



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3126

by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

35 ILCS 105/2
35 ILCS 120/1

from Ch. 120, par. 439.2
from Ch. 120, par. 440

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that, for any motor vehicle that is sold on or after January 1, 2014 for the purpose of leasing the vehicle for a period of longer than one year, "selling price" or "amount of sale" shall be based on the consideration paid by the lessee pursuant to the lease contract, but does not include the value of or credit given for traded-in tangible personal property owned by the lessee where the trade-in value of the property is assigned by the lessee to the lessor and where the property that is traded-in is of like kind and character to the vehicle that is being sold. Provides that the selling price of a motor vehicle that is sold on or after January 1, 2014 for the purpose of leasing the vehicle for a period of longer than one year shall not be reduced by the value of or credit given for traded-in tangible personal property owned by the lessor. Provides that the sale occurs at the time of the delivery of the vehicle, regardless of the due date of any of the lease payments. Effective January 1, 2014.

LRB098 08203 HLH 41385 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section 2
5 as follows:

6 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

7 Sec. 2. "Use" means the exercise by any person of any right
8 or power over tangible personal property incident to the
9 ownership of that property, except that it does not include the
10 sale of such property in any form as tangible personal property
11 in the regular course of business to the extent that such
12 property is not first subjected to a use for which it was
13 purchased, and does not include the use of such property by its
14 owner for demonstration purposes: Provided that the property
15 purchased is deemed to be purchased for the purpose of resale,
16 despite first being used, to the extent to which it is resold
17 as an ingredient of an intentionally produced product or
18 by-product of manufacturing. "Use" does not mean the
19 demonstration use or interim use of tangible personal property
20 by a retailer before he sells that tangible personal property.
21 For watercraft or aircraft, if the period of demonstration use
22 or interim use by the retailer exceeds 18 months, the retailer
23 shall pay on the retailers' original cost price the tax imposed

1 by this Act, and no credit for that tax is permitted if the
2 watercraft or aircraft is subsequently sold by the retailer.

3 "Use" does not mean the physical incorporation of tangible
4 personal property, to the extent not first subjected to a use
5 for which it was purchased, as an ingredient or constituent,
6 into other tangible personal property (a) which is sold in the
7 regular course of business or (b) which the person
8 incorporating such ingredient or constituent therein has
9 undertaken at the time of such purchase to cause to be
10 transported in interstate commerce to destinations outside the
11 State of Illinois: Provided that the property purchased is
12 deemed to be purchased for the purpose of resale, despite first
13 being used, to the extent to which it is resold as an
14 ingredient of an intentionally produced product or by-product
15 of manufacturing.

16 "Watercraft" means a Class 2, Class 3, or Class 4
17 watercraft as defined in Section 3-2 of the Boat Registration
18 and Safety Act, a personal watercraft, or any boat equipped
19 with an inboard motor.

20 "Purchase at retail" means the acquisition of the ownership
21 of or title to tangible personal property through a sale at
22 retail.

23 "Purchaser" means anyone who, through a sale at retail,
24 acquires the ownership of tangible personal property for a
25 valuable consideration.

26 "Sale at retail" means any transfer of the ownership of or

1 title to tangible personal property to a purchaser, for the
2 purpose of use, and not for the purpose of resale in any form
3 as tangible personal property to the extent not first subjected
4 to a use for which it was purchased, for a valuable
5 consideration: Provided that the property purchased is deemed
6 to be purchased for the purpose of resale, despite first being
7 used, to the extent to which it is resold as an ingredient of
8 an intentionally produced product or by-product of
9 manufacturing. For this purpose, slag produced as an incident
10 to manufacturing pig iron or steel and sold is considered to be
11 an intentionally produced by-product of manufacturing. "Sale
12 at retail" includes any such transfer made for resale unless
13 made in compliance with Section 2c of the Retailers' Occupation
14 Tax Act, as incorporated by reference into Section 12 of this
15 Act. Transactions whereby the possession of the property is
16 transferred but the seller retains the title as security for
17 payment of the selling price are sales.

18 "Sale at retail" shall also be construed to include any
19 Illinois florist's sales transaction in which the purchase
20 order is received in Illinois by a florist and the sale is for
21 use or consumption, but the Illinois florist has a florist in
22 another state deliver the property to the purchaser or the
23 purchaser's donee in such other state.

