

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

23 (5) A passenger car that is a replacement vehicle to the
24 extent that the purchase price of the car is subject to the
25 Replacement Vehicle Tax.

26 (6) Graphic arts machinery and equipment, including
27 repair and replacement parts, both new and used, and
28 including that manufactured on special order, certified by
29 the purchaser to be used primarily for graphic arts
30 production, and including machinery and equipment purchased
31 for lease. Equipment includes chemicals or chemicals acting
32 as catalysts but only if the chemicals or chemicals acting as
33 catalysts effect a direct and immediate change upon a graphic
34 arts product.

1 (7) Farm chemicals.

2 (8) 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 (9) Personal property purchased from a teacher-sponsored
7 student organization affiliated with an elementary or
8 secondary school located in Illinois.

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

20 (11) Farm machinery and equipment, both new and used,
21 including that manufactured on special order, certified by
22 the purchaser to be used primarily for production agriculture
23 or State or federal agricultural programs, including
24 individual replacement parts for the machinery and equipment,
25 including machinery and equipment purchased for lease, and
26 including implements of husbandry defined in Section 1-130 of
27 the Illinois Vehicle Code, farm machinery and agricultural
28 chemical and fertilizer spreaders, and nurse wagons required
29 to be registered under Section 3-809 of the Illinois Vehicle
30 Code, but excluding other motor vehicles required to be
31 registered under the Illinois Vehicle Code. Horticultural
32 polyhouses or hoop houses used for propagating, growing, or
33 overwintering plants shall be considered farm machinery and
34 equipment under this item (11). Agricultural chemical tender

1 tanks and dry boxes shall include units sold separately from
2 a motor vehicle required to be licensed and units sold
3 mounted on a motor vehicle required to be licensed if the
4 selling price of the tender is separately stated.

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

13 Farm machinery and equipment also includes computers,
14 sensors, software, and related equipment used primarily in
15 the computer-assisted operation of production agriculture
16 facilities, equipment, and activities such as, but not
17 limited to, the collection, monitoring, and correlation of
18 animal and crop data for the purpose of formulating animal
19 diets and agricultural chemicals. This item (11) is exempt
20 from the provisions of Section 3-90.

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

28 (13) Proceeds of mandatory service charges separately
29 stated on customers' bills for the purchase and consumption
30 of food and beverages purchased at retail from a retailer, to
31 the extent that the proceeds of the service charge are in
32 fact turned over as tips or as a substitute for tips to the
33 employees who participate directly in preparing, serving,
34 hosting or cleaning up the food or beverage function with

1 respect to which the service charge is imposed.

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

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

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

22 (17) Distillation machinery and equipment, sold as a
23 unit or kit, assembled or installed by the retailer,
24 certified by the user to be used only for the production of
25 ethyl alcohol that will be used for consumption as motor fuel
26 or as a component of motor fuel for the personal use of the
27 user, and not subject to sale or resale.

28 (18) Manufacturing and assembling machinery and
29 equipment used primarily in the process of manufacturing or
30 assembling tangible personal property for wholesale or retail
31 sale or lease, whether that sale or lease is made directly by
32 the manufacturer or by some other person, whether the
33 materials used in the process are owned by the manufacturer
34 or some other person, or whether that sale or lease is made

1 apart from or as an incident to the seller's engaging in the
2 service occupation of producing machines, tools, dies, jigs,
3 patterns, gauges, or other similar items of no commercial
4 value on special order for a particular purchaser.

5 (19) Personal property delivered to a purchaser or
6 purchaser's donee inside Illinois when the purchase order for
7 that personal property was received by a florist located
8 outside Illinois who has a florist located inside Illinois
9 deliver the personal property.

10 (20) Semen used for artificial insemination of livestock
11 for direct agricultural production.

