

AN ACT concerning revenue.

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

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

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

Sec. 2. Definitions.

"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of such property in any form as tangible personal property in the regular course of business to the extent that such property is not first subjected to a use for which it was purchased, and does not include the use of such property by its owner for demonstration purposes: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. "Use" does not mean the demonstration use or interim use of tangible personal property by a retailer before he sells that tangible personal property. For watercraft or aircraft, if the period of demonstration use or interim use by the retailer exceeds 18 months, the retailer

shall pay on the retailers' original cost price the tax imposed by this Act, and no credit for that tax is permitted if the watercraft or aircraft is subsequently sold by the retailer. "Use" does not mean the physical incorporation of tangible personal property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, into other tangible personal property (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing.

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

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

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

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

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

Nonreusable tangible personal property that is used by persons engaged in the business of operating a restaurant,

cafeteria, or drive-in is a sale for resale when it is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages, regardless of where consumption of the food or beverages occurs. Examples of those items include, but are not limited to nonreusable, paper and plastic cups, plates, baskets, boxes, sleeves, buckets or other containers, utensils, straws, placemats, napkins, doggie bags, and wrapping or packaging materials that are transferred to customers as part of the sale of food or beverages in the ordinary course of business.

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

"Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property other than as hereinafter provided, and services, but, prior to January 1, 2020 and beginning again on January 1, 2022, not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold; beginning January 1, 2020 and until January 1, 2022, "selling price" includes the portion of the value of or credit given for traded-in motor vehicles of the First Division as defined in Section 1-146 of the Illinois Vehicle

Code of like kind and character as that which is being sold that exceeds \$10,000. "Selling price" shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's tax liability under the Retailers' Occupation Tax Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit, on account of the seller's tax liability under any local occupation tax administered by the Department, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit on account of the seller's duty to collect, from the purchasers, the tax that is imposed under any local use tax administered by the Department. Effective December 1, 1985, "selling price" shall include charges that are added to prices by sellers on account of the seller's tax liability under the Cigarette Tax Act, on account of the seller's duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act, and on account of the seller's duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit.

Notwithstanding any law to the contrary, for any motor vehicle, as defined in Section 1-146 of the Vehicle Code, that

is sold on or after January 1, 2015 for the purpose of leasing the vehicle for a defined period that is longer than one year and (1) is a motor vehicle of the second division that: (A) is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat; (B) is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers; or (C) has a gross vehicle weight rating of 8,000 pounds or less or (2) is a motor vehicle of the first division, "selling price" or "amount of sale" means the consideration received by the lessor pursuant to the lease contract, including amounts due at lease signing and all monthly or other regular payments charged over the term of the lease. Also included in the selling price is any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, including, but not limited to, excess mileage charges and charges for excess wear and tear. For sales that occur in Illinois, with respect to any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, the lessor who purchased the motor vehicle does not incur the tax imposed by the Use Tax Act on those amounts, and the retailer who makes the retail sale of the motor vehicle to the lessor is not required to collect the tax imposed by this Act or to pay the tax imposed by the

Retailers' Occupation Tax Act on those amounts. However, the lessor who purchased the motor vehicle assumes the liability for reporting and paying the tax on those amounts directly to the Department in the same form (Illinois Retailers' Occupation Tax, and local retailers' occupation taxes, if applicable) in which the retailer would have reported and paid such tax if the retailer had accounted for the tax to the Department. For amounts received by the lessor from the lessee that are not calculated at the time the lease is executed, the lessor must file the return and pay the tax to the Department by the due date otherwise required by this Act for returns other than transaction returns. If the retailer is entitled under this Act to a discount for collecting and remitting the tax imposed under this Act to the Department with respect to the sale of the motor vehicle to the lessor, then the right to the discount provided in this Act shall be transferred to the lessor with respect to the tax paid by the lessor for any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed; provided that the discount is only allowed if the return is timely filed and for amounts timely paid. The "selling price" of a motor vehicle that is sold on or after January 1, 2015 for the purpose of leasing for a defined period of longer than one year shall not be reduced by the value of or credit given for traded-in tangible personal property owned by the lessor, nor shall it be reduced by the value of or credit