24 Nonreusable tangible personal property that is used by
25 persons engaged in the business of operating a restaurant,
26 cafeteria, or drive-in is a sale for resale when it is

1 transferred to customers in the ordinary course of business as
2 part of the sale of food or beverages and is used to deliver,
3 package, or consume food or beverages, regardless of where
4 consumption of the food or beverages occurs. Examples of those
5 items include, but are not limited to nonreusable, paper and
6 plastic cups, plates, baskets, boxes, sleeves, buckets or other
7 containers, utensils, straws, placemats, napkins, doggie bags,
8 and wrapping or packaging materials that are transferred to
9 customers as part of the sale of food or beverages in the
10 ordinary course of business.

11 The purchase, employment and transfer of such tangible
12 personal property as newsprint and ink for the primary purpose
13 of conveying news (with or without other information) is not a
14 purchase, use or sale of tangible personal property.

15 "Selling price" means the consideration for a sale valued
16 in money whether received in money or otherwise, including
17 cash, credits, property other than as hereinafter provided, and
18 services, but not including the value of or credit given for
19 traded-in tangible personal property where the item that is
20 traded-in is of like kind and character as that which is being
21 sold, and shall be determined without any deduction on account
22 of the cost of the property sold, the cost of materials used,
23 labor or service cost or any other expense whatsoever, but does
24 not include interest or finance charges which appear as
25 separate items on the bill of sale or sales contract nor
26 charges that are added to prices by sellers on account of the

1 seller's tax liability under the "Retailers' Occupation Tax
2 Act", or on account of the seller's duty to collect, from the
3 purchaser, the tax that is imposed by this Act, or, except as
4 otherwise provided with respect to any cigarette tax imposed by
5 a home rule unit, on account of the seller's tax liability
6 under any local occupation tax administered by the Department,
7 or, except as otherwise provided with respect to any cigarette
8 tax imposed by a home rule unit on account of the seller's duty
9 to collect, from the purchasers, the tax that is imposed under
10 any local use tax administered by the Department. Effective
11 December 1, 1985, "selling price" shall include charges that
12 are added to prices by sellers on account of the seller's tax
13 liability under the Cigarette Tax Act, on account of the
14 seller's duty to collect, from the purchaser, the tax imposed
15 under the Cigarette Use Tax Act, and on account of the seller's
16 duty to collect, from the purchaser, any cigarette tax imposed
17 by a home rule unit.

18 Notwithstanding any law to the contrary, for any motor
19 vehicle that is sold on or after January 1, 2014 for the
20 purpose of leasing the vehicle for a period of longer than one
21 year, "selling price" or "amount of sale" shall be based on the
22 consideration paid by the lessee pursuant to the lease
23 contract, including amounts due at lease signing and all
24 monthly or other regular payments charged over the term of the
25 lease, but not including the value of or credit given for
26 traded-in tangible personal property owned by the lessee where

1 the trade-in value thereof is assigned by the lessee to the
2 lessor and where the item that is traded-in is of like kind and
3 character as the motor vehicle that is being sold. The selling
4 price of a motor vehicle that is sold on or after January 1,
5 2014 for the purpose of leasing for a period of longer than one
6 year shall not be reduced by the value of or credit given for
7 traded-in tangible personal property owned by the lessor. In
8 the case of a motor vehicle that is sold for the purpose of
9 leasing the vehicle for a period of longer than one year, the
10 sale occurs at the time of the delivery of the vehicle,
11 regardless of the due date of any of the lease payments.

12 The phrase "like kind and character" shall be liberally
13 construed (including but not limited to any form of motor
14 vehicle for any form of motor vehicle, or any kind of farm or
15 agricultural implement for any other kind of farm or
16 agricultural implement), while not including a kind of item
17 which, if sold at retail by that retailer, would be exempt from
18 retailers' occupation tax and use tax as an isolated or
19 occasional sale.

20 "Department" means the Department of Revenue.

21 "Person" means any natural individual, firm, partnership,
22 association, joint stock company, joint adventure, public or
23 private corporation, limited liability company, or a receiver,
24 executor, trustee, guardian or other representative appointed
25 by order of any court.

26 "Retailer" means and includes every person engaged in the

1 business of making sales at retail as defined in this Section.

2 A person who holds himself or herself out as being engaged
3 (or who habitually engages) in selling tangible personal
4 property at retail is a retailer hereunder with respect to such
5 sales (and not primarily in a service occupation)
6 notwithstanding the fact that such person designs and produces
7 such tangible personal property on special order for the
8 purchaser and in such a way as to render the property of value
9 only to such purchaser, if such tangible personal property so
10 produced on special order serves substantially the same
11 function as stock or standard items of tangible personal
12 property that are sold at retail.

