" means "sale at retail" as defined in the
8 Retailers' Occupation Tax Act.

9 "Supplier" means any person who makes sales of tangible
10 personal property to servicemen for the purpose of resale as an
11 incident to a sale of service.

12 "Serviceman maintaining a place of business in this State",
13 or any like term, means and includes any serviceman:

14 1. having or maintaining within this State, directly or
15 by a subsidiary, an office, distribution house, sales
16 house, warehouse or other place of business, or any agent
17 or other representative operating within this State under
18 the authority of the serviceman or its subsidiary,
19 irrespective of whether such place of business or agent or
20 other representative is located here permanently or
21 temporarily, or whether such serviceman or subsidiary is
22 licensed to do business in this State;

23 1.1. beginning July 1, 2011, having a contract with a
24 person located in this State under which the person, for a
25 commission or other consideration based on the sale of
26 service by the serviceman, directly or indirectly refers

1 potential customers to the serviceman by a link on the
2 person's Internet website. The provisions of this
3 paragraph 1.1 shall apply only if the cumulative gross
4 receipts from sales of service by the serviceman to
5 customers who are referred to the serviceman by all persons
6 in this State under such contracts exceed \$10,000 during
7 the preceding 4 quarterly periods ending on the last day of
8 March, June, September, and December;

9 1.2. beginning July 1, 2011, having a contract with a
10 person located in this State under which:

11 A. the serviceman sells the same or substantially
12 similar line of services as the person located in this
13 State and does so using an identical or substantially
14 similar name, trade name, or trademark as the person
15 located in this State; and

16 B. the serviceman provides a commission or other
17 consideration to the person located in this State based
18 upon the sale of services by the serviceman.

19 The provisions of this paragraph 1.2 shall apply only if
20 the cumulative gross receipts from sales of service by the
21 serviceman to customers in this State under all such
22 contracts exceed \$10,000 during the preceding 4 quarterly
23 periods ending on the last day of March, June, September,
24 and December;

25 2. soliciting orders for tangible personal property by
26 means of a telecommunication or television shopping system

1 (which utilizes toll free numbers) which is intended by the
2 retailer to be broadcast by cable television or other means
3 of broadcasting, to consumers located in this State;

4 3. pursuant to a contract with a broadcaster or
5 publisher located in this State, soliciting orders for
6 tangible personal property by means of advertising which is
7 disseminated primarily to consumers located in this State
8 and only secondarily to bordering jurisdictions;

9 4. soliciting orders for tangible personal property by
10 mail if the solicitations are substantial and recurring and
11 if the retailer benefits from any banking, financing, debt
12 collection, telecommunication, or marketing activities
13 occurring in this State or benefits from the location in
14 this State of authorized installation, servicing, or
15 repair facilities;

16 5. being owned or controlled by the same interests
17 which own or control any retailer engaging in business in
18 the same or similar line of business in this State;

19 6. having a franchisee or licensee operating under its
20 trade name if the franchisee or licensee is required to
21 collect the tax under this Section;

22 7. pursuant to a contract with a cable television
23 operator located in this State, soliciting orders for
24 tangible personal property by means of advertising which is
25 transmitted or distributed over a cable television system
26 in this State; or

1 8. engaging in activities in Illinois, which
2 activities in the state in which the supply business
3 engaging in such activities is located would constitute
4 maintaining a place of business in that state.

5 (Source: P.A. 96-1544, eff. 3-10-11.)

6 (35 ILCS 110/3) (from Ch. 120, par. 439.33)

7 Sec. 3. Tax imposed. A tax is imposed upon the privilege of
8 using in this State real or tangible personal property acquired
9 as an incident to the purchase of a service from a serviceman,
10 including computer software, and including photographs,
11 negatives, and positives that are the product of
12 photoprocessing, but not including products of photoprocessing
13 produced for use in motion pictures for public commercial
14 exhibition. Beginning January 1, 2001, prepaid telephone
15 calling arrangements shall be considered tangible personal
16 property subject to the tax imposed under this Act regardless
17 of the form in which those arrangements may be embodied,
18 transmitted, or fixed by any method now known or hereafter
19 developed. Purchases of (1) electricity delivered to customers
20 by wire; (2) natural or artificial gas that is delivered to
21 customers though pipes, pipelines, or mains; and (3) water that
22 is delivered to customers though pipes, pipelines, or mains are
23 not subject to tax under this Act. The provisions of this
24 amendatory Act of the 98th General Assembly are declaratory of
25 existing law as to the meaning and scope of this Act.

1 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

2 (35 ILCS 110/3-25) (from Ch. 120, par. 439.33-25)

3 Sec. 3-25. Computer software. For the purposes of this Act,
4 "computer software" means a set of statements, data, or
5 instructions to be used directly or indirectly in a computer in
6 order to bring about a certain result in any form in which
7 those statements, data, or instructions may be embodied,
8 transmitted, or fixed, by any method now known or hereafter
9 developed, regardless of whether the statements, data, or
10 instructions are capable of being perceived by or communicated
11 to humans, and includes prewritten or canned software that is
12 held for repeated sale or lease, and all associated
13 documentation and materials, if any, whether contained on
14 magnetic tapes, discs, cards, or other devices or media, but
15 does not include software that is adapted to specific
16 individualized requirements of a purchaser, custom-made and
17 modified software designed for a particular or limited use by a
18 purchaser, or software used to operate exempt machinery and
19 equipment used in the process of manufacturing or assembling
20 tangible personal property for wholesale or retail sale or
21 lease. Software used to operate machinery and equipment used in
22 (i) the generation of electricity for wholesale or retail sale;
23 (ii) the generation or treatment of natural or artificial gas
24 for wholesale or retail sale that is delivered to customers
25 through pipes, pipelines, or mains; or (iii) the treatment of

1 water for wholesale or retail sale that is delivered to
2 customers through pipes, pipelines, or mains is considered
3 "computer software". The provisions of this amendatory Act of
4 the 98th General Assembly are declaratory of existing law as to
5 the meaning and scope of this exemption.

