



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3888

by Rep. Keith Wheeler

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-5	
35 ILCS 105/3-50	from Ch. 120, par. 439.3-50
35 ILCS 110/2	from Ch. 120, par. 439.32
35 ILCS 115/2	from Ch. 120, par. 439.102
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 to extend the Manufacturing Machinery and Equipment Exemption to production related tangible personal property. Provides that the term "production related tangible personal property" includes certain supplies and consumables used in a manufacturing facility. Effective immediately.

LRB099 10119 HLH 30342 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 3-5 and 3-50 as follows:

6 (35 ILCS 105/3-5)

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

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

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

19 (3) Personal property purchased by a not-for-profit arts or  
20 cultural organization that establishes, by proof required by  
21 the Department by rule, that it has received an exemption under  
22 Section 501(c)(3) of the Internal Revenue Code and that is  
23 organized and operated primarily for the presentation or

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

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

25 (5) Until July 1, 2003, a passenger car that is a  
26 replacement vehicle to the extent that the purchase price of

1 the car is subject to the Replacement Vehicle Tax.

2 (6) Until July 1, 2003 and beginning again on September 1,  
3 2004 through August 30, 2014, graphic arts machinery and  
4 equipment, including repair and replacement parts, both new and  
5 used, and including that manufactured on special order,  
6 certified by the purchaser to be used primarily for graphic  
7 arts production, and including machinery and equipment  
8 purchased for lease. 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 upon a  
11 graphic arts product.

12 (7) Farm chemicals.

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

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

20 (10) A motor vehicle that is used for automobile renting,  
21 as defined in the Automobile Renting Occupation and Use Tax  
22 Act.

23 (11) Farm machinery and equipment, both new and used,  
24 including that manufactured on special order, certified by the  
25 purchaser to be used primarily for production agriculture or  
26 State or federal agricultural programs, including individual

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

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

24 Farm machinery and equipment also includes computers,  
25 sensors, software, and related equipment used primarily in the  
26 computer-assisted operation of production agriculture

1 facilities, equipment, and activities such as, but not limited  
2 to, the collection, monitoring, and correlation of animal and  
3 crop data for the purpose of formulating animal diets and  
4 agricultural chemicals. This item (11) is exempt from the  
5 provisions of Section 3-90.

6 (12) Until June 30, 2013, fuel and petroleum products sold  
7 to or used by an air common carrier, certified by the carrier  
8 to be used for consumption, shipment, or storage in the conduct  
9 of its business as an air common carrier, for a flight destined  
10 for or returning from a location or locations outside the  
11 United States without regard to previous or subsequent domestic  
12 stopovers.

13 Beginning July 1, 2013, fuel and petroleum products sold to  
14 or used by an air carrier, certified by the carrier to be used  
15 for consumption, shipment, or storage in the conduct of its  
16 business as an air common carrier, for a flight that (i) is  
17 engaged in foreign trade or is engaged in trade between the  
18 United States and any of its possessions and (ii) transports at  
19 least one individual or package for hire from the city of  
20 origination to the city of final destination on the same  
21 aircraft, without regard to a change in the flight number of  
22 that aircraft.

23 (13) Proceeds of mandatory service charges separately  
24 stated on customers' bills for the purchase and consumption of  
25 food and beverages purchased at retail from a retailer, to the  
26 extent that the proceeds of the service charge are in fact

1 turned over as tips or as a substitute for tips to the  
2 employees who participate directly in preparing, serving,  
3 hosting or cleaning up the food or beverage function with  
4 respect to which the service charge is imposed.

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

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

19 (16) Coal and aggregate exploration, mining, off-highway  
20 hauling, processing, maintenance, and reclamation equipment,  
21 including replacement parts and equipment, and including  
22 equipment purchased for lease, but excluding motor vehicles  
23 required to be registered under the Illinois Vehicle Code. The  
24 changes made to this Section by Public Act 97-767 apply on and  
25 after July 1, 2003, but no claim for credit or refund is  
26 allowed on or after August 16, 2013 (the effective date of

1 Public Act 98-456) for such taxes paid during the period  
2 beginning July 1, 2003 and ending on August 16, 2013 (the  
3 effective date of Public Act 98-456).

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

10 (18) Manufacturing and assembling machinery and equipment  
11 used primarily in the process of manufacturing or assembling  
12 tangible personal property for wholesale or retail sale or  
13 lease, whether that sale or lease is made directly by the  
14 manufacturer or by some other person, whether the materials  
15 used in the process are owned by the manufacturer or some other  
16 person, or whether that sale or lease is made apart from or as  
17 an incident to the seller's engaging in the service occupation  
18 of producing machines, tools, dies, jigs, patterns, gauges, or  
19 other similar items of no commercial value on special order for  
20 a particular purchaser. The exemption provided by this  
21 paragraph (18) includes production related tangible personal  
22 property, as defined in Section 3-50, purchased on or after  
23 July 1, 2015. The exemption provided by this paragraph (18)  
24 does not include machinery and equipment used in (i) the  
25 generation of electricity for wholesale or retail sale; (ii)  
26 the generation or treatment of natural or artificial gas for



1 wholesale or retail sale that is delivered to customers through  
2 pipes, pipelines, or mains; or (iii) the treatment of water for  
3 wholesale or retail sale that is delivered to customers through  
4 pipes, pipelines, or mains. The provisions of Public Act 98-583  
5 are declaratory of existing law as to the meaning and scope of  
6 this exemption.