13 A person whose activities are organized and conducted
14 primarily as a not-for-profit service enterprise, and who
15 engages in selling tangible personal property at retail
16 (whether to the public or merely to members and their guests)
17 is a retailer with respect to such transactions, excepting only
18 a person organized and operated exclusively for charitable,
19 religious or educational purposes either (1), to the extent of
20 sales by such person to its members, students, patients or
21 inmates of tangible personal property to be used primarily for
22 the purposes of such person, or (2), to the extent of sales by
23 such person of tangible personal property which is not sold or
24 offered for sale by persons organized for profit. The selling
25 of school books and school supplies by schools at retail to
26 students is not "primarily for the purposes of" the school

1 which does such selling. This paragraph does not apply to nor
2 subject to taxation occasional dinners, social or similar
3 activities of a person organized and operated exclusively for
4 charitable, religious or educational purposes, whether or not
5 such activities are open to the public.

6 A person who is the recipient of a grant or contract under
7 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
8 serves meals to participants in the federal Nutrition Program
9 for the Elderly in return for contributions established in
10 amount by the individual participant pursuant to a schedule of
11 suggested fees as provided for in the federal Act is not a
12 retailer under this Act with respect to such transactions.

13 Persons who engage in the business of transferring tangible
14 personal property upon the redemption of trading stamps are
15 retailers hereunder when engaged in such business.

16 The isolated or occasional sale of tangible personal
17 property at retail by a person who does not hold himself out as
18 being engaged (or who does not habitually engage) in selling
19 such tangible personal property at retail or a sale through a
20 bulk vending machine does not make such person a retailer
21 hereunder. However, any person who is engaged in a business
22 which is not subject to the tax imposed by the "Retailers'
23 Occupation Tax Act" because of involving the sale of or a
24 contract to sell real estate or a construction contract to
25 improve real estate, but who, in the course of conducting such
26 business, transfers tangible personal property to users or

1 consumers in the finished form in which it was purchased, and
2 which does not become real estate, under any provision of a
3 construction contract or real estate sale or real estate sales
4 agreement entered into with some other person arising out of or
5 because of such nontaxable business, is a retailer to the
6 extent of the value of the tangible personal property so
7 transferred. If, in such transaction, a separate charge is made
8 for the tangible personal property so transferred, the value of
9 such property, for the purposes of this Act, is the amount so
10 separately charged, but not less than the cost of such property
11 to the transferor; if no separate charge is made, the value of
12 such property, for the purposes of this Act, is the cost to the
13 transferor of such tangible personal property.

14 "Retailer maintaining a place of business in this State",
15 or any like term, means and includes any of the following
16 retailers:

17 1. A retailer having or maintaining within this State,
18 directly or by a subsidiary, an office, distribution house,
19 sales house, warehouse or other place of business, or any
20 agent or other representative operating within this State
21 under the authority of the retailer or its subsidiary,
22 irrespective of whether such place of business or agent or
23 other representative is located here permanently or
24 temporarily, or whether such retailer or subsidiary is
25 licensed to do business in this State. However, the
26 ownership of property that is located at the premises of a

1 printer with which the retailer has contracted for printing
2 and that consists of the final printed product, property
3 that becomes a part of the final printed product, or copy
4 from which the printed product is produced shall not result
5 in the retailer being deemed to have or maintain an office,
6 distribution house, sales house, warehouse, or other place
7 of business within this State.

8 1.1. Beginning July 1, 2011, a retailer having a
9 contract with a person located in this State under which
10 the person, for a commission or other consideration based
11 upon the sale of tangible personal property by the
12 retailer, directly or indirectly refers potential
13 customers to the retailer by a link on the person's
14 Internet website. The provisions of this paragraph 1.1
15 shall apply only if the cumulative gross receipts from
16 sales of tangible personal property by the retailer to
17 customers who are referred to the retailer by all persons
18 in this State under such contracts exceed \$10,000 during
19 the preceding 4 quarterly periods ending on the last day of
20 March, June, September, and December.

21 1.2. Beginning July 1, 2011, a retailer having a
22 contract with a person located in this State under which:

23 A. the retailer sells the same or substantially
24 similar line of products as the person located in this
25 State and does so using an identical or substantially
26 similar name, trade name, or trademark as the person

1 located in this State; and

2 B. the retailer provides a commission or other
3 consideration to the person located in this State based
4 upon the sale of tangible personal property by the
5 retailer.

