

1 AN ACT concerning taxes.

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  
5 Sections 3-5, 3-45 and 3-50 and adding Section 3-10.5 as  
6 follows:

7 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

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

31 (4) Personal property purchased by a governmental body,

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

15 (5) A passenger car that is a replacement vehicle to the  
16 extent that the purchase price of the car is subject to the  
17 Replacement Vehicle Tax.

18 (6) Graphic arts machinery and equipment, including  
19 repair and replacement parts, both new and used, and  
20 including that manufactured on special order, certified by  
21 the purchaser to be used primarily for graphic arts  
22 production, and including machinery and equipment purchased  
23 for lease. Equipment includes chemicals or chemicals acting  
24 as catalysts but only if the chemicals or chemicals acting as  
25 catalysts effect a direct and immediate change upon a graphic  
26 arts product.

27 (7) Farm chemicals.

28 (8) Legal tender, currency, medallions, or gold or  
29 silver coinage issued by the State of Illinois, the  
30 government of the United States of America, or the government  
31 of any foreign country, and bullion.

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

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

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

31           Farm machinery and equipment shall include precision  
32 farming equipment that is installed or purchased to be  
33 installed on farm machinery and equipment including, but not  
34 limited to, tractors, harvesters, sprayers, planters,

1 seeders, or spreaders. Precision farming equipment includes,  
2 but is not limited to, soil testing sensors, computers,  
3 monitors, software, global positioning and mapping systems,  
4 and other such equipment.

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

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

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

28 (14) Oil field exploration, drilling, and production  
29 equipment, including (i) rigs and parts of rigs, rotary rigs,  
30 cable tool rigs, and workover rigs, (ii) pipe and tubular  
31 goods, including casing and drill strings, (iii) pumps and  
32 pump-jack units, (iv) storage tanks and flow lines, (v) any  
33 individual replacement part for oil field exploration,  
34 drilling, and production equipment, and (vi) machinery and

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

3 (15) Photoprocessing machinery and equipment, including  
4 repair and replacement parts, both new and used, including  
5 that manufactured on special order, certified by the  
6 purchaser to be used primarily for photoprocessing, and  
7 including photoprocessing machinery and equipment purchased  
8 for lease.

9 (16) Coal exploration, mining, offhighway hauling,  
10 processing, maintenance, and reclamation equipment, including  
11 replacement parts and equipment, and including equipment  
12 purchased for lease, but excluding motor vehicles required to  
13 be registered under the Illinois Vehicle Code.

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

20 (18) Manufacturing and assembling machinery and  
21 equipment used primarily in the process of manufacturing or  
22 assembling tangible personal property for wholesale or retail  
23 sale or lease, whether that sale or lease is made directly by  
24 the manufacturer or by some other person, whether the  
25 materials used in the process are owned by the manufacturer  
26 or some other person, or whether that sale or lease is made  
27 apart from or as an incident to the seller's engaging in the  
28 service occupation of producing machines, tools, dies, jigs,  
29 patterns, gauges, or other similar items of no commercial  
30 value on special order for a particular purchaser.

31 (19) Personal property delivered to a purchaser or  
32 purchaser's donee inside Illinois when the purchase order for  
33 that personal property was received by a florist located  
34 outside Illinois who has a florist located inside Illinois

1 deliver the personal property.

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

4 (21) Horses, or interests in horses, registered with and  
5 meeting the requirements of any of the Arabian Horse Club  
6 Registry of America, Appaloosa Horse Club, American Quarter  
7 Horse Association, United States Trotting Association, or  
8 Jockey Club, as appropriate, used for purposes of breeding or  
9 racing for prizes.

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

33 (23) Personal property purchased by a lessor who leases  
34 the property, under a lease of one year or longer executed

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

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

30 (25) Beginning with taxable years ending on or after  
31 December 31, 1995 and ending with taxable years ending on or  
32 before December 31, 2004, personal property that is used in  
33 the performance of infrastructure repairs in this State,  
34 including but not limited to municipal roads and streets,

1 access roads, bridges, sidewalks, waste disposal systems,  
2 water and sewer line extensions, water distribution and  
3 purification facilities, storm water drainage and retention  
4 facilities, and sewage treatment facilities, resulting from a  
5 State or federally declared disaster in Illinois or bordering  
6 Illinois when such repairs are initiated on facilities  
7 located in the declared disaster area within 6 months after  
8 the disaster.

9 (26) Beginning July 1, 1999, game or game birds  
10 purchased at a "game breeding and hunting preserve area" or  
11 an "exotic game hunting area" as those terms are used in the  
12 Wildlife Code or at a hunting enclosure approved through  
13 rules adopted by the Department of Natural Resources. This  
14 paragraph is exempt from the provisions of Section 3-90.

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

34 (28) Beginning January 1, 2000, personal property,



1 including food, purchased through fundraising events for the  
2 benefit of a public or private elementary or secondary  
3 school, a group of those schools, or one or more school  
4 districts if the events are sponsored by an entity recognized  
5 by the school district that consists primarily of volunteers  
6 and includes parents and teachers of the school children.  
7 This paragraph does not apply to fundraising events (i) for  
8 the benefit of private home instruction or (ii) for which the  
9 fundraising entity purchases the personal property sold at  
10 the events from another individual or entity that sold the  
11 property for the purpose of resale by the fundraising entity  
12 and that profits from the sale to the fundraising entity.  
13 This paragraph is exempt from the provisions of Section 3-90.

14 (29) Beginning January 1, 2000, new or used automatic  
15 vending machines that prepare and serve hot food and  
16 beverages, including coffee, soup, and other items, and  
17 replacement parts for these machines. This paragraph is  
18 exempt from the provisions of Section 3-90.

19 (30) Food for human consumption that is to be consumed  
20 off the premises where it is sold (other than alcoholic  
21 beverages, soft drinks, and food that has been prepared for  
22 immediate consumption) and prescription and nonprescription  
23 medicines, drugs, medical appliances, and insulin, urine  
24 testing materials, syringes, and needles used by diabetics,  
25 for human use, when purchased for use by a person receiving  
26 medical assistance under Article 5 of the Illinois Public Aid  
27 Code who resides in a licensed long-term care facility, as  
28 defined in the Nursing Home Care Act.

29 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;  
30 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.  
31 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,  
32 eff. 8-20-99; 91-901, eff. 1-1-01.)

33 (35 ILCS 105/3-10.5 new)

1       Sec. 3-10.5. Direct payment of retailers' occupation tax  
2       and applicable local retailers' occupation tax by purchaser;  
3       purchaser relieved of paying use tax and local retailers'  
4       occupation tax reimbursement liabilities to retailer.

5       (a) A retailer who makes a retail sale of tangible  
6       personal property to a purchaser who provides the retailer  
7       with a copy of the purchaser's valid Direct Pay Permit issued  
8       under Section 2-10.5 of the Retailers' Occupation Tax Act is  
9       not required under Section 3-45 of this Act to collect the  
10       tax imposed by this Act on that sale.

11       (b) A purchaser who makes a purchase from a retailer who  
12       would otherwise incur retailers' occupation tax liability on  
13       the transaction and who provides the retailer with a copy of  
14       a valid Direct Pay Permit issued under Section 2-10.5 of the  
15       Retailers' Occupation Tax Act does not incur the tax imposed  
16       by this Act on the purchase. The purchaser assumes the  
17       retailer's obligation to pay the retailers' occupation tax  
18       directly to the Department, including all local retailers'  
19       occupation tax liabilities applicable to that retail sale.

20       (c) A purchaser who makes a purchase from a retailer who  
21       would not incur retailers' occupation tax liability on the  
22       transaction and who provides the retailer with a copy of a  
23       valid Direct Pay Permit issued under Section 2-10.5 of the  
24       Retailers' Occupation Tax Act incurs the tax imposed by this  
25       Act on the purchase. If, on any transaction, the retailer is  
26       entitled under this Act to a discount for collecting and  
27       remitting the tax imposed under this Act to the Department,  
28       the right to the discount provided in Section 9 of this Act  
29       shall be transferred to the Permit holder. If the retailer  
30       would not be entitled to a discount as provided in Section 9  
31       of this Act, then the Permit holder is not entitled to a  
32       discount.

1           Sec. 3-45.   Collection.   The tax imposed by this Act  
2 shall be collected from the purchaser by a retailer  
3 maintaining a place of business in this State or a retailer  
4 authorized by the Department under Section 6 of this Act, and  
5 shall be remitted to the Department as provided in Section 9  
6 of this Act, except as provided in Section 3-10.5 of this  
7 Act.

8           The tax imposed by this Act that is not paid to a  
9 retailer under this Section shall be paid to the Department  
10 directly by any person using the property within this State  
11 as provided in Section 10 of this Act.

12           Retailers shall collect the tax from users by adding the  
13 tax to the selling price of tangible personal property, when  
14 sold for use, in the manner prescribed by the Department.  
15 The Department may adopt and promulgate reasonable rules and  
16 regulations for the adding of the tax by retailers to selling  
17 prices by prescribing bracket systems for the purpose of  
18 enabling the retailers to add and collect, as far as  
19 practicable, the amount of the tax.

20           If a seller collects use tax measured by receipts that  
21 are not subject to use tax, or if a seller, in collecting use  
22 tax measured by receipts that are subject to tax under this  
23 Act, collects more from the purchaser than the required  
24 amount of the use tax on the transaction, the purchaser shall  
25 have a legal right to claim a refund of that amount from the  
26 seller. If, however, that amount is not refunded to the  
27 purchaser for any reason, the seller is liable to pay that  
28 amount to the Department. This paragraph does not apply to  
29 an amount collected by the seller as use tax on receipts that  
30 are subject to tax under this Act as long as the collection  
31 is made in compliance with the tax collection brackets  
32 prescribed by the Department in its rules and regulations.

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

1 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)  
2 Sec. 3-50. Manufacturing and assembly exemption. The  
3 manufacturing and assembling machinery and equipment  
4 exemption includes machinery and equipment that replaces  
5 machinery and equipment in an existing manufacturing facility  
6 as well as machinery and equipment that are for use in an  
7 expanded or new manufacturing facility. The machinery and  
8 equipment exemption also includes machinery and equipment  
9 used in the general maintenance or repair of exempt machinery  
10 and equipment or for in-house manufacture of exempt machinery  
11 and equipment. For the purposes of this exemption, terms have  
12 the following meanings:

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

31 (2) "Assembling process" means the production of an  
32 article of tangible personal property, whether the  
33 article is a finished product or an article for use in  
34 the process of manufacturing or assembling a different

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

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

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

24 The manufacturing and assembling machinery and equipment  
25 exemption includes the sale of materials to a purchaser who  
26 produces exempted types of machinery, equipment, or tools and  
27 who rents or leases that machinery, equipment, or tools to a  
28 manufacturer of tangible personal property. This exemption  
29 also includes the sale of materials to a purchaser who  
30 manufactures those materials into an exempted type of  
31 machinery, equipment, or tools that the purchaser uses  
32 himself or herself in the manufacturing of tangible personal  
33 property. This exemption includes the sale of exempted types  
34 of machinery or equipment to a purchaser who is not the

1 manufacturer, but who rents or leases the use of the property  
2 to a manufacturer. The purchaser of the machinery and  
3 equipment who has an active resale registration number shall  
4 furnish that number to the seller at the time of purchase. A  
5 user of the machinery, equipment, or tools without an active  
6 resale registration number shall prepare a certificate of  
7 exemption for each transaction stating facts establishing the  
8 exemption for that transaction, and that certificate shall be  
9 available to the Department for inspection or audit. The  
10 Department shall prescribe the form of the certificate.  
11 Informal rulings, opinions, or letters issued by the  
12 Department in response to an inquiry or request for an  
13 opinion from any person regarding the coverage and  
14 applicability of this exemption to specific devices shall be  
15 published, maintained as a public record, and made available  
16 for public inspection and copying. If the informal ruling,  
17 opinion, or letter contains trade secrets or other  
18 confidential information, where possible, the Department  
19 shall delete that information before publication. Whenever  
20 informal rulings, opinions, or letters contain a policy of  
21 general applicability, the Department shall formulate and  
22 adopt that policy as a rule in accordance with the Illinois  
23 Administrative Procedure Act.