given for traded-in tangible personal property owned by the lessee, regardless of whether the trade-in value thereof is assigned by the lessee to the lessor. In the case of a motor vehicle that is sold for the purpose of leasing for a defined period of longer than one year, the sale occurs at the time of the delivery of the vehicle, regardless of the due date of any lease payments. A lessor who incurs a Retailers' Occupation Tax liability on the sale of a motor vehicle coming off lease may not take a credit against that liability for the Use Tax the lessor paid upon the purchase of the motor vehicle (or for any tax the lessor paid with respect to any amount received by the lessor from the lessee for the leased vehicle that was not calculated at the time the lease was executed) if the selling price of the motor vehicle at the time of purchase was calculated using the definition of "selling price" as defined in this paragraph. Notwithstanding any other provision of this Act to the contrary, lessors shall file all returns and make all payments required under this paragraph to the Department by electronic means in the manner and form as required by the Department. This paragraph does not apply to leases of motor vehicles for which, at the time the lease is entered into, the term of the lease is not a defined period, including leases with a defined initial period with the option to continue the lease on a month-to-month or other basis beyond the initial defined period.

The phrase "like kind and character" shall be liberally

construed (including but not limited to any form of motor vehicle for any form of motor vehicle, or any kind of farm or agricultural implement for any other kind of farm or agricultural implement), while not including a kind of item which, if sold at retail by that retailer, would be exempt from retailers' occupation tax and use tax as an isolated or occasional sale.

"Department" means the Department of Revenue.

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

"Retailer" means and includes every person engaged in the business of making sales at retail as defined in this Section.

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

A person whose activities are organized and conducted primarily as a not-for-profit service enterprise, and who engages in selling tangible personal property at retail (whether to the public or merely to members and their guests) is a retailer with respect to such transactions, excepting only a person organized and operated exclusively for charitable, religious or educational purposes either (1), to the extent of sales by such person to its members, students, patients or inmates of tangible personal property to be used primarily for the purposes of such person, or (2), to the extent of sales by such person of tangible personal property which is not sold or offered for sale by persons organized for profit. The selling of school books and school supplies by schools at retail to students is not "primarily for the purposes of" the school which does such selling. This paragraph does not apply to nor subject to taxation occasional dinners, social or similar activities of a person organized and operated exclusively for charitable, religious or educational purposes, whether or not such activities are open to the public.

A person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (P.L. 92-258) and serves meals to participants in the federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the federal Act is not a

retailer under this Act with respect to such transactions.

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

The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail or a sale through a bulk vending machine does not make such person a retailer hereunder. However, any person who is engaged in a business which is not subject to the tax imposed by the Retailers' Occupation Tax Act because of involving the sale of or a contract to sell real estate or a construction contract to improve real estate, but who, in the course of conducting such business, transfers tangible personal property to users or consumers in the finished form in which it was purchased, and which does not become real estate, under any provision of a construction contract or real estate sale or real estate sales agreement entered into with some other person arising out of or because of such nontaxable business, is a retailer to the extent of the value of the tangible personal property so transferred. If, in such transaction, a separate charge is made for the tangible personal property so transferred, the value of such property, for the purposes of this Act, is the amount so separately charged, but not less than the cost of such property to the transferor; if no separate charge is

made, the value of such property, for the purposes of this Act, is the cost to the transferor of such tangible personal property.

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

(1) A retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State. However, the ownership of property that is located at the premises of a printer with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced shall not result in the retailer being deemed to have or maintain an office, distribution house, sales house, warehouse, or other place of business within this State.

(1.1) A retailer having a contract with a person located in this State under which the person, for a

commission or other consideration based upon the sale of tangible personal property by the retailer, directly or indirectly refers potential customers to the retailer by providing to the potential customers a promotional code or other mechanism that allows the retailer to track purchases referred by such persons. Examples of mechanisms that allow the retailer to track purchases referred by such persons include but are not limited to the use of a link on the person's Internet website, promotional codes distributed through the person's hand-delivered or mailed material, and promotional codes distributed by the person through radio or other broadcast media. The provisions of this paragraph (1.1) shall apply only if the cumulative gross receipts from sales of tangible personal property by the retailer to customers who are referred to the retailer by all persons in this State under such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December. A retailer meeting the requirements of this paragraph (1.1) shall be presumed to be maintaining a place of business in this State but may rebut this presumption by submitting proof that the referrals or other activities pursued within this State by such persons were not sufficient to meet the nexus standards of the United States Constitution during the preceding 4 quarterly periods.