6 The provisions of this paragraph 1.2 shall apply only if
7 the cumulative gross receipts from sales of tangible
8 personal property by the retailer to customers in this
9 State under all such contracts exceed \$10,000 during the
10 preceding 4 quarterly periods ending on the last day of
11 March, June, September, and December.

12 2. A retailer soliciting orders for tangible personal
13 property by means of a telecommunication or television
14 shopping system (which utilizes toll free numbers) which is
15 intended by the retailer to be broadcast by cable
16 television or other means of broadcasting, to consumers
17 located in this State.

18 3. A retailer, pursuant to a contract with a
19 broadcaster or publisher located in this State, soliciting
20 orders for tangible personal property by means of
21 advertising which is disseminated primarily to consumers
22 located in this State and only secondarily to bordering
23 jurisdictions.

24 4. A retailer soliciting orders for tangible personal
25 property by mail if the solicitations are substantial and
26 recurring and if the retailer benefits from any banking,

1 financing, debt collection, telecommunication, or
2 marketing activities occurring in this State or benefits
3 from the location in this State of authorized installation,
4 servicing, or repair facilities.

5 5. A retailer that is owned or controlled by the same
6 interests that own or control any retailer engaging in
7 business in the same or similar line of business in this
8 State.

9 6. A retailer having a franchisee or licensee operating
10 under its trade name if the franchisee or licensee is
11 required to collect the tax under this Section.

12 7. A retailer, pursuant to a contract with a cable
13 television operator located in this State, soliciting
14 orders for tangible personal property by means of
15 advertising which is transmitted or distributed over a
16 cable television system in this State.

17 8. A retailer engaging in activities in Illinois, which
18 activities in the state in which the retail business
19 engaging in such activities is located would constitute
20 maintaining a place of business in that state.

21 "Bulk vending machine" means a vending machine, containing
22 unsorted confections, nuts, toys, or other items designed
23 primarily to be used or played with by children which, when a
24 coin or coins of a denomination not larger than \$0.50 are
25 inserted, are dispensed in equal portions, at random and
26 without selection by the customer.

1 (Source: P.A. 95-723, eff. 6-23-08; 96-1544, eff. 3-10-11.)

2 Section 10. The Retailers' Occupation Tax Act is amended by
3 changing Section 1 as follows:

4 (35 ILCS 120/1) (from Ch. 120, par. 440)

5 Sec. 1. Definitions. "Sale at retail" means any transfer of
6 the ownership of or title to tangible personal property to a
7 purchaser, for the purpose of use or consumption, and not for
8 the purpose of resale in any form as tangible personal property
9 to the extent not first subjected to a use for which it was
10 purchased, for a valuable consideration: Provided that the
11 property purchased is deemed to be purchased for the purpose of
12 resale, despite first being used, to the extent to which it is
13 resold as an ingredient of an intentionally produced product or
14 byproduct of manufacturing. For this purpose, slag produced as
15 an incident to manufacturing pig iron or steel and sold is
16 considered to be an intentionally produced byproduct of
17 manufacturing. Transactions whereby the possession of the
18 property is transferred but the seller retains the title as
19 security for payment of the selling price shall be deemed to be
20 sales.

21 "Sale at retail" shall be construed to include any transfer
22 of the ownership of or title to tangible personal property to a
23 purchaser, for use or consumption by any other person to whom
24 such purchaser may transfer the tangible personal property

1 without a valuable consideration, and to include any transfer,
2 whether made for or without a valuable consideration, for
3 resale in any form as tangible personal property unless made in
4 compliance with Section 2c of this Act.

5 Sales of tangible personal property, which property, to the
6 extent not first subjected to a use for which it was purchased,
7 as an ingredient or constituent, goes into and forms a part of
8 tangible personal property subsequently the subject of a "Sale
9 at retail", are not sales at retail as defined in this Act:
10 Provided that the property purchased is deemed to be purchased
11 for the purpose of resale, despite first being used, to the
12 extent to which it is resold as an ingredient of an
13 intentionally produced product or byproduct of manufacturing.

14 "Sale at retail" shall be construed to include any Illinois
15 florist's sales transaction in which the purchase order is
16 received in Illinois by a florist and the sale is for use or
17 consumption, but the Illinois florist has a florist in another
18 state deliver the property to the purchaser or the purchaser's
19 donee in such other state.