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

25 Section 10. The Service Use Tax Act is amended by  
26 changing Sections 2 and 3-5 as follows:

27 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

28 Sec. 2. "Use" means the exercise by any person of any  
29 right or power over tangible personal property incident to  
30 the ownership of that property, but does not include the sale  
31 or use for demonstration by him of that property in any form  
32 as tangible personal property in the regular course of

1 business. "Use" does not mean the interim use of tangible  
2 personal property nor the physical incorporation of tangible  
3 personal property, as an ingredient or constituent, into  
4 other tangible personal property, (a) which is sold in the  
5 regular course of business or (b) which the person  
6 incorporating such ingredient or constituent therein has  
7 undertaken at the time of such purchase to cause to be  
8 transported in interstate commerce to destinations outside  
9 the State of Illinois.

10 "Purchased from a serviceman" means the acquisition of  
11 the ownership of, or title to, tangible personal property  
12 through a sale of service.

13 "Purchaser" means any person who, through a sale of  
14 service, acquires the ownership of, or title to, any tangible  
15 personal property.

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

29 "Selling price" means the consideration for a sale valued  
30 in money whether received in money or otherwise, including  
31 cash, credits and service, and shall be determined without  
32 any deduction on account of the serviceman's cost of the  
33 property sold, the cost of materials used, labor or service  
34 cost or any other expense whatsoever, but does not include

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

6 "Department" means the Department of Revenue.

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

12 "Sale of service" means any transaction except:

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

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

19 (3) except as hereinafter provided, a sale or  
20 transfer of tangible personal property as an incident to  
21 the rendering of service for or by any governmental body,  
22 or for or by any corporation, society, association,  
23 foundation or institution organized and operated  
24 exclusively for charitable, religious or educational  
25 purposes or any not-for-profit corporation, society,  
26 association, foundation, institution or organization  
27 which has no compensated officers or employees and which  
28 is organized and operated primarily for the recreation of  
29 persons 55 years of age or older. A limited liability  
30 company may qualify for the exemption under this  
31 paragraph only if the limited liability company is  
32 organized and operated exclusively for educational  
33 purposes.

34 (4) a sale or transfer of tangible personal



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

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

22 (5) a sale or transfer of machinery and equipment  
23 used primarily in the process of the manufacturing or  
24 assembling, either in an existing, an expanded or a new  
25 manufacturing facility, of tangible personal property for  
26 wholesale or retail sale or lease, whether such sale or  
27 lease is made directly by the manufacturer or by some  
28 other person, whether the materials used in the process  
29 are owned by the manufacturer or some other person, or  
30 whether such sale or lease is made apart from or as an  
31 incident to the seller's engaging in a service occupation  
32 and the applicable tax is a Service Use Tax or Service  
33 Occupation Tax, rather than Use Tax or Retailers'  
34 Occupation Tax.

1           (5a) the repairing, reconditioning or remodeling,  
2           for a common carrier by rail, of tangible personal  
3           property which belongs to such carrier for hire, and as  
4           to which such carrier receives the physical possession of  
5           the repaired, reconditioned or remodeled item of tangible  
6           personal property in Illinois, and which such carrier  
7           transports, or shares with another common carrier in the  
8           transportation of such property, out of Illinois on a  
9           standard uniform bill of lading showing the person who  
10          repaired, reconditioned or remodeled the property to a  
11          destination outside Illinois, for use outside Illinois.

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

25          (6) a sale or transfer of distillation machinery  
26          and equipment, sold as a unit or kit and assembled or  
27          installed by the retailer, which machinery and equipment  
28          is certified by the user to be used only for the  
29          production of ethyl alcohol that will be used for  
30          consumption as motor fuel or as a component of motor fuel  
31          for the personal use of such user and not subject to sale  
32          or resale.

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

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

23 Exemption (5) also includes machinery and equipment used  
24 in the general maintenance or repair of such exempt machinery  
25 and equipment or for in-house manufacture of exempt machinery  
26 and equipment. For the purposes of exemption (5), each of  
27 these terms shall have the following meanings: (1)  
28 "manufacturing process" shall mean the production of any  
29 article of tangible personal property, whether such article  
30 is a finished product or an article for use in the process of  
31 manufacturing or assembling a different article of tangible  
32 personal property, by procedures commonly regarded as  
33 manufacturing, processing, fabricating, or refining which  
34 changes some existing material or materials into a material

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

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

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

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

28 The purchase, employment and transfer of such tangible  
29 personal property as newsprint and ink for the primary  
30 purpose of conveying news (with or without other information)  
31 is not a purchase, use or sale of service or of tangible  
32 personal property within the meaning of this Act.

33 "Serviceman" means any person who is engaged in the  
34 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  
5 an incident to a sale of service.

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

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

17 2. soliciting orders for tangible personal property  
18 by means of a telecommunication or television shopping  
19 system (which utilizes toll free numbers) which is  
20 intended by the retailer to be broadcast by cable  
21 television or other means of broadcasting, to consumers  
22 located in this State;

23 3. pursuant to a contract with a broadcaster or  
24 publisher located in this State, soliciting orders for  
25 tangible personal property by means of advertising which  
26 is disseminated primarily to consumers located in this  
27 State and only secondarily to bordering jurisdictions;

28 4. soliciting orders for tangible personal property  
29 by mail if the solicitations are substantial and  
30 recurring and if the retailer benefits from any banking,  
31 financing, debt collection, telecommunication, or  
32 marketing activities occurring in this State or benefits  
33 from the location in this State of authorized  
34 installation, servicing, or repair facilities;

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

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

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

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

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

17          (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

20          (1) Personal property purchased from a corporation,  
 21          society, association, foundation, institution, or  
 22          organization, other than a limited liability company, that is  
 23          organized and operated as a not-for-profit service enterprise  
 24          for the benefit of persons 65 years of age or older if the  
 25          personal property was not purchased by the enterprise for the  
 26          purpose of resale by the enterprise.

27          (2) Personal property purchased by a non-profit Illinois  
 28          county fair association for use in conducting, operating, or  
 29          promoting the county fair.

30          (3) Personal property purchased by a not-for-profit arts  
 31          or cultural organization that establishes, by proof required  
 32          by the Department by rule, that it has received an exemption  
 33          under Section 501(c)(3) of the Internal Revenue Code and that

1 is organized and operated for the presentation or support of  
2 arts or cultural programming, activities, or services. These  
3 organizations include, but are not limited to, music and  
4 dramatic arts organizations such as symphony orchestras and  
5 theatrical groups, arts and cultural service organizations,  
6 local arts councils, visual arts organizations, and media  
7 arts organizations.

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

12 (5) Graphic arts machinery and equipment, including  
13 repair and replacement parts, both new and used, and  
14 including that manufactured on special order or purchased for  
15 lease, certified by the purchaser to be used primarily for  
16 graphic arts production. Equipment includes chemicals or  
17 chemicals acting as catalysts but only if the chemicals or  
18 chemicals acting as catalysts effect a direct and immediate  
19 change upon a graphic arts product.

20 (6) Personal property purchased from a teacher-sponsored  
21 student organization affiliated with an elementary or  
22 secondary school located in Illinois.

23 (7) Farm machinery and equipment, both new and used,  
24 including that manufactured on special order, certified by  
25 the purchaser to be used primarily for production agriculture  
26 or State or federal agricultural programs, including  
27 individual replacement parts for the machinery and equipment,  
28 including machinery and equipment purchased for lease, and  
29 including implements of husbandry defined in Section 1-130 of  
30 the Illinois Vehicle Code, farm machinery and agricultural  
31 chemical and fertilizer spreaders, and nurse wagons required  
32 to be registered under Section 3-809 of the Illinois Vehicle  
33 Code, but excluding other motor vehicles required to be  
34 registered under the Illinois Vehicle Code. Horticultural



1 polyhouses or hoop houses used for propagating, growing, or  
2 overwintering plants shall be considered farm machinery and  
3 equipment under this item (7). Agricultural chemical tender  
4 tanks and dry boxes shall include units sold separately from  
5 a motor vehicle required to be licensed and units sold  
6 mounted on a motor vehicle required to be licensed if the  
7 selling price of the tender is separately stated.

8 Farm machinery and equipment shall include precision  
9 farming equipment that is installed or purchased to be  
10 installed on farm machinery and equipment including, but not  
11 limited to, tractors, harvesters, sprayers, planters,  
12 seeders, or spreaders. Precision farming equipment includes,  
13 but is not limited to, soil testing sensors, computers,  
14 monitors, software, global positioning and mapping systems,  
15 and other such equipment.

16 Farm machinery and equipment also includes computers,  
17 sensors, software, and related equipment used primarily in  
18 the computer-assisted operation of production agriculture  
19 facilities, equipment, and activities such as, but not  
20 limited to, the collection, monitoring, and correlation of  
21 animal and crop data for the purpose of formulating animal  
22 diets and agricultural chemicals. This item (7) is exempt  
23 from the provisions of Section 3-75.

24 (8) Fuel and petroleum products sold to or used by an  
25 air common carrier, certified by the carrier to be used for  
26 consumption, shipment, or storage in the conduct of its  
27 business as an air common carrier, for a flight destined for  
28 or returning from a location or locations outside the United  
29 States without regard to previous or subsequent domestic  
30 stopovers.

31 (9) Proceeds of mandatory service charges separately  
32 stated on customers' bills for the purchase and consumption  
33 of food and beverages acquired as an incident to the purchase  
34 of a service from a serviceman, to the extent that the

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

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

15 (11) Proceeds from the sale of photoprocessing machinery  
16 and equipment, including repair and replacement parts, both  
17 new and used, including that manufactured on special order,  
18 certified by the purchaser to be used primarily for  
19 photoprocessing, and including photoprocessing machinery and  
20 equipment purchased for lease.

21 (12) Coal exploration, mining, offhighway hauling,  
22 processing, maintenance, and reclamation equipment, including  
23 replacement parts and equipment, and including equipment  
24 purchased for lease, but excluding motor vehicles required to  
25 be registered under the Illinois Vehicle Code.

26 (13) Semen used for artificial insemination of livestock  
27 for direct agricultural production.

28 (14) Horses, or interests in horses, registered with and  
29 meeting the requirements of any of the Arabian Horse Club  
30 Registry of America, Appaloosa Horse Club, American Quarter  
31 Horse Association, United States Trotting Association, or  
32 Jockey Club, as appropriate, used for purposes of breeding or  
33 racing for prizes.

34 (15) Computers and communications equipment utilized for

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

23 (16) Personal property purchased by a lessor who leases  
24 the property, under a lease of one year or longer executed or  
25 in effect at the time the lessor would otherwise be subject  
26 to the tax imposed by this Act, to a governmental body that  
27 has been issued an active tax exemption identification number  
28 by the Department under Section 1g of the Retailers'  
29 Occupation Tax Act. If the property is leased in a manner  
30 that does not qualify for this exemption or is used in any  
31 other non-exempt manner, the lessor shall be liable for the  
32 tax imposed under this Act or the Use Tax Act, as the case  
33 may be, based on the fair market value of the property at the  
34 time the non-qualifying use occurs. No lessor shall collect

1 or attempt to collect an amount (however designated) that  
2 purports to reimburse that lessor for the tax imposed by this  
3 Act or the Use Tax Act, as the case may be, if the tax has  
4 not been paid by the lessor. If a lessor improperly collects  
5 any such amount from the lessee, the lessee shall have a  
6 legal right to claim a refund of that amount from the lessor.  
7 If, however, that amount is not refunded to the lessee for  
8 any reason, the lessor is liable to pay that amount to the  
9 Department.

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

20 (18) Beginning with taxable years ending on or after  
21 December 31, 1995 and ending with taxable years ending on or  
22 before December 31, 2004, personal property that is used in  
23 the performance of infrastructure repairs in this State,  
24 including but not limited to municipal roads and streets,  
25 access roads, bridges, sidewalks, waste disposal systems,  
26 water and sewer line extensions, water distribution and  
27 purification facilities, storm water drainage and retention  
28 facilities, and sewage treatment facilities, resulting from a  
29 State or federally declared disaster in Illinois or bordering  
30 Illinois when such repairs are initiated on facilities  
31 located in the declared disaster area within 6 months after  
32 the disaster.

33 (19) Beginning July 1, 1999, game or game birds  
34 purchased at a "game breeding and hunting preserve area" or

1 an "exotic game hunting area" as those terms are used in the  
2 Wildlife Code or at a hunting enclosure approved through  
3 rules adopted by the Department of Natural Resources. This  
4 paragraph is exempt from the provisions of Section 3-75.