(1.2) Beginning July 1, 2011, a retailer having a

contract with a person located in this State under which:

(A) the retailer sells the same or substantially similar line of products as the person located in this State and does so using an identical or substantially similar name, trade name, or trademark as the person located in this State; and

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

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

(2) (Blank).

(3) (Blank).

(4) (Blank).

(5) (Blank).

(6) (Blank).

(7) (Blank).

(8) (Blank).

(9) Beginning October 1, 2018, a retailer making sales of tangible personal property to purchasers in Illinois from outside of Illinois if:

(A) the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more; or

(B) the retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

The retailer shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) of this paragraph (9) for the preceding 12-month period. If the retailer meets the threshold of either subparagraph (A) or (B) for a 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the retailer shall determine whether he or she met the threshold of either subparagraph (A) or (B) during the preceding 12-month period. If the retailer met the criteria in either subparagraph (A) or (B) for the preceding 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a retailer that was required to collect and remit the tax imposed under this Act

determines that he or she did not meet the threshold in either subparagraph (A) or (B) during the preceding 12-month period, the retailer shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the threshold of either subparagraph (A) or (B) for the preceding 12-month period.

Beginning January 1, 2020, neither the gross receipts from nor the number of separate transactions for sales of tangible personal property to purchasers in Illinois that a retailer makes through a marketplace facilitator and for which the retailer has received a certification from the marketplace facilitator pursuant to Section 2d of this Act shall be included for purposes of determining whether he or she has met the thresholds of this paragraph (9).

(10) Beginning January 1, 2020, a marketplace facilitator that meets a threshold set forth in subsection (b) of Section 2d of this Act.

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

(Source: P.A. 100-587, eff. 6-4-18; 101-9, eff. 6-5-19; 101-31, eff. 1-1-20; 101-604, eff. 1-1-20.)

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

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

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

"Sale at retail" shall be construed to include any transfer of the ownership of or title to tangible personal property to a purchaser, for use or consumption by any other person to whom such purchaser may transfer the tangible personal property without a valuable consideration, and to

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

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

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

Nonreusable tangible personal property that is used by persons engaged in the business of operating a restaurant, cafeteria, or drive-in is a sale for resale when it is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages, regardless of where

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

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

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

purposes of" the school which does such selling. The provisions of this paragraph shall not apply to nor subject to taxation occasional dinners, socials or similar activities of a person organized and operated exclusively for charitable, religious or educational purposes, whether or not such activities are open to the public.

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

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

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

"Selling price" or the "amount of sale" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property, other

than as hereinafter provided, and services, but, prior to January 1, 2020 and beginning again on January 1, 2022, not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold; beginning January 1, 2020 and until January 1, 2022, "selling price" includes the portion of the value of or credit given for traded-in motor vehicles of the First Division as defined in Section 1-146 of the Illinois Vehicle Code of like kind and character as that which is being sold that exceeds \$10,000. "Selling price" shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include charges that are added to prices by sellers on account of the seller's tax liability under this Act, or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by the Use Tax Act, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit, on account of the seller's tax liability under any local occupation tax administered by the Department, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit on account of the seller's duty to collect, from the purchasers, the tax that is imposed under any local use tax administered by the Department. Effective December 1, 1985, "selling price" shall include charges that are added to prices by sellers on account

of the seller's tax liability under the Cigarette Tax Act, on account of the sellers' duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act, and on account of the seller's duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit.