7 (19) Personal property delivered to a purchaser or  
8 purchaser's donee inside Illinois when the purchase order for  
9 that personal property was received by a florist located  
10 outside Illinois who has a florist located inside Illinois  
11 deliver the personal property.

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

14 (21) Horses, or interests in horses, registered with and  
15 meeting the requirements of any of the Arabian Horse Club  
16 Registry of America, Appaloosa Horse Club, American Quarter  
17 Horse Association, United States Trotting Association, or  
18 Jockey Club, as appropriate, used for purposes of breeding or  
19 racing for prizes. This item (21) is exempt from the provisions  
20 of Section 3-90, and the exemption provided for under this item  
21 (21) applies for all periods beginning May 30, 1995, but no  
22 claim for credit or refund is allowed on or after January 1,  
23 2008 for such taxes paid during the period beginning May 30,  
24 2000 and ending on January 1, 2008.

25 (22) Computers and communications equipment utilized for  
26 any hospital purpose and equipment used in the diagnosis,

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

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

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

16 (24) 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 (25) 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 (26) Beginning July 1, 1999, game or game birds purchased  
13 at a "game breeding and hunting preserve area" as that term is  
14 used in the Wildlife Code. This paragraph is exempt from the  
15 provisions of Section 3-90.

16 (27) 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 (28) 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 3-90.

22 (29) 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 3-90.

6 (30) Beginning January 1, 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 in a licensed facility as defined  
17 in the ID/DD Community Care Act or the Specialized Mental  
18 Health Rehabilitation Act of 2013.

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

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

18 (32) Beginning on the effective date of this amendatory Act  
19 of the 92nd General Assembly, personal property purchased by a  
20 lessor who leases the property, under a lease of one year or  
21 longer executed or in effect at the time the lessor would  
22 otherwise be subject to the tax imposed by this Act, to a  
23 governmental body that has been issued an active sales tax  
24 exemption identification number by the Department under  
25 Section 1g of the Retailers' Occupation Tax Act. If the  
26 property is leased in a manner that does not qualify for this

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

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



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

8 (34) Beginning January 1, 2008, tangible personal property  
9 used in the construction or maintenance of a community water  
10 supply, as defined under Section 3.145 of the Environmental  
11 Protection Act, that is operated by a not-for-profit  
12 corporation that holds a valid water supply permit issued under  
13 Title IV of the Environmental Protection Act. This paragraph is  
14 exempt from the provisions of Section 3-90.

15 (35) Beginning January 1, 2010, materials, parts,  
16 equipment, components, and furnishings incorporated into or  
17 upon an aircraft as part of the modification, refurbishment,  
18 completion, replacement, repair, or maintenance of the  
19 aircraft. This exemption includes consumable supplies used in  
20 the modification, refurbishment, completion, replacement,  
21 repair, and maintenance of aircraft, but excludes any  
22 materials, parts, equipment, components, and consumable  
23 supplies used in the modification, replacement, repair, and  
24 maintenance of aircraft engines or power plants, whether such  
25 engines or power plants are installed or uninstalled upon any  
26 such aircraft. "Consumable supplies" include, but are not

1 limited to, adhesive, tape, sandpaper, general purpose  
2 lubricants, cleaning solution, latex gloves, and protective  
3 films. This exemption applies only to the use of qualifying  
4 tangible personal property by persons who modify, refurbish,  
5 complete, repair, replace, or maintain aircraft and who (i)  
6 hold an Air Agency Certificate and are empowered to operate an  
7 approved repair station by the Federal Aviation  
8 Administration, (ii) have a Class IV Rating, and (iii) conduct  
9 operations in accordance with Part 145 of the Federal Aviation  
10 Regulations. The exemption does not include aircraft operated  
11 by a commercial air carrier providing scheduled passenger air  
12 service pursuant to authority issued under Part 121 or Part 129  
13 of the Federal Aviation Regulations. The changes made to this  
14 paragraph (35) by Public Act 98-534 are declarative of existing  
15 law.

16 (36) Tangible personal property purchased by a  
17 public-facilities corporation, as described in Section  
18 11-65-10 of the Illinois Municipal Code, for purposes of  
19 constructing or furnishing a municipal convention hall, but  
20 only if the legal title to the municipal convention hall is  
21 transferred to the municipality without any further  
22 consideration by or on behalf of the municipality at the time  
23 of the completion of the municipal convention hall or upon the  
24 retirement or redemption of any bonds or other debt instruments  
25 issued by the public-facilities corporation in connection with  
26 the development of the municipal convention hall. This

1 exemption includes existing public-facilities corporations as  
2 provided in Section 11-65-25 of the Illinois Municipal Code.  
3 This paragraph is exempt from the provisions of Section 3-90.  
4 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-431,  
5 eff. 8-16-11; 97-636, eff. 6-1-12; 97-767, eff. 7-9-12; 98-104,  
6 eff. 7-22-13; 98-422, eff. 8-16-13; 98-456, eff. 8-16-13;  
7 98-534, eff. 8-23-13; 98-574, eff. 1-1-14; 98-583, eff. 1-1-14;  
8 98-756, eff. 7-16-14.)