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

24 (21) ~~(20)~~ Beginning January 1, 2000, personal property,  
25 including food, purchased through fundraising events for the  
26 benefit of a public or private elementary or secondary  
27 school, a group of those schools, or one or more school  
28 districts if the events are sponsored by an entity recognized  
29 by the school district that consists primarily of volunteers  
30 and includes parents and teachers of the school children.  
31 This paragraph does not apply to fundraising events (i) for  
32 the benefit of private home instruction or (ii) for which the  
33 fundraising entity purchases the personal property sold at  
34 the events from another individual or entity that sold the

1 property for the purpose of resale by the fundraising entity  
2 and that profits from the sale to the fundraising entity.  
3 This paragraph is exempt from the provisions of Section 3-75.

4 (22) (19) Beginning January 1, 2000, new or used  
5 automatic vending machines that prepare and serve hot food  
6 and beverages, including coffee, soup, and other items, and  
7 replacement parts for these machines. This paragraph is  
8 exempt from the provisions of Section 3-75.

9 (23) Food for human consumption that is to be consumed  
10 off the premises where it is sold (other than alcoholic  
11 beverages, soft drinks, and food that has been prepared for  
12 immediate consumption) and prescription and nonprescription  
13 medicines, drugs, medical appliances, and insulin, urine  
14 testing materials, syringes, and needles used by diabetics,  
15 for human use, when purchased for use by a person receiving  
16 medical assistance under Article 5 of the Illinois Public Aid  
17 Code who resides in a licensed long-term care facility, as  
18 defined in the Nursing Home Care Act.

19 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;  
20 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.  
21 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,  
22 eff. 8-20-99; revised 9-29-99.)

23 Section 12. The Service Occupation Tax Act is amended by  
24 changing Sections 2 and 3-5 as follows:

25 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

26 Sec. 2. "Transfer" means any transfer of the title to  
27 property or of the ownership of property whether or not the  
28 transferor retains title as security for the payment of  
29 amounts due him from the transferee.

30 "Cost Price" means the consideration paid by the  
31 serviceman for a purchase valued in money, whether paid in  
32 money or otherwise, including cash, credits and services, and

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

11 "Department" means the Department of Revenue.

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

17 "Sale of Service" means any transaction except:

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

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

24 (c) Except as hereinafter provided, a sale or transfer  
25 of tangible personal property as an incident to the rendering  
26 of service for or by any governmental body or for or by any  
27 corporation, society, association, foundation or institution  
28 organized and operated exclusively for charitable, religious  
29 or educational purposes or any not-for-profit corporation,  
30 society, association, foundation, institution or organization  
31 which has no compensated officers or employees and which is  
32 organized and operated primarily for the recreation of  
33 persons 55 years of age or older. A limited liability company  
34 may qualify for the exemption under this paragraph only if

1 the limited liability company is organized and operated  
2 exclusively for educational purposes.

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

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

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  
26 carrier receives the physical possession of the repaired,  
27 reconditioned or remodeled item of tangible personal property  
28 in Illinois, and which such carrier transports, or shares  
29 with another common carrier in the transportation of such  
30 property, out of Illinois on a standard uniform bill of  
31 lading showing the person who repaired, reconditioned or  
32 remodeled the property as the shipper or consignor of such  
33 property to a destination outside Illinois, for use outside  
34 Illinois.



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

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

20           (e) A sale or transfer of machinery and equipment used  
21 primarily in the process of the manufacturing or assembling,  
22 either in an existing, an expanded or a new manufacturing  
23 facility, of tangible personal property for wholesale or  
24 retail sale or lease, whether such sale or lease is made  
25 directly by the manufacturer or by some other person, whether  
26 the materials used in the process are owned by the  
27 manufacturer or some other person, or whether such sale or  
28 lease is made apart from or as an incident to the seller's  
29 engaging in a service occupation and the applicable tax is a  
30 Service Occupation Tax or Service Use Tax, rather than  
31 Retailers' Occupation Tax or Use Tax.

32           (f) The sale or transfer of distillation machinery and  
33 equipment, sold as a unit or kit and assembled or installed  
34 by the retailer, which machinery and equipment is certified

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

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

28 Exemption (e) also includes machinery and equipment used  
29 in the general maintenance or repair of such exempt machinery  
30 and equipment or for in-house manufacture of exempt machinery  
31 and equipment. For the purposes of exemption (e), each of  
32 these terms shall have the following meanings: (1)  
33 "manufacturing process" shall mean the production of any  
34 article of tangible personal property, whether such article

1 is a finished product or an article for use in the process of  
2 manufacturing or assembling a different article of tangible  
3 personal property, by procedures commonly regarded as  
4 manufacturing, processing, fabricating, or refining which  
5 changes some existing material or materials into a material  
6 with a different form, use or name. In relation to a  
7 recognized integrated business composed of a series of  
8 operations which collectively constitute manufacturing, or  
9 individually constitute manufacturing operations, the  
10 manufacturing process shall be deemed to commence with the  
11 first operation or stage of production in the series, and  
12 shall not be deemed to end until the completion of the final  
13 product in the last operation or stage of production in the  
14 series; and further for purposes of exemption (e),  
15 photoprocessing is deemed to be a manufacturing process of  
16 tangible personal property for wholesale or retail sale; (2)  
17 "assembling process" shall mean the production of any article  
18 of tangible personal property, whether such article is a  
19 finished product or an article for use in the process of  
20 manufacturing or assembling a different article of tangible  
21 personal property, by the combination of existing materials  
22 in a manner commonly regarded as assembling which results in  
23 a material of a different form, use or name; (3) "machinery"  
24 shall mean major mechanical machines or major components of  
25 such machines contributing to a manufacturing or assembling  
26 process; and (4) "equipment" shall include any independent  
27 device or tool separate from any machinery but essential to  
28 an integrated manufacturing or assembly process; including  
29 computers used primarily in a manufacturer's operating  
30 ~~exempt-machinery-and-equipment-in-a~~ computer assisted design,  
31 computer assisted manufacturing (CAD/CAM) system; or any  
32 subunit or assembly comprising a component of any machinery  
33 or auxiliary, adjunct or attachment parts of machinery, such  
34 as tools, dies, jigs, fixtures, patterns and molds; or any

1 parts which require periodic replacement in the course of  
2 normal operation; but shall not include hand tools. Equipment  
3 includes chemicals or chemicals acting as catalysts but only  
4 if the chemicals or chemicals acting as catalysts effect a  
5 direct and immediate change upon a product being manufactured  
6 or assembled for wholesale or retail sale or lease. The  
7 purchaser of such machinery and equipment who has an active  
8 resale registration number shall furnish such number to the  
9 seller at the time of purchase. The purchaser of such  
10 machinery and equipment and tools without an active resale  
11 registration number shall furnish to the seller a certificate  
12 of exemption for each transaction stating facts establishing  
13 the exemption for that transaction, which certificate shall  
14 be available to the Department for inspection or audit.

15 The rolling stock exemption applies to rolling stock used  
16 by an interstate carrier for hire, even just between points  
17 in Illinois, if such rolling stock transports, for hire,  
18 persons whose journeys or property whose shipments originate  
19 or terminate outside Illinois.

20 Any informal rulings, opinions or letters issued by the  
21 Department in response to an inquiry or request for any  
22 opinion from any person regarding the coverage and  
23 applicability of exemption (e) to specific devices shall be  
24 published, maintained as a public record, and made available  
25 for public inspection and copying. If the informal ruling,  
26 opinion or letter contains trade secrets or other  
27 confidential information, where possible the Department shall  
28 delete such information prior to publication. Whenever such  
29 informal rulings, opinions, or letters contain any policy of  
30 general applicability, the Department shall formulate and  
31 adopt such policy as a rule in accordance with the provisions  
32 of the Illinois Administrative Procedure Act.

33 On and after July 1, 1987, no entity otherwise eligible  
34 under exemption (c) of this Section shall make tax free

1 purchases unless it has an active exemption identification  
2 number issued by the Department.

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

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

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

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

11 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

12 Sec. 3-5. Exemptions. The following tangible personal  
13 property is exempt from the tax imposed by this Act:

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

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

24 (3) Personal property purchased by any not-for-profit  
25 arts or cultural organization that establishes, by proof  
26 required by the Department by rule, that it has received an  
27 exemption under Section 501(c)(3) of the Internal Revenue  
28 Code and that is organized and operated for the presentation  
29 or support of arts or cultural programming, activities, or  
30 services. These organizations include, but are not limited  
31 to, music and dramatic arts organizations such as symphony  
32 orchestras and theatrical groups, arts and cultural service  
33 organizations, local arts councils, visual arts

1 organizations, and media arts organizations.

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

6 (5) Graphic arts machinery and equipment, including  
7 repair and replacement parts, both new and used, and  
8 including that manufactured on special order or purchased for  
9 lease, certified by the purchaser to be used primarily for  
10 graphic arts production. Equipment includes chemicals or  
11 chemicals acting as catalysts but only if the chemicals or  
12 chemicals acting as catalysts effect a direct and immediate  
13 change upon a graphic arts product.

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

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

1 selling price of the tender is separately stated.

2 Farm machinery and equipment shall include precision  
3 farming equipment that is installed or purchased to be  
4 installed on farm machinery and equipment including, but not  
5 limited to, tractors, harvesters, sprayers, planters,  
6 seeders, or spreaders. Precision farming equipment includes,  
7 but is not limited to, soil testing sensors, computers,  
8 monitors, software, global positioning and mapping systems,  
9 and other such equipment.

10 Farm machinery and equipment also includes computers,  
11 sensors, software, and related equipment used primarily in  
12 the computer-assisted operation of production agriculture  
13 facilities, equipment, and activities such as, but not  
14 limited to, the collection, monitoring, and correlation of  
15 animal and crop data for the purpose of formulating animal  
16 diets and agricultural chemicals. This item (7) is exempt  
17 from the provisions of Section 3-55.

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

25 (9) Proceeds of mandatory service charges separately  
26 stated on customers' bills for the purchase and consumption  
27 of food and beverages, to the extent that the proceeds of the  
28 service charge are in fact turned over as tips or as a  
29 substitute for tips to the employees who participate directly  
30 in preparing, serving, hosting or cleaning up the food or  
31 beverage function with respect to which the service charge is  
32 imposed.

33 (10) Oil field exploration, drilling, and production  
34 equipment, including (i) rigs and parts of rigs, rotary rigs,

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

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

14 (12) Coal exploration, mining, offhighway hauling,  
15 processing, maintenance, and reclamation equipment, including  
16 replacement parts and equipment, and including equipment  
17 purchased for lease, but excluding motor vehicles required to  
18 be registered under the Illinois Vehicle Code.

19 (13) Food for human consumption that is to be consumed  
20 off the premises where it is sold (other than alcoholic  
21 beverages, soft drinks and food that has been prepared for  
22 immediate consumption) and prescription and non-prescription  
23 medicines, drugs, medical appliances, and insulin, urine  
24 testing materials, syringes, and needles used by diabetics,  
25 for human use, when purchased for use by a person receiving  
26 medical assistance under Article 5 of the Illinois Public Aid  
27 Code who resides in a licensed long-term care facility, as  
28 defined in the Nursing Home Care Act.

29 (14) Semen used for artificial insemination of livestock  
30 for direct agricultural production.

31 (15) Horses, or interests in horses, registered with and  
32 meeting the requirements of any of the Arabian Horse Club  
33 Registry of America, Appaloosa Horse Club, American Quarter  
34 Horse Association, United States Trotting Association, or



1 Jockey Club, as appropriate, used for purposes of breeding or  
2 racing for prizes.

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

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

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

27 (19) Beginning with taxable years ending on or after  
28 December 31, 1995 and ending with taxable years ending on or  
29 before December 31, 2004, personal property that is used in  
30 the performance of infrastructure repairs in this State,  
31 including but not limited to municipal roads and streets,  
32 access roads, bridges, sidewalks, waste disposal systems,  
33 water and sewer line extensions, water distribution and  
34 purification facilities, storm water drainage and retention

1 facilities, and sewage treatment facilities, resulting from a  
2 State or federally declared disaster in Illinois or bordering  
3 Illinois when such repairs are initiated on facilities  
4 located in the declared disaster area within 6 months after  
5 the disaster.

6 (20) Beginning July 1, 1999, game or game birds sold at  
7 a "game breeding and hunting preserve area" or an "exotic  
8 game hunting area" as those terms are used in the Wildlife  
9 Code or at a hunting enclosure approved through rules adopted  
10 by the Department of Natural Resources. This paragraph is  
11 exempt from the provisions of Section 3-55.