6 For the purposes of this Act, computer software shall be
7 considered to be tangible personal property.

8 (Source: P.A. 91-51, eff. 6-30-99.)

9 Section 15. The Service Occupation Tax Act is amended by
10 changing Sections 2, 3, and 3-25 as follows:

11 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

12 Sec. 2. "Transfer" means any transfer of the title to
13 property or of the ownership of property whether or not the
14 transferor retains title as security for the payment of amounts
15 due him from the transferee.

16 "Cost Price" means the consideration paid by the serviceman
17 for a purchase valued in money, whether paid in money or
18 otherwise, including cash, credits and services, and shall be
19 determined without any deduction on account of the supplier's
20 cost of the property sold or on account of any other expense
21 incurred by the supplier. When a serviceman contracts out part
22 or all of the services required in his sale of service, it
23 shall be presumed that the cost price to the serviceman of the
24 property transferred to him by his or her subcontractor is

1 equal to 50% of the subcontractor's charges to the serviceman
2 in the absence of proof of the consideration paid by the
3 subcontractor for the purchase of such property.

4 "Department" means the Department of Revenue.

5 "Person" means any natural individual, firm, partnership,
6 association, joint stock company, joint venture, public or
7 private corporation, limited liability company, and any
8 receiver, executor, trustee, guardian or other representative
9 appointed by order of any court.

10 "Sale of Service" means any transaction except:

11 (a) A retail sale of tangible personal property taxable
12 under the Retailers' Occupation Tax Act or under the Use Tax
13 Act.

14 (b) A sale of tangible personal property for the purpose of
15 resale made in compliance with Section 2c of the Retailers'
16 Occupation Tax Act.

17 (c) Except as hereinafter provided, a sale or transfer of
18 tangible personal property as an incident to the rendering of
19 service for or by any governmental body or for or by any
20 corporation, society, association, foundation or institution
21 organized and operated exclusively for charitable, religious
22 or educational purposes or any not-for-profit corporation,
23 society, association, foundation, institution or organization
24 which has no compensated officers or employees and which is
25 organized and operated primarily for the recreation of persons
26 55 years of age or older. A limited liability company may

1 qualify for the exemption under this paragraph only if the
2 limited liability company is organized and operated
3 exclusively for educational purposes.

4 (d) A sale or transfer of tangible personal property as an
5 incident to the rendering of service for interstate carriers
6 for hire for use as rolling stock moving in interstate commerce
7 or lessors under leases of one year or longer, executed or in
8 effect at the time of purchase, to interstate carriers for hire
9 for use as rolling stock moving in interstate commerce, and
10 equipment operated by a telecommunications provider, licensed
11 as a common carrier by the Federal Communications Commission,
12 which is permanently installed in or affixed to aircraft moving
13 in interstate commerce.

14 (d-1) A sale or transfer of tangible personal property as
15 an incident to the rendering of service for owners, lessors or
16 shippers of tangible personal property which is utilized by
17 interstate carriers for hire for use as rolling stock moving in
18 interstate commerce, and equipment operated by a
19 telecommunications provider, licensed as a common carrier by
20 the Federal Communications Commission, which is permanently
21 installed in or affixed to aircraft moving in interstate
22 commerce.

23 (d-1.1) On and after July 1, 2003 and through June 30,
24 2004, a sale or transfer of a motor vehicle of the second
25 division with a gross vehicle weight in excess of 8,000 pounds
26 as an incident to the rendering of service if that motor

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

17 (d-2) The repairing, reconditioning or remodeling, for a
18 common carrier by rail, of tangible personal property which
19 belongs to such carrier for hire, and as to which such carrier
20 receives the physical possession of the repaired,
21 reconditioned or remodeled item of tangible personal property
22 in Illinois, and which such carrier transports, or shares with
23 another common carrier in the transportation of such property,
24 out of Illinois on a standard uniform bill of lading showing
25 the person who repaired, reconditioned or remodeled the
26 property as the shipper or consignor of such property to a

1 destination outside Illinois, for use outside Illinois.

2 (d-3) A sale or transfer of tangible personal property
3 which is produced by the seller thereof on special order in
4 such a way as to have made the applicable tax the Service
5 Occupation Tax or the Service Use Tax, rather than the
6 Retailers' Occupation Tax or the Use Tax, for an interstate
7 carrier by rail which receives the physical possession of such
8 property in Illinois, and which transports such property, or
9 shares with another common carrier in the transportation of
10 such property, out of Illinois on a standard uniform bill of
11 lading showing the seller of the property as the shipper or
12 consignor of such property to a destination outside Illinois,
13 for use outside Illinois.

14 (d-4) Until January 1, 1997, a sale, by a registered
15 serviceman paying tax under this Act to the Department, of
16 special order printed materials delivered outside Illinois and
17 which are not returned to this State, if delivery is made by
18 the seller or agent of the seller, including an agent who
19 causes the product to be delivered outside Illinois by a common
20 carrier or the U.S. postal service.