9 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

10 Sec. 3-50. Manufacturing and assembly exemption. The  
11 manufacturing and assembling machinery and equipment exemption  
12 includes machinery and equipment that replaces machinery and  
13 equipment in an existing manufacturing facility as well as  
14 machinery and equipment that are for use in an expanded or new  
15 manufacturing facility. The machinery and equipment exemption  
16 also includes machinery and equipment used in the general  
17 maintenance or repair of exempt machinery and equipment or for  
18 in-house manufacture of exempt machinery and equipment. The  
19 machinery and equipment exemption does not include machinery  
20 and equipment used in (i) the generation of electricity for  
21 wholesale or retail sale; (ii) the generation or treatment of  
22 natural or artificial gas for wholesale or retail sale that is  
23 delivered to customers through pipes, pipelines, or mains; or  
24 (iii) the treatment of water for wholesale or retail sale that  
25 is delivered to customers through pipes, pipelines, or mains.

1 The provisions of this amendatory Act of the 98th General  
2 Assembly are declaratory of existing law as to the meaning and  
3 scope of this exemption. For the purposes of this exemption,  
4 terms have the following meanings:

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

22 (2) "Assembling 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 the combination of existing

1 materials in a manner commonly regarded as assembling that  
2 results in an article or material of a different form, use,  
3 or name.

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

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

22 (5) "Production related tangible personal property"  
23 means all tangible personal property that is used or  
24 consumed by the purchaser in a manufacturing facility in  
25 which a manufacturing process takes place and includes,  
26 without limitation, tangible personal property that is

1 purchased for incorporation into real estate within a  
2 manufacturing facility, supplies and consumables used in a  
3 manufacturing facility including fuels, coolants,  
4 solvents, oils, lubricants, and adhesives, hand tools,  
5 protective apparel, and fire and safety equipment used or  
6 consumed within a manufacturing facility, and tangible  
7 personal property that is used or consumed in activities  
8 such as research and development, preproduction material  
9 handling, receiving, quality control, inventory control,  
10 storage, staging, and packaging for shipping and  
11 transportation purposes. "Production related tangible  
12 personal property" does not include (i) tangible personal  
13 property that is used, within or without a manufacturing  
14 facility, in sales, purchasing, accounting, fiscal  
15 management, marketing, personnel recruitment or selection,  
16 or landscaping or (ii) tangible personal property that is  
17 required to be titled or registered with a department,  
18 agency, or unit of federal, State, or local government.

19 The manufacturing and assembling machinery and equipment  
20 exemption includes production related tangible personal  
21 property that is purchased on or after July 1, 2007 and on or  
22 before June 30, 2008 and on or after July 1, 2015. The  
23 exemption for production related tangible personal property  
24 purchased on or after July 1, 2007 and on or before June 30,  
25 2008 is subject to both of the following limitations:

26 (1) The maximum amount of the exemption for any one

1 taxpayer may not exceed 5% of the purchase price of  
2 production related tangible personal property that is  
3 purchased on or after July 1, 2007 and on or before June  
4 30, 2008. A credit under Section 3-85 of this Act may not  
5 be earned by the purchase of production related tangible  
6 personal property for which an exemption is received under  
7 this Section.

8 (2) The maximum aggregate amount of the exemptions for  
9 production related tangible personal property awarded  
10 under this Act and the Retailers' Occupation Tax Act to all  
11 taxpayers purchased on or after July 1, 2007 and before  
12 June 30, 2008 may not exceed \$10,000,000. If the claims for  
13 the exemption exceed \$10,000,000, then the Department  
14 shall reduce the amount of the exemption to each taxpayer  
15 on a pro rata basis.

16 The Department shall ~~may~~ adopt rules to implement and  
17 administer the exemption for production related tangible  
18 personal property.

19 The manufacturing and assembling machinery and equipment  
20 exemption includes the sale of materials to a purchaser who  
21 produces exempted types of machinery, equipment, or tools and  
22 who rents or leases that machinery, equipment, or tools to a  
23 manufacturer of tangible personal property. This exemption  
24 also includes the sale of materials to a purchaser who  
25 manufactures those materials into an exempted type of  
26 machinery, equipment, or tools that the purchaser uses himself

1 or herself in the manufacturing of tangible personal property.  
2 This exemption includes the sale of exempted types of machinery  
3 or equipment to a purchaser who is not the manufacturer, but  
4 who rents or leases the use of the property to a manufacturer.  
5 The purchaser of the machinery and equipment who has an active  
6 resale registration number shall furnish that number to the  
7 seller at the time of purchase. A user of the machinery,  
8 equipment, or tools without an active resale registration  
9 number shall prepare a certificate of exemption for each  
10 transaction stating facts establishing the exemption for that  
11 transaction, and that certificate shall be available to the  
12 Department for inspection or audit. The Department shall  
13 prescribe the form of the certificate. Informal rulings,  
14 opinions, or letters issued by the Department in response to an  
15 inquiry or request for an opinion from any person regarding the  
16 coverage and applicability of this exemption to specific  
17 devices shall be published, maintained as a public record, and  
18 made available for public inspection and copying. If the  
19 informal ruling, opinion, or letter contains trade secrets or  
20 other confidential information, where possible, the Department  
21 shall delete that information before publication. Whenever  
22 informal rulings, opinions, or letters contain a policy of  
23 general applicability, the Department shall formulate and  
24 adopt that policy as a rule in accordance with the Illinois  
25 Administrative Procedure Act.

