

HB5942



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5942

by Rep. Michael Unes

SYNOPSIS AS INTRODUCED:

35 ILCS 110/3-51

Amends the Service Use Tax Act. Makes a technical change in a Section concerning rolling stock.

LRB099 18681 HLH 43064 b

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Service Use Tax Act is amended by changing
5 Section 3-51 as follows:

6 (35 ILCS 110/3-51)

7 Sec. 3-51. Motor vehicles; trailers; use as rolling stock
8 definition.

9 (a) Through June 30, 2003, "use as ~~as~~ rolling stock moving
10 in interstate commerce" in subsection (b) of Section 3-45 means
11 for motor vehicles, as defined in Section 1-46 of the Illinois
12 Vehicle Code, and trailers, as defined in Section 1-209 of the
13 Illinois Vehicle Code, when on 15 or more occasions in a
14 12-month period the motor vehicle and trailer has carried
15 persons or property for hire in interstate commerce, even just
16 between points in Illinois, if the motor vehicle and trailer
17 transports persons whose journeys or property whose shipments
18 originate or terminate outside Illinois. This definition
19 applies to all property purchased for the purpose of being
20 attached to those motor vehicles or trailers as a part thereof.

21 (b) On and after July 1, 2003 and through June 30, 2004,
22 "use as rolling stock moving in interstate commerce" in
23 paragraphs (4) and (4a) of the definition of "sale of service"

1 in Section 2 and subsection (b) of Section 3-45 occurs for
2 motor vehicles, as defined in Section 1-146 of the Illinois
3 Vehicle Code, when during a 12-month period the rolling stock
4 has carried persons or property for hire in interstate commerce
5 for 51% of its total trips and transports persons whose
6 journeys or property whose shipments originate or terminate
7 outside Illinois. Trips that are only between points in
8 Illinois shall not be counted as interstate trips when
9 calculating whether the tangible personal property qualifies
10 for the exemption but such trips shall be included in total
11 trips taken.

12 (c) Beginning July 1, 2004, "use as rolling stock moving in
13 interstate commerce" in paragraphs (4) and (4a) of the
14 definition of "sale of service" in Section 2 and subsection (b)
15 of Section 3-45 occurs for motor vehicles, as defined in
16 Section 1-146 of the Illinois Vehicle Code, when during a
17 12-month period the rolling stock has carried persons or
18 property for hire in interstate commerce for greater than 50%
19 of its total trips for that period or for greater than 50% of
20 its total miles for that period. The person claiming the
21 exemption shall make an election at the time of purchase to use
22 either the trips or mileage method. Persons who purchased motor
23 vehicles prior to July 1, 2004 shall make an election to use
24 either the trips or mileage method and document that election
25 in their books and records. If no election is made under this
26 subsection to use the trips or mileage method, the person shall

1 be deemed to have chosen the mileage method.

2 For purposes of determining qualifying trips or miles,
3 motor vehicles that carry persons or property for hire, even
4 just between points in Illinois, will be considered used for
5 hire in interstate commerce if the motor vehicle transports
6 persons whose journeys or property whose shipments originate or
7 terminate outside Illinois. The exemption for motor vehicles
8 used as rolling stock moving in interstate commerce may be
9 claimed only for the following vehicles: (i) motor vehicles
10 whose gross vehicle weight rating exceeds 16,000 pounds; and
11 (ii) limousines, as defined in Section 1-139.1 of the Illinois
12 Vehicle Code. This definition applies to all property purchased
13 for the purpose of being attached to those motor vehicles as a
14 part thereof.

15 (d) Beginning July 1, 2004, "use as rolling stock moving in
16 interstate commerce" in paragraphs (4) and (4a) of the
17 definition of "sale of service" in Section 2 and subsection (b)
18 of Section 3-45 occurs for trailers, as defined in Section
19 1-209 of the Illinois Vehicle Code, semitrailers as defined in
20 Section 1-187 of the Illinois Vehicle Code, and pole trailers
21 as defined in Section 1-161 of the Illinois Vehicle Code, when
22 during a 12-month period the rolling stock has carried persons
23 or property for hire in interstate commerce for greater than
24 50% of its total trips for that period or for greater than 50%
25 of its total miles for that period. The person claiming the
26 exemption for a trailer or trailers that will not be dedicated

1 to a motor vehicle or group of motor vehicles shall make an
2 election at the time of purchase to use either the trips or
3 mileage method. Persons who purchased trailers prior to July 1,
4 2004 that are not dedicated to a motor vehicle or group of
5 motor vehicles shall make an election to use either the trips
6 or mileage method and document that election in their books and
7 records. If no election is made under this subsection to use
8 the trips or mileage method, the person shall be deemed to have
9 chosen the mileage method.