20 Nonreusable tangible personal property that is used by
21 persons engaged in the business of operating a restaurant,
22 cafeteria, or drive-in is a sale for resale when it is
23 transferred to customers in the ordinary course of business as
24 part of the sale of food or beverages and is used to deliver,
25 package, or consume food or beverages, regardless of where
26 consumption of the food or beverages occurs. Examples of those

1 items include, but are not limited to nonreusable, paper and
2 plastic cups, plates, baskets, boxes, sleeves, buckets or other
3 containers, utensils, straws, placemats, napkins, doggie bags,
4 and wrapping or packaging materials that are transferred to
5 customers as part of the sale of food or beverages in the
6 ordinary course of business.

7 The purchase, employment and transfer of such tangible
8 personal property as newsprint and ink for the primary purpose
9 of conveying news (with or without other information) is not a
10 purchase, use or sale of tangible personal property.

11 A person whose activities are organized and conducted
12 primarily as a not-for-profit service enterprise, and who
13 engages in selling tangible personal property at retail
14 (whether to the public or merely to members and their guests)
15 is engaged in the business of selling tangible personal
16 property at retail with respect to such transactions, excepting
17 only a person organized and operated exclusively for
18 charitable, religious or educational purposes either (1), to
19 the extent of sales by such person to its members, students,
20 patients or inmates of tangible personal property to be used
21 primarily for the purposes of such person, or (2), to the
22 extent of sales by such person of tangible personal property
23 which is not sold or offered for sale by persons organized for
24 profit. The selling of school books and school supplies by
25 schools at retail to students is not "primarily for the
26 purposes of" the school which does such selling. The provisions

1 of this paragraph shall not apply to nor subject to taxation
2 occasional dinners, socials or similar activities of a person
3 organized and operated exclusively for charitable, religious
4 or educational purposes, whether or not such activities are
5 open to the public.

6 A person who is the recipient of a grant or contract under
7 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
8 serves meals to participants in the federal Nutrition Program
9 for the Elderly in return for contributions established in
10 amount by the individual participant pursuant to a schedule of
11 suggested fees as provided for in the federal Act is not
12 engaged in the business of selling tangible personal property
13 at retail with respect to such transactions.

14 "Purchaser" means anyone who, through a sale at retail,
15 acquires the ownership of or title to tangible personal
16 property for a valuable consideration.

17 "Reseller of motor fuel" means any person engaged in the
18 business of selling or delivering or transferring title of
19 motor fuel to another person other than for use or consumption.
20 No person shall act as a reseller of motor fuel within this
21 State without first being registered as a reseller pursuant to
22 Section 2c or a retailer pursuant to Section 2a.

23 "Selling price" or the "amount of sale" means the
24 consideration for a sale valued in money whether received in
25 money or otherwise, including cash, credits, property, other
26 than as hereinafter provided, and services, but not including

1 the value of or credit given for traded-in tangible personal
2 property where the item that is traded-in is of like kind and
3 character as that which is being sold, and shall be determined
4 without any deduction on account of the cost of the property
5 sold, the cost of materials used, labor or service cost or any
6 other expense whatsoever, but does not include charges that are
7 added to prices by sellers on account of the seller's tax
8 liability under this Act, or on account of the seller's duty to
9 collect, from the purchaser, the tax that is imposed by the Use
10 Tax Act, or, except as otherwise provided with respect to any
11 cigarette tax imposed by a home rule unit, on account of the
12 seller's tax liability under any local occupation tax
13 administered by the Department, or, except as otherwise
14 provided with respect to any cigarette tax imposed by a home
15 rule unit on account of the seller's duty to collect, from the
16 purchasers, the tax that is imposed under any local use tax
17 administered by the Department. Effective December 1, 1985,
18 "selling price" shall include charges that are added to prices
19 by sellers on account of the seller's tax liability under the
20 Cigarette Tax Act, on account of the sellers' duty to collect,
21 from the purchaser, the tax imposed under the Cigarette Use Tax
22 Act, and on account of the seller's duty to collect, from the
23 purchaser, any cigarette tax imposed by a home rule unit.

24 Notwithstanding any law to the contrary, for any motor
25 vehicle that is sold on or after January 1, 2014 for the
26 purpose of leasing the vehicle for a period of longer than one

1 year, "selling price" or "amount of sale" shall be based on the
2 consideration paid by the lessee pursuant to the lease
3 contract, including amounts due at lease signing and all
4 monthly or other regular payments charged over the term of the
5 lease, but not including the value of or credit given for
6 traded-in tangible personal property owned by the lessee where
7 the trade-in value thereof is assigned by the lessee to the
8 lessor and where the item that is traded-in is of like kind and
9 character as the motor vehicle that is being sold. The selling
10 price of a motor vehicle that is sold on or after January 1,
11 2014 for the purpose of leasing for a period of longer than one
12 year shall not be reduced by the value of or credit given for
13 traded-in tangible personal property owned by the lessor. In
14 the case of a motor vehicle that is sold for the purpose of
15 leasing the vehicle for a period of longer than one year, the
16 sale occurs at the time of the delivery of the vehicle,
17 regardless of the due date of any of the lease payments.