26 (Source: P.A. 98-583, eff. 1-1-14.)



1           Section 10. The Service Use Tax Act is amended by changing  
2 Section 2 as follows:

3           (35 ILCS 110/2) (from Ch. 120, par. 439.32)

4           Sec. 2. Definitions.

5           "Use" means the exercise by any person of any right or  
6 power over tangible personal property incident to the ownership  
7 of that property, but does not include the sale or use for  
8 demonstration by him of that property in any form as tangible  
9 personal property in the regular course of business. "Use" does  
10 not mean the interim use of tangible personal property nor the  
11 physical incorporation of tangible personal property, as an  
12 ingredient or constituent, into other tangible personal  
13 property, (a) which is sold in the regular course of business  
14 or (b) which the person incorporating such ingredient or  
15 constituent therein has undertaken at the time of such purchase  
16 to cause to be transported in interstate commerce to  
17 destinations outside the State of Illinois.

18           "Purchased from a serviceman" means the acquisition of the  
19 ownership of, or title to, tangible personal property through a  
20 sale of service.

21           "Purchaser" means any person who, through a sale of  
22 service, acquires the ownership of, or title to, any tangible  
23 personal property.

24           "Cost price" means the consideration paid by the serviceman

1 for a purchase valued in money, whether paid in money or  
2 otherwise, including cash, credits and services, and shall be  
3 determined without any deduction on account of the supplier's  
4 cost of the property sold or on account of any other expense  
5 incurred by the supplier. When a serviceman contracts out part  
6 or all of the services required in his sale of service, it  
7 shall be presumed that the cost price to the serviceman of the  
8 property transferred to him or her by his or her subcontractor  
9 is equal to 50% of the subcontractor's charges to the  
10 serviceman in the absence of proof of the consideration paid by  
11 the subcontractor for the purchase of such property.

12 "Selling price" means the consideration for a sale valued  
13 in money whether received in money or otherwise, including  
14 cash, credits and service, and shall be determined without any  
15 deduction on account of the serviceman's cost of the property  
16 sold, the cost of materials used, labor or service cost or any  
17 other expense whatsoever, but does not include interest or  
18 finance charges which appear as separate items on the bill of  
19 sale or sales contract nor charges that are added to prices by  
20 sellers on account of the seller's duty to collect, from the  
21 purchaser, the tax that is imposed by this Act.

22 "Department" means the Department of Revenue.

23 "Person" means any natural individual, firm, partnership,  
24 association, joint stock company, joint venture, public or  
25 private corporation, limited liability company, and any  
26 receiver, executor, trustee, guardian or other representative

1 appointed by order of any court.

2 "Sale of service" means any transaction except:

3 (1) a retail sale of tangible personal property taxable  
4 under the Retailers' Occupation Tax Act or under the Use  
5 Tax Act.

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

9 (3) except as hereinafter provided, a sale or transfer  
10 of tangible personal property as an incident to the  
11 rendering of service for or by any governmental body, or  
12 for or by any corporation, society, association,  
13 foundation or institution organized and operated  
14 exclusively for charitable, religious or educational  
15 purposes or any not-for-profit corporation, society,  
16 association, foundation, institution or organization which  
17 has no compensated officers or employees and which is  
18 organized and operated primarily for the recreation of  
19 persons 55 years of age or older. A limited liability  
20 company may qualify for the exemption under this paragraph  
21 only if the limited liability company is organized and  
22 operated exclusively for educational purposes.

23 (4) a sale or transfer of tangible personal property as  
24 an incident to the rendering of service for interstate  
25 carriers for hire for use as rolling stock moving in  
26 interstate commerce or by lessors under a lease of one year

1 or longer, executed or in effect at the time of purchase of  
2 personal property, to interstate carriers for hire for use  
3 as rolling stock moving in interstate commerce so long as  
4 so used by such interstate carriers for hire, and equipment  
5 operated by a telecommunications provider, licensed as a  
6 common carrier by the Federal Communications Commission,  
7 which is permanently installed in or affixed to aircraft  
8 moving in interstate commerce.

9 (4a) a sale or transfer of tangible personal property  
10 as an incident to the rendering of service for owners,  
11 lessors, or shippers of tangible personal property which is  
12 utilized by interstate carriers for hire for use as rolling  
13 stock moving in interstate commerce so long as so used by  
14 interstate carriers for hire, and equipment operated by a  
15 telecommunications provider, licensed as a common carrier  
16 by the Federal Communications Commission, which is  
17 permanently installed in or affixed to aircraft moving in  
18 interstate commerce.