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

31 (22) ~~(21)~~ Beginning January 1, 2000, personal property,  
32 including food, purchased through fundraising events for the  
33 benefit of a public or private elementary or secondary  
34 school, a group of those schools, or one or more school

1 districts if the events are sponsored by an entity recognized  
2 by the school district that consists primarily of volunteers  
3 and includes parents and teachers of the school children.  
4 This paragraph does not apply to fundraising events (i) for  
5 the benefit of private home instruction or (ii) for which the  
6 fundraising entity purchases the personal property sold at  
7 the events from another individual or entity that sold the  
8 property for the purpose of resale by the fundraising entity  
9 and that profits from the sale to the fundraising entity.  
10 This paragraph is exempt from the provisions of Section 3-55.

11 (23) ~~(20)~~ Beginning January 1, 2000, new or used  
12 automatic vending machines that prepare and serve hot food  
13 and beverages, including coffee, soup, and other items, and  
14 replacement parts for these machines. This paragraph is  
15 exempt from the provisions of Section 3-55.

16 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;  
17 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.  
18 7-20-99; 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637,  
19 eff. 8-20-99; 91-644, eff. 8-20-99; revised 9-29-99.)

20 Section 15. The Retailers' Occupation Tax Act is amended  
21 by changing Sections 2-5, 2-45, 3, and 5k and by adding  
22 Section 2-10.5 as follows:

23 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

27 (1) Farm chemicals.

28 (2) Farm machinery and equipment, both new and used,  
29 including that manufactured on special order, certified by  
30 the purchaser to be used primarily for production agriculture  
31 or State or federal agricultural programs, including  
32 individual replacement parts for the machinery and equipment,

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

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

23 Farm machinery and equipment also includes computers,  
24 sensors, software, and related equipment used primarily in  
25 the computer-assisted operation of production agriculture  
26 facilities, equipment, and activities such as, but not  
27 limited to, the collection, monitoring, and correlation of  
28 animal and crop data for the purpose of formulating animal  
29 diets and agricultural chemicals. This item (7) is exempt  
30 from the provisions of Section 2-70.

31 (3) Distillation machinery and equipment, sold as a unit  
32 or kit, assembled or installed by the retailer, certified by  
33 the user to be used only for the production of ethyl alcohol  
34 that will be used for consumption as motor fuel or as a

1 component of motor fuel for the personal use of the user, and  
2 not subject to sale or resale.

3 (4) Graphic arts machinery and equipment, including  
4 repair and replacement parts, both new and used, and  
5 including that manufactured on special order or purchased for  
6 lease, certified by the purchaser to be used primarily for  
7 graphic arts production. Equipment includes chemicals or  
8 chemicals acting as catalysts but only if the chemicals or  
9 chemicals acting as catalysts effect a direct and immediate  
10 change upon a graphic arts product.

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

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

25 (7) Proceeds of that portion of the selling price of a  
26 passenger car the sale of which is subject to the Replacement  
27 Vehicle Tax.

28 (8) Personal property sold to an Illinois county fair  
29 association for use in conducting, operating, or promoting  
30 the county fair.

31 (9) Personal property sold to a not-for-profit arts or  
32 cultural organization that establishes, by proof required by  
33 the Department by rule, that it has received an exemption  
34 under Section 501(c)(3) of the Internal Revenue Code and that

1 is organized and operated for the presentation or support of  
2 arts or cultural programming, activities, or services. These  
3 organizations include, but are not limited to, music and  
4 dramatic arts organizations such as symphony orchestras and  
5 theatrical groups, arts and cultural service organizations,  
6 local arts councils, visual arts organizations, and media  
7 arts organizations.

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

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

29 (12) Personal property sold to interstate carriers for  
30 hire for use as rolling stock moving in interstate commerce  
31 or to lessors under leases of one year or longer executed or  
32 in effect at the time of purchase by interstate carriers for  
33 hire for use as rolling stock moving in interstate commerce  
34 and equipment operated by a telecommunications provider,

1 licensed as a common carrier by the Federal Communications  
2 Commission, which is permanently installed in or affixed to  
3 aircraft moving in interstate commerce.

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

12 (14) Machinery and equipment that will be used by the  
13 purchaser, or a lessee of the purchaser, primarily in the  
14 process of manufacturing or assembling tangible personal  
15 property for wholesale or retail sale or lease, whether the  
16 sale or lease is made directly by the manufacturer or by some  
17 other person, whether the materials used in the process are  
18 owned by the manufacturer or some other person, or whether  
19 the sale or lease is made apart from or as an incident to the  
20 seller's engaging in the service occupation of producing  
21 machines, tools, dies, jigs, patterns, gauges, or other  
22 similar items of no commercial value on special order for a  
23 particular purchaser.

24 (15) Proceeds of mandatory service charges separately  
25 stated on customers' bills for purchase and consumption of  
26 food and beverages, to the extent that the proceeds of the  
27 service charge are in fact turned over as tips or as a  
28 substitute for tips to the employees who participate directly  
29 in preparing, serving, hosting or cleaning up the food or  
30 beverage function with respect to which the service charge is  
31 imposed.

32 (16) Petroleum products sold to a purchaser if the  
33 seller is prohibited by federal law from charging tax to the  
34 purchaser.

1           (17) Tangible personal property sold to a common carrier  
2 by rail or motor that receives the physical possession of the  
3 property in Illinois and that transports the property, or  
4 shares with another common carrier in the transportation of  
5 the property, out of Illinois on a standard uniform bill of  
6 lading showing the seller of the property as the shipper or  
7 consignor of the property to a destination outside Illinois,  
8 for use outside Illinois.

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

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

22           (20) Photoprocessing machinery and equipment, including  
23 repair and replacement parts, both new and used, including  
24 that manufactured on special order, certified by the  
25 purchaser to be used primarily for photoprocessing, and  
26 including photoprocessing machinery and equipment purchased  
27 for lease.

28           (21) Coal exploration, mining, offhighway hauling,  
29 processing, maintenance, and reclamation equipment, including  
30 replacement parts and equipment, and including equipment  
31 purchased for lease, but excluding motor vehicles required to  
32 be registered under the Illinois Vehicle Code.

33           (22) Fuel and petroleum products sold to or used by an  
34 air carrier, certified by the carrier to be used for



1 consumption, shipment, or storage in the conduct of its  
2 business as an air common carrier, for a flight destined for  
3 or returning from a location or locations outside the United  
4 States without regard to previous or subsequent domestic  
5 stopovers.

6 (23) A transaction in which the purchase order is  
7 received by a florist who is located outside Illinois, but  
8 who has a florist located in Illinois deliver the property to  
9 the purchaser or the purchaser's donee in Illinois.

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

16 (25) A motor vehicle sold in this State to a nonresident  
17 even though the motor vehicle is delivered to the nonresident  
18 in this State, if the motor vehicle is not to be titled in  
19 this State, and if a driveaway decal permit is issued to the  
20 motor vehicle as provided in Section 3-603 of the Illinois  
21 Vehicle Code or if the nonresident purchaser has vehicle  
22 registration plates to transfer to the motor vehicle upon  
23 returning to his or her home state. The issuance of the  
24 driveaway decal permit or having the out-of-state  
25 registration plates to be transferred is prima facie evidence  
26 that the motor vehicle will not be titled in this State.

27 (26) Semen used for artificial insemination of livestock  
28 for direct agricultural production.

29 (27) Horses, or interests in horses, registered with and  
30 meeting the requirements of any of the Arabian Horse Club  
31 Registry of America, Appaloosa Horse Club, American Quarter  
32 Horse Association, United States Trotting Association, or  
33 Jockey Club, as appropriate, used for purposes of breeding or  
34 racing for prizes.

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

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

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

24           (31) Beginning with taxable years ending on or after  
25 December 31, 1995 and ending with taxable years ending on or  
26 before December 31, 2004, personal property that is used in  
27 the performance of infrastructure repairs in this State,  
28 including but not limited to municipal roads and streets,  
29 access roads, bridges, sidewalks, waste disposal systems,  
30 water and sewer line extensions, water distribution and  
31 purification facilities, storm water drainage and retention  
32 facilities, and sewage treatment facilities, resulting from a  
33 State or federally declared disaster in Illinois or bordering  
34 Illinois when such repairs are initiated on facilities

1 located in the declared disaster area within 6 months after  
2 the disaster.

3 (32) Beginning July 1, 1999, game or game birds sold at  
4 a "game breeding and hunting preserve area" or an "exotic  
5 game hunting area" as those terms are used in the Wildlife  
6 Code or at a hunting enclosure approved through rules adopted  
7 by the Department of Natural Resources. This paragraph is  
8 exempt from the provisions of Section 2-70.

9 (33) ~~(32)~~ A motor vehicle, as that term is defined in  
10 Section 1-146 of the Illinois Vehicle Code, that is donated  
11 to a corporation, limited liability company, society,  
12 association, foundation, or institution that is determined by  
13 the Department to be organized and operated exclusively for  
14 educational purposes. For purposes of this exemption, "a  
15 corporation, limited liability company, society, association,  
16 foundation, or institution organized and operated exclusively  
17 for educational purposes" means all tax-supported public  
18 schools, private schools that offer systematic instruction in  
19 useful branches of learning by methods common to public  
20 schools and that compare favorably in their scope and  
21 intensity with the course of study presented in tax-supported  
22 schools, and vocational or technical schools or institutes  
23 organized and operated exclusively to provide a course of  
24 study of not less than 6 weeks duration and designed to  
25 prepare individuals to follow a trade or to pursue a manual,  
26 technical, mechanical, industrial, business, or commercial  
27 occupation.

28 (34) ~~(33)~~ Beginning January 1, 2000, personal property,  
29 including food, purchased through fundraising events for the  
30 benefit of a public or private elementary or secondary  
31 school, a group of those schools, or one or more school  
32 districts if the events are sponsored by an entity recognized  
33 by the school district that consists primarily of volunteers  
34 and includes parents and teachers of the school children.

1 This paragraph does not apply to fundraising events (i) for  
2 the benefit of private home instruction or (ii) for which the  
3 fundraising entity purchases the personal property sold at  
4 the events from another individual or entity that sold the  
5 property for the purpose of resale by the fundraising entity  
6 and that profits from the sale to the fundraising entity.  
7 This paragraph is exempt from the provisions of Section 2-70.

8 (35) (32) Beginning January 1, 2000, new or used  
9 automatic vending machines that prepare and serve hot food  
10 and beverages, including coffee, soup, and other items, and  
11 replacement parts for these machines. This paragraph is  
12 exempt from the provisions of Section 2-70.

13 (36) Food for human consumption that is to be consumed  
14 off the premises where it is sold (other than alcoholic  
15 beverages, soft drinks, and food that has been prepared for  
16 immediate consumption) and prescription and nonprescription  
17 medicines, drugs, medical appliances, and insulin, urine  
18 testing materials, syringes, and needles used by diabetics,  
19 for human use, when purchased for use by a person receiving  
20 medical assistance under Article 5 of the Illinois Public Aid  
21 Code who resides in a licensed long-term care facility, as  
22 defined in the Nursing Home Care Act.

23 (Source: P.A. 90-14, eff. 7-1-97; 90-519, eff. 6-1-98;  
24 90-552, eff. 12-12-97; 90-605, eff. 6-30-98; 91-51, eff.  
25 6-30-99; 91-200, eff. 7-20-99; 91-439, eff. 8-6-99; 91-533,  
26 eff. 8-13-99; 91-637, eff. 8-20-99; 91-644, eff. 8-20-99;  
27 revised 9-28-99.)

28 (35 ILCS 120/2-10.5 new)

29 Sec. 2-10.5. Direct payment program; purchaser's  
30 providing of permit to retailer; retailer relieved of  
31 collecting use tax and local retailers' occupation tax  
32 reimbursements from purchaser; direct payment of retailers'  
33 occupation tax and local retailers' occupation tax by

1 purchaser.

2 (a) Beginning on July 1, 2001 there is established in  
3 this State a Direct Payment Program to be administered by the  
4 Department. The Department shall issue a Direct Pay Permit  
5 to applicants who have been approved to participate in the  
6 Direct Payment Program. Each person applying to participate  
7 in the Direct Payment Program must demonstrate (1) the  
8 applicant's ability to comply with the retailers' occupation  
9 tax laws and the use tax laws in effect in this State and  
10 that the applicant's accounting system will reflect the  
11 proper amount of tax due, (2) that the applicant has a valid  
12 business purpose for participating in the Direct Payment  
13 Program, and (3) how the applicant's participation in the  
14 Direct Payment Program will benefit tax compliance.  
15 Application shall be made on forms provided by the Department  
16 and shall contain information as the Department may  
17 reasonably require. The Department shall approve or deny an  
18 applicant within 90 days after the Department's receipt of  
19 the application, unless the Department makes a written  
20 request for additional information from the applicant.

