



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5634

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 18231 HLH 42601 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, 2016. 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, the MC/DD Act, or the
18 Specialized Mental 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. 98-104, eff. 7-22-13; 98-422, eff. 8-16-13;
5 98-456, eff. 8-16-13; 98-534, eff. 8-23-13; 98-574, eff.
6 1-1-14; 98-583, eff. 1-1-14; 98-756, eff. 7-16-14; 99-180, eff.
7 7-29-15.)

8 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

9 Sec. 3-50. Manufacturing and assembly exemption. The
10 manufacturing and assembling machinery and equipment exemption
11 includes machinery and equipment that replaces machinery and
12 equipment in an existing manufacturing facility as well as
13 machinery and equipment that are for use in an expanded or new
14 manufacturing facility. The machinery and equipment exemption
15 also includes machinery and equipment used in the general
16 maintenance or repair of exempt machinery and equipment or for
17 in-house manufacture of exempt machinery and equipment. The
18 machinery and equipment exemption does not include machinery
19 and equipment used in (i) the generation of electricity for
20 wholesale or retail sale; (ii) the generation or treatment of
21 natural or artificial gas for wholesale or retail sale that is
22 delivered to customers through pipes, pipelines, or mains; or
23 (iii) the treatment of water for wholesale or retail sale that
24 is delivered to customers through pipes, pipelines, or mains.
25 The provisions of this amendatory Act of the 98th General

1 Assembly are declaratory of existing law as to the meaning and
2 scope of this exemption. For the purposes of this exemption,
3 terms have the following meanings:

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

21 (2) "Assembling process" means the production of an
22 article of tangible personal property, whether the article
23 is a finished product or an article for use in the process
24 of manufacturing or assembling a different article of
25 tangible personal property, by the combination of existing
26 materials in a manner commonly regarded as assembling that

1 results in an article or material of a different form, use,
2 or name.

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

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

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

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

18 The manufacturing and assembling machinery and equipment
19 exemption includes production related tangible personal
20 property that is purchased on or after July 1, 2007 and on or
21 before June 30, 2008 and on or after July 1, 2016. The
22 exemption for production related tangible personal property
23 purchased on or after July 1, 2007 and on or before June 30,
24 2008 is subject to both of the following limitations:

25 (1) The maximum amount of the exemption for any one
26 taxpayer may not exceed 5% of the purchase price of

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

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

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

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

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

25 (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
25 for a purchase valued in money, whether paid in money or

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

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

21 "Department" means the Department of Revenue.

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

1 "Sale of service" means any transaction except:

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

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

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

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

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

8 (4a) a sale or transfer of tangible personal property
9 as an incident to the rendering of service for owners,
10 lessors, or shippers of tangible personal property which is
11 utilized by interstate carriers for hire for use as rolling
12 stock moving in interstate commerce so long as so used by
13 interstate carriers for hire, and equipment operated by a
14 telecommunications provider, licensed as a common carrier
15 by the Federal Communications Commission, which is
16 permanently installed in or affixed to aircraft moving in
17 interstate commerce.

18 (4a-5) on and after July 1, 2003 and through June 30,
19 2004, a sale or transfer of a motor vehicle of the second
20 division with a gross vehicle weight in excess of 8,000
21 pounds as an incident to the rendering of service if that
22 motor vehicle is subject to the commercial distribution fee
23 imposed under Section 3-815.1 of the Illinois Vehicle Code.
24 Beginning on July 1, 2004 and through June 30, 2005, the
25 use in this State of motor vehicles of the second division:
26 (i) with a gross vehicle weight rating in excess of 8,000

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

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

1 in Section 3-50 of the Use Tax Act, purchased on or after
2 July 1, 2016. The exemption provided by this paragraph (5)
3 does not include machinery and equipment used in (i) the
4 generation of electricity for wholesale or retail sale;
5 (ii) the generation or treatment of natural or artificial
6 gas for wholesale or retail sale that is delivered to
7 customers through pipes, pipelines, or mains; or (iii) the
8 treatment of water for wholesale or retail sale that is
9 delivered to customers through pipes, pipelines, or mains.
10 The provisions of this amendatory Act of the 98th General
11 Assembly are declaratory of existing law as to the meaning
12 and scope of this exemption.

13 (5a) the repairing, reconditioning or remodeling, for
14 a common carrier by rail, of tangible personal property
15 which belongs to such carrier for hire, and as to which
16 such carrier receives the physical possession of the
17 repaired, reconditioned or remodeled item of tangible
18 personal property in Illinois, and which such carrier
19 transports, or shares with another common carrier in the
20 transportation of such property, out of Illinois on a
21 standard uniform bill of lading showing the person who
22 repaired, reconditioned or remodeled the property to a
23 destination outside Illinois, for use outside Illinois.