21 (e) A sale or transfer of machinery and equipment used
22 primarily in the process of the manufacturing or assembling,
23 either in an existing, an expanded or a new manufacturing
24 facility, of tangible personal property for wholesale or retail
25 sale or lease, whether such sale or lease is made directly by
26 the manufacturer or by some other person, whether the materials

1 used in the process are owned by the manufacturer or some other
2 person, or whether such sale or lease is made apart from or as
3 an incident to the seller's engaging in a service occupation
4 and the applicable tax is a Service Occupation Tax or Service
5 Use Tax, rather than Retailers' Occupation Tax or Use Tax. The
6 exemption provided by this paragraph (e) does not include
7 machinery and equipment used in (i) the generation of
8 electricity for wholesale or retail sale; (ii) the generation
9 or treatment of natural or artificial gas for wholesale or
10 retail sale that is delivered to customers through pipes,
11 pipelines, or mains; or (iii) the treatment of water for
12 wholesale or retail sale that is delivered to customers through
13 pipes, pipelines, or mains. The provisions of this amendatory
14 Act of the 98th General Assembly are declaratory of existing
15 law as to the meaning and scope of this exemption.

16 (f) Until July 1, 2003, the sale or transfer of
17 distillation machinery and equipment, sold as a unit or kit and
18 assembled or installed by the retailer, which machinery and
19 equipment is certified by the user to be used only for the
20 production of ethyl alcohol that will be used for consumption
21 as motor fuel or as a component of motor fuel for the personal
22 use of such user and not subject to sale or resale.

23 (g) At the election of any serviceman not required to be
24 otherwise registered as a retailer under Section 2a of the
25 Retailers' Occupation Tax Act, made for each fiscal year sales
26 of service in which the aggregate annual cost price of tangible

1 personal property transferred as an incident to the sales of
2 service is less than 35% (75% in the case of servicemen
3 transferring prescription drugs or servicemen engaged in
4 graphic arts production) of the aggregate annual total gross
5 receipts from all sales of service. The purchase of such
6 tangible personal property by the serviceman shall be subject
7 to tax under the Retailers' Occupation Tax Act and the Use Tax
8 Act. However, if a primary serviceman who has made the election
9 described in this paragraph subcontracts service work to a
10 secondary serviceman who has also made the election described
11 in this paragraph, the primary serviceman does not incur a Use
12 Tax liability if the secondary serviceman (i) has paid or will
13 pay Use Tax on his or her cost price of any tangible personal
14 property transferred to the primary serviceman and (ii)
15 certifies that fact in writing to the primary serviceman.

16 Tangible personal property transferred incident to the
17 completion of a maintenance agreement is exempt from the tax
18 imposed pursuant to this Act.

19 Exemption (e) also includes machinery and equipment used in
20 the general maintenance or repair of such exempt machinery and
21 equipment or for in-house manufacture of exempt machinery and
22 equipment. The machinery and equipment exemption does not
23 include machinery and equipment used in (i) the generation of
24 electricity for wholesale or retail sale; (ii) the generation
25 or treatment of natural or artificial gas for wholesale or
26 retail sale that is delivered to customers through pipes,

1 pipelines, or mains; or (iii) the treatment of water for
2 wholesale or retail sale that is delivered to customers through
3 pipes, pipelines, or mains. The provisions of this amendatory
4 Act of the 98th General Assembly are declaratory of existing
5 law as to the meaning and scope of this exemption. For the
6 purposes of exemption (e), each of these terms shall have the
7 following meanings: (1) "manufacturing process" shall mean the
8 production of any article of tangible personal property,
9 whether such article is a finished product or an article for
10 use in the process of manufacturing or assembling a different
11 article of tangible personal property, by procedures commonly
12 regarded as manufacturing, processing, fabricating, or
13 refining which changes some existing material or materials into
14 a material with a different form, use or name. In relation to a
15 recognized integrated business composed of a series of
16 operations which collectively constitute manufacturing, or
17 individually constitute manufacturing operations, the
18 manufacturing process shall be deemed to commence with the
19 first operation or stage of production in the series, and shall
20 not be deemed to end until the completion of the final product
21 in the last operation or stage of production in the series; and
22 further for purposes of exemption (e), photoprocessing is
23 deemed to be a manufacturing process of tangible personal
24 property for wholesale or retail sale; (2) "assembling process"
25 shall mean the production of any article of tangible personal
26 property, whether such article is a finished product or an

1 article for use in the process of manufacturing or assembling a
2 different article of tangible personal property, by the
3 combination of existing materials in a manner commonly regarded
4 as assembling which results in a material of a different form,
5 use or name; (3) "machinery" shall mean major mechanical
6 machines or major components of such machines contributing to a
7 manufacturing or assembling process; and (4) "equipment" shall
8 include any independent device or tool separate from any
9 machinery but essential to an integrated manufacturing or
10 assembly process; including computers used primarily in a
11 manufacturer's computer assisted design, computer assisted
12 manufacturing (CAD/CAM) system; or any subunit or assembly
13 comprising a component of any machinery or auxiliary, adjunct
14 or attachment parts of machinery, such as tools, dies, jigs,
15 fixtures, patterns and molds; or any parts which require
16 periodic replacement in the course of normal operation; but
17 shall not include hand tools. Equipment includes chemicals or
18 chemicals acting as catalysts but only if the chemicals or
19 chemicals acting as catalysts effect a direct and immediate
20 change upon a product being manufactured or assembled for
21 wholesale or retail sale or lease. The purchaser of such
22 machinery and equipment who has an active resale registration
23 number shall furnish such number to the seller at the time of
24 purchase. The purchaser of such machinery and equipment and
25 tools without an active resale registration number shall
26 furnish to the seller a certificate of exemption for each

1 transaction stating facts establishing the exemption for that
2 transaction, which certificate shall be available to the
3 Department for inspection or audit.