19 (4a-5) on and after July 1, 2003 and through June 30,  
20 2004, a sale or transfer of a motor vehicle of the second  
21 division with a gross vehicle weight in excess of 8,000  
22 pounds as an incident to the rendering of service if that  
23 motor vehicle is subject to the commercial distribution fee  
24 imposed under Section 3-815.1 of the Illinois Vehicle Code.  
25 Beginning on July 1, 2004 and through June 30, 2005, the  
26 use in this State of motor vehicles of the second division:

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

14 (5) a sale or transfer of machinery and equipment used  
15 primarily in the process of the manufacturing or  
16 assembling, either in an existing, an expanded or a new  
17 manufacturing facility, of tangible personal property for  
18 wholesale or retail sale or lease, whether such sale or  
19 lease is made directly by the manufacturer or by some other  
20 person, whether the materials used in the process are owned  
21 by the manufacturer or some other person, or whether such  
22 sale or lease is made apart from or as an incident to the  
23 seller's engaging in a service occupation and the  
24 applicable tax is a Service Use Tax or Service Occupation  
25 Tax, rather than Use Tax or Retailers' Occupation Tax. The  
26 exemption provided by this paragraph (5) includes

1       production related tangible personal property, as defined  
2       in Section 3-50 of the Use Tax Act, purchased on or after  
3       July 1, 2015. The exemption provided by this paragraph (5)  
4       does not include machinery and equipment used in (i) the  
5       generation of electricity for wholesale or retail sale;  
6       (ii) the generation or treatment of natural or artificial  
7       gas for wholesale or retail sale that is delivered to  
8       customers through pipes, pipelines, or mains; or (iii) the  
9       treatment of water for wholesale or retail sale that is  
10      delivered to customers through pipes, pipelines, or mains.  
11      The provisions of this amendatory Act of the 98th General  
12      Assembly are declaratory of existing law as to the meaning  
13      and scope of this exemption.

14           (5a) the repairing, reconditioning or remodeling, for  
15      a common carrier by rail, of tangible personal property  
16      which belongs to such carrier for hire, and as to which  
17      such carrier receives the physical possession of the  
18      repaired, reconditioned or remodeled item of tangible  
19      personal property in Illinois, and which such carrier  
20      transports, or shares with another common carrier in the  
21      transportation of such property, out of Illinois on a  
22      standard uniform bill of lading showing the person who  
23      repaired, reconditioned or remodeled the property to a  
24      destination outside Illinois, for use outside Illinois.

25           (5b) a sale or transfer of tangible personal property  
26      which is produced by the seller thereof on special order in

1           such a way as to have made the applicable tax the Service  
2           Occupation Tax or the Service Use Tax, rather than the  
3           Retailers' Occupation Tax or the Use Tax, for an interstate  
4           carrier by rail which receives the physical possession of  
5           such property in Illinois, and which transports such  
6           property, or shares with another common carrier in the  
7           transportation of such property, out of Illinois on a  
8           standard uniform bill of lading showing the seller of the  
9           property as the shipper or consignor of such property to a  
10          destination outside Illinois, for use outside Illinois.

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

19          (7) at the election of any serviceman not required to  
20          be otherwise registered as a retailer under Section 2a of  
21          the Retailers' Occupation Tax Act, made for each fiscal  
22          year sales of service in which the aggregate annual cost  
23          price of tangible personal property transferred as an  
24          incident to the sales of service is less than 35%, or 75%  
25          in the case of servicemen transferring prescription drugs  
26          or servicemen engaged in graphic arts production, of the

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

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

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

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

1 or audit. The Department shall prescribe the form of the  
2 certificate.

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

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

20 The purchase, employment and transfer of such tangible  
21 personal property as newsprint and ink for the primary purpose  
22 of conveying news (with or without other information) is not a  
23 purchase, use or sale of service or of tangible personal  
24 property within the meaning of this Act.

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

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

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

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

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

17 1.1. having a contract with a person located in this  
18 State under which the person, for a commission or other  
19 consideration based on the sale of service by the  
20 serviceman, directly or indirectly refers potential  
21 customers to the serviceman by providing to the potential  
22 customers a promotional code or other mechanism that allows  
23 the serviceman to track purchases referred by such persons.  
24 Examples of mechanisms that allow the serviceman to track  
25 purchases referred by such persons include but are not  
26 limited to the use of a link on the person's Internet

1 website, promotional codes distributed through the  
2 person's hand-delivered or mailed material, and  
3 promotional codes distributed by the person through radio  
4 or other broadcast media. The provisions of this paragraph  
5 1.1 shall apply only if the cumulative gross receipts from  
6 sales of service by the serviceman to customers who are  
7 referred to the serviceman by all persons in this State  
8 under such contracts exceed \$10,000 during the preceding 4  
9 quarterly periods ending on the last day of March, June,  
10 September, and December; a serviceman meeting the  
11 requirements of this paragraph 1.1 shall be presumed to be  
12 maintaining a place of business in this State but may rebut  
13 this presumption by submitting proof that the referrals or  
14 other activities pursued within this State by such persons  
15 were not sufficient to meet the nexus standards of the  
16 United States Constitution during the preceding 4  
17 quarterly periods;

18 1.2. beginning July 1, 2011, having a contract with a  
19 person located in this State under which:

20 A. the serviceman sells the same or substantially  
21 similar line of services as the person located in this  
22 State and does so using an identical or substantially  
23 similar name, trade name, or trademark as the person  
24 located in this State; and

25 B. the serviceman provides a commission or other  
26 consideration to the person located in this State based

1           upon the sale of services by the serviceman.

