

1 AN ACT in relation to 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. Use of the following tangible
8 personal property is exempt from the tax imposed by this Act:

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

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

19 (3) Personal property purchased by a not-for-profit arts
20 or cultural organization that establishes, by proof required
21 by the Department of Revenue by rule, that it has received an
22 exemption under Section 501(c)(3) of the Internal Revenue
23 Code and that is organized and operated primarily for the
24 presentation or support of arts or cultural programming,
25 activities, or services. These organizations include, but
26 are not limited to, music and dramatic arts organizations
27 such as symphony orchestras and theatrical groups, arts and
28 cultural service organizations, local arts councils, visual
29 arts organizations, and media arts organizations. On and
30 after the effective date of this amendatory Act of the 92nd
31 General Assembly, however, an entity otherwise eligible for

1 this exemption shall not make tax-free purchases unless it
2 has an active identification number issued by the Department.

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

18 (5) A passenger car that is a replacement vehicle to the
19 extent that the purchase price of the car is subject to the
20 Replacement Vehicle Tax.

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

30 (7) Farm chemicals.

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

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

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

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

34 Farm machinery and equipment shall include precision

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

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

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

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

31 (14) Oil field exploration, drilling, and production
32 equipment, including (i) rigs and parts of rigs, rotary rigs,
33 cable tool rigs, and workover rigs, (ii) pipe and tubular
34 goods, including casing and drill strings, (iii) pumps and

1 pump-jack units, (iv) storage tanks and flow lines, (v) any
2 individual replacement part for oil field exploration,
3 drilling, and production equipment, and (vi) machinery and
4 equipment purchased for lease; but excluding motor vehicles
5 required to be registered under the Illinois Vehicle Code.

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

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

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

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

34 (19) Personal property delivered to a purchaser or

1 purchaser's donee inside Illinois when the purchase order for
2 that personal property was received by a florist located
3 outside Illinois who has a florist located inside Illinois
4 deliver the personal property.

5 (20) Semen used for artificial insemination of livestock
6 for direct agricultural production.

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

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

1 lessor is liable to pay that amount to the Department.

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

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

33 (25) Beginning with taxable years ending on or after
34 December 31, 1995 and ending with taxable years ending on or

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

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

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

1 technical, mechanical, industrial, business, or commercial
2 occupation.

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

17 (29) Beginning January 1, 2000 and through December 31,
18 2001, new or used automatic vending machines that prepare and
19 serve hot food and beverages, including coffee, soup, and
20 other items, and replacement parts for these machines.
21 Beginning January 1, 2002, machines and parts for machines
22 used in commercial, coin-operated amusement and vending
23 business if a use or occupation tax is paid on the gross
24 receipts derived from the use of the commercial,
25 coin-operated amusement and vending machines. This paragraph
26 is 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 (31) Beginning on the effective date of this amendatory
4 Act of the 92nd General Assembly, computers and
5 communications equipment utilized for any hospital purpose
6 and equipment used in the diagnosis, analysis, or treatment
7 of hospital patients purchased by a lessor who leases the
8 equipment, under a lease of one year or longer executed or in
9 effect at the time the lessor would otherwise be subject to
10 the tax imposed by this Act, to a hospital that has been
11 issued an active tax exemption identification number by the
12 Department under Section 1g of the Retailers' Occupation Tax
13 Act. If the equipment is leased in a manner that does not
14 qualify for this exemption or is used in any other nonexempt
15 manner, the lessor shall be liable for the tax imposed under
16 this Act or the Service Use Tax Act, as the case may be,
17 based on the fair market value of the property at the time
18 the nonqualifying use occurs. No lessor shall collect or
19 attempt to collect an amount (however designated) that
20 purports to reimburse that lessor for the tax imposed by this
21 Act or the Service Use Tax Act, as the case may be, if the
22 tax has not been paid by the lessor. If a lessor improperly
23 collects any such amount from the lessee, the lessee shall
24 have a legal right to claim a refund of that amount from the
25 lessor. If, however, that amount is not refunded to the
26 lessee for any reason, the lessor is liable to pay that
27 amount to the Department. This paragraph is exempt from the
28 provisions of Section 3-90.

29 (32) Beginning on the effective date of this amendatory
30 Act of the 92nd General Assembly, personal property purchased
31 by a lessor who leases the property, under a lease of one
32 year or longer executed or in effect at the time the lessor
33 would otherwise be subject to the tax imposed by this Act, to
34 a governmental body that has been issued an active sales tax

1 exemption identification number by the Department under
2 Section 1g of the Retailers' Occupation Tax Act. If the
3 property is leased in a manner that does not qualify for this
4 exemption or used in any other nonexempt manner, the lessor
5 shall be liable for the tax imposed under this Act or the
6 Service Use Tax Act, as the case may be, based on the fair
7 market value of the property at the time the nonqualifying
8 use occurs. No lessor shall collect or attempt to collect an
9 amount (however designated) that purports to reimburse that
10 lessor for the tax imposed by this Act or the Service Use Tax
11 Act, as the case may be, if the tax has not been paid by the
12 lessor. If a lessor improperly collects any such amount from
13 the lessee, the lessee shall have a legal right to claim a
14 refund of that amount from the lessor. If, however, that
15 amount is not refunded to the lessee for any reason, the
16 lessor is liable to pay that amount to the Department. This
17 paragraph is exempt from the provisions of Section 3-90.

18 (Source: P.A. 90-14, eff. 7-1-97; 90-552, eff. 12-12-97;
19 90-605, eff. 6-30-98; 91-51, eff. 6-30-99; 91-200, eff.
20 7-20-99; 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644,
21 eff. 8-20-99; 91-901, eff. 1-1-01; 92-35, eff. 7-1-01;
22 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff.
23 8-23-01; revised 10-10-01.)