18 The phrase "like kind and character" shall be liberally
19 construed (including but not limited to any form of motor
20 vehicle for any form of motor vehicle, or any kind of farm or
21 agricultural implement for any other kind of farm or
22 agricultural implement), while not including a kind of item
23 which, if sold at retail by that retailer, would be exempt from
24 retailers' occupation tax and use tax as an isolated or
25 occasional sale.

26 "Gross receipts" from the sales of tangible personal

1 property at retail means the total selling price or the amount
2 of such sales, as hereinbefore defined. In the case of charge
3 and time sales, the amount thereof shall be included only as
4 and when payments are received by the seller. Receipts or other
5 consideration derived by a seller from the sale, transfer or
6 assignment of accounts receivable to a wholly owned subsidiary
7 will not be deemed payments prior to the time the purchaser
8 makes payment on such accounts.

9 "Department" means the Department of Revenue.

10 "Person" means any natural individual, firm, partnership,
11 association, joint stock company, joint adventure, public or
12 private corporation, limited liability company, or a receiver,
13 executor, trustee, guardian or other representative appointed
14 by order of any court.

15 The isolated or occasional sale of tangible personal
16 property at retail by a person who does not hold himself out as
17 being engaged (or who does not habitually engage) in selling
18 such tangible personal property at retail, or a sale through a
19 bulk vending machine, does not constitute engaging in a
20 business of selling such tangible personal property at retail
21 within the meaning of this Act; provided that any person who is
22 engaged in a business which is not subject to the tax imposed
23 by this Act because of involving the sale of or a contract to
24 sell real estate or a construction contract to improve real
25 estate or a construction contract to engineer, install, and
26 maintain an integrated system of products, but who, in the

1 course of conducting such business, transfers tangible
2 personal property to users or consumers in the finished form in
3 which it was purchased, and which does not become real estate
4 or was not engineered and installed, under any provision of a
5 construction contract or real estate sale or real estate sales
6 agreement entered into with some other person arising out of or
7 because of such nontaxable business, is engaged in the business
8 of selling tangible personal property at retail to the extent
9 of the value of the tangible personal property so transferred.
10 If, in such a transaction, a separate charge is made for the
11 tangible personal property so transferred, the value of such
12 property, for the purpose of this Act, shall be the amount so
13 separately charged, but not less than the cost of such property
14 to the transferor; if no separate charge is made, the value of
15 such property, for the purposes of this Act, is the cost to the
16 transferor of such tangible personal property. Construction
17 contracts for the improvement of real estate consisting of
18 engineering, installation, and maintenance of voice, data,
19 video, security, and all telecommunication systems do not
20 constitute engaging in a business of selling tangible personal
21 property at retail within the meaning of this Act if they are
22 sold at one specified contract price.

23 A person who holds himself or herself out as being engaged
24 (or who habitually engages) in selling tangible personal
25 property at retail is a person engaged in the business of
26 selling tangible personal property at retail hereunder with

1 respect to such sales (and not primarily in a service
2 occupation) notwithstanding the fact that such person designs
3 and produces such tangible personal property on special order
4 for the purchaser and in such a way as to render the property
5 of value only to such purchaser, if such tangible personal
6 property so produced on special order serves substantially the
7 same function as stock or standard items of tangible personal
8 property that are sold at retail.

9 Persons who engage in the business of transferring tangible
10 personal property upon the redemption of trading stamps are
11 engaged in the business of selling such property at retail and
12 shall be liable for and shall pay the tax imposed by this Act
13 on the basis of the retail value of the property transferred
14 upon redemption of such stamps.

15 "Bulk vending machine" means a vending machine, containing
16 unsorted confections, nuts, toys, or other items designed
17 primarily to be used or played with by children which, when a
18 coin or coins of a denomination not larger than \$0.50 are
19 inserted, are dispensed in equal portions, at random and
20 without selection by the customer.

21 (Source: P.A. 95-723, eff. 6-23-08.)

22 Section 99. Effective date. This Act takes effect January
23 1, 2014.