10 For purposes of determining qualifying trips or miles,
11 trailers, semitrailers, or pole trailers that carry property
12 for hire, even just between points in Illinois, will be
13 considered used for hire in interstate commerce if the
14 trailers, semitrailers, or pole trailers transport property
15 whose shipments originate or terminate outside Illinois. This
16 definition applies to all property purchased for the purpose of
17 being attached to those trailers, semitrailers, or pole
18 trailers as a part thereof. In lieu of a person providing
19 documentation regarding the qualifying use of each individual
20 trailer, semitrailer, or pole trailer, that person may document
21 such qualifying use by providing documentation of the
22 following:

23 (1) If a trailer, semitrailer, or pole trailer is
24 dedicated to a motor vehicle that qualifies as rolling
25 stock moving in interstate commerce under subsection (c) of
26 this Section, then that trailer, semitrailer, or pole

1 trailer qualifies as rolling stock moving in interstate
2 commerce under this subsection.

3 (2) If a trailer, semitrailer, or pole trailer is
4 dedicated to a group of motor vehicles that all qualify as
5 rolling stock moving in interstate commerce under
6 subsection (c) of this Section, then that trailer,
7 semitrailer, or pole trailer qualifies as rolling stock
8 moving in interstate commerce under this subsection.

9 (3) If one or more trailers, semitrailers, or pole
10 trailers are dedicated to a group of motor vehicles and not
11 all of those motor vehicles in that group qualify as
12 rolling stock moving in interstate commerce under
13 subsection (c) of this Section, then the percentage of
14 those trailers, semitrailers, or pole trailers that
15 qualifies as rolling stock moving in interstate commerce
16 under this subsection is equal to the percentage of those
17 motor vehicles in that group that qualify as rolling stock
18 moving in interstate commerce under subsection (c) of this
19 Section to which those trailers, semitrailers, or pole
20 trailers are dedicated. However, to determine the
21 qualification for the exemption provided under this item
22 (3), the mathematical application of the qualifying
23 percentage to one or more trailers, semitrailers, or pole
24 trailers under this subpart shall not be allowed as to any
25 fraction of a trailer, semitrailer, or pole trailer.

26 (e) For aircraft and watercraft purchased on or after

1 January 1, 2014, "use as rolling stock moving in interstate
2 commerce" in (i) paragraphs (4) and (4a) of the definition of
3 "sale of service" in Section 2 and (ii) subsection (b) of
4 Section 3-45 occurs when, during a 12-month period, the rolling
5 stock has carried persons or property for hire in interstate
6 commerce for greater than 50% of its total trips for that
7 period or for greater than 50% of its total miles for that
8 period. The person claiming the exemption shall make an
9 election at the time of purchase to use either the trips or
10 mileage method and document that election in their books and
11 records. If no election is made under this subsection to use
12 the trips or mileage method, the person shall be deemed to have
13 chosen the mileage method. For aircraft, flight hours may be
14 used in lieu of recording miles in determining whether the
15 aircraft meets the mileage test in this subsection. For
16 watercraft, nautical miles or trip hours may be used in lieu of
17 recording miles in determining whether the watercraft meets the
18 mileage test in this subsection.

19 Notwithstanding any other provision of law to the contrary,
20 property purchased on or after January 1, 2014 for the purpose
21 of being attached to aircraft or watercraft as a part thereof
22 qualifies as rolling stock moving in interstate commerce only
23 if the aircraft or watercraft to which it will be attached
24 qualifies as rolling stock moving in interstate commerce under
25 the test set forth in this subsection (e), regardless of when
26 the aircraft or watercraft was purchased. Persons who purchased

1 aircraft or watercraft prior to January 1, 2014 shall make an
2 election to use either the trips or mileage method and document
3 that election in their books and records for the purpose of
4 determining whether property purchased on or after January 1,
5 2014 for the purpose of being attached to aircraft or
6 watercraft as a part thereof qualifies as rolling stock moving
7 in interstate commerce under this subsection (e).

8 (f) The election to use either the trips or mileage method
9 made under the provisions of subsections (c), (d), or (e) of
10 this Section will remain in effect for the duration of the
11 purchaser's ownership of that item.

12 (Source: P.A. 98-584, eff. 8-27-13.)