12 (21) Horses, or interests in horses, registered with and
13 meeting the requirements of any of the Arabian Horse Club
14 Registry of America, Appaloosa Horse Club, American Quarter
15 Horse Association, United States Trotting Association, or
16 Jockey Club, as appropriate, used for purposes of breeding or
17 racing for prizes.

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

1 Act, as the case may be, if the tax has not been paid by the
2 lessor. If a lessor improperly collects any such amount from
3 the lessee, the lessee shall have a legal right to claim a
4 refund of that amount from the lessor. If, however, that
5 amount is not refunded to the lessee for any reason, the
6 lessor is liable to pay that amount to the Department.

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

28 (24) Beginning with taxable years ending on or after
29 December 31, 1995 and ending with taxable years ending on or
30 before December 31, 2004, personal property that is donated
31 for disaster relief to be used in a State or federally
32 declared disaster area in Illinois or bordering Illinois by a
33 manufacturer or retailer that is registered in this State to
34 a corporation, society, association, foundation, or

1 institution that has been issued a sales tax exemption
2 identification number by the Department that assists victims
3 of the disaster who reside within the declared disaster area.

4 (25) Beginning with taxable years ending on or after
5 December 31, 1995 and ending with taxable years ending on or
6 before December 31, 2004, personal property that is used in
7 the performance of infrastructure repairs in this State,
8 including but not limited to municipal roads and streets,
9 access roads, bridges, sidewalks, waste disposal systems,
10 water and sewer line extensions, water distribution and
11 purification facilities, storm water drainage and retention
12 facilities, and sewage treatment facilities, resulting from a
13 State or federally declared disaster in Illinois or bordering
14 Illinois when such repairs are initiated on facilities
15 located in the declared disaster area within 6 months after
16 the disaster.

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

23 (27) A motor vehicle, as that term is defined in Section
24 1-146 of the Illinois Vehicle Code, that is donated to a
25 corporation, limited liability company, society, association,
26 foundation, or institution that is determined by the
27 Department to be organized and operated exclusively for
28 educational purposes. For purposes of this exemption, "a
29 corporation, limited liability company, society, association,
30 foundation, or institution organized and operated exclusively
31 for educational purposes" means all tax-supported public
32 schools, private schools that offer systematic instruction in
33 useful branches of learning by methods common to public
34 schools and that compare favorably in their scope and

1 intensity with the course of study presented in tax-supported
2 schools, and vocational or technical schools or institutes
3 organized and operated exclusively to provide a course of
4 study of not less than 6 weeks duration and designed to
5 prepare individuals to follow a trade or to pursue a manual,
6 technical, mechanical, industrial, business, or commercial
7 occupation.

8 (28) Beginning January 1, 2000, personal property,
9 including food, purchased through fundraising events for the
10 benefit of a public or private elementary or secondary
11 school, a group of those schools, or one or more school
12 districts if the events are sponsored by an entity recognized
13 by the school district that consists primarily of volunteers
14 and includes parents and teachers of the school children.
15 This paragraph does not apply to fundraising events (i) for
16 the benefit of private home instruction or (ii) for which the
17 fundraising entity purchases the personal property sold at
18 the events from another individual or entity that sold the
19 property for the purpose of resale by the fundraising entity
20 and that profits from the sale to the fundraising entity.
21 This paragraph is exempt from the provisions of Section 3-90.

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

27 (30) Food for human consumption that is to be consumed
28 off the premises where it is sold (other than alcoholic
29 beverages, soft drinks, and food that has been prepared for
30 immediate consumption) and prescription and nonprescription
31 medicines, drugs, medical appliances, and insulin, urine
32 testing materials, syringes, and needles used by diabetics,
33 for human use, when purchased for use by a person receiving
34 medical assistance under Article 5 of the Illinois Public Aid

1 Code who resides in a licensed long-term care facility, as
2 defined in the Nursing Home Care Act.

3 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;
4 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.
5 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,
6 eff. 8-20-99; 91-901, eff. 1-1-01.)"; and