Notwithstanding any law to the contrary, for any motor vehicle, as defined in Section 1-146 of the Vehicle Code, that is sold on or after January 1, 2015 for the purpose of leasing the vehicle for a defined period that is longer than one year and (1) is a motor vehicle of the second division that: (A) is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat; (B) is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers; or (C) has a gross vehicle weight rating of 8,000 pounds or less or (2) is a motor vehicle of the first division, "selling price" or "amount of sale" means the consideration received by the lessor pursuant to the lease contract, including amounts due at lease signing and all monthly or other regular payments charged over the term of the lease. Also included in the selling price is any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, including, but not limited to, excess mileage charges and charges for excess wear and tear. For sales that occur in

Illinois, with respect to any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, the lessor who purchased the motor vehicle does not incur the tax imposed by the Use Tax Act on those amounts, and the retailer who makes the retail sale of the motor vehicle to the lessor is not required to collect the tax imposed by the Use Tax Act or to pay the tax imposed by this Act on those amounts. However, the lessor who purchased the motor vehicle assumes the liability for reporting and paying the tax on those amounts directly to the Department in the same form (Illinois Retailers' Occupation Tax, and local retailers' occupation taxes, if applicable) in which the retailer would have reported and paid such tax if the retailer had accounted for the tax to the Department. For amounts received by the lessor from the lessee that are not calculated at the time the lease is executed, the lessor must file the return and pay the tax to the Department by the due date otherwise required by this Act for returns other than transaction returns. If the retailer is entitled under this Act to a discount for collecting and remitting the tax imposed under this Act to the Department with respect to the sale of the motor vehicle to the lessor, then the right to the discount provided in this Act shall be transferred to the lessor with respect to the tax paid by the lessor for any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed; provided

that the discount is only allowed if the return is timely filed and for amounts timely paid. The "selling price" of a motor vehicle that is sold on or after January 1, 2015 for the purpose of leasing for a defined period of longer than one year shall not be reduced by the value of or credit given for traded-in tangible personal property owned by the lessor, nor shall it be reduced by the value of or credit given for traded-in tangible personal property owned by the lessee, regardless of whether the trade-in value thereof is assigned by the lessee to the lessor. In the case of a motor vehicle that is sold for the purpose of leasing for a defined period of longer than one year, the sale occurs at the time of the delivery of the vehicle, regardless of the due date of any lease payments. A lessor who incurs a Retailers' Occupation Tax liability on the sale of a motor vehicle coming off lease may not take a credit against that liability for the Use Tax the lessor paid upon the purchase of the motor vehicle (or for any tax the lessor paid with respect to any amount received by the lessor from the lessee for the leased vehicle that was not calculated at the time the lease was executed) if the selling price of the motor vehicle at the time of purchase was calculated using the definition of "selling price" as defined in this paragraph. Notwithstanding any other provision of this Act to the contrary, lessors shall file all returns and make all payments required under this paragraph to the Department by electronic means in the manner and form as required by the

Department. This paragraph does not apply to leases of motor vehicles for which, at the time the lease is entered into, the term of the lease is not a defined period, including leases with a defined initial period with the option to continue the lease on a month-to-month or other basis beyond the initial defined period.

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

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

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or

private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail, or a sale through a bulk vending machine, does not constitute engaging in a business of selling such tangible personal property at retail within the meaning of this Act; provided that any person who is engaged in a business which is not subject to the tax imposed by this Act because of involving the sale of or a contract to sell real estate or a construction contract to improve real estate or a construction contract to engineer, install, and maintain an integrated system of products, but who, in the course of conducting such business, transfers tangible personal property to users or consumers in the finished form in which it was purchased, and which does not become real estate or was not engineered and installed, under any provision of a construction contract or real estate sale or real estate sales agreement entered into with some other person arising out of or because of such nontaxable business, is engaged in the business of selling tangible personal property at retail to the extent of the value of the tangible personal property so transferred. If, in such a transaction, a separate charge is made for the tangible personal property so

transferred, the value of such property, for the purpose of this Act, shall be the amount so separately charged, but not less than the cost of such property to the transferor; if no separate charge is made, the value of such property, for the purposes of this Act, is the cost to the transferor of such tangible personal property. Construction contracts for the improvement of real estate consisting of engineering, installation, and maintenance of voice, data, video, security, and all telecommunication systems do not constitute engaging in a business of selling tangible personal property at retail within the meaning of this Act if they are sold at one specified contract price.

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

Persons who engage in the business of transferring tangible personal property upon the redemption of trading

stamps are engaged in the business of selling such property at retail and shall be liable for and shall pay the tax imposed by this Act on the basis of the retail value of the property transferred upon redemption of such stamps.

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

"Remote retailer" means a retailer that does not maintain within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily or whether such retailer or subsidiary is licensed to do business in this State.