4 Except as provided in Section 2d of this Act, the rolling
5 stock exemption applies to rolling stock used by an interstate
6 carrier for hire, even just between points in Illinois, if such
7 rolling stock transports, for hire, persons whose journeys or
8 property whose shipments originate or terminate outside
9 Illinois.

10 Any informal rulings, opinions or letters issued by the
11 Department in response to an inquiry or request for any opinion
12 from any person regarding the coverage and applicability of
13 exemption (e) to specific devices shall be published,
14 maintained as a public record, and made available for public
15 inspection and copying. If the informal ruling, opinion or
16 letter contains trade secrets or other confidential
17 information, where possible the Department shall delete such
18 information prior to publication. Whenever such informal
19 rulings, opinions, or letters contain any policy of general
20 applicability, the Department shall formulate and adopt such
21 policy as a rule in accordance with the provisions of the
22 Illinois Administrative Procedure Act.

23 On and after July 1, 1987, no entity otherwise eligible
24 under exemption (c) of this Section shall make tax free
25 purchases unless it has an active exemption identification
26 number issued by the Department.

1 "Serviceman" means any person who is engaged in the
2 occupation of making sales of service.

3 "Sale at Retail" means "sale at retail" as defined in the
4 Retailers' Occupation Tax Act.

5 "Supplier" means any person who makes sales of tangible
6 personal property to servicemen for the purpose of resale as an
7 incident to a sale of service.

8 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
9 eff. 6-20-03; 93-1033, eff. 9-3-04.)

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

11 Sec. 3. Tax imposed. A tax is imposed upon all persons
12 engaged in the business of making sales of service (referred to
13 as "servicemen") on all tangible personal property transferred
14 as an incident of a sale of service, including computer
15 software, and including photographs, negatives, and positives
16 that are the product of photoprocessing, but not including
17 products of photoprocessing produced for use in motion pictures
18 for public commercial exhibition. Beginning January 1, 2001,
19 prepaid telephone calling arrangements shall be considered
20 tangible personal property subject to the tax imposed under
21 this Act regardless of the form in which those arrangements may
22 be embodied, transmitted, or fixed by any method now known or
23 hereafter developed. Sales of (1) electricity delivered to
24 customers by wire; (2) natural or artificial gas that is
25 delivered to customers through pipes, pipelines, or mains; and

1 (3) water that is delivered to customers through pipes,
2 pipelines, or mains are not subject to tax under this Act. The
3 provisions of this amendatory Act of the 98th General Assembly
4 are declaratory of existing law as to the meaning and scope of
5 this Act.

6 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

7 (35 ILCS 115/3-25) (from Ch. 120, par. 439.103-25)

8 Sec. 3-25. Computer software. For the purposes of this Act,
9 "computer software" means a set of statements, data, or
10 instructions to be used directly or indirectly in a computer in
11 order to bring about a certain result in any form in which
12 those statements, data, or instructions may be embodied,
13 transmitted, or fixed, by any method now known or hereafter
14 developed, regardless of whether the statements, data, or
15 instructions are capable of being perceived by or communicated
16 to humans, and includes prewritten or canned software that is
17 held for repeated sale or lease, and all associated
18 documentation and materials, if any, whether contained on
19 magnetic tapes, discs, cards, or other devices or media, but
20 does not include software that is adapted to specific
21 individualized requirements of a purchaser, custom-made and
22 modified software designed for a particular or limited use by a
23 purchaser, or software used to operate exempt machinery and
24 equipment used in the process of manufacturing or assembling
25 tangible personal property for wholesale or retail sale or

1 lease. Software used to operate machinery and equipment used in
2 (i) the generation of electricity for wholesale or retail sale;
3 (ii) the generation or treatment of natural or artificial gas
4 for wholesale or retail sale that is delivered to customers
5 through pipes, pipelines, or mains; or (iii) the treatment of
6 water for wholesale or retail sale that is delivered to
7 customers through pipes, pipelines, or mains is considered
8 "computer software". The provisions of this amendatory Act of
9 the 98th General Assembly are declaratory of existing law as to
10 the meaning and scope of this exemption.

11 For the purposes of this Act, computer software shall be
12 considered to be tangible personal property.

13 (Source: P.A. 91-51, eff. 6-30-99.)

14 Section 20. The Retailers' Occupation Tax Act is amended by
15 changing Sections 1d, 2, 2-5, 2-25, and 2-45 as follows:

16 (35 ILCS 120/1d) (from Ch. 120, par. 440d)

17 Sec. 1d. Subject to the provisions of Section 1f, all
18 tangible personal property to be used or consumed within an
19 enterprise zone established pursuant to the "Illinois
20 Enterprise Zone Act", as amended, or subject to the provisions
21 of Section 5.5 of the Illinois Enterprise Zone Act, all
22 tangible personal property to be used or consumed by any High
23 Impact Business, in the process of the manufacturing or
24 assembly of tangible personal property for wholesale or retail