21 (b) A person who has been approved for the Direct  
22 Payment Program and who has been issued a Direct Pay Permit  
23 by the Department is relieved of paying tax to a retailer  
24 when purchasing tangible personal property for use or  
25 consumption, except as provided in subsection (d), by  
26 providing that retailer a copy of that Direct Pay Permit. A  
27 retailer who accepts a copy of a customer's Direct Pay Permit  
28 is relieved of the obligation to remit the tax imposed by  
29 this Act on the transaction. References in this Section to  
30 "the tax imposed by this Act" include any local occupation  
31 taxes administered by the Department that would be incurred  
32 on the retail sale.

33 (c) Once the holder of a Direct Pay Permit uses that  
34 Permit to relieve the Permit holder from paying tax to a

1 particular retailer, the holder must use its Permit for all  
2 purchases, except as provided in subsection (d), from that  
3 retailer for so long as the Permit is valid.

4 (d) Direct Pay Permits are not valid and shall not be  
5 used for sales or purchases of:

6 (1) food or beverage;

7 (2) tangible personal property required to be  
8 titled or registered with an agency of government; or

9 (3) any transactions subject to the Service  
10 Occupation Tax Act or Service Use Tax Act.

11 (e) Direct Pay Permits are not assignable and are not  
12 transferable. As an illustration, a construction contractor  
13 shall not make purchases using a customer's Direct Pay  
14 Permit.

15 (f) A Direct Pay Permit is valid until it is revoked by  
16 the Department or until the holder notifies the Department in  
17 writing that the holder is withdrawing from the Direct  
18 Payment Program. A Direct Pay Permit can be revoked by the  
19 Department, after notice and hearing, if the holder violates  
20 any provision of this Act, any provision of the Illinois Use  
21 Tax Act, or any provision of any Act imposing a local  
22 retailers' occupation tax administered by the Department.

23 (g) The holder of a Direct Pay Permit who has been  
24 relieved of paying tax to a retailer on a purchase for use or  
25 consumption by representing to that retailer that it would  
26 pay all applicable taxes directly to the Department shall pay  
27 those taxes to the Department not later than the 20th day of  
28 the month following the month in which the purchase was made.  
29 Permit holders making such purchases are subject to all  
30 provisions of this Act, and the tax must be reported and paid  
31 as retailers' occupation tax in the same manner that the  
32 retailer from whom the purchases were made would have  
33 reported and paid it, including any local retailers'  
34 occupation taxes applicable to that retail sale.

1 Notwithstanding any other provision of this Act, Permit  
2 holders shall make all payments to the Department through the  
3 use of electronic funds transfer.

4 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

5 Sec. 2-45. Manufacturing and assembly exemption. The  
6 manufacturing and assembly machinery and equipment exemption  
7 includes machinery and equipment that replaces machinery and  
8 equipment in an existing manufacturing facility as well as  
9 machinery and equipment that are for use in an expanded or  
10 new manufacturing facility.

11 The machinery and equipment exemption also includes  
12 machinery and equipment used in the general maintenance or  
13 repair of exempt machinery and equipment or for in-house  
14 manufacture of exempt machinery and equipment. For the  
15 purposes of this exemption, terms have the following  
16 meanings:

17 (1) "Manufacturing process" means the production of  
18 an article of tangible personal property, whether the  
19 article is a finished product or an article for use in  
20 the process of manufacturing or assembling a different  
21 article of tangible personal property, by a procedure  
22 commonly regarded as manufacturing, processing,  
23 fabricating, or refining that changes some existing  
24 material or materials into a material with a different  
25 form, use, or name. In relation to a recognized  
26 integrated business composed of a series of operations  
27 that collectively constitute manufacturing, or  
28 individually constitute manufacturing operations, the  
29 manufacturing process commences with the first operation  
30 or stage of production in the series and does not end  
31 until the completion of the final product in the last  
32 operation or stage of production in the series. For  
33 purposes of this exemption, photoprocessing is a

1 manufacturing process of tangible personal property for  
2 wholesale or retail sale.

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

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

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

30 The manufacturing and assembling machinery and equipment  
31 exemption includes the sale of materials to a purchaser who  
32 produces exempted types of machinery, equipment, or tools and  
33 who rents or leases that machinery, equipment, or tools to a  
34 manufacturer of tangible personal property. This exemption



1 also includes the sale of materials to a purchaser who  
2 manufactures those materials into an exempted type of  
3 machinery, equipment, or tools that the purchaser uses  
4 himself or herself in the manufacturing of tangible personal  
5 property. The purchaser of the machinery and equipment who  
6 has an active resale registration number shall furnish that  
7 number to the seller at the time of purchase. A purchaser of  
8 the machinery, equipment, and tools without an active resale  
9 registration number shall furnish to the seller a certificate  
10 of exemption for each transaction stating facts establishing  
11 the exemption for that transaction, and that certificate  
12 shall be available to the Department for inspection or audit.  
13 Informal rulings, opinions, or letters issued by the  
14 Department in response to an inquiry or request for an  
15 opinion from any person regarding the coverage and  
16 applicability of this exemption to specific devices shall be  
17 published, maintained as a public record, and made available  
18 for public inspection and copying. If the informal ruling,  
19 opinion, or letter contains trade secrets or other  
20 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. 91-51, eff. 6-30-99.)

27 (35 ILCS 120/3) (from Ch. 120, par. 442)

28 Sec. 3. Except as provided in this Section, on or before  
29 the twentieth day of each calendar month, every person  
30 engaged in the business of selling tangible personal property  
31 at retail in this State during the preceding calendar month  
32 shall file a return with the Department, stating:

33 1. The name of the seller;

1           2. His residence address and the address of his  
2 principal place of business and the address of the  
3 principal place of business (if that is a different  
4 address) from which he engages in the business of selling  
5 tangible personal property at retail in this State;

6           3. Total amount of receipts received by him during  
7 the preceding calendar month or quarter, as the case may  
8 be, from sales of tangible personal property, and from  
9 services furnished, by him during such preceding calendar  
10 month or quarter;

11           4. Total amount received by him during the  
12 preceding calendar month or quarter on charge and time  
13 sales of tangible personal property, and from services  
14 furnished, by him prior to the month or quarter for which  
15 the return is filed;

16           5. Deductions allowed by law;

17           6. Gross receipts which were received by him during  
18 the preceding calendar month or quarter and upon the  
19 basis of which the tax is imposed;

20           7. The amount of credit provided in Section 2d of  
21 this Act;

22           8. The amount of tax due;

23           9. The signature of the taxpayer; and

24           10. Such other reasonable information as the  
25 Department may require.

26           If a taxpayer fails to sign a return within 30 days after  
27 the proper notice and demand for signature by the Department,  
28 the return shall be considered valid and any amount shown to  
29 be due on the return shall be deemed assessed.

30           Each return shall be accompanied by the statement of  
31 prepaid tax issued pursuant to Section 2e for which credit is  
32 claimed.

33           A retailer may accept a Manufacturer's Purchase Credit  
34 certification from a purchaser in satisfaction of Use Tax as

1 provided in Section 3-85 of the Use Tax Act if the purchaser  
2 provides the appropriate documentation as required by Section  
3 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit  
4 certification, accepted by a retailer as provided in Section  
5 3-85 of the Use Tax Act, may be used by that retailer to  
6 satisfy Retailers' Occupation Tax liability in the amount  
7 claimed in the certification, not to exceed 6.25% of the  
8 receipts subject to tax from a qualifying purchase.

9 The Department may require returns to be filed on a  
10 quarterly basis. If so required, a return for each calendar  
11 quarter shall be filed on or before the twentieth day of the  
12 calendar month following the end of such calendar quarter.  
13 The taxpayer shall also file a return with the Department for  
14 each of the first two months of each calendar quarter, on or  
15 before the twentieth day of the following calendar month,  
16 stating:

- 17 1. The name of the seller;
- 18 2. The address of the principal place of business  
19 from which he engages in the business of selling tangible  
20 personal property at retail in this State;
- 21 3. The total amount of taxable receipts received by  
22 him during the preceding calendar month from sales of  
23 tangible personal property by him during such preceding  
24 calendar month, including receipts from charge and time  
25 sales, but less all deductions allowed by law;
- 26 4. The amount of credit provided in Section 2d of  
27 this Act;
- 28 5. The amount of tax due; and
- 29 6. Such other reasonable information as the  
30 Department may require.

31 If a total amount of less than \$1 is payable, refundable  
32 or creditable, such amount shall be disregarded if it is less  
33 than 50 cents and shall be increased to \$1 if it is 50 cents  
34 or more.

1           Beginning October 1, 1993, a taxpayer who has an average  
2           monthly tax liability of \$150,000 or more shall make all  
3           payments required by rules of the Department by electronic  
4           funds transfer. Beginning October 1, 1994, a taxpayer who  
5           has an average monthly tax liability of \$100,000 or more  
6           shall make all payments required by rules of the Department  
7           by electronic funds transfer. Beginning October 1, 1995, a  
8           taxpayer who has an average monthly tax liability of \$50,000  
9           or more shall make all payments required by rules of the  
10          Department by electronic funds transfer. Beginning October  
11          1, 2000, a taxpayer who has an annual tax liability of  
12          \$200,000 or more shall make all payments required by rules of  
13          the Department by electronic funds transfer. The term  
14          "annual tax liability" shall be the sum of the taxpayer's  
15          liabilities under this Act, and under all other State and  
16          local occupation and use tax laws administered by the  
17          Department, for the immediately preceding calendar year. The  
18          term "average monthly tax liability" shall be the sum of the  
19          taxpayer's liabilities under this Act, and under all other  
20          State and local occupation and use tax laws administered by  
21          the Department, for the immediately preceding calendar year  
22          divided by 12.

23          Before August 1 of each year beginning in 1993, the  
24          Department shall notify all taxpayers required to make  
25          payments by electronic funds transfer. All taxpayers  
26          required to make payments by electronic funds transfer shall  
27          make those payments for a minimum of one year beginning on  
28          October 1.

29          Any taxpayer not required to make payments by electronic  
30          funds transfer may make payments by electronic funds transfer  
31          with the permission of the Department.

32          All taxpayers required to make payment by electronic  
33          funds transfer and any taxpayers authorized to voluntarily  
34          make payments by electronic funds transfer shall make those

1 payments in the manner authorized by the Department.

2 The Department shall adopt such rules as are necessary to  
3 effectuate a program of electronic funds transfer and the  
4 requirements of this Section.

5 Any amount which is required to be shown or reported on  
6 any return or other document under this Act shall, if such  
7 amount is not a whole-dollar amount, be increased to the  
8 nearest whole-dollar amount in any case where the fractional  
9 part of a dollar is 50 cents or more, and decreased to the  
10 nearest whole-dollar amount where the fractional part of a  
11 dollar is less than 50 cents.

12 If the retailer is otherwise required to file a monthly  
13 return and if the retailer's average monthly tax liability to  
14 the Department does not exceed \$200, the Department may  
15 authorize his returns to be filed on a quarter annual basis,  
16 with the return for January, February and March of a given  
17 year being due by April 20 of such year; with the return for  
18 April, May and June of a given year being due by July 20 of  
19 such year; with the return for July, August and September of  
20 a given year being due by October 20 of such year, and with  
21 the return for October, November and December of a given year  
22 being due by January 20 of the following year.

23 If the retailer is otherwise required to file a monthly  
24 or quarterly return and if the retailer's average monthly tax  
25 liability with the Department does not exceed \$50, the  
26 Department may authorize his returns to be filed on an annual  
27 basis, with the return for a given year being due by January  
28 20 of the following year.

29 Such quarter annual and annual returns, as to form and  
30 substance, shall be subject to the same requirements as  
31 monthly returns.

32 Notwithstanding any other provision in this Act  
33 concerning the time within which a retailer may file his  
34 return, in the case of any retailer who ceases to engage in a

1 kind of business which makes him responsible for filing  
2 returns under this Act, such retailer shall file a final  
3 return under this Act with the Department not more than one  
4 month after discontinuing such business.