"Marketplace" means a physical or electronic place, forum, platform, application, or other method by which a marketplace seller sells or offers to sell items.

"Marketplace facilitator" means a person who, pursuant to an agreement with an unrelated third-party marketplace seller, directly or indirectly through one or more affiliates facilitates a retail sale by an unrelated third party

marketplace seller by:

(1) listing or advertising for sale by the marketplace seller in a marketplace, tangible personal property that is subject to tax under this Act; and

(2) either directly or indirectly, through agreements or arrangements with third parties, collecting payment from the customer and transmitting that payment to the marketplace seller regardless of whether the marketplace facilitator receives compensation or other consideration in exchange for its services.

A person who provides advertising services, including listing products for sale, is not considered a marketplace facilitator, so long as the advertising service platform or forum does not engage, directly or indirectly through one or more affiliated persons, in the activities described in paragraph (2) of this definition of "marketplace facilitator".

"Marketplace seller" means a person that makes sales through a marketplace operated by an unrelated third party marketplace facilitator.

(Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 1-1-20.)

Section 15. The Illinois Vehicle Code is amended by changing Sections 3-819, 3-821, and 3-1001 and by adding Section 1-216.5 as follows:

(625 ILCS 5/1-216.5 new)

Sec. 1-216.5. Utility trailer. A trailer, as defined in Section 1-209 of this Code, consisting of only one axle, weighing under 2,000 pounds, and used primarily for personal or individual use and not commercially used nor owned by a commercial business.

(625 ILCS 5/3-819) (from Ch. 95 1/2, par. 3-819)

Sec. 3-819. Trailer; ~~Flat weight~~ tax.

(a) Farm Trailer. Any farm trailer drawn by a motor vehicle of the second division registered under paragraph (a) or (c) of Section 3-815 and used exclusively by the owner for his own agricultural, horticultural or livestock raising operations and not used for hire, or any farm trailer utilized only in the transportation for-hire of seasonal, fresh, perishable fruit or vegetables from farm to the point of first processing, and any trailer used with a farm tractor that is not an implement of husbandry may be registered under this paragraph in lieu of registration under paragraph (b) of this Section upon the filing of a proper application and the payment of the \$10 registration fee and the highway use tax herein for use of the public highways of this State, at the following rates which include the \$10 registration fee:

SCHEDULE OF FEES AND TAXES

Gross Weight in Lbs.	Class	Total Amount
Including Vehicle		each
and Maximum Load		Fiscal Year

10,000 lbs. or less	VDD	\$160
10,001 to 14,000 lbs.	VDE	206
14,001 to 20,000 lbs.	VDG	266
20,001 to 28,000 lbs.	VDJ	478
28,001 to 36,000 lbs.	VDL	750

An owner may only apply for and receive 2 ~~two~~ farm trailer registrations.

(b) All other owners of trailers, other than apportionable trailers registered under Section 3-402.1 of this Code, used with a motor vehicle on the public highways, shall pay to the Secretary of State for each registration year a flat weight tax, for the use of the public highways of this State, at the following rates (which includes the registration fee of \$10 required by Section 3-813):

SCHEDULE OF TRAILER FLAT

WEIGHT TAX REQUIRED

BY LAW

Gross Weight in Lbs. Including Vehicle and Maximum Load	Class	Total Fees each Fiscal Year
<u>2,000 lbs. and less</u>	<u>UT</u>	<u>\$36</u>
3,000 lbs. and less	TA	<u>\$36</u> \$118
5,000 lbs. and more than 3,000	TB	154
8,000 lbs. and more than 5,000	TC	158
10,000 lbs. and more than 8,000	TD	206
14,000 lbs. and more than 10,000	TE	270

20,000 lbs. and more than 14,000	TG	358
32,000 lbs. and more than 20,000	TK	822
36,000 lbs. and more than 32,000	TL	1,182
40,000 lbs. and more than 36,000	TN	1,602

Of the fees collected under this subsection, other than the fee collected for a Class UT or TA trailer, \$1 of the fees shall be deposited into the Secretary of State Special Services Fund and \$99 of the ~~additional~~ fees shall be deposited into the Road Fund.

(c) The number of axles necessary to carry the maximum load provided shall be determined from Chapter 15 of this Code.

(Source: P.A. 101-32, eff. 6-28-19.)