7 on page 5, line 3, after the period, by inserting the
8 following:

9 "Equipment includes chemicals or chemicals acting as
10 catalysts but only if the chemicals or chemicals acting
11 as catalysts effect a direct and immediate change upon a
12 product being manufactured or assembled for wholesale or
13 retail sale or lease."; and

14 on page 6, by replacing line 6 with the following:

15 "changing Sections 2 and 3-5 as follows:

16 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

17 Sec. 2. "Use" means the exercise by any person of any
18 right or power over tangible personal property incident to
19 the ownership of that property, but does not include the sale
20 or use for demonstration by him of that property in any form
21 as tangible personal property in the regular course of
22 business. "Use" does not mean the interim use of tangible
23 personal property nor the physical incorporation of tangible
24 personal property, as an ingredient or constituent, into
25 other tangible personal property, (a) which is sold in the
26 regular course of business or (b) which the person
27 incorporating such ingredient or constituent therein has
28 undertaken at the time of such purchase to cause to be
29 transported in interstate commerce to destinations outside
30 the State of Illinois.

31 "Purchased from a serviceman" means the acquisition of
32 the ownership of, or title to, tangible personal property

1 through a sale of service.

2 "Purchaser" means any person who, through a sale of
3 service, acquires the ownership of, or title to, any tangible
4 personal property.

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

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

29 "Department" means the Department of Revenue.

30 "Person" means any natural individual, firm, partnership,
31 association, joint stock company, joint venture, public or
32 private corporation, limited liability company, and any
33 receiver, executor, trustee, guardian or other representative
34 appointed by order of any court.

1 "Sale of service" means any transaction except:

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

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

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

23 (4) a sale or transfer of tangible personal
24 property as an incident to the rendering of service for
25 interstate carriers for hire for use as rolling stock
26 moving in interstate commerce or by lessors under a lease
27 of one year or longer, executed or in effect at the time
28 of purchase of personal property, to interstate carriers
29 for hire for use as rolling stock moving in interstate
30 commerce so long as so used by such interstate carriers
31 for hire, and equipment operated by a telecommunications
32 provider, licensed as a common carrier by the Federal
33 Communications Commission, which is permanently installed
34 in or affixed to aircraft moving in interstate commerce.

1 (4a) a sale or transfer of tangible personal
2 property as an incident to the rendering of service for
3 owners, lessors, or shippers of tangible personal
4 property which is utilized by interstate carriers for
5 hire for use as rolling stock moving in interstate
6 commerce so long as so used by interstate carriers for
7 hire, and equipment operated by a telecommunications
8 provider, licensed as a common carrier by the Federal
9 Communications Commission, which is permanently installed
10 in or affixed to aircraft moving in interstate commerce.

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

24 (5a) the repairing, reconditioning or remodeling,
25 for a common carrier by rail, of tangible personal
26 property which belongs to such carrier for hire, and as
27 to which such carrier receives the physical possession of
28 the repaired, reconditioned or remodeled item of tangible
29 personal property in Illinois, and which such carrier
30 transports, or shares with another common carrier in the
31 transportation of such property, out of Illinois on a
32 standard uniform bill of lading showing the person who
33 repaired, reconditioned or remodeled the property to a
34 destination outside Illinois, for use outside Illinois.

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

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

22 (7) at the election of any serviceman not required
23 to be otherwise registered as a retailer under Section 2a
24 of the Retailers' Occupation Tax Act, made for each
25 fiscal year sales of service in which the aggregate
26 annual cost price of tangible personal property
27 transferred as an incident to the sales of service is
28 less than 35%, or 75% in the case of servicemen
29 transferring prescription drugs or servicemen engaged in
30 graphic arts production, of the aggregate annual total
31 gross receipts from all sales of service. The purchase of
32 such tangible personal property by the serviceman shall
33 be subject to tax under the Retailers' Occupation Tax Act
34 and the Use Tax Act. However, if a primary serviceman

1 who has made the election described in this paragraph
2 subcontracts service work to a secondary serviceman who
3 has also made the election described in this paragraph,
4 the primary serviceman does not incur a Use Tax liability
5 if the secondary serviceman (i) has paid or will pay Use
6 Tax on his or her cost price of any tangible personal
7 property transferred to the primary serviceman and (ii)
8 certifies that fact in writing to the primary serviceman.