5 Where the same person has more than one business  
6 registered with the Department under separate registrations  
7 under this Act, such person may not file each return that is  
8 due as a single return covering all such registered  
9 businesses, but shall file separate returns for each such  
10 registered business.

11 In addition, with respect to motor vehicles, watercraft,  
12 aircraft, and trailers that are required to be registered  
13 with an agency of this State, every retailer selling this  
14 kind of tangible personal property shall file, with the  
15 Department, upon a form to be prescribed and supplied by the  
16 Department, a separate return for each such item of tangible  
17 personal property which the retailer sells, except that if,  
18 in the same transaction, (i) a retailer of aircraft,  
19 watercraft, motor vehicles or trailers transfers more than  
20 one aircraft, watercraft, motor vehicle or trailer to another  
21 aircraft, watercraft, motor vehicle retailer or trailer  
22 retailer for the purpose of resale or (ii) a retailer of  
23 aircraft, watercraft, motor vehicles, or trailers transfers  
24 more than one aircraft, watercraft, motor vehicle, or trailer  
25 to a purchaser for use as a qualifying rolling stock as  
26 provided in Section 2-5 of this Act, then that seller may  
27 report the transfer of all aircraft, watercraft, motor  
28 vehicles or trailers involved in that transaction to the  
29 Department on the same uniform invoice-transaction reporting  
30 return form. For purposes of this Section, "watercraft"  
31 means a Class 2, Class 3, or Class 4 watercraft as defined in  
32 Section 3-2 of the Boat Registration and Safety Act, a  
33 personal watercraft, or any boat equipped with an inboard  
34 motor.

1 Any retailer who sells only motor vehicles, watercraft,  
2 aircraft, or trailers that are required to be registered with  
3 an agency of this State, so that all retailers' occupation  
4 tax liability is required to be reported, and is reported, on  
5 such transaction reporting returns and who is not otherwise  
6 required to file monthly or quarterly returns, need not file  
7 monthly or quarterly returns. However, those retailers shall  
8 be required to file returns on an annual basis.

9 The transaction reporting return, in the case of motor  
10 vehicles or trailers that are required to be registered with  
11 an agency of this State, shall be the same document as the  
12 Uniform Invoice referred to in Section 5-402 of The Illinois  
13 Vehicle Code and must show the name and address of the  
14 seller; the name and address of the purchaser; the amount of  
15 the selling price including the amount allowed by the  
16 retailer for traded-in property, if any; the amount allowed  
17 by the retailer for the traded-in tangible personal property,  
18 if any, to the extent to which Section 1 of this Act allows  
19 an exemption for the value of traded-in property; the balance  
20 payable after deducting such trade-in allowance from the  
21 total selling price; the amount of tax due from the retailer  
22 with respect to such transaction; the amount of tax collected  
23 from the purchaser by the retailer on such transaction (or  
24 satisfactory evidence that such tax is not due in that  
25 particular instance, if that is claimed to be the fact); the  
26 place and date of the sale; a sufficient identification of  
27 the property sold; such other information as is required in  
28 Section 5-402 of The Illinois Vehicle Code, and such other  
29 information as the Department may reasonably require.

30 The transaction reporting return in the case of  
31 watercraft or aircraft must show the name and address of the  
32 seller; the name and address of the purchaser; the amount of  
33 the selling price including the amount allowed by the  
34 retailer for traded-in property, if any; the amount allowed

1 by the retailer for the traded-in tangible personal property,  
2 if any, to the extent to which Section 1 of this Act allows  
3 an exemption for the value of traded-in property; the balance  
4 payable after deducting such trade-in allowance from the  
5 total selling price; the amount of tax due from the retailer  
6 with respect to such transaction; the amount of tax collected  
7 from the purchaser by the retailer on such transaction (or  
8 satisfactory evidence that such tax is not due in that  
9 particular instance, if that is claimed to be the fact); the  
10 place and date of the sale, a sufficient identification of  
11 the property sold, and such other information as the  
12 Department may reasonably require.

13 Such transaction reporting return shall be filed not  
14 later than 20 days after the day of delivery of the item that  
15 is being sold, but may be filed by the retailer at any time  
16 sooner than that if he chooses to do so. The transaction  
17 reporting return and tax remittance or proof of exemption  
18 from the Illinois use tax may be transmitted to the  
19 Department by way of the State agency with which, or State  
20 officer with whom the tangible personal property must be  
21 titled or registered (if titling or registration is required)  
22 if the Department and such agency or State officer determine  
23 that this procedure will expedite the processing of  
24 applications for title or registration.

25 With each such transaction reporting return, the retailer  
26 shall remit the proper amount of tax due (or shall submit  
27 satisfactory evidence that the sale is not taxable if that is  
28 the case), to the Department or its agents, whereupon the  
29 Department shall issue, in the purchaser's name, a use tax  
30 receipt (or a certificate of exemption if the Department is  
31 satisfied that the particular sale is tax exempt) which such  
32 purchaser may submit to the agency with which, or State  
33 officer with whom, he must title or register the tangible  
34 personal property that is involved (if titling or



1 registration is required) in support of such purchaser's  
2 application for an Illinois certificate or other evidence of  
3 title or registration to such tangible personal property.

4 No retailer's failure or refusal to remit tax under this  
5 Act precludes a user, who has paid the proper tax to the  
6 retailer, from obtaining his certificate of title or other  
7 evidence of title or registration (if titling or registration  
8 is required) upon satisfying the Department that such user  
9 has paid the proper tax (if tax is due) to the retailer. The  
10 Department shall adopt appropriate rules to carry out the  
11 mandate of this paragraph.

12 If the user who would otherwise pay tax to the retailer  
13 wants the transaction reporting return filed and the payment  
14 of the tax or proof of exemption made to the Department  
15 before the retailer is willing to take these actions and such  
16 user has not paid the tax to the retailer, such user may  
17 certify to the fact of such delay by the retailer and may  
18 (upon the Department being satisfied of the truth of such  
19 certification) transmit the information required by the  
20 transaction reporting return and the remittance for tax or  
21 proof of exemption directly to the Department and obtain his  
22 tax receipt or exemption determination, in which event the  
23 transaction reporting return and tax remittance (if a tax  
24 payment was required) shall be credited by the Department to  
25 the proper retailer's account with the Department, but  
26 without the 2.1% or 1.75% discount provided for in this  
27 Section being allowed. When the user pays the tax directly  
28 to the Department, he shall pay the tax in the same amount  
29 and in the same form in which it would be remitted if the tax  
30 had been remitted to the Department by the retailer.

31 Refunds made by the seller during the preceding return  
32 period to purchasers, on account of tangible personal  
33 property returned to the seller, shall be allowed as a  
34 deduction under subdivision 5 of his monthly or quarterly

1 return, as the case may be, in case the seller had  
2 theretofore included the receipts from the sale of such  
3 tangible personal property in a return filed by him and had  
4 paid the tax imposed by this Act with respect to such  
5 receipts.

6 Where the seller is a corporation, the return filed on  
7 behalf of such corporation shall be signed by the president,  
8 vice-president, secretary or treasurer or by the properly  
9 accredited agent of such corporation.

10 Where the seller is a limited liability company, the  
11 return filed on behalf of the limited liability company shall  
12 be signed by a manager, member, or properly accredited agent  
13 of the limited liability company.

14 Except as provided in this Section, the retailer filing  
15 the return under this Section shall, at the time of filing  
16 such return, pay to the Department the amount of tax imposed  
17 by this Act less a discount of 2.1% prior to January 1, 1990  
18 and 1.75% on and after January 1, 1990, or \$5 per calendar  
19 year, whichever is greater, which is allowed to reimburse the  
20 retailer for the expenses incurred in keeping records,  
21 preparing and filing returns, remitting the tax and supplying  
22 data to the Department on request. Any prepayment made  
23 pursuant to Section 2d of this Act shall be included in the  
24 amount on which such 2.1% or 1.75% discount is computed. In  
25 the case of retailers who report and pay the tax on a  
26 transaction by transaction basis, as provided in this  
27 Section, such discount shall be taken with each such tax  
28 remittance instead of when such retailer files his periodic  
29 return.

30 Before October 1, 2000, if the taxpayer's average monthly  
31 tax liability to the Department under this Act, the Use Tax  
32 Act, the Service Occupation Tax Act, and the Service Use Tax  
33 Act, excluding any liability for prepaid sales tax to be  
34 remitted in accordance with Section 2d of this Act, was

1 \$10,000 or more during the preceding 4 complete calendar  
2 quarters, he shall file a return with the Department each  
3 month by the 20th day of the month next following the month  
4 during which such tax liability is incurred and shall make  
5 payments to the Department on or before the 7th, 15th, 22nd  
6 and last day of the month during which such liability is  
7 incurred. On and after October 1, 2000, if the taxpayer's  
8 average monthly tax liability to the Department under this  
9 Act, the Use Tax Act, the Service Occupation Tax Act, and the  
10 Service Use Tax Act, excluding any liability for prepaid  
11 sales tax to be remitted in accordance with Section 2d of  
12 this Act, was \$20,000 or more during the preceding 4 complete  
13 calendar quarters, he shall file a return with the Department  
14 each month by the 20th day of the month next following the  
15 month during which such tax liability is incurred and shall  
16 make payment to the Department on or before the 7th, 15th,  
17 22nd and last day of the month during which such liability is  
18 incurred. If the month during which such tax liability is  
19 incurred began prior to January 1, 1985, each payment shall  
20 be in an amount equal to 1/4 of the taxpayer's actual  
21 liability for the month or an amount set by the Department  
22 not to exceed 1/4 of the average monthly liability of the  
23 taxpayer to the Department for the preceding 4 complete  
24 calendar quarters (excluding the month of highest liability  
25 and the month of lowest liability in such 4 quarter period).  
26 If the month during which such tax liability is incurred  
27 begins on or after January 1, 1985 and prior to January 1,  
28 1987, each payment shall be in an amount equal to 22.5% of  
29 the taxpayer's actual liability for the month or 27.5% of the  
30 taxpayer's liability for the same calendar month of the  
31 preceding year. If the month during which such tax liability  
32 is incurred begins on or after January 1, 1987 and prior to  
33 January 1, 1988, each payment shall be in an amount equal to  
34 22.5% of the taxpayer's actual liability for the month or

1 26.25% of the taxpayer's liability for the same calendar  
2 month of the preceding year. If the month during which such  
3 tax liability is incurred begins on or after January 1, 1988,  
4 and prior to January 1, 1989, or begins on or after January  
5 1, 1996, each payment shall be in an amount equal to 22.5% of  
6 the taxpayer's actual liability for the month or 25% of the  
7 taxpayer's liability for the same calendar month of the  
8 preceding year. If the month during which such tax liability  
9 is incurred begins on or after January 1, 1989, and prior to  
10 January 1, 1996, each payment shall be in an amount equal to  
11 22.5% of the taxpayer's actual liability for the month or 25%  
12 of the taxpayer's liability for the same calendar month of  
13 the preceding year or 100% of the taxpayer's actual liability  
14 for the quarter monthly reporting period. The amount of such  
15 quarter monthly payments shall be credited against the final  
16 tax liability of the taxpayer's return for that month.  
17 Before October 1, 2000, once applicable, the requirement of  
18 the making of quarter monthly payments to the Department by  
19 taxpayers having an average monthly tax liability of \$10,000  
20 or more as determined in the manner provided above shall  
21 continue until such taxpayer's average monthly liability to  
22 the Department during the preceding 4 complete calendar  
23 quarters (excluding the month of highest liability and the  
24 month of lowest liability) is less than \$9,000, or until such  
25 taxpayer's average monthly liability to the Department as  
26 computed for each calendar quarter of the 4 preceding  
27 complete calendar quarter period is less than \$10,000.  
28 However, if a taxpayer can show the Department that a  
29 substantial change in the taxpayer's business has occurred  
30 which causes the taxpayer to anticipate that his average  
31 monthly tax liability for the reasonably foreseeable future  
32 will fall below the \$10,000 threshold stated above, then such  
33 taxpayer may petition the Department for a change in such  
34 taxpayer's reporting status. On and after October 1, 2000,

1 once applicable, the requirement of the making of quarter  
2 monthly payments to the Department by taxpayers having an  
3 average monthly tax liability of \$20,000 or more as  
4 determined in the manner provided above shall continue until  
5 such taxpayer's average monthly liability to the Department  
6 during the preceding 4 complete calendar quarters (excluding  
7 the month of highest liability and the month of lowest  
8 liability) is less than \$19,000 or until such taxpayer's  
9 average monthly liability to the Department as computed for  
10 each calendar quarter of the 4 preceding complete calendar  
11 quarter period is less than \$20,000. However, if a taxpayer  
12 can show the Department that a substantial change in the  
13 taxpayer's business has occurred which causes the taxpayer to  
14 anticipate that his average monthly tax liability for the  
15 reasonably foreseeable future will fall below the \$20,000  
16 threshold stated above, then such taxpayer may petition the  
17 Department for a change in such taxpayer's reporting status.  
18 The Department shall change such taxpayer's reporting status  
19 unless it finds that such change is seasonal in nature and  
20 not likely to be long term. If any such quarter monthly  
21 payment is not paid at the time or in the amount required by  
22 this Section, then the taxpayer shall be liable for penalties  
23 and interest on the difference between the minimum amount due  
24 as a payment and the amount of such quarter monthly payment  
25 actually and timely paid, except insofar as the taxpayer has  
26 previously made payments for that month to the Department in  
27 excess of the minimum payments previously due as provided in  
28 this Section. The Department shall make reasonable rules and  
29 regulations to govern the quarter monthly payment amount and  
30 quarter monthly payment dates for taxpayers who file on other  
31 than a calendar monthly basis.