(625 ILCS 5/3-821) (from Ch. 95 1/2, par. 3-821)

Sec. 3-821. Miscellaneous registration and title fees.

(a) Except as provided under subsection (h), the fee to be paid to the Secretary of State for the following certificates, registrations or evidences of proper registration, or for corrected or duplicate documents shall be in accordance with the following schedule:

~~Certificate of Title, except for an all-terrain vehicle or off-highway motorcycle, prior to July 1, 2019~~

~~\$95~~

Certificate of Title, except for an all-terrain vehicle, off-highway motorcycle, or motor home, mini

motor home or van camper, on and after July 1, 2019	<u>\$155</u> \$150
Certificate of Title for a motor home, mini motor home, or van camper, on and after July 1, 2019	\$250
Certificate of Title for an all-terrain vehicle or off-highway motorcycle	\$30
Certificate of Title for an all-terrain vehicle or off-highway motorcycle used for production agriculture, or accepted by a dealer in trade	\$13
Certificate of Title for a low-speed vehicle	\$30
Transfer of Registration or any evidence of proper registration	\$25
Duplicate Registration Card for plates or other evidence of proper registration	\$3
Duplicate Registration Sticker or Stickers, each	\$20
Duplicate Certificate of Title, prior to July 1, 2019	\$95
Duplicate Certificate of Title, on and after July 1, 2019	\$50
Corrected Registration Card or Card for other evidence of proper registration	\$3
Corrected Certificate of Title	\$50
Salvage Certificate, prior to July 1, 2019	\$4
Salvage Certificate, on and after July 1, 2019	\$20
Fleet Reciprocity Permit	\$15
Prorate Decal	\$1
Prorate Backing Plate	\$3

Special Corrected Certificate of Title	\$15
Expedited Title Service (to be charged in addition to other applicable fees)	\$30
Dealer Lien Release Certificate of Title	\$20

A special corrected certificate of title shall be issued (i) to remove a co-owner's name due to the death of the co-owner, to transfer title to a spouse if the decedent-spouse was the sole owner on the title, or due to a divorce; (ii) to change a co-owner's name due to a marriage; or (iii) due to a name change under Article XXI of the Code of Civil Procedure.

There shall be no fee paid for a Junking Certificate.

There shall be no fee paid for a certificate of title issued to a county when the vehicle is forfeited to the county under Article 36 of the Criminal Code of 2012.

For purposes of this Section, the fee for a corrected title application that also results in the issuance of a duplicate title shall be the same as the fee for a duplicate title.

(a-5) The Secretary of State may revoke a certificate of title and registration card and issue a corrected certificate of title and registration card, at no fee to the vehicle owner or lienholder, if there is proof that the vehicle identification number is erroneously shown on the original certificate of title.

(a-10) The Secretary of State may issue, in connection with the sale of a motor vehicle, a corrected title to a motor

vehicle dealer upon application and submittal of a lien release letter from the lienholder listed in the files of the Secretary. In the case of a title issued by another state, the dealer must submit proof from the state that issued the last title. The corrected title, which shall be known as a dealer lien release certificate of title, shall be issued in the name of the vehicle owner without the named lienholder. If the motor vehicle is currently titled in a state other than Illinois, the applicant must submit either (i) a letter from the current lienholder releasing the lien and stating that the lienholder has possession of the title; or (ii) a letter from the current lienholder releasing the lien and a copy of the records of the department of motor vehicles for the state in which the vehicle is titled, showing that the vehicle is titled in the name of the applicant and that no liens are recorded other than the lien for which a release has been submitted. The fee for the dealer lien release certificate of title is \$20.

(b) The Secretary may prescribe the maximum service charge to be imposed upon an applicant for renewal of a registration by any person authorized by law to receive and remit or transmit to the Secretary such renewal application and fees therewith.

(c) If payment is delivered to the Office of the Secretary of State as payment of any fee or tax under this Code, and such payment is not honored for any reason, the registrant or other

person tendering the payment remains liable for the payment of such fee or tax. The Secretary of State may assess a service charge of \$25 in addition to the fee or tax due and owing for all dishonored payments.

If the total amount then due and owing exceeds the sum of \$100 and has not been paid in full within 60 days from the date the dishonored payment was first delivered to the Secretary of State, the Secretary of State shall assess a penalty of 25% of such amount remaining unpaid.