1 sale or lease or in the process of graphic arts production if
2 used or consumed at a facility which is a Department of
3 Commerce and Economic Opportunity certified business and
4 located in a county of more than 4,000 persons and less than
5 45,000 persons is exempt from the tax imposed by this Act. This
6 exemption includes repair and replacement parts for machinery
7 and equipment used primarily in the process of manufacturing or
8 assembling tangible personal property or in the process of
9 graphic arts production if used or consumed at a facility which
10 is a Department of Commerce and Economic Opportunity certified
11 business and located in a county of more than 4,000 persons and
12 less than 45,000 persons for wholesale or retail sale, or
13 lease, and equipment, manufacturing or graphic arts fuels,
14 material and supplies for the maintenance, repair or operation
15 of such manufacturing or assembling or graphic arts machinery
16 or equipment. The exemption provided in this Section for
17 tangible personal property to be used or consumed in the
18 process of manufacturing or assembly of tangible personal
19 property for wholesale or retail sale or lease, and the repair
20 and replacement parts for that machinery and equipment, does
21 not apply to such property used or consumed in (i) the
22 generation of electricity for wholesale or retail sale; (ii)
23 the generation or treatment of natural or artificial gas for
24 wholesale or retail sale that is delivered to customers through
25 pipes, pipelines, or mains; or (iii) the treatment of water for
26 wholesale or retail sale that is delivered to customers through

1 pipes, pipelines, or mains. The provisions of this amendatory
2 Act of the 98th General Assembly are declaratory of existing
3 law as to the meaning and scope of this exemption.

4 (Source: P.A. 94-793, eff. 5-19-06.)

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

6 Sec. 2. Tax imposed. A tax is imposed upon persons engaged
7 in the business of selling at retail tangible personal
8 property, including computer software, and including
9 photographs, negatives, and positives that are the product of
10 photoprocessing, but not including products of photoprocessing
11 produced for use in motion pictures for public commercial
12 exhibition. Beginning January 1, 2001, prepaid telephone
13 calling arrangements shall be considered tangible personal
14 property subject to the tax imposed under this Act regardless
15 of the form in which those arrangements may be embodied,
16 transmitted, or fixed by any method now known or hereafter
17 developed. Sales of (1) electricity delivered to customers by
18 wire; (2) natural or artificial gas that is delivered to
19 customers though pipes, pipelines, or mains; and (3) water that
20 is delivered to customers though pipes, pipelines, or mains are
21 not subject to tax under this Act. The provisions of this
22 amendatory Act of the 98th General Assembly are declaratory of
23 existing law as to the meaning and scope of this Act.

24 (Source: P.A. 91-51, eff. 6-30-99; 91-870, eff. 6-22-00.)

1 (35 ILCS 120/2-5)

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

5 (1) Farm chemicals.

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

25 Farm machinery and equipment shall include precision
26 farming equipment that is installed or purchased to be

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

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

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

21 (4) Until July 1, 2003 and beginning again September 1,
22 2004 through August 30, 2014, graphic arts machinery and
23 equipment, including repair and replacement parts, both new and
24 used, and including that manufactured on special order or
25 purchased for lease, certified by the purchaser to be used
26 primarily for graphic arts production. Equipment includes

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

4 (5) A motor vehicle of the first division, a motor vehicle
5 of the second division that is a self contained motor vehicle
6 designed or permanently converted to provide living quarters
7 for recreational, camping, or travel use, with direct walk
8 through access to the living quarters from the driver's seat,
9 or a motor vehicle of the second division that is of the van
10 configuration designed for the transportation of not less than
11 7 nor more than 16 passengers, as defined in Section 1-146 of
12 the Illinois Vehicle Code, that is used for automobile renting,
13 as defined in the Automobile Renting Occupation and Use Tax
14 Act. This paragraph is exempt from the provisions of Section
15 2-70.

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

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

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

25 (9) Personal property sold to a not-for-profit arts or
26 cultural organization that establishes, by proof required by

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

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

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

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

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

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

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

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

17 (14) Machinery and equipment that will be used by the
18 purchaser, or a lessee of the purchaser, primarily in the
19 process of manufacturing or assembling tangible personal
20 property for wholesale or retail sale or lease, whether the
21 sale or lease is made directly by the manufacturer or by some
22 other person, whether the materials used in the process are
23 owned by the manufacturer or some other person, or whether the
24 sale or lease is made apart from or as an incident to the
25 seller's engaging in the service occupation of producing
26 machines, tools, dies, jigs, patterns, gauges, or other similar

1 items of no commercial value on special order for a particular
2 purchaser. The exemption provided by this paragraph (14) does
3 not include machinery and equipment used in (i) the generation
4 of electricity for wholesale or retail sale; (ii) the
5 generation or treatment of natural or artificial gas for
6 wholesale or retail sale that is delivered to customers through
7 pipes, pipelines, or mains; or (iii) the treatment of water for
8 wholesale or retail sale that is delivered to customers through
9 pipes, pipelines, or mains. The provisions of this amendatory
10 Act of the 98th General Assembly are declaratory of existing
11 law as to the meaning and scope of this exemption.

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

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

22 (17) Tangible personal property sold to a common carrier by
23 rail or motor that receives the physical possession of the
24 property in Illinois and that transports the property, or
25 shares with another common carrier in the transportation of the
26 property, out of Illinois on a standard uniform bill of lading

1 showing the seller of the property as the shipper or consignor
2 of the property to a destination outside Illinois, for use
3 outside Illinois.

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

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

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

22 (21) Until July 1, 2003, and beginning again on the
23 effective date of this amendatory Act of the 97th General
24 Assembly and thereafter, coal and aggregate exploration,
25 mining, offhighway hauling, processing, maintenance, and
26 reclamation equipment, including replacement parts and

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

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

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

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

20 (25) Except as provided in item (25-5) of this Section, a
21 motor vehicle sold in this State to a nonresident even though
22 the motor vehicle is delivered to the nonresident in this
23 State, if the motor vehicle is not to be titled in this State,
24 and if a drive-away permit is issued to the motor vehicle as
25 provided in Section 3-603 of the Illinois Vehicle Code or if
26 the nonresident purchaser has vehicle registration plates to

1 transfer to the motor vehicle upon returning to his or her home
2 state. The issuance of the drive-away permit or having the
3 out-of-state registration plates to be transferred is prima
4 facie evidence that the motor vehicle will not be titled in
5 this State.