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

8           2. soliciting orders for tangible personal property by  
9           means of a telecommunication or television shopping system  
10          (which utilizes toll free numbers) which is intended by the  
11          retailer to be broadcast by cable television or other means  
12          of broadcasting, to consumers located in this State;

13          3. pursuant to a contract with a broadcaster or  
14          publisher located in this State, soliciting orders for  
15          tangible personal property by means of advertising which is  
16          disseminated primarily to consumers located in this State  
17          and only secondarily to bordering jurisdictions;

18          4. soliciting orders for tangible personal property by  
19          mail if the solicitations are substantial and recurring and  
20          if the retailer benefits from any banking, financing, debt  
21          collection, telecommunication, or marketing activities  
22          occurring in this State or benefits from the location in  
23          this State of authorized installation, servicing, or  
24          repair facilities;

25          5. being owned or controlled by the same interests  
26          which own or control any retailer engaging in business in

1 the same or similar line of business in this State;

2 6. having a franchisee or licensee operating under its  
3 trade name if the franchisee or licensee is required to  
4 collect the tax under this Section;

5 7. pursuant to a contract with a cable television  
6 operator located in this State, soliciting orders for  
7 tangible personal property by means of advertising which is  
8 transmitted or distributed over a cable television system  
9 in this State; or

10 8. engaging in activities in Illinois, which  
11 activities in the state in which the supply business  
12 engaging in such activities is located would constitute  
13 maintaining a place of business in that state.

14 (Source: P.A. 98-583, eff. 1-1-14; 98-1089, eff. 1-1-15.)

15 Section 15. The Service Occupation Tax Act is amended by  
16 changing Section 2 as follows:

17 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

18 Sec. 2. "Transfer" means any transfer of the title to  
19 property or of the ownership of property whether or not the  
20 transferor retains title as security for the payment of amounts  
21 due him from the transferee.

22 "Cost Price" means the consideration paid by the serviceman  
23 for a purchase valued in money, whether paid in money or  
24 otherwise, including cash, credits and services, and shall be

1 determined without any deduction on account of the supplier's  
2 cost of the property sold or on account of any other expense  
3 incurred by the supplier. When a serviceman contracts out part  
4 or all of the services required in his sale of service, it  
5 shall be presumed that the cost price to the serviceman of the  
6 property transferred to him by his or her subcontractor is  
7 equal to 50% of the subcontractor's charges to the serviceman  
8 in the absence of proof of the consideration paid by the  
9 subcontractor for the purchase of such property.

10 "Department" means the Department of Revenue.

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

16 "Sale of Service" means any transaction except:

17 (a) A retail sale of tangible personal property taxable  
18 under the Retailers' Occupation Tax Act or under the Use Tax  
19 Act.

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

23 (c) Except as hereinafter provided, a sale or transfer of  
24 tangible personal property as an incident to the rendering of  
25 service for or by any governmental body or for or by any  
26 corporation, society, association, foundation or institution



1 organized and operated exclusively for charitable, religious  
2 or educational purposes or any not-for-profit corporation,  
3 society, association, foundation, institution or organization  
4 which has no compensated officers or employees and which is  
5 organized and operated primarily for the recreation of persons  
6 55 years of age or older. A limited liability company may  
7 qualify for the exemption under this paragraph only if the  
8 limited liability company is organized and operated  
9 exclusively for educational purposes.

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

20 (d-1) A sale or transfer of tangible personal property as  
21 an incident to the rendering of service for owners, lessors or  
22 shippers of tangible personal property which is utilized by  
23 interstate carriers for hire for use as rolling stock moving in  
24 interstate commerce, and equipment operated by a  
25 telecommunications provider, licensed as a common carrier by  
26 the Federal Communications Commission, which is permanently

1 installed in or affixed to aircraft moving in interstate  
2 commerce.

3 (d-1.1) On and after July 1, 2003 and through June 30,  
4 2004, a sale or transfer of a motor vehicle of the second  
5 division with a gross vehicle weight in excess of 8,000 pounds  
6 as an incident to the rendering of service if that motor  
7 vehicle is subject to the commercial distribution fee imposed  
8 under Section 3-815.1 of the Illinois Vehicle Code. Beginning  
9 on July 1, 2004 and through June 30, 2005, the use in this  
10 State of motor vehicles of the second division: (i) with a  
11 gross vehicle weight rating in excess of 8,000 pounds; (ii)  
12 that are subject to the commercial distribution fee imposed  
13 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)  
14 that are primarily used for commercial purposes. Through June  
15 30, 2005, this exemption applies to repair and replacement  
16 parts added after the initial purchase of such a motor vehicle  
17 if that motor vehicle is used in a manner that would qualify  
18 for 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 in  
21 furtherance of any commercial or industrial enterprise whether  
22 for-hire or not.