All amounts payable under this Section shall be computed to the nearest dollar. Out of each fee collected for dishonored payments, \$5 shall be deposited in the Secretary of State Special Services Fund.

(d) The minimum fee and tax to be paid by any applicant for apportionment of a fleet of vehicles under this Code shall be \$15 if the application was filed on or before the date specified by the Secretary together with fees and taxes due. If an application and the fees or taxes due are filed after the date specified by the Secretary, the Secretary may prescribe the payment of interest at the rate of $\frac{1}{2}$ of 1% per month or fraction thereof after such due date and a minimum of \$8.

(e) Trucks, truck tractors, truck tractors with loads, and motor buses, any one of which having a combined total weight in excess of 12,000 lbs. shall file an application for a Fleet Reciprocity Permit issued by the Secretary of State. This permit shall be in the possession of any driver operating a

vehicle on Illinois highways. Any foreign licensed vehicle of the second division operating at any time in Illinois without a Fleet Reciprocity Permit or other proper Illinois registration, shall subject the operator to the penalties provided in Section 3-834 of this Code. For the purposes of this Code, "Fleet Reciprocity Permit" means any second division motor vehicle with a foreign license and used only in interstate transportation of goods. The fee for such permit shall be \$15 per fleet which shall include all vehicles of the fleet being registered.

(f) For purposes of this Section, "all-terrain vehicle or off-highway motorcycle used for production agriculture" means any all-terrain vehicle or off-highway motorcycle used in the raising of or the propagation of livestock, crops for sale for human consumption, crops for livestock consumption, and production seed stock grown for the propagation of feed grains and the husbandry of animals or for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. "All-terrain vehicle or off-highway motorcycle used in production agriculture" also means any all-terrain vehicle or off-highway motorcycle used in animal husbandry, floriculture, aquaculture, horticulture, and viticulture.

(g) All of the proceeds of the additional fees imposed by Public Act 96-34 shall be deposited into the Capital Projects Fund.

(h) The fee for a duplicate registration sticker or stickers shall be the amount required under subsection (a) or the vehicle's annual registration fee amount, whichever is less.

(i) All of the proceeds of (1) the additional fees imposed by Public Act 101-32, and (2) the \$5 additional fee imposed by this amendatory Act of the 102nd General Assembly for a certificate of title for a motor vehicle other than an all-terrain vehicle, off-highway motorcycle, or motor home, mini motor home, or van camper ~~this amendatory Act of the 101st General Assembly~~ shall be deposited into the Road Fund.

(Source: P.A. 100-956, eff. 1-1-19; 101-32, eff. 6-28-19; 101-604, eff. 12-13-19; 101-636, eff. 6-10-20.)

(625 ILCS 5/3-1001) (from Ch. 95 1/2, par. 3-1001)

Sec. 3-1001. A tax is hereby imposed on the privilege of using, in this State, any motor vehicle as defined in Section 1-146 of this Code acquired by gift, transfer, or purchase, and having a year model designation preceding the year of application for title by 5 or fewer years prior to October 1, 1985 and 10 or fewer years on and after October 1, 1985 and prior to January 1, 1988. On and after January 1, 1988, the tax shall apply to all motor vehicles without regard to model year. Except that the tax shall not apply

(i) if the use of the motor vehicle is otherwise taxed under the Use Tax Act;

(ii) if the motor vehicle is bought and used by a governmental agency or a society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes;

(iii) if the use of the motor vehicle is not subject to the Use Tax Act by reason of subsection (a), (b), (c), (d), (e) or (f) of Section 3-55 of that Act dealing with the prevention of actual or likely multistate taxation;

(iv) to implements of husbandry;

(v) when a junking certificate is issued pursuant to Section 3-117(a) of this Code;

(vi) when a vehicle is subject to the replacement vehicle tax imposed by Section 3-2001 of this Act;

(vii) when the transfer is a gift to a beneficiary in the administration of an estate and the beneficiary is a surviving spouse.