6 (25-5) The exemption under item (25) does not apply if the
7 state in which the motor vehicle will be titled does not allow
8 a reciprocal exemption for a motor vehicle sold and delivered
9 in that state to an Illinois resident but titled in Illinois.
10 The tax collected under this Act on the sale of a motor vehicle
11 in this State to a resident of another state that does not
12 allow a reciprocal exemption shall be imposed at a rate equal
13 to the state's rate of tax on taxable property in the state in
14 which the purchaser is a resident, except that the tax shall
15 not exceed the tax that would otherwise be imposed under this
16 Act. At the time of the sale, the purchaser shall execute a
17 statement, signed under penalty of perjury, of his or her
18 intent to title the vehicle in the state in which the purchaser
19 is a resident within 30 days after the sale and of the fact of
20 the payment to the State of Illinois of tax in an amount
21 equivalent to the state's rate of tax on taxable property in
22 his or her state of residence and shall submit the statement to
23 the appropriate tax collection agency in his or her state of
24 residence. In addition, the retailer must retain a signed copy
25 of the statement in his or her records. Nothing in this item
26 shall be construed to require the removal of the vehicle from

1 this state following the filing of an intent to title the
2 vehicle in the purchaser's state of residence if the purchaser
3 titles the vehicle in his or her state of residence within 30
4 days after the date of sale. The tax collected under this Act
5 in accordance with this item (25-5) shall be proportionately
6 distributed as if the tax were collected at the 6.25% general
7 rate imposed under this Act.

8 (25-7) Beginning on July 1, 2007, no tax is imposed under
9 this Act on the sale of an aircraft, as defined in Section 3 of
10 the Illinois Aeronautics Act, if all of the following
11 conditions are met:

12 (1) the aircraft leaves this State within 15 days after
13 the later of either the issuance of the final billing for
14 the sale of the aircraft, or the authorized approval for
15 return to service, completion of the maintenance record
16 entry, and completion of the test flight and ground test
17 for inspection, as required by 14 C.F.R. 91.407;

18 (2) the aircraft is not based or registered in this
19 State after the sale of the aircraft; and

20 (3) the seller retains in his or her books and records
21 and provides to the Department a signed and dated
22 certification from the purchaser, on a form prescribed by
23 the Department, certifying that the requirements of this
24 item (25-7) are met. The certificate must also include the
25 name and address of the purchaser, the address of the
26 location where the aircraft is to be titled or registered,

1 the address of the primary physical location of the
2 aircraft, and other information that the Department may
3 reasonably require.

4 For purposes of this item (25-7):

5 "Based in this State" means hangared, stored, or otherwise
6 used, excluding post-sale customizations as defined in this
7 Section, for 10 or more days in each 12-month period
8 immediately following the date of the sale of the aircraft.

9 "Registered in this State" means an aircraft registered
10 with the Department of Transportation, Aeronautics Division,
11 or titled or registered with the Federal Aviation
12 Administration to an address located in this State.

13 This paragraph (25-7) is exempt from the provisions of
14 Section 2-70.

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

17 (27) Horses, or interests in horses, registered with and
18 meeting the requirements of any of the Arabian Horse Club
19 Registry of America, Appaloosa Horse Club, American Quarter
20 Horse Association, United States Trotting Association, or
21 Jockey Club, as appropriate, used for purposes of breeding or
22 racing for prizes. This item (27) is exempt from the provisions
23 of Section 2-70, and the exemption provided for under this item
24 (27) applies for all periods beginning May 30, 1995, but no
25 claim for credit or refund is allowed on or after January 1,
26 2008 (the effective date of Public Act 95-88) for such taxes

1 paid during the period beginning May 30, 2000 and ending on
2 January 1, 2008 (the effective date of Public Act 95-88).

3 (28) Computers and communications equipment utilized for
4 any hospital purpose and equipment used in the diagnosis,
5 analysis, or treatment of hospital patients sold to a lessor
6 who leases the equipment, under a lease of one year or longer
7 executed or in effect at the time of the purchase, to a
8 hospital that has been issued an active tax exemption
9 identification number by the Department under Section 1g of
10 this Act.

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

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

26 (31) Beginning with taxable years ending on or after

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

12 (32) Beginning July 1, 1999, game or game birds sold at a
13 "game breeding and hunting preserve area" as that term is used
14 in the Wildlife Code. This paragraph is exempt from the
15 provisions of Section 2-70.

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

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

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

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

1 for machines used in commercial, coin-operated amusement and
2 vending business if a use or occupation tax is paid on the
3 gross receipts derived from the use of the commercial,
4 coin-operated amusement and vending machines. This paragraph
5 is exempt from the provisions of Section 2-70.

6 (35-5) Beginning August 23, 2001 and through June 30, 2016,
7 food for human consumption that is to be consumed off the
8 premises where it is sold (other than alcoholic beverages, soft
9 drinks, and food that has been prepared for immediate
10 consumption) and prescription and nonprescription medicines,
11 drugs, medical appliances, and insulin, urine testing
12 materials, syringes, and needles used by diabetics, for human
13 use, when purchased for use by a person receiving medical
14 assistance under Article V of the Illinois Public Aid Code who
15 resides in a licensed long-term care facility, as defined in
16 the Nursing Home Care Act, or a licensed facility as defined in
17 the ID/DD Community Care Act or the Specialized Mental Health
18 Rehabilitation Act.

