

1 AN ACT concerning taxation.

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 Section 3-5 as follows:

6 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

24 (7) Farm chemicals.

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

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

32 (10) A motor vehicle of the first division, a motor
33 vehicle of the second division that is a self-contained motor
34 vehicle designed or permanently converted to provide living

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

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

28 Farm machinery and equipment shall include precision
29 farming equipment that is installed or purchased to be
30 installed on farm machinery and equipment including, but not
31 limited to, tractors, harvesters, sprayers, planters,
32 seeders, or spreaders. Precision farming equipment includes,
33 but is not limited to, soil testing sensors, computers,
34 monitors, software, global positioning and mapping systems,

1 and other such equipment.

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

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

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

25 (14) Oil field exploration, drilling, and production
26 equipment, including (i) rigs and parts of rigs, rotary rigs,
27 cable tool rigs, and workover rigs, (ii) pipe and tubular
28 goods, including casing and drill strings, (iii) pumps and
29 pump-jack units, (iv) storage tanks and flow lines, (v) any
30 individual replacement part for oil field exploration,
31 drilling, and production equipment, and (vi) machinery and
32 equipment purchased for lease; but excluding motor vehicles
33 required to be registered under the Illinois Vehicle Code.

34 (15) Photoprocessing machinery and equipment, including

1 repair and replacement parts, both new and used, including
2 that manufactured on special order, certified by the
3 purchaser to be used primarily for photoprocessing, and
4 including photoprocessing machinery and equipment purchased
5 for lease.

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

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

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

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

33 (20) Semen used for artificial insemination of livestock
34 for direct agricultural production.

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

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

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

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

17 (24) 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 (25) 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 (26) Beginning July 1, 1999, game or game birds
7 purchased at a "game breeding and hunting preserve area" or
8 an "exotic game hunting area" as those terms are used in the
9 Wildlife Code or at a hunting enclosure approved through
10 rules adopted by the Department of Natural Resources. This
11 paragraph is exempt from the provisions of Section 3-90.

12 (27) A motor vehicle, as that term is defined in Section
13 1-146 of the Illinois Vehicle Code, that is donated to a
14 corporation, limited liability company, society, association,
15 foundation, or institution that is determined by the
16 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 (28) 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 3-90.

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

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

26 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;
27 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.
28 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,
29 eff. 8-20-99; 91-901, eff. 1-1-01.)