32 The provisions of this paragraph apply before October 1,  
33 2001. Without regard to whether a taxpayer is required to  
34 make quarter monthly payments as specified above, any

1 taxpayer who is required by Section 2d of this Act to collect  
2 and remit prepaid taxes and has collected prepaid taxes which  
3 average in excess of \$25,000 per month during the preceding 2  
4 complete calendar quarters, shall file a return with the  
5 Department as required by Section 2f and shall make payments  
6 to the Department on or before the 7th, 15th, 22nd and last  
7 day of the month during which such liability is incurred. If  
8 the month during which such tax liability is incurred began  
9 prior to the effective date of this amendatory Act of 1985,  
10 each payment shall be in an amount not less than 22.5% of the  
11 taxpayer's actual liability under Section 2d. If the month  
12 during which such tax liability is incurred begins on or  
13 after January 1, 1986, each payment shall be in an amount  
14 equal to 22.5% of the taxpayer's actual liability for the  
15 month or 27.5% of the taxpayer's liability for the same  
16 calendar month of the preceding calendar year. If the month  
17 during which such tax liability is incurred begins on or  
18 after January 1, 1987, each payment shall be in an amount  
19 equal to 22.5% of the taxpayer's actual liability for the  
20 month or 26.25% of the taxpayer's liability for the same  
21 calendar month of the preceding year. The amount of such  
22 quarter monthly payments shall be credited against the final  
23 tax liability of the taxpayer's return for that month filed  
24 under this Section or Section 2f, as the case may be. Once  
25 applicable, the requirement of the making of quarter monthly  
26 payments to the Department pursuant to this paragraph shall  
27 continue until such taxpayer's average monthly prepaid tax  
28 collections during the preceding 2 complete calendar quarters  
29 is \$25,000 or less. If any such quarter monthly payment is  
30 not paid at the time or in the amount required, the taxpayer  
31 shall be liable for penalties and interest on such  
32 difference, except insofar as the taxpayer has previously  
33 made payments for that month in excess of the minimum  
34 payments previously due.

1        The provisions of this paragraph apply on and after  
2        October 1, 2001. Without regard to whether a taxpayer is  
3        required to make quarter monthly payments as specified above,  
4        any taxpayer who is required by Section 2d of this Act to  
5        collect and remit prepaid taxes and has collected prepaid  
6        taxes that average in excess of \$20,000 per month during the  
7        preceding 4 complete calendar quarters shall file a return  
8        with the Department as required by Section 2f and shall make  
9        payments to the Department on or before the 7th, 15th, 22nd  
10       and last day of the month during which the liability is  
11       incurred. Each payment shall be in an amount equal to 22.5%  
12       of the taxpayer's actual liability for the month or 25% of  
13       the taxpayer's liability for the same calendar month of the  
14       preceding year. The amount of the quarter monthly payments  
15       shall be credited against the final tax liability of the  
16       taxpayer's return for that month filed under this Section or  
17       Section 2f, as the case may be. Once applicable, the  
18       requirement of the making of quarter monthly payments to the  
19       Department pursuant to this paragraph shall continue until  
20       the taxpayer's average monthly prepaid tax collections during  
21       the preceding 4 complete calendar quarters (excluding the  
22       month of highest liability and the month of lowest liability)  
23       is less than \$19,000 or until such taxpayer's average monthly  
24       liability to the Department as computed for each calendar  
25       quarter of the 4 preceding complete calendar quarters is less  
26       than \$20,000. If any such quarter monthly payment is not  
27       paid at the time or in the amount required, the taxpayer  
28       shall be liable for penalties and interest on such  
29       difference, except insofar as the taxpayer has previously  
30       made payments for that month in excess of the minimum  
31       payments previously due.

32       If any payment provided for in this Section exceeds the  
33       taxpayer's liabilities under this Act, the Use Tax Act, the  
34       Service Occupation Tax Act and the Service Use Tax Act, as

1 shown on an original monthly return, the Department shall, if  
2 requested by the taxpayer, issue to the taxpayer a credit  
3 memorandum no later than 30 days after the date of payment.  
4 The credit evidenced by such credit memorandum may be  
5 assigned by the taxpayer to a similar taxpayer under this  
6 Act, the Use Tax Act, the Service Occupation Tax Act or the  
7 Service Use Tax Act, in accordance with reasonable rules and  
8 regulations to be prescribed by the Department. If no such  
9 request is made, the taxpayer may credit such excess payment  
10 against tax liability subsequently to be remitted to the  
11 Department under this Act, the Use Tax Act, the Service  
12 Occupation Tax Act or the Service Use Tax Act, in accordance  
13 with reasonable rules and regulations prescribed by the  
14 Department. If the Department subsequently determined that  
15 all or any part of the credit taken was not actually due to  
16 the taxpayer, the taxpayer's 2.1% and 1.75% vendor's discount  
17 shall be reduced by 2.1% or 1.75% of the difference between  
18 the credit taken and that actually due, and that taxpayer  
19 shall be liable for penalties and interest on such  
20 difference.

21 If a retailer of motor fuel is entitled to a credit under  
22 Section 2d of this Act which exceeds the taxpayer's liability  
23 to the Department under this Act for the month which the  
24 taxpayer is filing a return, the Department shall issue the  
25 taxpayer a credit memorandum for the excess.

26 Beginning January 1, 1990, each month the Department  
27 shall pay into the Local Government Tax Fund, a special fund  
28 in the State treasury which is hereby created, the net  
29 revenue realized for the preceding month from the 1% tax on  
30 sales of food for human consumption which is to be consumed  
31 off the premises where it is sold (other than alcoholic  
32 beverages, soft drinks and food which has been prepared for  
33 immediate consumption) and prescription and nonprescription  
34 medicines, drugs, medical appliances and insulin, urine



1 testing materials, syringes and needles used by diabetics.

2 Beginning January 1, 1990, each month the Department  
3 shall pay into the County and Mass Transit District Fund, a  
4 special fund in the State treasury which is hereby created,  
5 4% of the net revenue realized for the preceding month from  
6 the 6.25% general rate.

7 Beginning August 1, 2000, each month the Department shall  
8 pay into the County and Mass Transit District Fund 20% of the  
9 net revenue realized for the preceding month from the 1.25%  
10 rate on the selling price of motor fuel and gasohol.

11 Beginning January 1, 1990, each month the Department  
12 shall pay into the Local Government Tax Fund 16% of the net  
13 revenue realized for the preceding month from the 6.25%  
14 general rate on the selling price of tangible personal  
15 property.

16 Beginning August 1, 2000, each month the Department shall  
17 pay into the Local Government Tax Fund 80% of the net revenue  
18 realized for the preceding month from the 1.25% rate on the  
19 selling price of motor fuel and gasohol.

20 Of the remainder of the moneys received by the Department  
21 pursuant to this Act, (a) 1.75% thereof shall be paid into  
22 the Build Illinois Fund and (b) prior to July 1, 1989, 2.2%  
23 and on and after July 1, 1989, 3.8% thereof shall be paid  
24 into the Build Illinois Fund; provided, however, that if in  
25 any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%,  
26 as the case may be, of the moneys received by the Department  
27 and required to be paid into the Build Illinois Fund pursuant  
28 to this Act, Section 9 of the Use Tax Act, Section 9 of the  
29 Service Use Tax Act, and Section 9 of the Service Occupation  
30 Tax Act, such Acts being hereinafter called the "Tax Acts"  
31 and such aggregate of 2.2% or 3.8%, as the case may be, of  
32 moneys being hereinafter called the "Tax Act Amount", and (2)  
33 the amount transferred to the Build Illinois Fund from the  
34 State and Local Sales Tax Reform Fund shall be less than the

1 Annual Specified Amount (as hereinafter defined), an amount  
 2 equal to the difference shall be immediately paid into the  
 3 Build Illinois Fund from other moneys received by the  
 4 Department pursuant to the Tax Acts; the "Annual Specified  
 5 Amount" means the amounts specified below for fiscal years  
 6 1986 through 1993:

7	Fiscal Year	Annual Specified Amount
8	1986	\$54,800,000
9	1987	\$76,650,000
10	1988	\$80,480,000
11	1989	\$88,510,000
12	1990	\$115,330,000
13	1991	\$145,470,000
14	1992	\$182,730,000
15	1993	\$206,520,000;

16 and means the Certified Annual Debt Service Requirement (as  
 17 defined in Section 13 of the Build Illinois Bond Act) or the  
 18 Tax Act Amount, whichever is greater, for fiscal year 1994  
 19 and each fiscal year thereafter; and further provided, that  
 20 if on the last business day of any month the sum of (1) the  
 21 Tax Act Amount required to be deposited into the Build  
 22 Illinois Bond Account in the Build Illinois Fund during such  
 23 month and (2) the amount transferred to the Build Illinois  
 24 Fund from the State and Local Sales Tax Reform Fund shall  
 25 have been less than 1/12 of the Annual Specified Amount, an  
 26 amount equal to the difference shall be immediately paid into  
 27 the Build Illinois Fund from other moneys received by the  
 28 Department pursuant to the Tax Acts; and, further provided,  
 29 that in no event shall the payments required under the  
 30 preceding proviso result in aggregate payments into the Build  
 31 Illinois Fund pursuant to this clause (b) for any fiscal year  
 32 in excess of the greater of (i) the Tax Act Amount or (ii)  
 33 the Annual Specified Amount for such fiscal year. The  
 34 amounts payable into the Build Illinois Fund under clause (b)

1 of the first sentence in this paragraph shall be payable only  
2 until such time as the aggregate amount on deposit under each  
3 trust indenture securing Bonds issued and outstanding  
4 pursuant to the Build Illinois Bond Act is sufficient, taking  
5 into account any future investment income, to fully provide,  
6 in accordance with such indenture, for the defeasance of or  
7 the payment of the principal of, premium, if any, and  
8 interest on the Bonds secured by such indenture and on any  
9 Bonds expected to be issued thereafter and all fees and costs  
10 payable with respect thereto, all as certified by the  
11 Director of the Bureau of the Budget. If on the last  
12 business day of any month in which Bonds are outstanding  
13 pursuant to the Build Illinois Bond Act, the aggregate of  
14 moneys deposited in the Build Illinois Bond Account in the  
15 Build Illinois Fund in such month shall be less than the  
16 amount required to be transferred in such month from the  
17 Build Illinois Bond Account to the Build Illinois Bond  
18 Retirement and Interest Fund pursuant to Section 13 of the  
19 Build Illinois Bond Act, an amount equal to such deficiency  
20 shall be immediately paid from other moneys received by the  
21 Department pursuant to the Tax Acts to the Build Illinois  
22 Fund; provided, however, that any amounts paid to the Build  
23 Illinois Fund in any fiscal year pursuant to this sentence  
24 shall be deemed to constitute payments pursuant to clause (b)  
25 of the first sentence of this paragraph and shall reduce the  
26 amount otherwise payable for such fiscal year pursuant to  
27 that clause (b). The moneys received by the Department  
28 pursuant to this Act and required to be deposited into the  
29 Build Illinois Fund are subject to the pledge, claim and  
30 charge set forth in Section 12 of the Build Illinois Bond  
31 Act.