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

1 provisions of Section 2-70.

2 (37) Beginning August 2, 2001, 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
7 this Act. This paragraph is exempt from the provisions of
8 Section 2-70.

9 (38) Beginning on January 1, 2002 and through June 30,
10 2016, 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 (38). The permit issued under this paragraph (38)
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 (39) Beginning January 1, 2008, tangible personal property
7 used in the construction or maintenance of a community water
8 supply, as defined under Section 3.145 of the Environmental
9 Protection Act, that is operated by a not-for-profit
10 corporation that holds a valid water supply permit issued under
11 Title IV of the Environmental Protection Act. This paragraph is
12 exempt from the provisions of Section 2-70.

13 (40) Beginning January 1, 2010, materials, parts,
14 equipment, components, and furnishings incorporated into or
15 upon an aircraft as part of the modification, refurbishment,
16 completion, replacement, repair, or maintenance of the
17 aircraft. This exemption includes consumable supplies used in
18 the modification, refurbishment, completion, replacement,
19 repair, and maintenance of aircraft, but excludes any
20 materials, parts, equipment, components, and consumable
21 supplies used in the modification, replacement, repair, and
22 maintenance of aircraft engines or power plants, whether such
23 engines or power plants are installed or uninstalled upon any
24 such aircraft. "Consumable supplies" include, but are not
25 limited to, adhesive, tape, sandpaper, general purpose
26 lubricants, cleaning solution, latex gloves, and protective

1 films. This exemption applies only to those organizations that
2 (i) hold an Air Agency Certificate and are empowered to operate
3 an approved repair station by the Federal Aviation
4 Administration, (ii) have a Class IV Rating, and (iii) conduct
5 operations in accordance with Part 145 of the Federal Aviation
6 Regulations. The exemption does not include aircraft operated
7 by a commercial air carrier providing scheduled passenger air
8 service pursuant to authority issued under Part 121 or Part 129
9 of the Federal Aviation Regulations.

10 (41) Tangible personal property sold to a
11 public-facilities corporation, as described in Section
12 11-65-10 of the Illinois Municipal Code, for purposes of
13 constructing or furnishing a municipal convention hall, but
14 only if the legal title to the municipal convention hall is
15 transferred to the municipality without any further
16 consideration by or on behalf of the municipality at the time
17 of the completion of the municipal convention hall or upon the
18 retirement or redemption of any bonds or other debt instruments
19 issued by the public-facilities corporation in connection with
20 the development of the municipal convention hall. This
21 exemption includes existing public-facilities corporations as
22 provided in Section 11-65-25 of the Illinois Municipal Code.
23 This paragraph is exempt from the provisions of Section 2-70.

24 (Source: P.A. 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
25 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
26 7-2-10; 97-38, eff. 6-28-11; 97-73, eff. 6-30-11; 97-227, eff.

1 1-1-12; 97-431, eff. 8-16-11; 97-636, eff. 6-1-12; 97-767, eff.
2 7-9-12.)

3 (35 ILCS 120/2-25) (from Ch. 120, par. 441-25)

4 Sec. 2-25. Computer software. For the purposes of this Act,
5 "computer software" means a set of statements, data, or
6 instructions to be used directly or indirectly in a computer in
7 order to bring about a certain result in any form in which
8 those statements, data, or instructions may be embodied,
9 transmitted, or fixed, by any method now known or hereafter
10 developed, regardless of whether the statements, data, or
11 instructions are capable of being perceived by or communicated
12 to humans, and includes prewritten or canned software that is
13 held for repeated sale or lease, and all associated
14 documentation and materials, if any, whether contained on
15 magnetic tapes, discs, cards, or other devices or media, but
16 does not include software that is adapted to specific
17 individualized requirements of a purchaser, custom-made and
18 modified software designed for a particular or limited use by a
19 purchaser, or software used to operate exempt machinery and
20 equipment used in the process of manufacturing or assembling
21 tangible personal property for wholesale or retail sale or
22 lease. Software used to operate machinery and equipment used in
23 (i) the generation of electricity for wholesale or retail sale;
24 (ii) the generation or treatment of natural or artificial gas
25 for wholesale or retail sale that is delivered to customers

1 though pipes, pipelines, or mains; or (iii) the treatment of
2 water for wholesale or retail sale that is delivered to
3 customers though pipes, pipelines, or mains is considered
4 "computer software". The provisions of this amendatory Act of
5 the 98th General Assembly are declaratory of existing law as to
6 the meaning and scope of this exemption.

7 For the purposes of this Act, computer software shall be
8 considered to be tangible personal property.

9 (Source: P.A. 91-51, eff. 6-30-99.)

10 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

11 Sec. 2-45. Manufacturing and assembly exemption. The
12 manufacturing and assembly machinery and equipment exemption
13 includes machinery and equipment that replaces machinery and
14 equipment in an existing manufacturing facility as well as
15 machinery and equipment that are for use in an expanded or new
16 manufacturing facility.