23 (d-2) The repairing, reconditioning or remodeling, for a  
24 common carrier by rail, of tangible personal property which  
25 belongs to such carrier for hire, and as to which such carrier  
26 receives the physical possession of the repaired,

1 reconditioned or remodeled item of tangible personal property  
2 in Illinois, and which such carrier transports, or shares with  
3 another common carrier in the transportation of such property,  
4 out of Illinois on a standard uniform bill of lading showing  
5 the person who repaired, reconditioned or remodeled the  
6 property as the shipper or consignor of such property to a  
7 destination outside Illinois, for use outside Illinois.

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

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

1           (e) A sale or transfer of machinery and equipment used  
2 primarily in the process of the manufacturing or assembling,  
3 either in an existing, an expanded or a new manufacturing  
4 facility, of tangible personal property for wholesale or retail  
5 sale or lease, whether such sale or lease is made directly by  
6 the manufacturer or by some other person, whether the materials  
7 used in the process are owned by the manufacturer or some other  
8 person, or whether such sale or lease is made apart from or as  
9 an incident to the seller's engaging in a service occupation  
10 and the applicable tax is a Service Occupation Tax or Service  
11 Use Tax, rather than Retailers' Occupation Tax or Use Tax. The  
12 exemption provided by this paragraph (e) includes production  
13 related tangible personal property, as defined in Section 3-50  
14 of the Use Tax Act, purchased on or after July 1, 2015. The  
15 exemption provided by this paragraph (e) does not include  
16 machinery and equipment used in (i) the generation of  
17 electricity for wholesale or retail sale; (ii) the generation  
18 or treatment of natural or artificial gas for wholesale or  
19 retail sale that is delivered to customers through pipes,  
20 pipelines, or mains; or (iii) the treatment of water for  
21 wholesale or retail sale that is delivered to customers through  
22 pipes, pipelines, or mains. The provisions of this amendatory  
23 Act of the 98th General Assembly are declaratory of existing  
24 law as to the meaning and scope of this exemption.

25           (f) Until July 1, 2003, the sale or transfer of  
26 distillation machinery and equipment, sold as a unit or kit and

1 assembled or installed by the retailer, which machinery and  
2 equipment is certified by the user to be used only for the  
3 production of ethyl alcohol that will be used for consumption  
4 as motor fuel or as a component of motor fuel for the personal  
5 use of such user and not subject to sale or resale.

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

25 Tangible personal property transferred incident to the  
26 completion of a maintenance agreement is exempt from the tax

1 imposed pursuant to this Act.

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

1 manufacturing process shall be deemed to commence with the  
2 first operation or stage of production in the series, and shall  
3 not be deemed to end until the completion of the final product  
4 in the last operation or stage of production in the series; and  
5 further for purposes of exemption (e), photoprocessing is  
6 deemed to be a manufacturing process of tangible personal  
7 property for wholesale or retail sale; (2) "assembling process"  
8 shall mean the production of any article of tangible personal  
9 property, whether such article is a finished product or an  
10 article for use in the process of manufacturing or assembling a  
11 different article of tangible personal property, by the  
12 combination of existing materials in a manner commonly regarded  
13 as assembling which results in a material of a different form,  
14 use or name; (3) "machinery" shall mean major mechanical  
15 machines or major components of such machines contributing to a  
16 manufacturing or assembling process; and (4) "equipment" shall  
17 include any independent device or tool separate from any  
18 machinery but essential to an integrated manufacturing or  
19 assembly process; including computers used primarily in a  
20 manufacturer's computer assisted design, computer assisted  
21 manufacturing (CAD/CAM) system; or any subunit or assembly  
22 comprising a component of any machinery or auxiliary, adjunct  
23 or attachment parts of machinery, such as tools, dies, jigs,  
24 fixtures, patterns and molds; or any parts which require  
25 periodic replacement in the course of normal operation; but  
26 shall not include hand tools. Equipment includes chemicals or

1 chemicals acting as catalysts but only if the chemicals or  
2 chemicals acting as catalysts effect a direct and immediate  
3 change upon a product being manufactured or assembled for  
4 wholesale or retail sale or lease. The purchaser of such  
5 machinery and equipment who has an active resale registration  
6 number shall furnish such number to the seller at the time of  
7 purchase. The purchaser of such machinery and equipment and  
8 tools without an active resale registration number shall  
9 furnish to the seller a certificate of exemption for each  
10 transaction stating facts establishing the exemption for that  
11 transaction, which certificate shall be available to the  
12 Department for inspection or audit.

13 Except as provided in Section 2d of this Act, the rolling  
14 stock exemption applies to rolling stock used by an interstate  
15 carrier for hire, even just between points in Illinois, if such  
16 rolling stock transports, for hire, persons whose journeys or  
17 property whose shipments originate or terminate outside  
18 Illinois.

19 Any informal rulings, opinions or letters issued by the  
20 Department in response to an inquiry or request for any opinion  
21 from any person regarding the coverage and applicability of  
22 exemption (e) to specific devices shall be published,  
23 maintained as a public record, and made available for public  
24 inspection and copying. If the informal ruling, opinion or  
25 letter contains trade secrets or other confidential  
26 information, where possible the Department shall delete such



1 information prior to publication. Whenever such informal  
2 rulings, opinions, or letters contain any policy of general  
3 applicability, the Department shall formulate and adopt such  
4 policy as a rule in accordance with the provisions of the  
5 Illinois Administrative Procedure Act.