9 Tangible personal property transferred incident to the
10 completion of a maintenance agreement is exempt from the tax
11 imposed pursuant to this Act.

12 Exemption (5) also includes machinery and equipment used
13 in the general maintenance or repair of such exempt machinery
14 and equipment or for in-house manufacture of exempt machinery
15 and equipment. For the purposes of exemption (5), each of
16 these terms shall have the following meanings: (1)
17 "manufacturing process" shall mean the production of any
18 article of tangible personal property, whether such article
19 is a finished product or an article for use in the process of
20 manufacturing or assembling a different article of tangible
21 personal property, by procedures commonly regarded as
22 manufacturing, processing, fabricating, or refining which
23 changes some existing material or materials into a material
24 with a different form, use or name. In relation to a
25 recognized integrated business composed of a series of
26 operations which collectively constitute manufacturing, or
27 individually constitute manufacturing operations, the
28 manufacturing process shall be deemed to commence with the
29 first operation or stage of production in the series, and
30 shall not be deemed to end until the completion of the final
31 product in the last operation or stage of production in the
32 series; and further, for purposes of exemption (5),
33 photoprocessing is deemed to be a manufacturing process of
34 tangible personal property for wholesale or retail sale; (2)

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

34 Any informal rulings, opinions or letters issued by the

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

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

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

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

24 "Sale at retail" means "sale at retail" as defined in the
25 Retailers' Occupation Tax Act.

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

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

- 31 1. having or maintaining within this State,
32 directly or by a subsidiary, an office, distribution
33 house, sales house, warehouse or other place of business,
34 or any agent or other representative operating within

1 this State under the authority of the serviceman or its
2 subsidiary, irrespective of whether such place of
3 business or agent or other representative is located here
4 permanently or temporarily, or whether such serviceman or
5 subsidiary is licensed to do business in this State;

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

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

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

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

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

30 7. pursuant to a contract with a cable television
31 operator located in this State, soliciting orders for
32 tangible personal property by means of advertising which
33 is transmitted or distributed over a cable television
34 system in this State; or

1 8. engaging in activities in Illinois, which
 2 activities in the state in which the supply business
 3 engaging in such activities is located would constitute
 4 maintaining a place of business in that state.

5 (Source: P.A. 91-51, eff. 6-30-99.); and

6 on page 7, line 7, after the period, by inserting the
 7 following:

8 "Equipment includes chemicals or chemicals acting as
 9 catalysts but only if the chemicals or chemicals acting as
 10 catalysts effect a direct and immediate change upon a graphic
 11 arts product."; and

12 on page 13, immediately below line 10, by inserting the
 13 following:

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

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

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

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

1 consideration paid by the subcontractor for the purchase of
2 such property.

3 "Department" means the Department of Revenue.

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

9 "Sale of Service" means any transaction except:

10 (a) A retail sale of tangible personal property taxable
11 under the Retailers' Occupation Tax Act or under the Use Tax
12 Act.

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

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

29 (d) A sale or transfer of tangible personal property as
30 an incident to the rendering of service for interstate
31 carriers for hire for use as rolling stock moving in
32 interstate commerce or lessors under leases of one year or
33 longer, executed or in effect at the time of purchase, to
34 interstate carriers for hire for use as rolling stock moving

1 in interstate commerce, and equipment operated by a
2 telecommunications provider, licensed as a common carrier by
3 the Federal Communications Commission, which is permanently
4 installed in or affixed to aircraft moving in interstate
5 commerce.