17 The machinery and equipment exemption also includes
18 machinery and equipment used in the general maintenance or
19 repair of exempt machinery and equipment or for in-house
20 manufacture of exempt machinery and equipment. The machinery
21 and equipment exemption does not include machinery and
22 equipment used in (i) the generation of electricity for
23 wholesale or retail sale; (ii) the generation or treatment of
24 natural or artificial gas for wholesale or retail sale that is
25 delivered to customers though pipes, pipelines, or mains; or

1 (iii) the treatment of water for wholesale or retail sale that
2 is delivered to customers through pipes, pipelines, or mains.
3 The provisions of this amendatory Act of the 98th General
4 Assembly are declaratory of existing law as to the meaning and
5 scope of this exemption. For the purposes of this exemption,
6 terms have the following meanings:

7 (1) "Manufacturing process" means the production of an
8 article of tangible personal property, whether the article
9 is a finished product or an article for use in the process
10 of manufacturing or assembling a different article of
11 tangible personal property, by a procedure commonly
12 regarded as manufacturing, processing, fabricating, or
13 refining that changes some existing material or materials
14 into a material with a different form, use, or name. In
15 relation to a recognized integrated business composed of a
16 series of operations that collectively constitute
17 manufacturing, or individually constitute manufacturing
18 operations, the manufacturing process commences with the
19 first operation or stage of production in the series and
20 does not end until the completion of the final product in
21 the last operation or stage of production in the series.
22 For purposes of this exemption, photoprocessing is a
23 manufacturing process of tangible personal property for
24 wholesale or retail sale.

25 (2) "Assembling process" means the production of an
26 article of tangible personal property, whether the article

1 is a finished product or an article for use in the process
2 of manufacturing or assembling a different article of
3 tangible personal property, by the combination of existing
4 materials in a manner commonly regarded as assembling that
5 results in a material of a different form, use, or name.

6 (3) "Machinery" means major mechanical machines or
7 major components of those machines contributing to a
8 manufacturing or assembling process.

9 (4) "Equipment" includes an independent device or tool
10 separate from machinery but essential to an integrated
11 manufacturing or assembly process; including computers
12 used primarily in a manufacturer's computer assisted
13 design, computer assisted manufacturing (CAD/CAM) system;
14 any subunit or assembly comprising a component of any
15 machinery or auxiliary, adjunct, or attachment parts of
16 machinery, such as tools, dies, jigs, fixtures, patterns,
17 and molds; and any parts that require periodic replacement
18 in the course of normal operation; but does not include
19 hand tools. Equipment includes chemicals or chemicals
20 acting as catalysts but only if the chemicals or chemicals
21 acting as catalysts effect a direct and immediate change
22 upon a product being manufactured or assembled for
23 wholesale or retail sale or lease.

24 (5) "Production related tangible personal property"
25 means all tangible personal property that is used or
26 consumed by the purchaser in a manufacturing facility in

1 which a manufacturing process takes place and includes,
2 without limitation, tangible personal property that is
3 purchased for incorporation into real estate within a
4 manufacturing facility and tangible personal property that
5 is used or consumed in activities such as research and
6 development, preproduction material handling, receiving,
7 quality control, inventory control, storage, staging, and
8 packaging for shipping and transportation purposes.

9 "Production related tangible personal property" does not
10 include (i) tangible personal property that is used, within
11 or without a manufacturing facility, in sales, purchasing,
12 accounting, fiscal management, marketing, personnel
13 recruitment or selection, or landscaping or (ii) tangible
14 personal property that is required to be titled or
15 registered with a department, agency, or unit of federal,
16 State, or local government.

17 The manufacturing and assembling machinery and equipment
18 exemption includes production related tangible personal
19 property that is purchased on or after July 1, 2007 and on or
20 before June 30, 2008. The exemption for production related
21 tangible personal property is subject to both of the following
22 limitations:

23 (1) The maximum amount of the exemption for any one
24 taxpayer may not exceed 5% of the purchase price of
25 production related tangible personal property that is
26 purchased on or after July 1, 2007 and on or before June

1 30, 2008. A credit under Section 3-85 of this Act may not
2 be earned by the purchase of production related tangible
3 personal property for which an exemption is received under
4 this Section.

5 (2) The maximum aggregate amount of the exemptions for
6 production related tangible personal property awarded
7 under this Act and the Use Tax Act to all taxpayers may not
8 exceed \$10,000,000. If the claims for the exemption exceed
9 \$10,000,000, then the Department shall reduce the amount of
10 the exemption to each taxpayer on a pro rata basis.

11 The Department may adopt rules to implement and administer the
12 exemption for production related tangible personal property.

13 The manufacturing and assembling machinery and equipment
14 exemption includes the sale of materials to a purchaser who
15 produces exempted types of machinery, equipment, or tools and
16 who rents or leases that machinery, equipment, or tools to a
17 manufacturer of tangible personal property. This exemption
18 also includes the sale of materials to a purchaser who
19 manufactures those materials into an exempted type of
20 machinery, equipment, or tools that the purchaser uses himself
21 or herself in the manufacturing of tangible personal property.
22 The purchaser of the machinery and equipment who has an active
23 resale registration number shall furnish that number to the
24 seller at the time of purchase. A purchaser of the machinery,
25 equipment, and tools without an active resale registration
26 number shall furnish to the seller a certificate of exemption

1 for each transaction stating facts establishing the exemption
2 for that transaction, and that certificate shall be available
3 to the Department for inspection or audit. Informal rulings,
4 opinions, or letters issued by the Department in response to an
5 inquiry or request for an opinion from any person regarding the
6 coverage and applicability of this exemption to specific
7 devices shall be published, maintained as a public record, and
8 made available for public inspection and copying. If the
9 informal ruling, opinion, or letter contains trade secrets or
10 other confidential information, where possible, the Department
11 shall delete that information before publication. Whenever
12 informal rulings, opinions, or letters contain a policy of
13 general applicability, the Department shall formulate and
14 adopt that policy as a rule in accordance with the Illinois
15 Administrative Procedure Act.

16 (Source: P.A. 95-707, eff. 1-11-08; 96-328, eff. 8-11-09.)