Prior to January 1, 1988, the rate of tax shall be 5% of the selling price for each purchase of a motor vehicle covered by Section 3-1001 of this Code. Except as hereinafter provided, beginning January 1, 1988 and until January 1, 2022, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is less than \$15,000:

Number of Years Transpired After	Applicable Tax
Model Year of Motor Vehicle	
1 or less	\$390
2	290

3	215
4	165
5	115
6	90
7	80
8	65
9	50
10	40
over 10	25

Except as hereinafter provided, beginning January 1, 1988 and until January 1, 2022, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is \$15,000 or more:

Selling Price	Applicable Tax
\$15,000 - \$19,999	\$ 750
\$20,000 - \$24,999	\$1,000
\$25,000 - \$29,999	\$1,250
\$30,000 and over	\$1,500

Except as hereinafter provided, beginning on January 1, 2022, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is less than \$15,000:

(1) if one year or less has transpired after the model year of the vehicle, then the applicable tax is \$465;

(2) if 2 years have transpired after the model year of the motor vehicle, then the applicable tax is \$365;

(3) if 3 years have transpired after the model year of the motor vehicle, then the applicable tax is \$290;

(4) if 4 years have transpired after the model year of the motor vehicle, then the applicable tax is \$240;

(5) if 5 years have transpired after the model year of the motor vehicle, then the applicable tax is \$190;

(6) if 6 years have transpired after the model year of the motor vehicle, then the applicable tax is \$165;

(7) if 7 years have transpired after the model year of the motor vehicle, then the applicable tax is \$155;

(8) if 8 years have transpired after the model year of the motor vehicle, then the applicable tax is \$140;

(9) if 9 years have transpired after the model year of the motor vehicle, then the applicable tax is \$125;

(10) if 10 years have transpired after the model year of the motor vehicle, then the applicable tax is \$115; and

(11) if more than 10 years have transpired after the model year of the motor vehicle, then the applicable tax is \$100.

Except as hereinafter provided, beginning on January 1, 2022, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is \$15,000 or more:

(1) if the selling price is \$15,000 or more, but less than \$20,000, then the applicable tax shall be \$850;

(2) if the selling price is \$20,000 or more, but less

than \$25,000, then the applicable tax shall be \$1,100;

(3) if the selling price is \$25,000 or more, but less than \$30,000, then the applicable tax shall be \$1,350;

(4) if the selling price is \$30,000 or more, but less than \$50,000, then the applicable tax shall be \$1,600;

(5) if the selling price is \$50,000 or more, but less than \$100,000, then the applicable tax shall be \$2,600;

(6) if the selling price is \$100,000 or more, but less than \$1,000,000, then the applicable tax shall be \$5,100;

and

(7) if the selling price is \$1,000,000 or more, then the applicable tax shall be \$10,100.

For the following transactions, the tax rate shall be \$15 for each motor vehicle acquired in such transaction:

(i) when the transferee or purchaser is the spouse, mother, father, brother, sister or child of the transferor;

(ii) when the transfer is a gift to a beneficiary in the administration of an estate and the beneficiary is not a surviving spouse;

(iii) when a motor vehicle which has once been subjected to the Illinois retailers' occupation tax or use tax is transferred in connection with the organization, reorganization, dissolution or partial liquidation of an incorporated or unincorporated business wherein the beneficial ownership is not changed.

A claim that the transaction is taxable under subparagraph (i) shall be supported by such proof of family relationship as provided by rules of the Department.

For a transaction in which a motorcycle, motor driven cycle or moped is acquired the tax rate shall be \$25.

On and after October 1, 1985 and until January 1, 2022, 1/12 of \$5,000,000 of the moneys received by the Department of Revenue pursuant to this Section shall be paid each month into the Build Illinois Fund; on and after January 1, 2022, 1/12 of \$40,000,000 of the moneys received by the Department of Revenue pursuant to this Section shall be paid each month into the Build Illinois Fund; and the remainder shall be paid into the General Revenue Fund.

The tax imposed by this Section shall be abated and no longer imposed when the amount deposited to secure the bonds issued pursuant to the Build Illinois Bond Act is sufficient to provide for the payment of the principal of, and interest and premium, if any, on the bonds, as certified to the State Comptroller and the Director of Revenue by the Director of the Governor's Office of Management and Budget.

(Source: P.A. 96-554, eff. 1-1-10.)

Section 99. Effective date. This Act takes effect January 1, 2022.