6 (d-1) A sale or transfer of tangible personal property
7 as an incident to the rendering of service for owners,
8 lessors or shippers of tangible personal property which is
9 utilized by interstate carriers for hire for use as rolling
10 stock moving in interstate commerce, and equipment operated
11 by a telecommunications provider, licensed as a common
12 carrier by the Federal Communications Commission, which is
13 permanently installed in or affixed to aircraft moving in
14 interstate commerce.

15 (d-2) The repairing, reconditioning or remodeling, for a
16 common carrier by rail, of tangible personal property which
17 belongs to such carrier for hire, and as to which such
18 carrier receives the physical possession of the repaired,
19 reconditioned or remodeled item of tangible personal property
20 in Illinois, and which such carrier transports, or shares
21 with another common carrier in the transportation of such
22 property, out of Illinois on a standard uniform bill of
23 lading showing the person who repaired, reconditioned or
24 remodeled the property as the shipper or consignor of such
25 property to a destination outside Illinois, for use outside
26 Illinois.

27 (d-3) A sale or transfer of tangible personal property
28 which is produced by the seller thereof on special order in
29 such a way as to have made the applicable tax the Service
30 Occupation Tax or the Service Use Tax, rather than the
31 Retailers' Occupation Tax or the Use Tax, for an interstate
32 carrier by rail which receives the physical possession of
33 such property in Illinois, and which transports such
34 property, or shares with another common carrier in the

1 transportation of such property, out of Illinois on a
2 standard uniform bill of lading showing the seller of the
3 property as the shipper or consignor of such property to a
4 destination outside Illinois, for use outside Illinois.

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

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

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

31 (g) At the election of any serviceman not required to be
32 otherwise registered as a retailer under Section 2a of the
33 Retailers' Occupation Tax Act, made for each fiscal year
34 sales of service in which the aggregate annual cost price of

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

17 Tangible personal property transferred incident to the
18 completion of a maintenance agreement is exempt from the tax
19 imposed pursuant to this Act.

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

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

1 seller at the time of purchase. The purchaser of such
2 machinery and equipment and tools without an active resale
3 registration number shall furnish to the seller a certificate
4 of exemption for each transaction stating facts establishing
5 the exemption for that transaction, which certificate shall
6 be available to the Department for inspection or audit.

7 The rolling stock exemption applies to rolling stock used
8 by an interstate carrier for hire, even just between points
9 in Illinois, if such rolling stock transports, for hire,
10 persons whose journeys or property whose shipments originate
11 or terminate outside Illinois.

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

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

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

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

33 "Supplier" means any person who makes sales of tangible
34 personal property to servicemen for the purpose of resale as

1 an incident to a sale of service.

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

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

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

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

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

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

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

31 (5) Graphic arts machinery and equipment, including
32 repair and replacement parts, both new and used, and
33 including that manufactured on special order or purchased for

1 lease, certified by the purchaser to be used primarily for
2 graphic arts production. Equipment includes chemicals or
3 chemicals acting as catalysts but only if the chemicals or
4 chemicals acting as catalysts effect a direct and immediate
5 change upon a graphic arts product.

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

9 (7) 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 (7). 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 (7) is exempt
9 from the provisions of Section 3-55.

10 (8) 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 (9) Proceeds of mandatory service charges separately
18 stated on customers' bills for the purchase and consumption
19 of food and beverages, to the extent that the proceeds of the
20 service charge are in fact turned over as tips or as a
21 substitute for tips to the employees who participate directly
22 in preparing, serving, hosting or cleaning up the food or
23 beverage function with respect to which the service charge is
24 imposed.