24 (5b) a sale or transfer of tangible personal property
25 which is produced by the seller thereof on special order in
26 such a way as to have made the applicable tax the Service

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

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

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

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

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

16 Exemption (5) also includes machinery and equipment used in
17 the general maintenance or repair of such exempt machinery and
18 equipment or for in-house manufacture of exempt machinery and
19 equipment. The machinery and equipment exemption does not
20 include machinery and equipment used in (i) the generation of
21 electricity for wholesale or retail sale; (ii) the generation
22 or treatment of natural or artificial gas for wholesale or
23 retail sale that is delivered to customers through pipes,
24 pipelines, or mains; or (iii) the treatment of water for
25 wholesale or retail sale that is delivered to customers through
26 pipes, pipelines, or mains. The provisions of this amendatory

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

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

1 certificate.

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

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

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

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

26 "Sale at retail" means "sale at retail" as defined in the

1 Retailers' Occupation Tax Act.

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

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

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

16 1.1. having a contract with a person located in this
17 State under which the person, for a commission or other
18 consideration based on the sale of service by the
19 serviceman, directly or indirectly refers potential
20 customers to the serviceman by providing to the potential
21 customers a promotional code or other mechanism that allows
22 the serviceman to track purchases referred by such persons.
23 Examples of mechanisms that allow the serviceman to track
24 purchases referred by such persons include but are not
25 limited to the use of a link on the person's Internet
26 website, promotional codes distributed through the

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

17 1.2. beginning July 1, 2011, having a contract with a
18 person located in this State under which:

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

24 B. the serviceman provides a commission or other
25 consideration to the person located in this State based
26 upon the sale of services by the serviceman.

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

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

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

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

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

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

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

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

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

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

16 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

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

21 "Cost Price" means the consideration paid by the serviceman
22 for a purchase valued in money, whether paid in money or
23 otherwise, including cash, credits and services, and shall be
24 determined without any deduction on account of the supplier's

1 cost of the property sold or on account of any other expense
2 incurred by the supplier. When a serviceman contracts out part
3 or all of the services required in his sale of service, it
4 shall be presumed that the cost price to the serviceman of the
5 property transferred to him by his or her subcontractor is
6 equal to 50% of the subcontractor's charges to the serviceman
7 in the absence of proof of the consideration paid by the
8 subcontractor for the purchase of such property.

9 "Department" means the Department of Revenue.

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

15 "Sale of Service" means any transaction except:

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

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

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

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

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

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

1 commerce.

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

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

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

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

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

26 (e) A sale or transfer of machinery and equipment used

1 primarily in the process of the manufacturing or assembling,
2 either in an existing, an expanded or a new manufacturing
3 facility, of tangible personal property for wholesale or retail
4 sale or lease, whether such sale or lease is made directly by
5 the manufacturer or by some other person, whether the materials
6 used in the process are owned by the manufacturer or some other
7 person, or whether such sale or lease is made apart from or as
8 an incident to the seller's engaging in a service occupation
9 and the applicable tax is a Service Occupation Tax or Service
10 Use Tax, rather than Retailers' Occupation Tax or Use Tax. The
11 exemption provided by this paragraph (e) includes production
12 related tangible personal property, as defined in Section 3-50
13 of the Use Tax Act, purchased on or after July 1, 2016. The
14 exemption provided by this paragraph (e) does not include
15 machinery and equipment used in (i) the generation of
16 electricity for wholesale or retail sale; (ii) the generation
17 or treatment of natural or artificial gas for wholesale or
18 retail sale that is delivered to customers through pipes,
19 pipelines, or mains; or (iii) the treatment of water for
20 wholesale or retail sale that is delivered to customers through
21 pipes, pipelines, or mains. The provisions of this amendatory
22 Act of the 98th General Assembly are declaratory of existing
23 law as to the meaning and scope of this exemption.

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

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

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

24 Tangible personal property transferred incident to the
25 completion of a maintenance agreement is exempt from the tax
26 imposed pursuant to this Act.

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

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

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

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

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

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

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

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

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

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

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

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

19 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

20 Sec. 2-45. Manufacturing and assembly exemption. The
21 manufacturing and assembly machinery and equipment exemption
22 includes machinery and equipment that replaces machinery and
23 equipment in an existing manufacturing facility as well as
24 machinery and equipment that are for use in an expanded or new

1 manufacturing facility.

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

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

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

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

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

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

1 and molds; and any parts that require periodic replacement
2 in the course of normal operation; but does not include
3 hand tools. Equipment includes chemicals or chemicals
4 acting as catalysts but only if the chemicals or chemicals
5 acting as catalysts effect a direct and immediate change
6 upon a product being manufactured or assembled for
7 wholesale or retail sale or lease.

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

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

5 The manufacturing and assembling machinery and equipment
6 exemption includes production related tangible personal
7 property that is purchased on or after July 1, 2007 and on or
8 before June 30, 2008 and on or after July 1, 2015. The
9 exemption for production related tangible personal property
10 purchased on or after July 1, 2007 and before June 30, 2008 is
11 subject to both of the following limitations:

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

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

26 The Department shall ~~may~~ adopt rules to implement and

1 administer the exemption for production related tangible
2 personal property.

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

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

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

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