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

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

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

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

17 (Source: P.A. 98-583, eff. 1-1-14.)

18 Section 20. The Retailers' Occupation Tax Act is amended by  
19 changing Section 2-45 as follows:

20 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

21 Sec. 2-45. Manufacturing and assembly exemption. The  
22 manufacturing and assembly machinery and equipment exemption  
23 includes machinery and equipment that replaces machinery and  
24 equipment in an existing manufacturing facility as well as

1 machinery and equipment that are for use in an expanded or new  
2 manufacturing facility.

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

18 (1) "Manufacturing process" means the production of an  
19 article of tangible personal property, whether the article  
20 is a finished product or an article for use in the process  
21 of manufacturing or assembling a different article of  
22 tangible personal property, by a procedure commonly  
23 regarded as manufacturing, processing, fabricating, or  
24 refining that changes some existing material or materials  
25 into a material with a different form, use, or name. In  
26 relation to a recognized integrated business composed of a

1 series of operations that collectively constitute  
2 manufacturing, or individually constitute manufacturing  
3 operations, the manufacturing process commences with the  
4 first operation or stage of production in the series and  
5 does not end until the completion of the final product in  
6 the last operation or stage of production in the series.  
7 For purposes of this exemption, photoprocessing is a  
8 manufacturing process of tangible personal property for  
9 wholesale or retail sale.

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

17 (3) "Machinery" means major mechanical machines or  
18 major components of those machines contributing to a  
19 manufacturing or assembling process.

20 (4) "Equipment" includes an independent device or tool  
21 separate from machinery but essential to an integrated  
22 manufacturing or assembly process; including computers  
23 used primarily in a manufacturer's computer assisted  
24 design, computer assisted manufacturing (CAD/CAM) system;  
25 any subunit or assembly comprising a component of any  
26 machinery or auxiliary, adjunct, or attachment parts of

1 machinery, such as tools, dies, jigs, fixtures, patterns,  
2 and molds; and any parts that require periodic replacement  
3 in the course of normal operation; but does not include  
4 hand tools. 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  
7 upon a product being manufactured or assembled for  
8 wholesale or retail sale or lease.

9 (5) "Production related tangible personal property"  
10 means all tangible personal property that is used or  
11 consumed by the purchaser in a manufacturing facility in  
12 which a manufacturing process takes place and includes,  
13 without limitation, tangible personal property that is  
14 purchased for incorporation into real estate within a  
15 manufacturing facility, supplies and consumables used in a  
16 manufacturing facility including fuels, coolants,  
17 solvents, oils, lubricants, and adhesives, hand tools,  
18 protective apparel, and fire and safety equipment used or  
19 consumed within a manufacturing facility, and tangible  
20 personal property that is used or consumed in activities  
21 such as research and development, preproduction material  
22 handling, receiving, quality control, inventory control,  
23 storage, staging, and packaging for shipping and  
24 transportation purposes. "Production related tangible  
25 personal property" does not include (i) tangible personal  
26 property that is used, within or without a manufacturing

1 facility, in sales, purchasing, accounting, fiscal  
2 management, marketing, personnel recruitment or selection,  
3 or landscaping or (ii) tangible personal property that is  
4 required to be titled or registered with a department,  
5 agency, or unit of federal, 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 and on or after July 1, 2015. The  
10 exemption for production related tangible personal property  
11 purchased on or after July 1, 2007 and before June 30, 2008 is  
12 subject to both of the following limitations:

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

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

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

4 The manufacturing and assembling machinery and equipment  
5 exemption includes the sale of materials to a purchaser who  
6 produces exempted types of machinery, equipment, or tools and  
7 who rents or leases that machinery, equipment, or tools to a  
8 manufacturer of tangible personal property. This exemption  
9 also includes the sale of materials to a purchaser who  
10 manufactures those materials into an exempted type of  
11 machinery, equipment, or tools that the purchaser uses himself  
12 or herself in the manufacturing of tangible personal property.  
13 The purchaser of the machinery and equipment who has an active  
14 resale registration number shall furnish that number to the  
15 seller at the time of purchase. A purchaser of the machinery,  
16 equipment, and tools without an active resale registration  
17 number shall furnish to the seller a certificate of exemption  
18 for each transaction stating facts establishing the exemption  
19 for that transaction, and that certificate shall be available  
20 to the Department for inspection or audit. Informal rulings,  
21 opinions, or letters issued by the Department in response to an  
22 inquiry or request for an opinion from any person regarding the  
23 coverage and applicability of this exemption to specific  
24 devices shall be published, maintained as a public record, and  
25 made available for public inspection and copying. If the  
26 informal ruling, opinion, or letter contains trade secrets or

1 other confidential information, where possible, the Department  
2 shall delete that information before publication. Whenever  
3 informal rulings, opinions, or letters contain a policy of  
4 general applicability, the Department shall formulate and  
5 adopt that policy as a rule in accordance with the Illinois  
6 Administrative Procedure Act.

7 (Source: P.A. 98-583, eff. 1-1-14.)

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