25 (10) 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 (11) 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 (12) 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 (13) Food for human consumption that is to be consumed
12 off the premises where it is sold (other than alcoholic
13 beverages, soft drinks and food that has been prepared for
14 immediate consumption) and prescription and non-prescription
15 medicines, drugs, medical appliances, and insulin, urine
16 testing materials, syringes, and needles used by diabetics,
17 for human use, when purchased for use by a person receiving
18 medical assistance under Article 5 of the Illinois Public Aid
19 Code who resides in a licensed long-term care facility, as
20 defined in the Nursing Home Care Act.

21 (14) Semen used for artificial insemination of livestock
22 for direct agricultural production.

23 (15) Horses, or interests in horses, registered with and
24 meeting the requirements of any of the Arabian Horse Club
25 Registry of America, Appaloosa Horse Club, American Quarter
26 Horse Association, United States Trotting Association, or
27 Jockey Club, as appropriate, used for purposes of breeding or
28 racing for prizes.

29 (16) Computers and communications equipment utilized for
30 any hospital purpose and equipment used in the diagnosis,
31 analysis, or treatment of hospital patients sold to a lessor
32 who leases the equipment, under a lease of one year or longer
33 executed or in effect at the time of the purchase, to a
34 hospital that has been issued an active tax exemption

1 identification number by the Department under Section 1g of
2 the Retailers' Occupation Tax Act.

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

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

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

32 (20) Beginning July 1, 1999, game or game birds sold at
33 a "game breeding and hunting preserve area" or an "exotic
34 game hunting area" as those terms are used in the Wildlife

1 Code or at a hunting enclosure approved through rules adopted
2 by the Department of Natural Resources. This paragraph is
3 exempt from the provisions of Section 3-55.

4 (21) ~~(20)~~ A motor vehicle, as that term is defined in
5 Section 1-146 of the Illinois Vehicle Code, that is donated
6 to a corporation, limited liability company, society,
7 association, foundation, or institution that is determined by
8 the Department to be organized and operated exclusively for
9 educational purposes. For purposes of this exemption, "a
10 corporation, limited liability company, society, association,
11 foundation, or institution organized and operated exclusively
12 for educational purposes" means all tax-supported public
13 schools, private schools that offer systematic instruction in
14 useful branches of learning by methods common to public
15 schools and that compare favorably in their scope and
16 intensity with the course of study presented in tax-supported
17 schools, and vocational or technical schools or institutes
18 organized and operated exclusively to provide a course of
19 study of not less than 6 weeks duration and designed to
20 prepare individuals to follow a trade or to pursue a manual,
21 technical, mechanical, industrial, business, or commercial
22 occupation.

23 (22) ~~(21)~~ Beginning January 1, 2000, personal property,
24 including food, purchased through fundraising events for the
25 benefit of a public or private elementary or secondary
26 school, a group of those schools, or one or more school
27 districts if the events are sponsored by an entity recognized
28 by the school district that consists primarily of volunteers
29 and includes parents and teachers of the school children.
30 This paragraph does not apply to fundraising events (i) for
31 the benefit of private home instruction or (ii) for which the
32 fundraising entity purchases the personal property sold at
33 the events from another individual or entity that sold the
34 property for the purpose of resale by the fundraising entity

1 and that profits from the sale to the fundraising entity.
2 This paragraph is exempt from the provisions of Section 3-55.

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

8 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;
9 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.
10 7-20-99; 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637,
11 eff. 8-20-99; 91-644, eff. 8-20-99; revised 9-29-99.)"; and

12 on page 14, line 32, after the period, by inserting the
13 following:

14 "Equipment includes chemicals or chemicals acting as
15 catalysts but only if the chemicals or chemicals acting as
16 catalysts effect a direct and immediate change upon a graphic
17 arts product."; and

18 on page 26, line 13, after the period by inserting the
19 following:

20 "Equipment includes chemicals or chemicals acting as
21 catalysts but only if the chemicals or chemicals acting
22 as catalysts effect a direct and immediate change upon a
23 product being manufactured or assembled for wholesale or
24 retail sale or lease.".