32 Subject to payment of amounts into the Build Illinois  
33 Fund as provided in the preceding paragraph or in any  
34 amendment thereto hereafter enacted, the following specified

1 monthly installment of the amount requested in the  
 2 certificate of the Chairman of the Metropolitan Pier and  
 3 Exposition Authority provided under Section 8.25f of the  
 4 State Finance Act, but not in excess of sums designated as  
 5 "Total Deposit", shall be deposited in the aggregate from  
 6 collections under Section 9 of the Use Tax Act, Section 9 of  
 7 the Service Use Tax Act, Section 9 of the Service Occupation  
 8 Tax Act, and Section 3 of the Retailers' Occupation Tax Act  
 9 into the McCormick Place Expansion Project Fund in the  
 10 specified fiscal years.

11	Fiscal Year	Total Deposit
12	1993	\$0
13	1994	53,000,000
14	1995	58,000,000
15	1996	61,000,000
16	1997	64,000,000
17	1998	68,000,000
18	1999	71,000,000
19	2000	75,000,000
20	2001	80,000,000
21	2002	84,000,000
22	2003	89,000,000
23	2004	93,000,000
24	2005	97,000,000
25	2006	102,000,000
26	2007	108,000,000
27	2008	115,000,000
28	2009	120,000,000
29	2010	126,000,000
30	2011	132,000,000
31	2012	138,000,000
32	2013 and	145,000,000

33 each fiscal year  
 34 thereafter that bonds

1           are outstanding under  
2           Section 13.2 of the  
3           Metropolitan Pier and  
4           Exposition Authority  
5           Act, but not after fiscal year 2029.

6           Beginning July 20, 1993 and in each month of each fiscal  
7           year thereafter, one-eighth of the amount requested in the  
8           certificate of the Chairman of the Metropolitan Pier and  
9           Exposition Authority for that fiscal year, less the amount  
10          deposited into the McCormick Place Expansion Project Fund by  
11          the State Treasurer in the respective month under subsection  
12          (g) of Section 13 of the Metropolitan Pier and Exposition  
13          Authority Act, plus cumulative deficiencies in the deposits  
14          required under this Section for previous months and years,  
15          shall be deposited into the McCormick Place Expansion Project  
16          Fund, until the full amount requested for the fiscal year,  
17          but not in excess of the amount specified above as "Total  
18          Deposit", has been deposited.

19          Subject to payment of amounts into the Build Illinois  
20          Fund and the McCormick Place Expansion Project Fund pursuant  
21          to the preceding paragraphs or in any amendment thereto  
22          hereafter enacted, each month the Department shall pay into  
23          the Local Government Distributive Fund 0.4% of the net  
24          revenue realized for the preceding month from the 5% general  
25          rate or 0.4% of 80% of the net revenue realized for the  
26          preceding month from the 6.25% general rate, as the case may  
27          be, on the selling price of tangible personal property which  
28          amount shall, subject to appropriation, be distributed as  
29          provided in Section 2 of the State Revenue Sharing Act. No  
30          payments or distributions pursuant to this paragraph shall be  
31          made if the tax imposed by this Act on photoprocessing  
32          products is declared unconstitutional, or if the proceeds  
33          from such tax are unavailable for distribution because of  
34          litigation.

1           Subject to payment of amounts into the Build Illinois  
2 Fund, the McCormick Place Expansion Project Fund, and the  
3 Local Government Distributive Fund pursuant to the preceding  
4 paragraphs or in any amendments thereto hereafter enacted,  
5 beginning July 1, 1993, the Department shall each month pay  
6 into the Illinois Tax Increment Fund 0.27% of 80% of the net  
7 revenue realized for the preceding month from the 6.25%  
8 general rate on the selling price of tangible personal  
9 property.

10           Of the remainder of the moneys received by the Department  
11 pursuant to this Act, 75% thereof shall be paid into the  
12 State Treasury and 25% shall be reserved in a special account  
13 and used only for the transfer to the Common School Fund as  
14 part of the monthly transfer from the General Revenue Fund in  
15 accordance with Section 8a of the State Finance Act.

16           The Department may, upon separate written notice to a  
17 taxpayer, require the taxpayer to prepare and file with the  
18 Department on a form prescribed by the Department within not  
19 less than 60 days after receipt of the notice an annual  
20 information return for the tax year specified in the notice.  
21 Such annual return to the Department shall include a  
22 statement of gross receipts as shown by the retailer's last  
23 Federal income tax return. If the total receipts of the  
24 business as reported in the Federal income tax return do not  
25 agree with the gross receipts reported to the Department of  
26 Revenue for the same period, the retailer shall attach to his  
27 annual return a schedule showing a reconciliation of the 2  
28 amounts and the reasons for the difference. The retailer's  
29 annual return to the Department shall also disclose the cost  
30 of goods sold by the retailer during the year covered by such  
31 return, opening and closing inventories of such goods for  
32 such year, costs of goods used from stock or taken from stock  
33 and given away by the retailer during such year, payroll  
34 information of the retailer's business during such year and

1 any additional reasonable information which the Department  
2 deems would be helpful in determining the accuracy of the  
3 monthly, quarterly or annual returns filed by such retailer  
4 as provided for in this Section.

5 If the annual information return required by this Section  
6 is not filed when and as required, the taxpayer shall be  
7 liable as follows:

8 (i) Until January 1, 1994, the taxpayer shall be  
9 liable for a penalty equal to 1/6 of 1% of the tax due  
10 from such taxpayer under this Act during the period to be  
11 covered by the annual return for each month or fraction  
12 of a month until such return is filed as required, the  
13 penalty to be assessed and collected in the same manner  
14 as any other penalty provided for in this Act.

15 (ii) On and after January 1, 1994, the taxpayer  
16 shall be liable for a penalty as described in Section 3-4  
17 of the Uniform Penalty and Interest Act.

18 The chief executive officer, proprietor, owner or highest  
19 ranking manager shall sign the annual return to certify the  
20 accuracy of the information contained therein. Any person  
21 who willfully signs the annual return containing false or  
22 inaccurate information shall be guilty of perjury and  
23 punished accordingly. The annual return form prescribed by  
24 the Department shall include a warning that the person  
25 signing the return may be liable for perjury.

26 The provisions of this Section concerning the filing of  
27 an annual information return do not apply to a retailer who  
28 is not required to file an income tax return with the United  
29 States Government.

30 As soon as possible after the first day of each month,  
31 upon certification of the Department of Revenue, the  
32 Comptroller shall order transferred and the Treasurer shall  
33 transfer from the General Revenue Fund to the Motor Fuel Tax  
34 Fund an amount equal to 1.7% of 80% of the net revenue

1 realized under this Act for the second preceding month.  
2 Beginning April 1, 2000, this transfer is no longer required  
3 and shall not be made.

4 Net revenue realized for a month shall be the revenue  
5 collected by the State pursuant to this Act, less the amount  
6 paid out during that month as refunds to taxpayers for  
7 overpayment of liability.

8 For greater simplicity of administration, manufacturers,  
9 importers and wholesalers whose products are sold at retail  
10 in Illinois by numerous retailers, and who wish to do so, may  
11 assume the responsibility for accounting and paying to the  
12 Department all tax accruing under this Act with respect to  
13 such sales, if the retailers who are affected do not make  
14 written objection to the Department to this arrangement.

15 Any person who promotes, organizes, provides retail  
16 selling space for concessionaires or other types of sellers  
17 at the Illinois State Fair, DuQuoin State Fair, county fairs,  
18 local fairs, art shows, flea markets and similar exhibitions  
19 or events, including any transient merchant as defined by  
20 Section 2 of the Transient Merchant Act of 1987, is required  
21 to file a report with the Department providing the name of  
22 the merchant's business, the name of the person or persons  
23 engaged in merchant's business, the permanent address and  
24 Illinois Retailers Occupation Tax Registration Number of the  
25 merchant, the dates and location of the event and other  
26 reasonable information that the Department may require. The  
27 report must be filed not later than the 20th day of the month  
28 next following the month during which the event with retail  
29 sales was held. Any person who fails to file a report  
30 required by this Section commits a business offense and is  
31 subject to a fine not to exceed \$250.

32 Any person engaged in the business of selling tangible  
33 personal property at retail as a concessionaire or other type  
34 of seller at the Illinois State Fair, county fairs, art



1 shows, flea markets and similar exhibitions or events, or any  
2 transient merchants, as defined by Section 2 of the Transient  
3 Merchant Act of 1987, may be required to make a daily report  
4 of the amount of such sales to the Department and to make a  
5 daily payment of the full amount of tax due. The Department  
6 shall impose this requirement when it finds that there is a  
7 significant risk of loss of revenue to the State at such an  
8 exhibition or event. Such a finding shall be based on  
9 evidence that a substantial number of concessionaires or  
10 other sellers who are not residents of Illinois will be  
11 engaging in the business of selling tangible personal  
12 property at retail at the exhibition or event, or other  
13 evidence of a significant risk of loss of revenue to the  
14 State. The Department shall notify concessionaires and other  
15 sellers affected by the imposition of this requirement. In  
16 the absence of notification by the Department, the  
17 concessionaires and other sellers shall file their returns as  
18 otherwise required in this Section.

19 (Source: P.A. 90-491, eff. 1-1-99; 90-612, eff. 7-8-98;  
20 91-37, eff. 7-1-99; 91-51, eff. 6-30-99; 91-101, eff.  
21 7-12-99; 91-541, eff. 8-13-99; 91-872, eff. 7-1-00; 91-901,  
22 eff. 1-1-01; revised 1-15-01.)

23 (35 ILCS 120/5k) (from Ch. 120, par. 444k)

24 (Text of Section before amendment by P.A. 91-954)

25 Sec. 5k. Each retailer whose place a business is within  
26 a county or municipality which has established an Enterprise  
27 Zone pursuant to the "Illinois Enterprise Zone Act" and who  
28 makes a sale of building materials to be incorporated into  
29 real estate in such enterprise zone by remodeling,  
30 rehabilitation or new construction, may deduct receipts from  
31 such sales when calculating the tax imposed by this Act. The  
32 deduction allowed by this Section for the sale of building  
33 materials may be limited, to the extent authorized by

1 ordinance, adopted after the effective date of this  
2 amendatory Act of 1992, by the municipality or county that  
3 created the enterprise zone. The corporate authorities of  
4 any municipality or county that adopts an ordinance or  
5 resolution imposing or changing any limitation on the  
6 enterprise zone exemption for building materials shall  
7 transmit to the Department of Revenue on or not later than 5  
8 days after publication, as provided by law, a certified copy  
9 of the ordinance or resolution imposing or changing those  
10 limitations, whereupon the Department of Revenue shall  
11 proceed to administer and enforce those limitations effective  
12 the first day of the second calendar month next following  
13 date of receipt by the Department of the certified ordinance  
14 or resolution.

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

16 (Text of Section after amendment by P.A. 91-954)

17 Sec. 5k. Each retailer ~~in Illinois~~ who makes a sale of  
18 building materials to be incorporated into real estate in an  
19 enterprise zone established by a county or municipality under  
20 the Illinois Enterprise Zone Act by remodeling,  
21 rehabilitation or new construction, may deduct receipts from  
22 such sales when calculating the tax imposed by this Act. The  
23 deduction allowed by this Section for the sale of building  
24 materials may be limited, to the extent authorized by  
25 ordinance, adopted after the effective date of this  
26 amendatory Act of 1992, by the municipality or county that  
27 created the enterprise zone in which the retailer's place of  
28 business is located. The corporate authorities of any  
29 municipality or county that adopts an ordinance or resolution  
30 imposing or changing any limitation on the enterprise zone  
31 exemption for building materials shall transmit to the  
32 Department of Revenue on or not later than 5 days after  
33 publication, as provided by law, a certified copy of the  
34 ordinance or resolution imposing or changing those

1 limitations, whereupon the Department of Revenue shall  
2 proceed to administer and enforce those limitations effective  
3 the first day of the second calendar month next following  
4 date of receipt by the Department of the certified ordinance  
5 or resolution. The provisions of this Section are exempt  
6 from Section 2-70.

7 (Source: P.A. 91-51, eff. 6-30-99; 91-954, eff. 1-1-02.)

8 Section 95. No acceleration or delay. Where this Act  
9 makes changes in a statute that is represented in this Act by  
10 text that is not yet or no longer in effect (for example, a  
11 Section represented by multiple versions), the use of that  
12 text does not accelerate or delay the taking effect of (i)  
13 the changes made by this Act or (ii) provisions derived from  
14 any other Public Act.

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.